

CHAPTER 126

GRAIN WAREHOUSES

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126.01 Definitions. In this chapter:

(1) "Board" means the board of agriculture, trade and consumer protection.

(2) "Department" means the department of agriculture, trade and consumer protection.

(3) "Grain" includes flaxseed and soybean.

(4) "Public warehouses" means 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.

(5) "Secretary" means the secretary of agriculture, trade and consumer protection.

(6) "Warehouse" includes grain elevators.

History: 1977 c. 29 s. 1650m (2), (3), (4); 1983 a. 189.

126.025 Administration. This chapter shall be administered by the department of agriculture, trade and consumer protection subject to ch. 93.

History: 1977 c. 29 s. 1650m (4).

126.035 Powers and duties of the department. (1) **WEIGH GRAIN.** All grain received in Superior and all grain and grain products received in or shipped from public warehouses shall come under the supervision of the department and at least 33% shall be weighed under the supervision of the department.

(2) **GRADE GRAIN.** The department shall inspect and grade, upon request, grain grown in this state and any other grain which is received

for milling or is bought or sold in Superior; and shall inspect and grade upon request grain received for storage in or shipped from public warehouses.

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

(4) **RULES.** The department shall adopt and publish rules governing inspection, weighing and grading of grain delivered to or shipped from public warehouses; and such further rules as will enable it to administer this chapter.

126.045 Hearings; appeals. (1) Any person aggrieved by the decision of an inspector or other determination of the department may, within 5 days thereafter, make application for a hearing under s. 93.18. The application shall set forth in detail the nature of the decision appealed from and all reasons why such decision or other determination is unjust or unreasonable. Upon investigation and consideration of the complaint, the department may either grant or deny the request for a hearing according to whether or not reasonable grounds exist. If granted, hearing shall be conducted within a reasonable time under s. 93.18.

(2) Section 93.06 (7) shall apply to the issuance, suspension or revocation of licenses.

126.06 Fees to defray expenses. The department shall fix the rates of charges for weighing, inspection and other services performed so as to

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finance the expenses incurred in the administration of this chapter. All charges shall be paid by the warehouse keeper, and may be added to the charge for storage.

History: 1983 a 500 s. 43.

126.07 Warehouse licenses; revocation.

Every public warehouse keeper shall, before transacting business, procure a license from the department. 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.

History: 1983 a 500 s. 43.

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

History: 1983 a. 500 s. 43.

126.09 Penalty. Any person who transacts the business of a public warehouse keeper 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 department may refuse for one year after revocation to relicense the person whose license was revoked.

History: 1983 a. 500 s. 43.

126.10 Grain stored; mixing. While he has sufficient room, every public warehouse keeper 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 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 warehouse keeper 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.

History: 1983 a 500 s. 43.

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 warehouse keeper shall give him a receipt, bearing the date of the receipt of the grain, and stating the quantity and grade of the grain 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.

History: 1983 a 500 s. 43.

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 warehouse keeper 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.

History: 1983 a. 500 s. 43.

126.13 Receipts not to limit liability. A warehouse receipt shall not contain language which limits or modifies the warehouse keeper'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 warehouse keeper; 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.

History: 1983 a 500 s. 43.

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 warehouse keeper kept as required by s. 126.13. Any warehouse keeper 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 warehouse keeper is in default if the grain is delivered in the order demanded and as rapidly as possible.

History: 1983 a 500 s. 43.

126.15 Report to department. The operator of a public warehouse shall furnish in writing under oath to the department, at such times as it may require, a statement of the condition and management of his business as warehouse keeper.

History: 1983 a 500 s. 43.

126.16 Weekly and daily statements. Every public warehouse keeper 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 department, which statements shall be made under oath by the warehouse keeper or by the bookkeeper having personal knowledge of the facts. Every warehouse keeper shall

furnish daily to the department 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 warehouse keeper 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 department such further information regarding receipts issued or canceled as may be necessary to enable the department to keep a full and correct record of all receipts issued and canceled and of all grain received and delivered.

History: 1983 a 500 s. 43.

126.18 Rates published annually; hearings; appeals. (1) Every public warehouse keeper shall during the first week in each September publish a class 1 notice, under ch. 985, in the area 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.

(2) If any person deems any charge unreasonable he may file with the department a complaint, stating the ground upon which he claims the charge is unreasonable, whereupon the department within a reasonable time shall set a date and place for a hearing pursuant to s. 93.18. The department may by special order increase or decrease the charge if upon such hearing it finds the charge unreasonable in any respect.

History: 1983 a 500 s. 43.

126.19 Warehouse keeper, duties and liabilities; special grades. (1) No public warehouse keeper 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.

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(2) The department 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 warehouse keeper 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 department may reinspect and regrade the same. The warehouse keeper 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 warehouse keeper from removing grain from his warehouse for preservation or safekeeping. No warehouse keeper 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 warehouse keeper 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) If 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 to be published as a class 1 notice, under ch. 985, in the area in which his warehouse is located. 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 warehouse keeper is not hereby relieved from exercising proper care in preserving grain after giving notice of its condi-

tion, 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 warehouse keeper may sell it at public auction for the account of the owner, upon giving 10 days' notice by advertisement to be published as class 1 notice, under ch. 985, in the city.

(6) Any warehouse keeper 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 warehouse keeper 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 warehouse keeper 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.

History: 1983 a. 500 s. 43

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 warehouse keeper, 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 warehouse keeper if the scales are found incorrect, but not otherwise.

History: 1983 a. 500 s. 43

126.30 Removal of inspectors. Upon written complaint to the department, supported by satisfactory proof, that an inspector 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 department shall immediately remove him from office.

126.31 Pretending to be an inspector. Any person who acts as a grain inspector in the city of Superior but who in fact is not a duly qualified inspector under this chapter shall be fined not less than \$100 for each attempt to so inspect grain. If the complaint is made by the department one-half of the fine shall go to the department, and in case the complaint is made by any other person one-half of the fine shall go

to the complainant. The remaining half goes to the school fund.

History: 1971 c. 40

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.

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.

126.34 Decision of inspector or weigher final if unappealed. The decision of the inspector or weigher as to the grade or weight of grain respectively shall be final and binding on all parties unless an appeal is taken from such decision.

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.

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.

126.38 Grades. The grades, weights and measures for 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 U.S. grain standards act become and are the grades, standards of

quality and conditions, weights and measures of this state.

126.39 Samples of grain. The department shall furnish any public warehouse, upon its request, standard samples of established grades of grain at the actual cost of such samples.

126.40 Supervision by department. The department shall exercise supervision over housing and marketing grain in public warehouses in the city of Superior; over handling, inspecting, weighing and storing the same; and over the management of the public warehouses. The department shall investigate all complaints of fraud or oppression in the grain trade and in the handling and housing of grain in such city and, at least 3 times annually, shall verify by measurement the amount of grain in each public warehouse.

History: 1971 c. 40

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.

126.48 Certification of grade, analyses, sanitation; evidence. (1) The department 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 department inspector may issue certificates under his hand and the seal of the state showing in detail the results of any analyses, and shall keep a correct record in detail of samples of grain and cereal products analyzed which certificates are prima facie evidence of the facts therein contained.

(3) The department inspector may issue under his hand and the seal of the state a sanitation certificate of the condition of all holds and compartments of a vessel examined

and found to be free of live weevil or insects injurious to stored grain and free of objectionable odors, the date and time, the name of the vessel examined and the signature of the examiner. Such certificate is prima facie evidence of the facts therein contained.

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.

126.50 Protection of grain after carrier delivery. All public warehouse keepers 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.

History: 1983 a. 500 s. 43

126.51 Breaking car seals. Any person other than a department inspector, or a regular employe of the railroad company or warehouse keeper, in charge of grain or cars, who tampers with or breaks any seals placed upon cars of grain shall be fined not more than \$100 or imprisoned not more than 90 days.

History: 1983 a. 500 s. 43

126.53 Penalties. (1) GENERAL PENALTY. Any person who violates any provision of this chapter for which no penalty is 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 department shall be fined not less than \$100 nor more than \$500 and shall be liable to the department in damages 3 times the amount incurred by reason of such alterations, changes or modifications.

History: 1971 c. 40

126.57 Place 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 delivery or weighing is

contemplated or afterwards takes place there, the sales shall be deemed to have been made in that city under this chapter.

History: 1979 c. 110

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 fulfillment, in whole or in part, of a contract for the sale thereof and may 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.

126.62 Refusal by warehouse keeper 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.

History: 1983 a. 500 s. 43

126.63 Enforcement of lien; sale; foreclosure. In addition to other remedies, the department 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 the charges and the expenses of selling the grain and may sell the 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 as provided for sales of personal property in ch. 815. The department 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 the owner's application be made a party defendant. The department 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.

History: Sup. Ct. Order, 67 W (2d) 774; 1975 c. 218.

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.

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 department 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.

126.68 Railroad elevator lessees. The lessee of any grain warehouse, located in Superior and belonging to a railway company shall immedi-

ately, upon the commencement of his leasehold term, become a public warehouse keeper 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.

History: 1983 a 500 s. 43.

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.

126.72 Construction of this chapter. 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.

History: 1981 c. 390.