

LEGISLATIVE BILL 507

Approved by the Governor March 30, 1987

Introduced by Miller, 37

AN ACT relating to grain; to amend sections 75-901 to 75-903 and 75-907 to 75-909, Reissue Revised Statutes of Nebraska, 1943; to rename an act; to define and redefine terms; to change provisions relating to licensure requirements for grain dealers; to provide for suspension or revocation of a license; to provide additional violations; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 75-901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-901. Sections 75-901 to 75-909 and sections 4 and 6 of this act shall be known and may be cited as the Grain Buyer Dealer Act.

Sec. 2. That section 75-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-902. For purposes of the Grain Buyer Dealer Act, unless the context otherwise requires:

(1) Commission shall mean the Public Service Commission;

(2) Grain shall include, but not be limited to, all unprocessed beans, whole corn, milo and other sorghum, wheat, rye, barley, oats, millet, safflower seed and processed plant pellets, alfalfa pellets, and any other bulk pelleted agricultural storable commodity, except grain which has been processed or packaged for distribution as seed; and

(3) Grain dealer shall mean any person, partnership, corporation, or association, other than a custom feeder of livestock or poultry or a public grain warehouse licensee, under sections 88-501 to 88-517, who (a) buys grain from its owner or producer within this state for purposes of selling such grain, to another, (b) buys and transports grain for purposes of selling such grain, (c) (b) transports grain in or out of into this state for purposes of selling such grain, or (d) (c) acts as employee or agent of a buyer for purposes of

collective bargaining in the marketing of grain; and

(4) Producer shall mean the owner, tenant, or operator of land in this state who has an interest in and receives all or part of the proceeds from the sale of grain produced on that land.

Sec. 3. That section 75-903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-903. All grain dealers doing business in this state shall be licensed by the commission. To procure and maintain a license, each grain dealer shall:

(1) Pay an annual fee of thirty dollars which shall be due on or before June 30 of each year for each license and a registration fee not to exceed twenty dollars per year for each vehicle used by such licensee to transport grain. Such fees shall be paid to the State Treasurer and credited to the state General Fund;

(2) Equip each vehicle used by the licensee for grain transportation with a commercial license plate registered with the Department of Motor Vehicles, except that a licensee who resides in another state shall license such vehicles according to the laws of his or her state of residence;

(3) Affix a grain dealer plate issued by the commission to each vehicle used by the licensee;

(4) File security which may be a bond issued by a corporate surety company and payable to the commission, an irrevocable letter of credit, or a certificate of deposit, subject to approval of the commission, for the benefit of persons doing business with grain dealers any producer or owner within this state who files a valid claim arising from a sale to or purchase from a grain dealer. The security shall be in the amount of twenty-five thousand dollars or four per cent of grain purchases by the grain dealer in the preceding license year as reported on a form prescribed by the commission, whichever is greater, not to exceed one hundred thousand dollars. Such security shall be furnished on the conditions that (a) the licensee will pay for any grain purchased upon demand, not later than ten days after taking possession of the grain purchased, and (b) the licensee owns, free of liens, any grain which the licensee offers for sale. The liability of the surety shall cover purchases made by the grain dealer during the time the bond is in force. A grain dealer's bond filed with the commission shall be in continuous force and effect until canceled by the surety. The liability of the surety on any bond required by this section shall not accumulate for each

successive license period during which the bond is in force; and

(5) File each year as the commission may by rule or regulation require a financial statement of the licensee's operations as a grain dealer, which is compiled by an independent certified public accountant or an independent public accountant in accordance with generally accepted accounting principles.

Sec. 4. The commission may, upon complaint filed by it or any person and after a hearing, suspend or revoke the license of any grain dealer for failure to comply with the requirements of the Grain Dealer Act or any rule or regulation adopted and promulgated pursuant to such act. The complaint shall state the grounds for suspension or revocation and shall be filed with the commission pursuant to the commission's rules of procedure. The commission shall serve the grain dealer with a copy of the complaint and a copy of the order of the commission stating the time for hearing, which shall be at least twenty days from the date of service. If the commission determines that the public good requires it, the commission may, upon the filing of a complaint and without hearing, temporarily suspend a grain dealer's license pending the determination of the complaint.

Sec. 5. That section 75-907, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-907. The commission may adopt and promulgate all rules and regulations necessary to carry out the provisions of the Grain Buyer Dealer Act.

Sec. 6. The property, books, records, accounts, papers, and proceedings of every grain dealer shall, at all times during business hours, be subject to inspection by the commission.

Sec. 7. That section 75-908, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-908. The commission, the carrier enforcement division of the Nebraska State Patrol, the Department of Motor Vehicles, county and municipal law enforcement agencies, and the Attorney General shall enforce the provisions of the Grain Buyer Dealer Act.

Sec. 8. That section 75-909, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-909. Any person who does business as a grain dealer in this state without a license violates any of the provisions of the Grain Dealer Act shall be

guilty of a Class IV felony and, in addition, shall be liable for any damages suffered by any person as a result of such violation.

Sec. 9. That original sections 75-901 to 75-903 and 75-907 to 75-909, Reissue Revised Statutes of Nebraska, 1943, are repealed.