

No. 328, S.]

[Published April 8, 1895.

CHAPTER 132.

AN ACT defining and establishing public warehouses, and regulating the management and operation thereof; providing for inspecting, weighing, storing, receiving and shipping grain within certain cities of the state, and providing penalties for violations thereof.

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

Public ware-
houses—when.

SECTION 1. All elevators or warehouses in this state having a storage capacity of one hundred thousand bushels and upwards, in which grain is stored in bulk, and in which grain of different owners is mixed together, or in which grain is stored in such a manner that the identity of the different lots or parcels cannot be accurately preserved, and all such elevators and warehouses as shall be operated for a compensation are hereby declared to be public warehouses.

Proprietor or
lessee of public
warehouse
shall take out a
license.

SECTION 2. The proprietor, lessee or manager of any such public warehouse shall keep an office for the transaction of its business within this state, and if such warehouse be located in any town, village or city within this state where grain is bought and sold in open market, or in any regularly established board of trade or exchange, then such office shall be kept and maintained for the purpose of transacting its business within the limits of such town, village or city; and the proprietor, lessee or manager of any such elevator or warehouse which shall be located in any city in this state having a population of less than one hundred and fifty thousand inhabitants, and having therein a regularly organized board of trade with a membership of at least seventy-five members, and which shall have received in membership fees at least the sum of five thou-

sand dollars, shall be required before transacting any business to procure a license, as hereinafter provided, permitting such proprietor, lessee or manager to transact business as a public warehouseman under the laws of this state; which license shall be issued from the office in which the bond, hereinafter provided for, shall be filed; which license shall set forth the location and name of said warehouse and the individual name of each person interested as owner or principal in the management of the same; or if such warehouse be owned or managed by a corporation, the names of the officers of such corporation shall be stated, and the said license shall give authority to carry on and conduct the business of the public warehouse in accordance with the laws of this state for one year from date of its issue, unless sooner revoked as provided herein.

SECTION 3. The person, persons or corporations receiving license as herein provided shall execute a bond to the state of Wisconsin with good and sufficient surety or sureties to be approved by the clerk of the circuit court for the county in which such warehouse is located, in the penal sum of five thousand dollars for each warehouse of one hundred thousand bushels storage capacity and an additional sum of two thousand five hundred dollars for each and every additional one hundred thousand bushels or fractional part thereof capacity for storing grain, conditional for the faithful performance of his duties and his full compliance with all the laws of this state in relation thereto, which said bond so approved as aforesaid shall be filed in the office of the city clerk of such city, and a fee of two dollars shall be paid by the person applying for such license, one-half of which shall be paid to the clerk of the circuit court, and the balance in the office in which said bonds shall be filed; provided, that when any person or corporation procures a license for more than one warehouse in any county in this state no more than one bond need be given.

Person licensed shall execute a bond.

Public warehouse shall receive grain for storage without discrimination, conditions and regulations for storing.

SECTION 4. Every public warehouse or elevator located in any such city aforesaid shall receive for storage any grain, dry and in a suitable condition for warehousing that may be tendered to it in the usual manner in which such warehouses are accustomed to receive the same in the ordinary and usual course of business, not making any discrimination between persons desiring to avail themselves of warehouse facilities; all grain so received shall be in all cases weighed, inspected and graded by weighers and inspectors appointed as herein provided and stored with grain of a similar grade. No owner, lessee or manager of any such public warehouse shall receive for storage any marketable grain until the same shall have been properly weighed and inspected as provided for herein, nor shall he issue receipts for any grain excepting such receipts as are provided for herein. And in no case shall grain of a different grade be mixed together while in store, but if the owner or consignee so requests, and the warehouseman consents thereto, his grain of the same grade may be kept in a bin by itself apart from that of other owners, which bin shall thereupon be marked and known as a special bin. If a warehouse receipt be issued for grain so kept separate, it shall state upon its face that it is in a special bin, and shall state the number of such bin, and all grain delivered from such warehouse shall be inspected, on its delivery, by an inspector of grain appointed hereunder. Nothing in this section shall be construed to require the receipt of any kind of grain into any warehouse in which there is not sufficient room to accommodate or to store it properly, or in case where such warehouse is necessarily closed. The charges for weighing and inspection, upon receipt and delivery, shall be paid by the warehouseman and may be added to the charge of storage. The inspector or weigher may recover such charges of the warehouseman by an appropriate action in his name.

SECTION 5. Upon the application of the owner or consignee of grain stored in a public warehouse, located in any such city aforesaid, the same being accompanied with evidence that all transportation or charges which may be a lien upon the grain, including charges for inspection and weighing, have been paid, the warehouseman shall issue to the person entitled to receive it a warehouse receipt therefor, subject to the order of the owner or consignee, which receipt shall bear date corresponding with the receipt of the grain in store, and shall state upon its face the quantity and inspected grade of the grain, and that the grain mentioned in it has been received into store to be stored with grain of the same grade by inspection; and that it is deliverable upon the return of the receipt properly indorsed by the person to whose order it was issued and the payment of proper charges for storage. All warehouse receipts for grain issued by the same warehouse shall be consecutively numbered and shall be dated at the city in which said warehouse is located, and no two receipts bearing the same number shall be issued from the same warehouse during any one year, except in case of lost or destroyed receipt, in which case the new receipt shall bear the same date and number as the original and shall be plainly marked on its face "duplicate." If the grain was received from railroad cars, the number and initials of each car shall be stated upon the receipt, with the amount it contained; if from team or by other means, the manner of its receipt shall be stated on its face.

Warehouse receipts to be issued to owner of grain.

SECTION 6. Upon the delivery of grain from store upon any receipt, such receipt shall be plainly marked across the face the word "cancelled," with the name of the person canceling the same, and shall thereafter be void, and shall not again be put in circulation, nor shall grain be delivered twice upon the same receipt. No warehouse receipt shall be issued except upon actual delivery of grain into store in the warehouse from which it purports to be issued and

Warehouse receipts to be "cancelled" after delivery of grain, details as to receipts.

which is to be represented by the receipts. Nor shall any receipt be issued for a greater quantity of grain than was contained in the lot or parcel stated to have been received. Nor shall more than one receipt be issued for the same lot of grain, except in cases where a receipt for a part of a lot is desired, and then the aggregate receipts for a particular lot shall cover that lot and no more. In cases where a part of the grain represented by the receipt is delivered out of store, and the remainder is left, a new receipt may be issued for such remainder, but the new receipt shall bear the same date as the original, and shall state on the face that it is the balance of the receipt of the original number, and the receipt upon which a part has been delivered shall be cancelled in the same manner as if it had all been delivered. In case it be desirable to divide one receipt into two or more, or in case it be desirable to consolidate two or more receipts into one, and the warehouseman consents thereto, the original receipt shall be canceled the same as if the grain had been delivered from store, and the new receipts shall express on their face that they are a part of another receipt or a consolidation of other receipts, as the case may be; and the numbers of the original receipts shall also appear upon the new ones issued, as explanatory of the change; but no consolidation of receipts of dates differing more than ten days shall be permitted, and all new receipts issued for old ones cancelled as herein provided, shall bear the same date as those originally issued, as near as may be.

Delivery of grain on presentation of receipts.

SECTION 7. On the return of any warehouse receipt by him properly endorsed, and the tender of all proper charges upon the property represented by it, such property shall be immediately delivered to the holder of such receipt, and it shall not be subject to any further charges for storage after demand for such delivery shall have been made and the property represented by such receipt shall be delivered within twenty-four hours after such demand shall have been made and the cars or vessels

for the same shall have been furnished. The warehouseman in default shall be liable to the owner of such receipt for damages for such default in the sum of one cent per bushel and in addition thereto one cent per bushel for each and every day of such neglect or refusal to deliver; provided, no warehouseman shall be held in default in delivery if the property is delivered in the order demanded, and as rapidly as due diligence, care and prudence will justify.

SECTION 8. The owner, lessee or manager of every public warehouse located in any such city as aforesaid, shall, on or before Tuesday of each week, cause to be made out, and shall keep posted up in the business office of his warehouse in a conspicuous place, a statement of the amount of each kind and grade of grain in store in his warehouse at the close of the business on the previous Saturday, such business place being the place contemplated in section 2, of this act, as the office for the transaction of the business of such warehouse. He shall keep a book, which shall at all times be open for the examination and inspection of all persons interested in any manner, either in shipping, buying, selling, handling or inspecting grain, stored therein, and which book shall contain a correct daily statement of the amount of each kind and grade of grain received in store in such warehouse on the previous day, also the amount of each kind and grade of grain delivered or shipped by such warehouseman during the previous day and what warehouse receipts have been canceled upon which the grain has been delivered on such day, giving the number of each receipt, the amount, kind and grade of grain received and shipped upon each; also how much grain, if any, was so delivered or shipped, and the kind and grade of it, for which warehouse receipts had not been issued, and when and how such unreceipted grain was received by them, the aggregate of such reported cancellations and delivery of unreceipted grain correspond-

Amount of each kind of grain to be conspicuously posted each week.

ing in amount, kind and grade with the amount so reported delivered or shipped. They shall also at the same time report what receipts, if any, have been canceled and new ones issued in their stead, as herein provided for.

Table of storage rates to be published annually in a newspaper.

SECTION 9. Every warehouseman or public warehouse located in any such city in this state shall be required during the first week in September of each year to publish in one (1) or more of the newspapers (daily if there be such) published in the city in which such warehouse is situated, a table or schedule of rates for the storage of grain in such warehouse during the ensuing year, which rates shall not be increased during the year, and such published rates, or any public reduction of them, shall apply to all grain received into such warehouse from any person or source, and no discrimination as to rates shall be made, directly or indirectly, by such warehouseman for the storage of grain.

Unlawful to mix grain for his own profit.

SECTION 10. It shall be unlawful for the proprietor, lessee or manager or any employe of any elevator or warehouse located in any such city aforesaid to mix any grain of different grades together, or to select different qualities of the same grade for the purpose of storing or delivering the same; nor shall he attempt to deliver grain of one grade for another, or in any way tamper with grain while in his possession or custody, with a view of securing any profit to himself or any other person. And in no case, even of grain stored in a separate bin, shall he be permitted to mix grain of different grades together while in store. He may, however, on request of the owner of any grain stored in a special bin, be permitted to dry, clean or otherwise improve the condition or value of any such lot of grain, but in such case it shall only be delivered as such separate lot, or as the grade it was originally inspected when received by him, without reference to the grade it may be as improved by such process of drying or cleaning. Nothing in this section, however, shall prevent any warehouseman

Care of grain in the warehouse.

from removing grain while within his warehouse for its preservation or safekeeping. No public warehouseman shall be held responsible for any loss or damage to property by fire while in his custody, provided, reasonable care and vigilance be exercised to protect and preserve the same; nor shall he be held liable for damage to grain by heating, if it can be shown that he has exercised proper care in handling and storing the same, and that such heat or damage was the result of causes beyond his control; and in order that no injustice may result to the holder of grain in any public warehouse of Wisconsin, it shall be deemed the duty of such warehouseman to dispose of, by delivery or shipping in the ordinary and legal manner of so delivering, that grain of any particular grade which was first received by him, or which has been for the longest time in store in his warehouse, and unless public notice has been given that some portion of the grain in his warehouse is out of condition, or becoming so, such warehouseman shall deliver the grain of quality equal to that received by him, on all receipts presented. In case, however, any warehouseman of this state shall discover that any portion of the grain in his warehouse is out of condition or becoming so, and it is not in his power to preserve the same, he shall immediately give notice by advertising in a daily newspaper in the city in which such warehouse is located, by publication at least twice in each week for two successive weeks and by posting a notice in the most public place (for such purpose) in such city, of its actual condition as near as he can ascertain. He shall state in such notice the kind and grade of the grain, and the bins in which it is stored, and shall also state in such notice the receipts outstanding, upon which such grain will be delivered, giving the numbers, amounts and dates of each, which receipts shall be those of the oldest dates then in circulation or uncanceled, the grain represented by which has not previously been declared or receipted for as out of condition;

Not responsible
for loss in case
of fire.

or if the grain longest in store has not been received for, he shall so state and shall give the name of the party for whom such grain was stored, the date it was received, and the amount of it, and the enumeration of receipts, and identification of grain, as so discredited, shall embrace as near as may be, as great a quantity of grain as is contained in such bin. And such grain shall be delivered upon the return and cancellation of the receipts, and the unreceipted grain upon the request of the owner or person in charge thereof. Nothing herein contained shall be held to relieve the said warehouseman from exercising proper care and vigilance in preserving such grain after such publication of its condition, but such grain shall be kept separate and apart from all direct contact with other grain, and shall not be mixed with other grain while in store in such warehouse. Any warehouseman guilty of any act or neglect the effect of which is to depreciate property stored in the warehouse under his control, shall be held responsible as at common law or upon his bond as such warehouseman, and in addition thereto the license of such warehouseman shall be revoked. Nothing in this section shall be so construed as to permit any warehouseman to deliver any grain stored in a special bin, or by itself, as provided in this act, to any but the owner of the lot, whether the same be represented by a warehouse receipt or otherwise. In case the grain declared out of condition, as herein provided for, shall not be removed from the store by the owner thereof within two months from the date of the notice of its being out of condition, it shall be lawful for the warehouseman, where the grain is stored, to sell the same at public auction, for account of said owner by giving ten days' notice by advertisement in a newspaper (daily if there be such) published in the city where such warehouse is located.

Warehouseman not relieved from exercising proper care.

Grain in a special bin may be delivered.

Persons owning property in public warehouses may have access—when.

SECTION 11. All persons owning property, or who may be interested in the same, in any public warehouse located in any such city

aforesaid, and all duly authorized inspectors of such property, shall at all times during ordinary business hours, be at full liberty to examine any and all property stored in any such public warehouse. And all proper facilities shall be extended to such persons by the warehouseman, his agents and servants for an examination, and all parts of such warehouse shall be free for inspection and examination of any person interested in property stored therein, or of any authorized inspector of such property. And all scales used for the weighing of property in public warehouses shall be subject to examination and test by any duly authorized inspector, weighmaster or sealer of weights and measures, at any time when required by any person or persons, agent or agents whose property has been or is to be weighed on such scales. The expense of such test by an inspector or sealer to be paid by the warehouse proprietor if the scales are found to be incorrect, but not otherwise. Any warehouseman who may be guilty of continuing to use scales found to be in an imperfect or incorrect condition by such examination and test, till the same shall have been pronounced correct and properly sealed, shall be liable to be proceeded against as provided by law.

Scales subject to examination.

Penalty for use of incorrect scales.

SECTION 12. It shall be lawful for every regularly organized board of trade having seventy-five or more members and having received in membership fees at least five thousand dollars, and located in any city in this state having a population of less than one hundred and fifty thousand inhabitants, to appoint one inspector and one weigher of grain who shall each be required to give bonds with sufficient sureties, in such sums as may be fixed by said board of trade, conditioned for the faithful performance of his duties under this act, and who shall be under the control and direction of said board of trade, and under such rules and regulations as such board of trade may prescribe, and such inspector and weigher shall each have authority to appoint one or more deputies with the

Inspector and weigher of grain may be appointed who shall give bonds.

approval of said board of trade; provided, that in case of two or more boards of trade being located in the same city and having the requirements herein provided, then the board of trade first established and meeting the requirements herein provided shall have authority to appoint such inspector and weigher, and there shall be but one inspector and one weigher in any such city, who shall hold office at the pleasure of such board of trade and until his successor is appointed and qualified.

Secretary of board of trade to act as register of receipts.

SECTION 13. The secretary of every such board of trade shall also act as register of receipts issued by any such warehouse, and shall keep all records, and certify to all proper receipts in such manner and under such rules and regulations as may be prescribed by such board of trade.

Penalty for acting as inspector or weigher without authority.

SECTION 14. Any person who shall assume to act as inspector or weigher of grain who has not been first appointed under the provisions of this act, or who has been so appointed and removed by such board of trade, and who shall inspect or weigh or attempt to inspect or weigh grain, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than fifty dollars, nor more than one hundred dollars, or shall be imprisoned in the county jail not less than thirty days nor more than ninety days or both, in the discretion of the court. Two-thirds of all fines collected under this section shall be paid to the informer and the other third shall be covered into the school fund. No prosecution shall be commenced under this section except on the complaint of an officer of such board of trade or of an inspector or weigher appointed by such board of trade.

Penalty if duly authorized inspector or weigher accepts bribe or neglects his duty.

SECTION 15. Any duly authorized inspector or deputy inspector or weigher of grain who shall be guilty of any neglect of duty, or who shall accept any money or other consideration, directly or indirectly for any neglect of duty or any improper performance of duty as such inspector or weigher of grain, or any person

who shall improperly influence any inspector or weigher of grain in the performance of his duty as such inspector or weigher, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred dollars, nor more than one thousand dollars, or shall be imprisoned in the county jail not less than thirty days, nor more than one year, or both, in the discretion of the court.

SECTION 16. All charges for the inspection and weighing of grain shall be and constitute a lien on grain so inspected or weighed, and whenever such grain is inspected or weighed in transit the said charges shall be treated as advance charges, to be paid by the common carrier in whose possession the same is at the time of inspection or weighing.

Charges for inspection to constitute a lien on the grain

SECTION 17. It shall be the duty of every board of trade having authority to appoint inspectors and weighers of grain, to furnish any elevator or warehouse in this state, standard samples of grain, as established by the said board of trade, when requested so to do by the proprietor, lessee or manager thereof, at the actual cost of such samples.

Standard samples of grain to be furnished by boards of trade.

SECTION 18. Any proprietor, manager or lessee of any warehouse violating any of the provisions of this act shall be liable to any person, persons or corporations, for all damages sustained thereby, to be recovered before any court having jurisdiction, and if upon the trial of such case before any court of record having jurisdiction it shall appear that such warehouseman has wilfully violated any of the provisions of this act, such court shall make a finding to that effect, and direct by order that the license of such warehouseman be revoked, and upon filing a certified copy of such order in the office from which such license was issued with proof of service thereof, upon the proprietor, lessee or manager of such warehouse, the said license shall be revoked from the time of such filing of said copy and proof of service.

Proprietor or lessee of warehouse to be liable for all damages sustained by owner of grain.

SECTION 19. Any person who shall transact

Penalty for
conducting a
public ware-
house without
a license.

the business of a public warehouseman in any such city aforesaid without first procuring a license as herein provided, or who shall continue to transact such business after such license has been revoked (save only that he may be permitted to deliver property previously stored in such warehouse) or who shall violate any of the provisions of this act or fail to comply with any of the conditions thereof, shall forfeit a sum of not less than one hundred dollars, nor more than one thousand dollars, for each and every such offense, and for a continuation of such offense, shall be liable for each and every day such offense continues, in a like sum, to be recovered in an action as provided by statute for the collection of forfeitures.

SECTION 20. All acts and parts of acts in conflict with this act are hereby repealed.

SECTION 21. This act shall take effect and be in force from and after its passage and publication.

Approved April 6, 1895.

No. 101, S.]

[Published April 9, 1895.

CHAPTER 133.

AN ACT to appropriate to the commissioners of fisheries a sum of money herein named.

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

\$8,000 for "Fish Culture."

SECTION 1. There is hereby annually appropriated to the commissioners of fisheries, in addition to the appropriation now provided by law, the sum of eight thousand dollars; provided, that a part of the amount hereby appropriated shall be used in constructing and maintaining a hatchery at some point in the north half of the state.