

No. 2, S.]

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CHAPTER 12.

AN ACT to amend chapter 19 laws of 1905 as amended by chapter 317 laws of 1905, entitled, "An act creating a grain and warehouse commission for the state of Wisconsin, and providing for licensing and regulating warehouses and elevators, and for the storage, weighing and inspection of grain in the city of Superior, and conditionally at other terminal points in said state."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Chapter 19 of the laws of Wisconsin for the year 1905 is hereby amended by adding thereto the following new sections to be numbered and read as follows:

Contracts based upon Minnesota inspection void. Section 58. All contracts for the sale or purchase of grain upon the basis of grades fixed upon inspection made by any person or persons appointed or employed by or under the railroad and warehouse commission of the state of Minnesota or upon weights fixed or certified by such appointees or employees or by any person in any wise related to or connected with the board of trade of the city of Duluth, where the grain is to be delivered or weighed in Superior shall be void.

What constitutes purchase and sale in Superior. Section 59. In all sales and purchases of grain where the same is to be delivered at any elevator, mill, warehouse, or other place in the city of Superior, or where the amount of the purchase price is to be determined by weighing the grain in said city, or where such delivery or weighing either is contemplated or afterwards takes place in said city, such grain shall be deemed to have been bought and sold in said city of Superior within the provisions of this act, and all grain so bought or sold shall be inspected and weighed under the provisions of this act.

Delivery to cars and boats. Section 60. All grain delivered from any and all elevators to cars or boats in the city of Superior, shall be presumed to have been delivered upon, or in fulfillment, in whole or in part, of a contract for the sale

thereof, and shall subject said grain to weighing and inspection under the provisions of this act at the time of such delivery. But this shall not apply to the use of boats for storage out of the navigation season, provided the grain is afterwards returned to the elevator for inspection and weighing.

Who not to weigh grain; weighing for private use. Section 61. No person who is not the chief weighmaster or a deputy weighmaster under the provisions of chapter 19 of the laws of Wisconsin for the year 1905 shall weigh any grain received into any elevator or mill in the city of Superior or shipped out of such elevator or mill, and any person who shall violate any of the provisions of this section shall be punished by a fine of not less than one hundred (100) dollars for each offense; provided, however, that this section shall not prevent the owner of any grain from, or punish him for, weighing his own grain where such weighing does not in any wise relate to the sale, purchase or delivery or payment for said grain, and is solely for his private use, but the burden of proof in any case to show that such weighing is for such private use shall be upon the defendant.

Receipts for grain not inspected, void. Section 62. No person or corporation shall issue any warehouse or elevator receipt for any grain received or stored in any elevator, mill elevator, or mill located in the city of Superior, unless said grain has been inspected and graded under, and pursuant to, said chapter 19 of the laws of 1905, and any receipt otherwise issued shall be void.

Inspection fees; liability of railway company. Section 63. No railway company shall deliver to any person, firm or corporation, or to any elevator, warehouse, or mill in the city of Superior, any grain inspected by the grain and warehouse commission for the state of Wisconsin, the chief inspector, or any of his deputies or assistants, until the fees for such inspection are paid as provided in section 33 of said chapter 19, and in case it does so, it shall be liable in damages for three times the amount of the fees so unpaid, to be recovered in an action brought by and in the name of said grain and warehouse commission for the state of Wisconsin.

Refusal to pay inspection fees; remedy of railway company. Section 64. In case any person, corporation, elevator company or mill company to whom grain is consigned, or to whom

grain shall be ordered delivered, shall refuse to pay the inspection charges mentioned in the next preceding section, or shall refuse to receive the grain upon which said charges are declared to be a lien, by reason of the railway company insisting upon payment of such charges, said railway company shall immediately notify the consignor or owner of such grain of such refusal, and collect from him such charges, and in case none of the parties mentioned shall promptly pay said charges, said railway company or common carrier may upon one day's notice, oral, or in writing, or by telegram, sell said grain in the open market in the city of Superior, and out of the proceeds of said sale pay all of the expenses, including said inspection fees, weighing charges, and transportation charges, and pay the balance over to the person or persons or corporation entitled thereto.

Additional remedies for collection of inspection and weighing fees. Section 65. In addition to the remedies provided in said chapter 19 for the collection of inspection and weighing fees, the grain and warehouse commission for the state of Wisconsin may seize and take possession of any and all grain upon which it has a lien for such charges, and hold possession thereof, or sell the same, or it may take a sufficient amount of grain from each car to cover such charges and the expenses of selling the same, and may sell such grain in the open market in the city of Superior after giving not less than ten days' notice of the time and place of sale, either personally or in the manner provided for sales of personal property upon execution in justice court. Said grain and warehouse commission for the state of Wisconsin may also bring an action to foreclose its lien in the usual manner in a court of equity, in which case if the action is brought while the grain is still in the hands of the railway company or common carrier, it shall not be necessary to make any person or corporation a party to said action other than the railway company, in which case the railway company shall notify the owner of said grain, who may if he desires, and upon his own application, be made a party defendant in said action, and the said grain and warehouse commission may foreclose its lien upon any and all grain or upon any number of carloads of grain in the possession of any railroad company in a single action, and this section shall apply to all liens heretofore acquired, and to any and all actions heretofore or hereafter commenced for the foreclosure thereof.

Sale of grain without inspection prohibited; penalty; sale in Superior defined. Section 66. No person, firm, or corporation shall sell, or offer for sale in the city of Superior, any grain until the same has been inspected under the supervision of the grain and warehouse commission for the state of Wisconsin, by its chief inspector, his deputy or assistant, or deliver any grain in said city in pursuance of any contract of sale made elsewhere to any person, corporation, elevator, mill, or from any such elevator to cars or boats, until such inspection shall be made, and any person or corporation violating this section, or participating in any such sale or delivery, or by receiving such grain, shall be punished by a fine of not less than one hundred (100) dollars for each offense, or imprisonment not exceeding ninety days, or by both such fine and imprisonment in the discretion of the court. Every sale, offer for sale, or delivery of grain within the meaning of this section, shall be deemed to be made within the city of Superior notwithstanding the contract may be made elsewhere if such grain shall, at the time of making the same, be within the city of Superior, or thereafter delivered in said city. In determining whether there is a delivery in the city of Superior, no delivery to a railway company or common carrier outside of the city of Superior shall be deemed a delivery to the purchaser unless the exact amount of the purchase price has been ascertained and paid. Provided that this section shall not prohibit the making of any executory contract for the delivery of grain if such contract shall provide for the inspection and weighing of the grain under the supervision of the grain and warehouse commission for the state of Wisconsin.

Inspection other than by Wisconsin commission prohibited; penalty. Section 67. No person or corporation shall offer for sale or sell or deliver any grain in the city of Superior, or receive or store grain in any elevator or warehouse in said city, or deliver the same from any such elevator or warehouse under or upon any inspection or grading made or fixed by any appointee or employee of the railroad and warehouse commission of the state of Minnesota, or upon weights given or certified by any such appointee or employee, or upon any other inspection, grading or weighing, than provided in said chapter 19, and any person violating this section shall be guilty of a misdemeanor and punished as provided in section 53 of said chapter.

Warehouse or elevator of railway company. Section 68. Every elevator or warehouse located in the city of Superior owned or held by any railway company, either in its own name or in the name of any other person, persons or corporation, for its use, is hereby declared and shall be deemed to be a public warehouse within the meaning of this act so far as to require the railway company owning or holding the same, or any lessee thereof, to receive and store, without discrimination, and subject only to the charges provided in said chapter 19, of all grain carried over the line of such railway company whether by said company directly or by any other railway company operating its line whether as lessee or otherwise, and delivered at Superior.

Declaration to be filed by railway company. Section 69. If any such elevator or warehouse shall be operated directly by the railway company owning or holding the same, such company shall not be obliged to give bonds or take out license, but it shall within sixty days make and file with the grain and warehouse commission a written declaration stating its purpose to operate said elevator or warehouse pursuant to the laws of Wisconsin and the period for which it will so operate the same, or in case it has heretofore or shall hereafter lease said warehouse or elevator, then it shall make and file a like written declaration stating to whom and for what period said elevator or warehouse has been leased, with a copy of such lease.

Lessee a public warehouseman. Section 70. In case any person, firm or corporation has heretofore leased, or shall hereafter lease, or become the lessee or occupant in any manner whatsoever of any elevator or warehouse located in the city of Superior belonging to any railway company, said lessee or occupant shall immediately upon the passage of this act, or upon the commencement of his leasehold term, if created subsequently to the passage hereof, become a public warehouseman and subject to all of the provisions of chapter 19 except so far that if unable to furnish storage for all persons applying for the same, he shall give preference to the storage of all grain received in Superior over the line of the railroad company owning said elevator or warehouse.

Railway company to furnish opportunity for inspection; penalty. Section 71. Every railway company transporting

grain into the city of Superior shall, before delivering the same to the consignee, or any other person or corporation, or setting the same in upon any track leading to any elevator, warehouse or mill, and before delivering the same to any terminal company or any other carrier, set out all such grain upon some one or more of the tracks in its yard convenient for the chief inspector of the grain and warehouse commission for the state of Wisconsin, his deputies and assistants, to inspect the same, and shall set out and separate the cars of grain destined to be delivered in Superior from any passing through in transit, and shall furnish said chief inspector a list with initials and numbers of cars, names of consignor and consignee, from where shipped, and where and to whom to be delivered, and shall furnish full and sufficient opportunity for such inspection of any and all grain delivered in Superior before such delivery whether to be delivered upon the original consignment or upon disposition subsequently given, and any railway company which shall violate any or fail to fully comply with all the provisions of this section shall forfeit the sum of one hundred (100) dollars for each carload of grain, to be recovered in an action brought in the name of the grain and warehouse commission for the state of Wisconsin.

Delivery to boats or cars without inspection prohibited; penalty. Section 72. No person or corporation shall deliver any grain from any elevator or warehouse in the city of Superior to any boat or car until the grain has been inspected, graded and weighed under the supervision of the grain and warehouse commission of the state of Wisconsin, and the fees for such inspection, grading and weighing paid on demand contemporaneously with such delivery, and any person or corporation violating this section by making such delivery or participating therein or in receiving such grain shall be punished by a fine of not less than one hundred (100) dollars, nor more than five hundred (500) dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment in the discretion of the court.

Interference with inspectors or weighmasters; penalty for. Section 73. Any person who shall resist or interfere with the chief inspector, or any of his deputies or assistants, or the weighmaster, or any of his deputies or assistants, while engaged in the lawful performance of his duty shall be punished by imprisonment in the county jail not more than six months,

or by fine not exceeding two hundred (200) dollars, or by both such fine and imprisonment in the discretion of the court.

Public warehouses defined. Section 74. Section 6 of said chapter 19 of the laws of 1905 as amended by section 1 of chapter 317 of the laws of 1905 is hereby amended to read as follows: Section 6. All elevators and warehouses located in the city of Superior doing business for a compensation, and all elevators and warehouses located in said city in which the grain of different owners is stored in bulk or mixed together, or stored in such manner that the identity of different lots and parcels cannot be accurately preserved, and all elevators and warehouses located in said city which issue warehouse receipts for grain received or stored are hereby declared to be public warehouses.

Unreasonable charges; complaint; hearing; appeal; refusal to testify; depositions. Section 75. Section 18 of said chapter 19 is hereby amended by adding at the end thereof the following: "Provided that if any warehouseman or other person shall deem said charges or either of them unreasonable he may file with the grain and warehouse commission a complaint in writing, stating the reason or ground upon which said charges or either of them are unreasonable, whereupon the commission shall set a time and place for hearing said complaint, which time shall not be later than ten days after the filing of said complaint. Upon said hearing, if the commission shall be of the opinion that the said charges or either of them are unreasonable it may increase or diminish said charges or either of them, such increased or diminished charge to go into effect immediately and remain in effect until increased or diminished upon a like hearing or upon appeal. If the warehouseman or other person making said complaint shall feel aggrieved by the decision of the commission he may appeal therefrom to the circuit court of Douglas county in the same manner and with like effect as appeals are now taken from the disallowance of claims by the county board. The commission shall have the power to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of books and papers. In case of failure on the part of any person or persons to comply with the order of the commission or any subpoena, or of the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the circuit court of Douglas

county or the judge thereof, on application of the commission, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein. The commission or any warehouseman or other person making said complaint may cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like deposition in civil actions in circuit courts.

“Special grade” grain. Section 76. Section 19 of said chapter 19 is hereby amended by adding thereto the following: “Nor shall any warehouseman be required to receive any more ‘special grade’ grain than he can store conveniently having reference to the capacity of his house and the amount of regular grades stored therein.”

Salaries of members of commission. Section 77. Section 55 of said chapter 19 is hereby amended by striking out the proviso of said section, being all after the word “commissioners” in the ninth line as published in the session laws.

Section repealed. Section 78. Section 56 of said chapter 19 is hereby repealed.

Act to be liberally construed. Section 79. A liberal construction shall be given to all of the provisions of this act and of chapter 19 of the laws of 1905 to the end that an honest inspection, grading and weighing of grain between any and all sellers and purchasers thereof in the market at Superior, and of all grain received, stored or delivered to or by any elevator in said city, and to prevent fraud therein.

Sections independent of each other. Section 80. In the passage of this act and of chapter 19, laws of 1905 it is hereby declared to be the intention of the legislature that each section thereof is enacted independent of every other section thereof and not as compensation for or an inducement to the passage of any other section.

Conflicting laws repealed. SECTION 2. All acts and parts of acts conflicting with the provisions of this act and particularly chapter 317, laws of 1905, are hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved December 19, 1905.