

CHAPTER 126.*

GRAIN AND WAREHOUSE COMMISSION.

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126.01 Grain and warehouse commission; definitions. The grain and warehouse commission of Wisconsin consists of 3 commissioners appointed by the governor. The word "commission," when used alone in this chapter, means the grain and warehouse commission of Wisconsin and the word "warehouse" includes grain elevator and the word "grain" includes flaxseed. "Superior" means the city of Superior. The commission may sue and be sued as the "Grain and Warehouse Commission of Wisconsin." [1945 c. 443]

Revisor's Note, 1945: "The city of Superior" recurs very often. To save words there is added the clause: "Superior" means "the city of Superior." The last sentence is from 126.10. "Flaxseed" comes from old section 126.54. (Bill 321-S)

126.02 Personnel of commission. No person interested in any warehouse or in the transportation of grain or in the employ of any owner or operator of a warehouse or any grain dealer or any stockholder or official of any common carrier shall be appointed a commissioner. Before making appointments, the governor shall request the governors of North Dakota and New York and the board of trade of Superior to recommend persons for appointment but their recommendations are only advisory. [1931 c. 141; 1945 c. 443]

Revisor's Note, 1945: The last sentence seems useless. The governor could confer with those officials without being so directed by statute. He can do as he pleases anyway. The provision is an idle gesture. (Bill 321-S)

126.03 Commissioners; appointment; duties; salaries; terms. (1) The commissioners shall hold their offices until their successors are appointed and qualified. In January of each year the governor shall appoint a commissioner for the term of 3 years from the first Monday in February of such year and until his successor is appointed and qualified.

***Revisor's Note, 1945:** Section 1 of chapter 443, laws of 1945, reads: "The revision of chapter 126 of the statutes does not change the law. It changes the language but does not change the meaning." (Bill 321-S)

(2) Each commissioner shall give his entire time to the performance of his duties, and shall not engage in any other active business; he shall receive a salary of \$300 per month, out of the funds and fees collected under this chapter. [1945 c. 443]

126.04 Oath of office; bond. Each commissioner shall, before entering upon the duties of his office, take and execute and file with the secretary of state the official oath and the bond required by section 19.01, which bond shall be in the sum of \$5,000, with surety approved by the governor. [1945 c. 443]

Revisor's Note, 1945: 19.01 covers official oaths and bonds and was enacted later than 126.04; and it is now the law. (Bill 321-S)

126.05 Powers and duties of commission; appointees. (1) **WEIGH GRAIN.** The commission shall weigh all grain received in Superior, and all grain received in or shipped from public warehouses.

(2) **GRADE GRAIN.** The commission shall inspect and grade all grain grown in this state and any other grain, upon request, which is received for milling or is bought or sold in Superior; and shall inspect and grade all grain received for storage in or shipped from public warehouses.

(3) **ANALYSES.** The commission may make analyses, upon request, of any grain or cereal products which are offered for its inspection.

(4) **CHIEF INSPECTOR, WEIGHMASTER, CHEMIST.** The commission shall appoint a chief inspector and one or more deputy inspectors, a weighmaster and one or more deputy weighmasters, a chief chemist and one or more deputy chemists.

(5) **REGULATIONS.** The commission shall adopt and publish regulations governing inspection, weighing and grading of grain delivered to or shipped from public warehouses in said city; and such further regulations as will enable it to administer this chapter.

(6) **SECRETARY.** The commission shall appoint a commissioner secretary. He shall keep the records of the commission and receive the reports made to it. [1945 c. 443; 43.08 (2)]

Note: Grain and warehouse commission or sold in Superior, regardless of whether is authorized by (1) to weigh all grain received in Superior for milling or storage, or milled or stored in Superior, or bought or sold in public warehouse, and also to weigh grain shipped from public warehouses. 29 Atty. Gen. 111.

126.06 Public warehouses defined. All commercial grain warehouses in Superior, and all warehouses in said city in which the grain of different owners is so stored that the identity of different lots cannot be accurately preserved, and all warehouses in said city which issue warehouse receipts for grain are public warehouses. Any commercial warehouse in any other city (except cities of the first class) in this state which is operated in a manner described in this section and which issues warehouse receipts for grain may, upon request, be declared by the commission to be a public warehouse and shall thereafter be subject to the provisions of this chapter. [1945 c. 443]

Revisor's Note, 1945: First class cities are excluded by 126.74. (Bill 321-S)

Note: Company which conducts private warehouse not in Superior may not be declared public warehouse by the grain and warehouse commission because it issued warehouse receipts to itself for convenience in dealing with its parent corporation. 19 Atty. Gen. 544.

Phrase "doing business for a compensation" in 126.06, Stats. 1939, means doing such business as is usually carried on by public warehousemen. Mill which stores only its own grain cannot be compelled to become licensed as public warehouse. 29 Atty. Gen. 111.

126.07 Warehouse licenses; revocation. Every public warehouseman shall, before transacting business, procure a license from the commission. Such license shall be issued upon a written application which shall set forth the location and name of the warehouse and the name of each person interested as owner or principal in the management of the same; or if the warehouse is owned or managed by a corporation, the name of the president, secretary and treasurer of the corporation. Such license may be revoked by the commission in summary proceedings upon a written complaint setting forth the particular violation of the law and upon satisfactory proof taken in such manner and upon such notice as the commission directs. [1945 c. 443]

126.08 Bond of licensee. The applicant for a license must file with the commission a bond to the state in the sum of \$10,000 with sureties approved by the commission, conditioned for the faithful performance of his duty as a public warehouseman, and for compliance with the laws relating thereto; and pay the commission a fee of \$2 for each license. If any person procures several licenses in Superior, only one bond need be given. [1945 c. 443]

126.09 Penalty. Any person who transacts the business of a public warehouseman without a license, or continues to transact business after his license has been revoked (save only to deliver property previously stored in his warehouse) shall be fined not less than \$100 nor more than \$500 for each day such business is carried on; and the commis-

sion may refuse for one year after revocation to relicense the person whose license was revoked. [1945 c. 443]

126.10 Grain stored; mixing; inspection fees. While he has sufficient room, every public warehouseman shall receive for storage without discrimination all grain suitable for warehousing, that is tendered in the manner in which warehouses are accustomed to receive grain. Such grain shall be inspected and graded and may be stored with grain of similar grade. Grain of different grades shall not be mixed in storage. If the owner or consignee so requests and the warehouseman consents, his grain of the same grade may be kept in a separate bin marked "special bin." A warehouse receipt issued for grain so kept in separate bins shall so state, and shall state the number of the bin; and all "special bin" grain delivered from the warehouse shall be inspected on its delivery. The charges for inspection upon receipt and delivery shall be paid by the warehouseman, and may be added to the charge for storage. [1945 c. 443]

Revisor's Note, 1945: For better location, sue and be sued by) is transferred to 126.01. the last sentence of old 126.10 (the name to (Bill 321-S)

126.11 Warehouse receipts. Upon application of the owner or consignee of grain in public warehouses, accompanied with evidence that all transportation and other charges which were a lien upon such grain have been paid, the warehouseman shall give him a receipt, bearing the date of the receipt of the grain, and stating the quantity and grade of the grain as fixed by the inspection, and that the grain has been received to be stored with grain of the same grade, and is deliverable upon the return of the receipt properly indorsed and the payment of the storage charges. The receipts of any warehouse shall be consecutively numbered throughout the calendar year. In case a receipt is lost or destroyed, a duplicate receipt may be issued which shall bear the same date and number as the original, and shall have plainly stamped across its face the word "duplicate." Each receipt shall state, if the grain is received from a car, the number of the car and the amount it contained; if from a vessel, the name of the vessel, and the amount it contained; if by other means, the amount received and the manner of its receipt. [1945 c. 443]

126.12 Receipts (continued); new receipts. Upon delivery of stored grain the receipt therefor shall have plainly stamped across its face the word "canceled," with the name of the person canceling it. A canceled receipt shall not again be put in circulation, nor shall grain be delivered twice upon the same receipt. No receipt shall issue except for grain delivered into the warehouse; nor for a greater quantity than was actually received; nor more than one receipt for the same lot of grain, except in cases where a receipt for part of the lot is desired; and then the aggregate of receipts for a particular lot shall cover that lot and no more. Where a part of the grain represented by the receipt is delivered out of store, a new receipt may issue for the remainder, but the new receipt shall bear the same date as the original receipt, and shall state on its face that it is for the balance of the grain represented by the original receipt (giving the number thereof) and the original receipt shall thereupon be canceled. In case it is desirable to divide one receipt into two or more receipts, or to consolidate two or more receipts, and the warehouseman consents, the original receipts shall be canceled, and the new receipts shall state that they are a part of another receipt or a consolidation of other receipts (as the case may be) and state the number of each original receipt. No consolidation of receipts differing in dates more than 10 days is permitted. And all receipts issued in lieu of old receipts shall bear the dates of the original receipts as near as may be. [1945 c. 443]

126.13 Receipts not to limit liability. A warehouse receipt shall not contain language which limits or modifies the warehouseman's liability or responsibility imposed by the laws of this state; and no warehouse receipt shall issue except at the warehouse or at the office of the warehouseman; and shall not be delivered until a record thereof is made, containing the date, number, amount, kind and grade of grain, which record shall be kept at the warehouse, or at such office in the city where the warehouse is located, and shall be open to the inspection of all persons having grain stored in the warehouse, or holding a receipt for grain stored therein. Any warehouse receipt issued contrary to this section is void. [1945 c. 443]

126.14 Redemption of receipts; defaults. On the return of a warehouse receipt properly indorsed, and a tender of all proper charges upon the grain represented by it and a demand for delivery, such grain shall not be subject to any further charges for storage, and such grain shall be delivered within 24 hours after such tender and demand, and cars or vessels to receive the same have been furnished. Such receipt and payment of charges and demand may be tendered and made at the warehouse, or at the office of the warehouseman kept as required by section 126.13. Any warehouseman who defaults in delivery of grain shall be liable to the owner of the grain or of the warehouse receipt

at the rate of one cent per bushel, and in addition thereto to one cent per bushel for each day of such failure to deliver; but no warehouseman is in default if the grain is delivered in the order demanded and as rapidly as possible. [1945 c. 443]

126.15 Report to commission. The operator of a public warehouse shall furnish in writing under oath to the commission, at such times as it may require, a statement of the condition and management of his business as warehouseman. [1945 c. 443]

126.16 Weekly and daily statements. Every public warehouseman shall before each Tuesday noon post and keep posted in a conspicuous place in his warehouse office a statement of the amount of each kind and grade of grain in store in the warehouse at the close of business on the previous Saturday; and shall on each Tuesday morning render a similar statement to the commission, which statements shall be made under oath by the warehouseman or by the bookkeeper having personal knowledge of the facts. Every warehouseman shall furnish daily to the commission a statement of the amount of each kind and grade of grain received in store on the previous day; and of the amount of each kind and grade of grain delivered by him during the previous day; and of the warehouse receipts that were canceled on account of the grain delivered such day—giving the number of each receipt and the amount and kind of grain and the grade mentioned in the receipt; also, how such grain was delivered and amount, kind and grade of it, on which warehouse receipts had not been issued; when and how much unreceipted grain was received; the aggregate amount of such receipted cancellations and delivery of unreceipted grain corresponding in amount, kind and grade with the amount so reported delivered or shipped. Every warehouseman shall also at the same time report what receipts have been canceled and new receipts issued in their stead. In making such statements he shall furnish the commission such further information regarding receipts issued or canceled as may be necessary to enable the commission to keep a full and correct record of all receipts issued and canceled and of all grain received and delivered. [1945 c. 443]

Note: Grain and warehouse commission authority to establish department for purpose has been given broad powers to effectively of registering and canceling warehouse receipts. 22 Atty. Gen. 64.

126.17 [Renumbered 126.05 (6) by 1945 c. 443; 43.08 (2)]

126.18 Rates published annually; maximum rates; hearings; appeals. (1) Every public warehouseman shall during the first week in each September publish in a daily newspaper of the city in which his warehouse is located a schedule of his rates for the storage of grain during the ensuing year, which rates shall not be increased during the year. Such published rates, or any published reduction thereof, shall apply to all grain received in his warehouse. No discriminations as to rates shall be made. The maximum charge for storing and handling grain is one-half cent per bushel for the first 15 days, and one-half cent additional for every additional 30 days, or fraction thereof.

(2) If any person deems any charge unreasonable he may file with the commission a complaint, stating the ground upon which he claims the charge is unreasonable, whereupon the commission shall set a time and place for hearing the complaint, but not later than 10 days after its filing. Upon the hearing, if the commission is of the opinion that the charge is unreasonable, it may increase or diminish it, such increased or diminished charge to go into effect immediately and remain in effect until changed upon a like hearing or upon appeal. The complainant may appeal to the circuit court in the same manner and with like effect as appeals are taken from the disallowance of claims by the county board. The commission may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of books and papers. The commission or the complainant may cause depositions to be taken in the manner prescribed for depositions in civil actions in circuit courts. [1945 c. 443]

Revisor's Note, 1945: Next to the last is a duplication of 325.12 and is omitted. sentence of old 126.18 (coercing witnesses) (Bill 321-S)

126.19 Warehouseman, duties and liabilities; special grades. (1) No public warehouseman shall mix grain of different grades nor select different qualities of the same grade for storing or delivering the same. Neither shall he attempt to deliver grain of one grade for another, nor in any way tamper with grain in his possession with a view of securing profit to himself or any other person.

(2) The commission may grade any lot of grain "special grade," upon the request of the owner; and such lot shall be received into public warehouses only as "special grade" grain, and shall be kept in bins marked "special bins." Any warehouseman may, on the request of the owner of any "special grade" grain, mix, dry, clean or otherwise improve such grain. The warehouse receipt for such grain shall state that it is issued for "special grade" grain, and shall also state the numbers of the bins where it is stored. Upon the application of the owner of "special grade" grain, the commission may reinspect and

regrade the same. The warehouseman shall, upon the surrender of the original warehouse receipt issued against "special grade" grain, cancel the receipt and issue in lieu thereof a receipt which states the grade of the grain so reinspected; and he may then store said grain with other grain of the same grade.

(3) This section does not prevent any warehouseman from removing grain from his warehouse for preservation or safekeeping. No warehouseman is responsible for damage to grain by fire; provided reasonable care be exercised to protect the same; nor is he liable for damage by heating; provided he exercised proper care in handling and storing the same, and heating was the result of causes beyond his control.

(4) Every warehouseman shall deliver or ship in the ordinary manner that grain of any particular grade which has been longest in store; and unless public notice has been given by him that some portion of the stored grain is out of condition, or becoming so, he shall deliver grain of quality equal to that received by him on all receipts as presented.

(5) In case he discovers that grain in his warehouse is out of condition or becoming so, and he cannot preserve the same, he shall immediately give public notice of its condition (as near as he can ascertain) by advertisement in a daily newspaper in the city in which his warehouse is located, and by posting a notice in the most public place (for such purpose) in the city. The notice shall state the amount, kind and grade of grain, the bins in which it is stored, the receipts outstanding against the grain, giving the numbers and dates of each and the names of the persons for whom the grain was stored. The enumeration of receipts and identification of grain in the notice shall embrace (as near as may be) the quantity of grain contained in the bins. Such grain shall be delivered upon the return and cancellation of the receipts and the unreceipted grain upon request of the owner or person in charge thereof. The warehouseman is not hereby relieved from exercising proper care in preserving grain after giving notice of its condition, but it shall be kept separate from other grain. In case the grain so declared to be out of condition is not removed by the owner within 2 months from the date of the notice the warehouseman may sell it at public auction for the account of the owner, upon giving 10 days' notice by advertisement in a daily newspaper published in said city.

(6) Any warehouseman whose act or neglect depreciates grain in his warehouse is liable therefor on his bond, and, in addition thereto, his license shall be revoked. This section does not permit any warehouseman to deliver grain stored in a special bin or by itself to any person other than the owner, whether the grain is represented by receipts or otherwise.

(7) A warehouseman is not required to receive more "special grade" grain than he can store conveniently, having reference to the capacity of his warehouse and the amount of regular grades stored therein. [1945 c. 443]

126.20 Admittance to warehouses; test of scales. All persons owning or interested in grain in any public warehouse and all inspectors may, during ordinary business hours, examine all grain in any public warehouse and the warehouse itself, and all proper facilities shall be extended to such person by the warehouseman, his agents and servants, for such examination. All scales in public warehouses shall be subject to examination and test by any inspector, weighmaster or sealer of weights and measures at any time when required by any person whose grain was or is to be weighed on such scales. The expense of the test by an inspector or sealer shall be paid by the warehouseman if the scales are found incorrect, but not otherwise. [1945 c. 443]

126.21 Weighmaster. (1) **DUTIES.** The weighmaster and his deputies shall have exclusive control of the weighing of grain received into any mill or stored in or delivered to or shipped from public warehouses and the inspection of scales upon which grain is weighed; and the action or certificates of the weighmaster or his deputies, in the discharge of their duties, shall be conclusive as to the matters contained in said certificates.

(2) **FEES, WHO TO PAY.** The fees for weighing grain shall be paid by the warehouseman, and may be added to the charges for storage.

(3) **ELIGIBILITY; BONDS.** Neither the weighmaster nor any deputy shall be a member of any board of trade or association of like character. They shall each give a bond to and approved by the commission in the sum of \$2,000 conditioned for the faithful discharge of their duties.

(4) **PENALTY FOR OBSTRUCTING WEIGHMASTER.** Any person who refuses access or prevents the weighmaster or his deputies from access to scales in the performance of their duties shall forfeit \$100 to be recovered in an action by the commission, and all moneys collected shall be turned into the state treasury. [1945 c. 443]

Revisor's Note, 1945: Sections 126.21, charges for weighing and inspection is given by 126.23. All forfeitures must go to the school fund (art. X, sec. 2, Const.) and must be paid to the state. (Bill 321-S)

126.22 [Renumbered section 126.21 (2) by 1945 c. 443]

126.23 [Renumbered section 126.21 (3) by 1945 c. 443]

126.23 **Chemist, bond.** The chief chemist shall, before entering upon his duties, execute a bond to the commission in the penal sum of \$2,000, with sureties approved by the commission, and conditioned that he will faithfully and impartially discharge the duties of the office of chief chemist. [1945 c. 443]

126.24 [Renumbered section 126.21 (4) by 1945 c. 443]

126.25 **Chief inspector; oath and bond.** The chief inspector shall, before entering upon his duties, take the official oath and execute a bond to the commission in the penal sum of \$5,000 with sureties approved by it and conditioned that he will faithfully and impartially discharge his duties as chief inspector and will pay all damages to any person who is injured by reason of his failure to perform his duties. [1945 c. 443]

126.26 **Deputy inspectors; oath; bond.** The chief inspector shall appoint, subject to the approval of the commission, necessary deputy inspectors, for whose acts he shall be responsible, and his bond shall be held to cover the acts of such deputies. Each deputy shall take the official oath and he may be required by the commission to give a bond to the commission. Deputies may be removed by the chief inspector at will and shall act in his name and under his control and supervision. [1945 c. 443]

126.265 [Renumbered section 126.23 by 1945 c. 443]

126.27 [Repealed by 1945 c. 443]

126.28 **Inspectors, duties; service charges.** The chief inspector and deputy inspectors shall be governed by rules and regulations promulgated by the commission. The commission shall fix the rates of charges for inspection and weighing grain and the manner in which the charges shall be collected. [1945 c. 443]

Revisor's Note, 1945: 126.46 provides that ~~fray~~ the expenses of the commission. (Bill the fees charged shall be sufficient to de- 321-S)

126.29 **Eligibility of inspectors.** No inspector shall, during his term of service, be interested directly or indirectly, in handling, storing, shipping, purchasing or selling grain. [1945 c. 443]

126.30 **Removal of inspectors.** Upon written complaint to the commission, supported by satisfactory proof, that the chief inspector or any deputy has violated any of the rules prescribed for his government or has been guilty of any improper official act or has been found inefficient or incompetent, the commission shall immediately remove him from office. [1945 c. 443]

126.31 **Pretending to be an inspector; prosecution.** Any person who acts as a grain inspector in any city in which a public warehouse is located but who in fact is not a duly qualified inspector under this chapter shall be punished by a fine of not less than \$100 for each attempt to so inspect grain. If the complaint is made by a commissioner or by any inspector one-half of the fine shall go to the commission, and in case the complaint is made by any other person one-half of said fine shall go to the complainant. The remaining half goes to the school fund. [1945 c. 443]

126.32 **Neglect by inspector; bribery.** Any inspector who neglects his duty, or who knowingly or carelessly inspects or grades grain improperly, or who accepts money or other consideration for neglect or improper performance of duty and any person who improperly influences any inspector in the performance of his duty shall be fined not less than \$100 nor more than \$500 or imprisoned not less than 30 days nor more than 6 months, or both. [1945 c. 443]

126.33 **Liens.** The charge for inspecting and weighing grain under this chapter is a lien on the grain; and whenever the grain is in transit the charges shall be treated as advanced charges to be paid by the common carrier in possession of the grain at the time of inspection. [1945 c. 443]

126.34 **Decision of inspector final if unappealed.** The decision of the inspector as to the grade of grain shall be final and binding on all parties unless an appeal is taken from such decision. [1945 c. 443]

126.35 **Appeals; finality.** In case any owner, consignee or shipper of grain, or any warehouseman is aggrieved by the decision of the inspector, as to the grade of grain, an appeal may be had to the commission, and the decision of a majority of the members of the commission shall be final. The commission may make rules governing such appeal. The appellant shall pay to the commission the required fee but not to exceed \$2 before an appeal is entertained which sum shall be refunded in case the inspection appealed from is not sustained. [1945 c. 443]

126.36 **Withholding storage; conversion.** If any consignee of grain desires to receive it without its passing into storage, he may have it withheld from any warehouse

(whether previously consigned to such warehouse or not) by so notifying the person in possession; and such grain shall be delivered to the consignee directly, subject only to lienable charges prior to such notice. Grain in railroad cars shall be removed by consignee within 24 hours after such notice to the railroad company, provided the company places the cars in a proper and convenient place for unloading. Any person who refuses to allow the consignee to so receive his grain shall be guilty of conversion, and be liable to him in double the value of the grain converted. [1945 c. 443]

126.37 Unlawful delivery of grain. It is unlawful for any railroad company or other person to deliver or agree to deliver grain to any public warehouse contrary to the direction of the owner or consignee. [1945 c. 443]

126.38 "Superior grades." The commission shall before September 15 in each year, establish grades (to be known as "Superior grades") for all kinds of grain bought, sold or handled by public warehouses. Such grades shall be published in a daily newspaper in every city in which a public warehouse is located; but the grades, weights and measures or any standards of quality and condition of grain, seed and other agricultural products established by the secretary of agriculture of the United States under the United States grain standards act become and are the grades, standards of quality and conditions, weights and measures of this state. [1945 c. 443]

Note: This section does not call for annual publication of standards, qualities and grades established by secretary of agriculture and warehouse commission. 23 Atty. Gen. 345 overruled. 33 Atty. Gen. 30.

126.39 Samples of grain. The commission shall furnish any public warehouse, upon its request, standard samples of established grades of grain at the actual cost of such samples. [1945 c. 443]

126.40 Supervision by commission. The commission shall exercise constant supervision over housing and marketing grain in every city in which a public warehouse is located; over handling, inspecting, weighing and storing the same; and over the management of the public warehouses. The commission shall investigate all complaints of fraud or oppression in the grain trade and in the handling and housing of grain in such cities, and, at least 3 times annually, shall verify by measurement the amount of grain in each public warehouse. [1945 c. 443]

126.41 Publishing inspection rules. The regulations adopted by the commission for weighing and inspecting grain shall be published in a daily newspaper in each city which has a public warehouse. [1945 c. 443]

126.43 Treasurer, appointment, bond, duties, deposits. The commission shall appoint one of its members treasurer, and he shall make and shall file with the state treasurer a bond to the state of Wisconsin, in the sum of \$20,000, conditioned to account for and pay over all moneys coming into his hands and to keep a just and accurate account of all such moneys according to law; said bond to be approved by the governor. All moneys received by or for the commission shall be deposited with the state treasurer within a week of its receipt and be accompanied by a statement of the amount of the collection, from whom or for what purpose or on what account the same was received. The state treasurer shall credit the moneys thus received to the commission's appropriation. [1945 c. 443]

126.44 Monthly expense report; audit thereof. The commission shall file with the director of budget and accounts on the first of each month a correct, detailed statement of all expenses incurred by it during the preceding month. The commission may pay additional compensation to employes who are required to work in excess of the regular hours of employment. The commission may expend, above its legal obligations, not to exceed \$4,000 annually, to promote the grain trade or market in any city which has a public warehouse. Such statement shall contain the names and post-office addresses of all claimants, together with the amount due each; and the director of budget and accounts shall audit said accounts. [1945 c. 443; 1947 c. 9]

Revisor's Note, 1945: It is hardly possible to literally comply with the requirement to file "on the first of each month." That day is sometimes Sunday or a holiday. It would be more practical to say before the 10th or 15th of each month. (Bill 321-S)

126.45 Incapacity to incur state debt; payment of claims. The commission shall not incur any debt in the name of the state. Its members shall not be liable for any debt incurred in carrying out the provisions of this chapter; but all debts so incurred shall only be payable out of moneys collected by it and in such other manner as the commission provides. [1945 c. 443]

126.46 Inspection fees to defray expenses. The fees for weighing, inspection and other services performed under this chapter shall be so fixed as to make the work of the commission self-sustaining. [1945 c. 443]

Revisor's Note, 1945: The power to fix rates of charges is given by 126.28. (Bill 321-S)

126.47 Inspection record; certificate; evidence. The chief weighmaster shall keep a correct record of all grain weighed, giving the amount of each weight, the number and contents of each car weighed, the place where weighed and the date; and of all grain weighed into boats and the date and amount thereof, and the name of the boat. He shall, upon the payment of the weighing charges, give under his hand and the seal of the state a certificate of the weight of the grain, the date weighed, amount and kind of grain and where weighed, and the name or initial and number of the car or boat from or into which the same was weighed. Such certificate is prima facie evidence of the facts therein contained. [1945 c. 443]

Revisor's Note, 1945: What seal is meant? seal to be that of the commission. The There is no provision in ch. 126 for an of- state's seal is with the secretary of state. ficial seal. Naturally one would expect the (Bill 321-S)

126.48 Certification of grades and analyses; evidence. (1) The chief inspector shall give, under his hand and the seal of the state, a certificate of the grade of the grain inspected, the date, the kind of grain, the name or initial and number of the car or boat from or into which the same was inspected, which certificate is prima facie evidence of the facts therein contained.

(2) The chief chemist may issue certificates under his hand and the seal of the state, showing in detail the results of his analyses; and shall keep a correct record in detail of all samples of grain and cereal products and the analyses thereof, which certificates are prima facie evidence of the facts therein contained. [1945 c. 443]

126.49 Railroad police protection. All railroad companies operating in any city which has a public warehouse shall furnish ample police protection and watchmen at all stations in said city, and in their yards and about their terminal tracks for cars containing grain, and shall restrain all unauthorized persons from entering or loitering in or about their yards or tracks and from entering cars of grain or removing grain therefrom. [1945 c. 443]

Revisor's Note, 1945: 192.47 gives the railroad authority to maintain a police force. (Bill 321-S)

126.50 Protection of grain after carrier delivery. All public warehousemen in Superior and all manufacturers of flour or other grain products in said city shall protect all grain in cars in their possession and shall properly care for all cars of grain consigned to their warehouses, mills or factories after delivery has been made by the railroad companies and shipments of grain in cars from such warehouses, mills or factories until delivery has been made to the railroad company. [1945 c. 443]

126.51 Breaking car seals. Any person (other than the chief inspector or his deputies, or a regular employe of the railroad company or warehouseman, in charge of grain or cars) who tampers with or breaks any seals placed upon cars of grain shall be punished by a fine of not less than \$10 nor more than \$100 or by imprisonment in the county jail not less than 10 nor more than 90 days. [1945 c. 443]

126.52 No delivery before inspection; inspection fees; penalties. No common carrier shall deliver to any warehouse any car of grain to be unloaded unless the warehouseman has a license, nor until the grain has been inspected and graded and the inspection charges paid. Upon such delivery the inspection charges shall be paid to the carrier by the warehouseman in addition to transportation charges and in the usual manner. Any violator of this section shall be fined not less than \$100 nor more than \$500 and shall also be liable to the commission in damages 3 times the amount of inspection charges upon said grain. [1945 c. 443]

Revisor's Note, 1945: Inspection fees are fixed under 126.28. No maximum is provided for. (Bill 321-S)

126.53 Penalties. (1) **GENERAL PENALTY.** Any person who violates any provision of this chapter or fails to perform any duty required by any provision hereof (when the punishment is not otherwise specifically provided) shall be fined not less than \$10 nor more than \$100 and shall be liable to all persons aggrieved thereby for treble the amount of damages suffered.

(2) **ALTERING CERTIFICATE.** Any person who alters, changes or modifies any certificate issued under authority of the commission shall be fined not less than \$100 nor more than \$500 and shall be liable to the commission in damages 3 times the amount incurred by reason of such alterations, changes or modifications. [1945 c. 443]

126.535 [Renumbered section 126.53 (2) by 1945 c. 443]

126.54 [Repealed by 1945 c. 443]

126.55 [Renumbered 126.03 (2) by 1945 c. 443]

126.56 [Repealed by 1945 c. 443]

126.57 Locus of sale. In all sales of grain to be delivered in Superior or where the purchase price is to be determined by weighing the grain in Superior or where deliv-

ery or weighing is contemplated or afterwards takes place there, the sales shall be deemed to have been made in said city within the provisions of this chapter and the grain shall be inspected and weighed under this chapter. [1945 c. 443]

126.58 Presumption of sale. All grain delivered from any warehouse to cars or boats in Superior, is presumed to have been delivered upon, or in fulfilment, in whole or in part, of a contract for the sale thereof and shall be weighed and inspected under this chapter at the time of delivery. But this section does not apply to the use of boats for storage out of navigation season, provided the grain is afterwards returned to the warehouse for inspection and weighing. [1945 c. 443]

126.59 Unauthorized weighing; penalty. Only the chief weighmaster or his deputy shall weigh grain received into any warehouse or mill in Superior or shipped out of such warehouse or mill. Any violation of this section shall be punished by a fine of not less than \$100. This section does not prevent the owner of grain from weighing his grain where the weighing does not relate to a sale or delivery or payment for said grain and is solely for his private use; but the burden of proving that the weighing is for his private use shall be upon him. [1945 c. 443]

126.60 No receipt for grain not graded. No warehouse receipt shall issue for grain received or stored in any warehouse, mill elevator or mill in Superior, unless the grain has been inspected and graded under this chapter; and any receipt otherwise issued shall be void. [1945 c. 443]

126.61 No delivery until fees paid. No railway company shall deliver in Superior any inspected grain until the fees for inspection are paid as provided in section 126.33; and for a violation of this section, it shall be liable to the commission for 3 times the amount of the fees so unpaid. [1945 c. 443]

Revisor's Note, 1945: Under 126.57 all grain delivered in Superior must be inspected. (Bill 321-S)

126.62 Refusal by warehouseman to pay charges; sales. In case any consignee of grain or other person to whom grain is ordered delivered refuses to pay the inspection charges or refuses to receive the grain upon which said charges are a lien, by reason of the railway company insisting upon payment of such charges, the company shall immediately notify the consignor or owner of the grain of the refusal and shall collect the charges from him, and in case the charges are not paid promptly the company may upon one day's notice (oral or in writing or by telegram) sell the grain in the open market in Superior, and out of the proceeds of sale pay the expenses, inspection fees, weighing charges and transportation charges, and pay the balance to the person entitled thereto. [1945 c. 443]

126.63 Enforcement of lien; sale; foreclosure. In addition to other remedies, the commission may seize any grain upon which it has a lien for charges, and hold 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 grain and may sell such grain in the open market in Superior after giving not less than 10 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. The commission may also bring an action to foreclose its lien in the usual manner. If the action is brought while the grain is in the hands of the railway company, it shall not be necessary to make any person a defendant other than the company, in which case the company shall notify the owner of the grain, who may upon his application be made a party defendant. The commission may foreclose its lien upon all grain or upon any number of carloads of grain in the possession of any railroad company in a single action. [1945 c. 443]

126.64 Penalty for sale without inspection; locus of sale. No person shall sell or offer grain for sale in Superior, until it has been inspected, or deliver any grain in said city in pursuance of any contract made elsewhere, to any person, warehouse or mill, or from any such warehouse to cars or boats, until inspection is made. Any person violating this section or participating in any such sale or delivery or receiving such grain shall be fined not less than \$100 or imprisoned not exceeding 90 days or both. Every sale, offer for sale or delivery of grain within the meaning of this section shall be deemed made in said city, notwithstanding the contract was made elsewhere, if such grain, at the time, is within the city or is thereafter delivered in said city. In determining whether there is a delivery in the city, no delivery to a common carrier outside of the city is deemed a delivery to the purchaser unless the exact amount of the purchase price has been paid. This section does not prohibit making executory contracts for the delivery of grain if they provide for the inspection and weighing of the grain under the supervision of the commission. [1945 c. 443]

126.65 [Repealed by 1945 c. 443]

126.66 Railroad warehouses. Every warehouse located in Superior, owned or held by any railway company, either in its own or another name, for its use, is a public warehouse so far as to require the company, or any lessee thereof, to receive and store, without discrimination and subject only to the charges provided in this chapter, all grain carried by the company, whether by it directly or by any other railway company operating its line, and delivered at Superior. [1945 c. 443]

126.67 Railroad need not give bond. A public warehouse, operated directly by the railway company, is not obliged to give a bond or take out a license, but it shall, within 60 days, file with the commission a declaration stating its purpose to operate the warehouse pursuant to law and the period for which it will so operate the same, and in case it thereafter leases the warehouse it shall make and file a like declaration stating to whom and for what period the warehouse has been leased, with a copy of the lease. [1945 c. 443]

126.68 Railroad elevator lessees. The lessee of any grain warehouse, located in Superior and belonging to a railway company shall immediately, upon the commencement of his leasehold term, become a public warehouseman and subject to all of the provisions of this chapter except that if he is unable to furnish storage for all applicants he shall give preference to the storage of grain received in Superior over the line of the railroad company owning the warehouse. [1945 c. 443]

126.69 Setting out cars for inspection; penalty. Every railway company transporting grain into Superior shall, before delivering the same or setting the same in upon any track leading to any warehouse or mill, set such grain upon some track in its yard convenient for inspection, and shall separate the cars of grain delivered in Superior from any passing through Superior in transit; it shall furnish the 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 afford him sufficient opportunity for inspection before delivery. Any railway company which fails to fully comply with this section shall forfeit to the commission \$100 for each carload of grain. [1945 c. 443]

126.695 [Renumbered section 126.79 by 1945 c. 443]

126.70 No shipment until inspection; penalty. No grain shall be delivered from any warehouse in Superior to any boat or car until the grain has been inspected, graded and weighed under the supervision of the commission, and the fees for inspection, grading and weighing paid on demand contemporaneously with such delivery. Any violation of this section shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment. [1945 c. 443]

126.705 [Renumbered section 126.75 by 1945 c. 443]

126.71 Penalty for obstructing inspection. Any person who resists or interferes with the chief inspector or deputy, or the weighmaster or his deputy, while engaged in the performance of his duty, shall be punished by imprisonment in the county jail not more than 6 months, or by fine not exceeding \$200, or by both such fine and imprisonment. [1945 c. 443]

126.72 Construction of chapter 126. This chapter shall be liberally construed to insure an honest inspection, grading and weighing of grain between sellers and purchasers in the market at Superior, and of all grain delivered to or by any elevator in said city, and to prevent fraud therein. [1945 c. 443]

Revisor's Note, 1945: The intent of old 126.72 would probably be more exactly expressed if "public warehouse" were substituted for "elevator." However the value of this section is open to question. That is also true of 126.73. (Bill 321-S)

126.73 Severability clause. In the passage of this chapter, it is the intention of the legislature that each section is enacted independently of every other section and not as compensation for or an inducement to the passage of any other section. [1945 c. 443]

126.74 Milwaukee excepted. This chapter does not apply to cities of the first class. [1945 c. 443]

126.75 Destruction of useless records. Whenever necessary, to secure vault space for other and more permanent records, the commission may destroy or dispose of any cards or yard books and any other temporary records which are over 10 years old. [1945 c. 443]

126.79 Federal inspected grain. Except grain delivered from public warehouses and grain grown in this state, this chapter shall be deemed complied with if the grain involved is inspected by an inspector licensed under the United States grain standards act; and all warehouse receipts issued by him for such grain are valid. [1939 c. 89; 1945 c. 443]

126.80 Grain receipts validated. The requirements of this chapter relating to inspection of grain (except grain delivered from warehouses subject to this chapter and except grain grown in this state) are, as to all warehouse receipts issued prior to May 14,

1939, deemed fulfilled, and such receipts are hereby validated, if the grain covered thereby was inspected, on or prior to the issuance of any such warehouse receipt, by an inspector licensed under the United States grain standards act. [1939 c. 88; 1945 c. 443]

Revisor's Note, 1945: 126.80 was created (370.03 (2)) and may as well be repealed by 1939 c. 88, and became effective on May 14, 1939. 126.80 has served its purpose or simply omitted. (Bill 321-S)

127.01 [Repealed by 1937 c. 358]