

1979 Assembly Bill 853

Date published: May 20, 1980

CHAPTER 335, Laws of 1979

AN ACT to amend 100.13 (1) (a) and 221.29 (1) (b) 1; and to create 20.115 (1) (c) and chapter 127 of the statutes, relating to regulation of warehouse keepers and grain dealers, granting rule-making authority, making an appropriation and providing penalties.

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

SECTION 1. At the appropriate place in the schedule of section 20.005 of the statutes, insert the following amounts for the purposes indicated:

	1979-80	1980-81
20.115 Agriculture, trade and consumer protection, department of		
(1) FOOD AND TRADE REGULATION		
(c) Warehouse keeper and grain dealer regulation	GPR A -0-	154,200

SECTION 2. 20.115 (1) (c) of the statutes is created to read:

20.115 (1) (c) *Warehouse keeper and grain dealer regulation.* The amounts in the schedule for the regulation of warehouse keepers and grain dealers under ch. 127.

SECTION 3. 100.13 (1) (a) of the statutes is amended to read:

100.13 (1) (a) ~~“Warehouseman” as~~ As used in this section, “warehouse keeper” includes any person who stores property for hire, except this term excludes: Municipal

1. A municipal and railroad corporations; those corporation;
2. A person licensed under sections s. 99.02 or 126.07 as to business covered by such the license and 126.07; co-operative associations
3. A person who operates a warehouse storing only grain, as defined under s. 127.01 (8);
4. A cooperative association storing farm products and merchandise for members; these

~~5. A person who own owns and use uses~~ warehouses for storage of manufactured dairy products, ~~or~~ canned produce ~~and or~~ dairy products, manufactured by ~~them~~ the person; and

~~6. A person who operates a field warehouses. It includes every other person who stores property for hire warehouse.~~

SECTION 4. Chapter 127 of the statutes is created to read:

CHAPTER 127

WAREHOUSE KEEPERS AND GRAIN DEALERS SECURITY ACT

127.01 Definitions. In this chapter, unless the context otherwise requires:

(1) "Capacity" means the maximum amount of grain, measured in bushels, which may be stored in a warehouse. The capacity of a warehouse shall be determined by dividing the cubic volume of all bins by 1.244 cubic feet.

(2) "Dealer" means any person engaged in the business of buying grain from or selling grain for producers. This term does not include:

(a) A feeder of livestock or poultry buying grain solely for his or her own use.

(b) A producer engaged solely in selling grain he or she produced or buying grain for his or her own use as feed or seed.

(c) A broker acting solely as an agent bringing buyers and sellers together without taking title to or possession of any grain or the proceeds.

(d) A person engaged solely in buying or selling commodity futures on a board of trade or commodity exchange.

(3) "Deferred payment or deferred price contract" means any agreement to purchase grain from or to sell grain for producers if full payment for the grain is not made when the dealer obtains title to or takes control of the grain. In this subsection, "full payment" means payment by currency, certified check, money order, barter or an advance money transfer arrangement with a bank which is evidenced in writing.

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

(5) "Depositor" means:

(a) A person who delivers grain to a warehouse keeper for storage, conditioning, shipping, handling or eventual sale.

(b) An owner or legal holder of a scale ticket, warehouse receipt or other document issued by a warehouse keeper for grain, who is lawfully entitled to possession or payment for the grain represented by the ticket, receipt or other document.

(6) "Exempt dealer" means a dealer who buys grain from producers only on the basis of currency, certified check, money order, barter or an advance money transfer arrangement with a bank which is evidenced in writing.

(7) "Exempt warehouse keeper" means a warehouse keeper operating one or more warehouses which have a total capacity of less than 50,000 bushels available for public storage.

(8) "Grain" means corn, wheat, soybeans, oats, barley, rye, buckwheat, sorghum, flaxseed, milo, sunflower seed and mixed grain as defined in the federal grain standards act of 1916 (7 USC 71 et. seq.) as amended on the effective date of this act (1979). The term does not include canning crops for processing or grain used or intended for use solely for sowing purposes.

(9) "Producer" means an owner, tenant or operator of land who is engaged in the growing and production of grain on the land.

(10) "Warehouse" means any building, bin or storage facility used for receiving, storing, conditioning, shipping or handling grain. This term does not include transport vehicles or facilities used for on-farm drying.

(11) "Warehouse keeper" means a person, including a cooperative association, engaged in operating one or more warehouses in this state for the receiving, conditioning, storing or shipping of grain for others. This term does not include a person licensed under ch. 126 or the federal warehouse act (7 USC 241 et. seq.).

127.02 Registration requirement for warehouse keepers. (1) **REQUIREMENT; EXCEPTION.** No person may act as a warehouse keeper unless the person obtains an annual warehouse keeper's certificate of registration issued by the department. The requirements of this section do not apply to an exempt warehouse keeper unless the warehouse keeper holds himself or herself out as a bonded or registered warehouse keeper.

(2) **APPLICATION.** An application for an annual warehouse keeper's certificate of registration shall be filed on a form prescribed by the department.

(3) **FEE; FEE FOR ADDITIONAL LOCATION.** The fee for an annual warehouse keeper's certificate of registration is \$50. A warehouse keeper maintaining more than one business location in this state shall pay an additional registration fee of \$25 for each additional location.

(4) **EXPIRATION; NONTRANSFERABLE.** The annual warehouse keeper's certificate of registration expires on August 31 of each year and is not transferable.

(5) **DISPLAY.** A warehouse keeper shall display prominently a copy of the annual warehouse keeper's certificate of registration in each business location in this state operated by the warehouse keeper.

127.03 Registration requirement for dealers. (1) **REQUIREMENT; EXCEPTION.** No person may act as a grain dealer unless the person obtains an annual grain dealer's certificate of registration issued by the department. The requirements of this section do not apply to an exempt grain dealer.

(2) **APPLICATION.** An application for an annual grain dealer's certificate of registration shall be filed on a form prescribed by the department.

(3) **FEE; FEE FOR ADDITIONAL TRUCKS.** The fee for an annual grain dealer's certificate of registration is \$25. A grain dealer operating more than one truck shall pay an additional registration fee of \$5 for each additional truck used for dealing in grain.

(4) **EXPIRATION; NONTRANSFERABLE.** The annual grain dealer's certificate of registration expires on August 31 of each year and is not transferable.

(5) **DISPLAY.** A grain dealer shall display prominently a copy of the annual grain dealer's certificate of registration on each truck used for dealing in grain operated by the grain dealer.

127.04 Applicability to nonresident dealers. A nonresident dealer, not maintaining an office or place of business in this state, engaged in this state in buying grain from or selling grain for producers in this state, is subject to registration and other provisions of this chapter relating to the purchase or sale of grain, whether or not the purchase or sale transaction takes place wholly or in part in this state.

127.05 Warehouse keeper's insurance. (1) **REQUIREMENT; EXCEPTION.** A warehouse keeper shall file and maintain with the department a certificate or other satisfactory evidence of fire and extended coverage insurance issued by an insurance company authorized to do business in this state insuring all grain in the custody of the warehouse keeper, whether held for others or owned by the warehouse keeper, at the full local market value of the grain. The requirements of this section do not apply to an exempt warehouse keeper unless the warehouse keeper holds himself or herself out as a bonded warehouse keeper.

(2) CANCELLATION. An insurance policy required under this chapter shall provide that the policy may not be canceled by the warehouse keeper or insurance company except on 30 days' prior written notice served on the department in person or by certified mail. The warehouse keeper shall obtain and file satisfactory evidence of replacement insurance with the department within the 30-day period and prior to the expiration of the policy. The department shall suspend the registration of a warehouse keeper without prior notice or hearing if the warehouse keeper does not secure and file satisfactory evidence of replacement insurance as required under this section.

127.06 Warehouse keeper's financial statement. (1) FINANCIAL STATEMENT DEFINITIONS. As used in this section:

(a) "Asset" means anything of value owned, including current assets, fixed assets and other assets.

1. "Current assets" means cash and assets, including trade or investment items, which may be readily converted into cash in the ordinary course of business within one year.

2. "Fixed assets" means those assets representing investments of a more permanent nature, such as land, buildings, machinery and equipment.

3. "Other assets" means noncurrent assets other than fixed assets.

(b) "Financial statement" means a balance sheet, income statement, equity statement and a statement of changes in financial position.

1. "Balance sheet" means a statement of the assets, liabilities and equity on a specific date.

2. "Certified financial statement" means a financial statement examined by an independent certified public accountant or a public accountant holding a certificate of authority under ch. 442, and certified by the accountant as fairly representing business operations, financial positions and changes in financial condition of the warehouse keeper for which the statement is rendered.

3. "Equity statement" means a report of the change in equity from the beginning to the end of the accounting period.

4. "Income statement" means a report of the financial results of business operations for a specific period.

5. "Interim statement" means a financial statement prepared on a date other than the end of a fiscal year.

6. "Statement of changes in financial condition" means a report that summarizes the financing and investing activities of an entity, including funds generated from operations and changes in working capital.

7. "Unaudited statement" means a financial statement prepared without audit and signed by an independent accountant either licensed or not licensed under ch. 442.

8. "Verified financial statement" means a financial statement prepared by the warehouse keeper or under the warehouse keeper's direction or supervision and sworn to by the warehouse keeper.

9. "Working capital" means the difference between current assets and current liabilities.

(c) "Liability" means an obligation to pay money or other assets or to render a service to another person either currently or in the future.

(d) "Net worth" or "equity" means the excess of total assets over total liabilities. These terms represent the ownership interest of one or more persons who invested in the enterprise.

1. "Contingent liabilities" means liabilities which have to be paid only under certain conditions.

2. "Current liabilities" means those liabilities which are due and payable within a period of one year.

3. "Long-term liabilities" means those liabilities which, under the terms of their creation, are not due or payable within a period of one year.

(2) **REQUIREMENT; EXCEPTION.** A warehouse keeper shall file a financial statement with the department annually, on or before the 15th day of the 4th month after the close of the warehouse keeper's fiscal year, or as otherwise requested by the department. The department may require a warehouse keeper to file an interim statement at any time it deems necessary. The requirements of this section do not apply to an exempt warehouse keeper unless the warehouse keeper holds himself or herself out as a bonded warehouse keeper.

(3) **CONTENTS.** The financial statement shall consist of a balance sheet, statement of income, statement of retained earnings, statement of changes in financial position and other information required by the department and shall be prepared in conformity with generally accepted accounting and bookkeeping principles. The financial statement shall disclose separately and clearly obligations to depositors in the form of negotiable and nonnegotiable warehouse receipts, scale tickets and collateral warehouse receipts.

(4) **NOT A PUBLIC RECORD.** A financial statement is not a public record and the department may keep a financial statement closed to the public notwithstanding s. 19.21 although the department may utilize and release a financial statement in an enforcement action, administrative hearing or court proceeding.

127.07 Warehouse keeper's bond or security. (1) **PERMISSIVE BOND.** Any warehouse keeper, including an exempt warehouse keeper, may maintain a bond ensuring the warehouse keeper's faithful performance of his or her duties as a warehouse keeper.

(2) **REQUIRED BOND FOR WAREHOUSES REPRESENTED AS BONDED WAREHOUSES.** No warehouse keeper may hold himself or herself out as operating a warehouse covered by a bond unless the warehouse keeper files reports with the department under sub. (4) and maintains a bond complying with minimum bonding requirements under sub. (5). A warehouse keeper immediately shall cease holding himself or herself out as operating a warehouse covered by a bond if he or she does not maintain a bond complying with the minimum bonding requirements under sub. (5).

(3) **REQUIRED BOND OR SECURITY FOR WAREHOUSES FAILING TO FILE ADEQUATE FINANCIAL STATEMENTS.** (a) *Requirement; exception.* No warehouse keeper may operate a warehouse unless the warehouse keeper files a verified or certified financial statement with the department showing compliance with minimum financial standards or unless the warehouse keeper files reports with the department under sub. (4) and maintains a bond complying with the minimum bonding requirements under sub. (5) or a security complying with the minimum security requirements under sub. (6). The requirements of this subsection do not apply to an exempt warehouse keeper.

(b) *Minimum financial standards.* Compliance with minimum financial standards include:

1. A ratio of current assets to current liabilities of at least one to one.
2. A net worth of \$25,000 or the product obtained by multiplying the capacity of the warehouse by 10 cents, whichever is greater.

(c) *Failure to meet minimum financial standards.* If the department determines that a warehouse keeper's financial statement does not comply with minimum financial standards or if the department determines that a warehouse keeper's financial position does not comply with minimum financial standards based upon investigation or inspection, the department shall require the warehouse keeper to file reports with the department under sub. (4) and to maintain a bond complying with minimum bonding requirements under sub. (5) or security complying with minimum security requirements under sub. (6).

(4) **REPORTS.** A warehouse keeper required to file reports under sub. (2) or (3) shall file a report with the department on or before the 10th day of each month stating the inventory of all grains stored in the warehouse on the last day of the previous month.

(5) **MINIMUM BONDING REQUIREMENTS.** Compliance with minimum bonding requirements is not achieved unless the following conditions are met:

(a) *Payable to the state.* The bond is made payable to the state for the benefit of depositors.

(b) *Endorsed.* The bond is endorsed by a surety company authorized to do business in this state.

(c) *Proper form.* The bond is in a form and contains terms and conditions required by the department.

(d) *Filed.* The bond is filed with the department.

(e) *Restrictions on cancellation; replacement.* 1. The bond may not be canceled by the warehouse keeper or the surety company except on 90 days' written notice served on the department in person or by certified mail.

2. If the bond is canceled, the warehouse keeper shall obtain and file a satisfactory replacement bond within 30 days after the notice of cancellation is served on the warehouse keeper.

(f) *Amount.* The amount of the bond is equal to 40% or more of the current market value of the grains stored in the warehouse.

(g) *Increased amount.* If the department determines that a warehouse keeper's bond filed under this subsection is not sufficient to meet the requirement of this subsection based upon the warehouse keeper's monthly report or upon investigation or inspection by the department, it shall notify the warehouse keeper in writing. Within 30 days after the receipt of this notification, the warehouse keeper shall obtain and file the necessary increase in the amount of the bond.

(6) **MINIMUM SECURITY REQUIREMENTS.** Compliance with minimum security requirements is not achieved unless the following conditions are met:

(a) *Assignment to the state.* The security is evidenced by a private surety agreement assigning sufficient security to the state for the benefit of depositors.

(b) *Form of security.* The security is one of the following forms:

1. Cash or negotiable securities.

2. Stocks, bonds or other marketable securities at current market value.

3. Pledges of or a security interest in other property readily convertible into cash, including inventory and accounts receivable but excluding depositor-owned grain, subject to rights of possession or control over the security as the department considers necessary.

(c) *Proper form.* The surety agreement is in a form and contains terms and conditions required by the department.

(d) *Filed.* The surety agreement is filed with the department.

(e) *Amount.* The amount of the security is equal to 40% or more of the current market value of the grains stored in the warehouse.

(f) *Increased amount.* If the department determines that a warehouse keeper's security filed under this subsection is not sufficient to meet the requirements of this subsection based upon the warehouse keeper's monthly report, upon investigation or inspection by the department or upon a change in the value of the security, the department shall notify the warehouse keeper in writing. Within 30 days after receipt of this notification, the warehouse keeper shall obtain and file sufficient additional security.

(7) **REPLACEMENT BOND FOR WAREHOUSES FAILING TO FILE ADEQUATE FINANCIAL STATEMENTS.** (a) *Notification.* If the department receives a notice of cancellation of a bond which a warehouse keeper maintains to meet the requirements of sub. (3), the department shall notify the warehouse keeper in writing by certified mail or by personal service of the notice of cancellation.

(b) *Replacement bond.* The warehouse keeper shall obtain and file a satisfactory replacement bond within 30 days after the notice is served on the warehouse keeper.

(c) *Failure to obtain and file replacement bond within 30 days.* If the warehouse keeper fails to obtain and file a satisfactory replacement bond within this 30-day period, the department shall suspend the warehouse keeper's certificate of registration.

(d) *Failure to obtain and file replacement bond within 60 days.* If the warehouse keeper fails to obtain and file a satisfactory replacement bond within 60 days after the notice is served on the warehouse keeper, the department shall revoke the warehouse keeper's certificate of registration.

(8) **ADDITIONAL BOND OR SECURITY FOR WAREHOUSES FAILING TO FILE ADEQUATE FINANCIAL STATEMENTS.** (a) *Notification.* If the department determines that a bond or security which a warehouse keeper maintains to meet the requirements of sub. (3) is not sufficient, the department shall notify the warehouse keeper in writing by certified mail or personal service of the insufficiency of the bond or security.

(b) *Additional bond or security.* The warehouse keeper shall obtain and file satisfactory additional bond or security within 30 days after the notice is served on the warehouse keeper.

(c) *Failure to obtain and file additional bond or security within 30 days.* If the warehouse keeper fails to obtain and file satisfactory additional bond or security within this 30-day period, the department shall suspend the warehouse keeper's certificate of registration.

(c) *Failure to obtain and file additional bond or security within 60 days.* If the warehouse keeper fails to obtain and file satisfactory additional bond or security within 60 days after the notice is served on the warehouse keeper, the department shall revoke the warehouse keeper's certificate of registration.

(9) **REMOVAL OF REQUIRED BOND OR SECURITY.** A warehouse keeper required to maintain a bond or security under sub. (3) may petition the department at any time for removal of the requirement that a bond or other security be maintained. If the department is satisfied that the warehouse keeper has complied with minimum financial standards for at least one year, the department may release the warehouse keeper from the obligation to maintain a bond or security under sub. (3).

127.09 Duties of warehouse keeper. (1) **SCALE TICKET OR RECEIPT.** No warehouse keeper may receive grain from any producer unless the warehouse keeper furnishes the producer or the producer's agent with a scale ticket or other written evidence of receipt or storage at the time the grain is received. The document shall include the kind, quality and weight of grain received, and other terms and conditions under which the grain is received.

(2) **WEIGHT; GRADE; QUALITY.** A warehouse keeper shall make accurate determinations of the weight of grain through the use of accurate weighing equipment. If determinations are made on the basis of grade and quality, the warehouse keeper shall make accurate determinations of grade and quality through the use of accurate testing and grading equipment.

(3) **MAINTAIN FACILITIES.** A warehouse keeper shall maintain equipment and facilities which are adequate to protect grain from loss or abnormal deterioration while in storage and is responsible for the care and safekeeping of grain while in storage.

(4) **MAINTAIN SUFFICIENT INVENTORY.** A warehouse keeper shall at all times maintain grain inventories sufficient in quantity and quality to meet all outstanding obligations for grain received or held in storage for depositors.

(5) **RECORDS AND ACCOUNTS.** A warehouse keeper shall maintain current, complete and accurate records and accounts of all grain received into or withdrawn from the warehouse, including daily position records, which will permit the ready determination of total grain on hand or in storage, and all obligations relating to grain received or withdrawn.

127.10 Duties of dealer. (1) **DOCUMENTATION.** No grain dealer may purchase grain from or sell grain for any producer unless the grain dealer furnishes the producer or the producer's agent with written documentation evidencing the purchase or sales transaction at the time the grain is purchased or received for sale. Documentation shall include a record of the kind and weight of grain purchased or received for sale, the date of receipt by the dealer and the price and terms of purchase or sale. The grain dealer shall furnish scale tickets or other appropriate receipts to the producer or producer's agent whenever grain is received.

(2) **WEIGHT; GRADE; QUALITY.** A grain dealer shall make accurate determinations of the weight of grain through the use of accurate weighing equipment. If determinations are made on the basis of grade and quality, the grain dealer shall make accurate determinations of grade and quality through the use of accurate testing and grading equipment.

(3) **RECORDS AND ACCOUNTS.** If a dealer uses any deferred payment or deferred price contracts, the dealer shall maintain records and accounts which indicate all of the dealer's liabilities and obligations under those contracts, including the names and addresses of the other parties to the contracts. All required records and accounts shall be current, complete and accurate.

(4) **COMPLIANCE WITH CONTRACTS.** (a) A grain dealer buying grain from or selling grain for producers shall make payment for the grain when due under the terms of any purchase or sale contract or agreement. A forged check, check drawn on an account with insufficient funds or other nonnegotiable check is not considered payment under the terms of any purchase or sale contract or agreement.

(b) Producers, depositors or dealers who contract or sell grain at a stated price over a period of time and who fail to deliver grain according to the terms of the contract are subject to the penalties of this chapter.

(5) **DEFERRED PAYMENT OR DEFERRED PRICE CONTRACT.** A grain dealer who uses any deferred payment or deferred price contract shall furnish the producer with a written contract at the time the contract is entered into or when the grain dealer obtains title to or takes control of the grain, whichever is earliest. The contract shall state the price or the formula on which the price is to be based and terms of the purchase or sale and the date on which payment is to be made.

127.11 Investigation; inspection; review of records. (1) **AUTHORITY OF DEPARTMENT.** The department may investigate or inspect a warehouse keeper or grain dealer's operation at any time deemed necessary to determine qualifications for a certificate of registration, compliance with this chapter or rules promulgated under this chapter, the sufficiency of grain on hand to meet obligations to depositors or the ability of the dealer or warehouse keeper to make payment for grain when due. In connection with an investigation, the department may require a dealer or warehouse keeper to file a sworn or certified statement of business operations and financial condition, including a current daily position statement.

(2) **ANNUAL INSPECTION OF WAREHOUSES.** The department shall inspect each warehouse in this state operated by a warehouse keeper annually and may inspect such a warehouse at other times.

(3) **PERIODIC REVIEW OF GRAIN DEALERS' RECORDS.** The department shall periodically review the records of each grain dealer in this state.

127.12 Payment of claims. (1) **FILING; NOTICE; AUDIT; PAYMENT.** (a) *Filing.* Any depositor or producer injured by the breach of any dealer or warehouse keeper obligation under this chapter may file with the department a claim. Upon receipt of the claim or any other evidence of default, the department, by order, may require all interested creditors to file their verified proofs of claim before a certain date or be barred from participating in any recovery made by the department.

(b) *Notice.* Notice of the entry of the order shall be given by posting a copy of the order at the warehouse or at the grain dealers place of business and on each truck operated by the grain dealer and by publication of a class 3 notice, under ch. 985, in the affected area. The date of last insertion shall not be less than 30 days prior to the last date for the filing of the claims.

(c) *Audit; allowance of claims.* The department shall make the necessary audit and by order allow or disallow all claims presented. Notice of allowance or disallowance and request for the payment within 30 days of the claims allowed shall be sent to the dealer or warehouse keeper and his or her surety, if any, by registered mail.

(d) *Payment of claims.* The department may demand, collect and receive from the dealer or warehouse keeper or from any surety, the amount determined to be necessary to satisfy the claims. The department, by special order, may direct the warehouse keeper or grain dealer to deliver ownership or control of grain to the department in a quantity determined necessary to satisfy the claims. The department may commence an action to enforce these orders in the circuit court for the county where the warehouse is located or any county where the grain dealer has conducted business. Upon receipt of the money or the ownership or control of grain to be applied to the satisfaction of the claims, the department shall make distribution to the claimants in accordance with the order allowing claims, in full or pro rata, as the case may be. No claims covering transactions in which the depositor or producer and any other party having an interest in the transaction has granted to the dealer or warehouse keeper a written extension of credit may be allowed or paid under this subsection.

(2) **PRIORITY.** The whole claim of any producer against any dealer because of grain sold or delivered for sale to the dealer and any judgment for this claim is entitled to the same preference in any insolvency or other creditor's proceedings as is given by any law of this state to claims for labor. One claim may be filed for any number of these depositors and if such a claim is filed the preference shall be allowed on the amount due each depositor. This preference shall also be given in bankruptcy proceedings to the extent permitted by the federal law. This section shall not otherwise affect or impair any other lien, security or priority for the claim or judgment.

127.13 Rule-making authority. The department may promulgate rules necessary for the efficient administration and enforcement of this chapter and the regulation of grain marketing and warehousing practices. Rules may include, but are not limited to, minimum contract specifications, minimum requirements for warehouse receipts or requirements for uniform warehouse receipts, minimum requirements for scale tickets, settlements and other documents, minimum requirements for required records and accounts evidencing transactions in grain and specific prohibited trade practices.

127.14 Administration. In the administration of the chapter, the department shall have all the powers and authority vested in it under ch. 93.

127.15 Prohibitions. (1) **MISREPRESENTATION OF WEIGHT, GRADE OR QUALITY.** No warehouse keeper or grain dealer may misrepresent the weight, grade or quality of grain received from or delivered to any person.

(2) FALSE OR MISLEADING STATEMENT. No warehouse keeper or grain dealer may make any false or misleading statement in any application for a certificate of registration or in any other statement or report required to be submitted to the department.

127.16 Enforcement; order; denial, suspension or revocation of registration; injunction; forfeiture. (1) ORDER. If the department determines that a warehouse keeper or grain dealer is not in compliance with a requirement of this chapter or rule promulgated under this chapter, the department may:

(a) *Special order.* By special order, require compliance or require the person to take steps deemed reasonably necessary to remedy existing deficiencies, prevent the loss, damage or abnormal deterioration of grain, or otherwise ensure compliance.

(b) *Summary special order.* 1. If necessary to prevent clear and imminent harm to producers or depositors, issue a special order as provided in par. (a) on a summary basis.

2. A summary special order is subject both to the right of an informal preliminary hearing and to the right of a full hearing if requested within 10 days after service of the order. The department shall, within 10 days after receipt of a full hearing request, or as soon thereafter as possible, hold a hearing under ch. 227.

3. A request for a hearing does not operate to stay the special order pending the hearing.

(2) DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION CERTIFICATE. (a) *Grounds; procedure for suspension or revocation.* Violation of this chapter, or any rule adopted or special order issued under this chapter is grounds for denial, suspension or revocation of a certificate of registration. The department may suspend or revoke the dealer's or warehouse keeper's certificate of registration either by special order or, if necessary to prevent clear and imminent harm to producers or depositors, by a summary special order subject to the conditions specified under sub. (1) (b) 2 and 3.

(b) *Suspension of dealer registration.* If a dealer's certificate of registration is suspended, the grain dealer may purchase or receive grain from producers and may sell or ship grain, under the supervision of the department.

(c) *Revocation of a dealer registration.* If a grain dealer's certificate of registration is revoked, the grain dealer may not purchase, receive, sell or ship grain except as the department permits by order. If a grain dealer's certificate of registration is revoked the grain dealer shall notify every holder of a deferred payment or deferred price contract and the department shall cause a notice to be published in a newspaper having general circulation in the county where the grain dealer's principal place of business is located at least 2 times during the 2 weeks after revocation and shall cause a notice to be published in the official state newspaper at least 2 times during the 2 weeks after revocation. If a grain dealer's certificate of registration is revoked, all outstanding deferred payment or deferred price contracts are terminated. A terminated deferred payment or deferred price contract becomes due and payable on the date of revocation. To the extent possible the date of revocation shall be considered to be the date on which payment was to have been made under the contract giving equitable consideration to extenuating factors.

(d) *Suspension of a warehouse keeper's registration.* If a warehouse keeper's certificate of registration is suspended, the warehouse keeper may purchase or receive grain from depositors and may sell or ship grain, under the supervision of the department.

(e) *Revocation of a warehouse keeper's registration.* If a warehouse keeper's certificate of registration is revoked, the warehouse keeper may not purchase, receive, sell or ship grain except as the department permits by order. If a warehouse keeper's certificate of registration is revoked, the warehouse keeper shall notify every depositor of that fact and the department shall cause a notice to be published in a newspaper having general circulation in the county where the warehouse is located at least 2 times during the 2 weeks after revocation and shall cause a notice to be published in the official state newspaper at least 2 times during the 2 weeks after revocation.

(3) **INJUNCTION.** In addition to other penalties or remedies under this chapter, the department may petition any court of competent jurisdiction for a temporary or permanent injunction, including an ex parte temporary restraining order, to prevent, restrain or enjoin any person from violating this chapter or any rule or special order of the department.

(4) **CIVIL FORFEITURE.** The department may commence an action to recover a forfeiture of not less than \$100 nor more than \$5,000 for each violation of this chapter or any rules adopted or special orders issued under this chapter.

127.17 Conflict with uniform commercial code. In the event of any conflict between this chapter and chs. 401 to 409, this chapter shall control.

SECTION 5. 221.29 (1) (b) 1 of the statutes is amended to read:

221.29 (1) (b) 1. Liabilities secured by warehouse receipts issued by ~~warehousemen~~ warehouse keepers licensed and bonded in this state under s. 100.13 or under the federal bonded warehouse act or holding a registration certificate under ch. 127, and providing ~~such~~ the receipts cover readily marketable nonperishable staples which are fully covered by insurance if it is customary to insure ~~such~~ the staples, and providing the market value of ~~such~~ the staples is not at any time less than 140% of the face amount of the obligation.

SECTION 6. Term change. Wherever the term "warehouseman", "warehousemen" or "warehouseman's" appears in section 100.13 (1) (c), (2), (3) (a), (4) (a) and (c), (5) and (7) of the statutes, the term "warehouse keeper", "warehouse keepers" or "warehouse keeper's", respectively, is substituted.

SECTION 7. Positions. There are authorized 6 positions in the department of agriculture, trade and consumer protection to be funded from the appropriation under section 20.115 (1) (c) of the statutes for the purpose of administering chapter 127 of the statutes.

SECTION 8. Program responsibilities. In the list of program responsibilities specified for the department of agriculture, trade and consumer protection in section 15.131 (intro.) of the statutes, insert reference to chapter "127".

SECTION 9. Effective dates. (1) **GENERAL EFFECTIVE DATE;** JULY 1, 1980. Except as provided under subsection (2), this act takes effect on July 1, 1980.

(2) **EXCEPTIONS.** (a) *Program responsibilities; appropriations; position authorization.* The creation of section 20.115 (1) (c) of the statutes by this act and SECTIONS 1, 7 and 8 of this act take effect on the day following publication of this act.

(b) *Rule-making authority.* The creation of section 127.13 of the statutes by this act and the department of agriculture, trade and consumer protection's authority to promulgate rules under chapter 127 of the statutes, as created by this act take effect on the day following publication of this act, but the rules may not take effect prior to July 1, 1980.