



2022 South Dakota Legislature

Senate Bill 35

Introduced by: The Committee on Agriculture and Natural Resources at the request of the South Dakota Public Utilities Commission

1 **An Act to increase penalties for actions related to grain transactions.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 49-43-4.2 be AMENDED:**

4 **49-43-4.2.** No owner, lessee, or manager of ~~any~~a public grain warehouse may
5 transact~~any~~ business as a public grain warehouse until a license has been issued by the
6 commission. Any person who ~~does business as a public grain warehouse without a license~~
7 violates this section is guilty of a Class 1 misdemeanor.

8 Each day ~~that a person conducts the business of a public grain warehouse without~~
9 a license is in violation of this section is a separate offense.

10 The operation of a public grain warehouse, ~~without a license,~~ may be enjoined by
11 the commission. ~~In addition, the~~

12 The commission may assess a civil fine against an unlicensed warehouse operator
13 in the amount of ~~one five thousand dollars a per day,~~ up to a maximum of ~~twenty fifty~~
14 thousand dollars.

15 **Section 2. That § 49-43-41 be AMENDED:**

16 **49-43-41.** Any public grain warehouse operator, owner, manager, or chief
17 executive officer of a grain warehouse, or any other person in a managerial position in the
18 state who refuses access to the warehouse's books and accounts or hinders and delays
19 the commission or any of its employees or agents in examining the books and accounts,
20 may be ~~punished by~~ assessed a civil fine not exceeding ~~two twenty~~ thousand dollars.

21 **Section 3. That § 49-43-62 be AMENDED:**

22 **49-43-62.** If ~~at any time~~ during the licensing period a grain warehouse operator
23 becomes aware that the grain warehouse is not in compliance with each financial standard,

1 as set forth in the commission's rules, the grain warehouse operator shall immediately
2 notify the commission of the grain warehouse's financial condition. When notification
3 occurs, the commission shall immediately conduct an examination to determine if any
4 grounds for suspension pursuant to § 49-43-5.6 have occurred.

5 A willful violation of this section that results in a financial loss to a grain depositor
6 is a Class 6 felony.

7 A willful violation that does not result in a financial loss to a grain depositor is a
8 Class 1 misdemeanor.

9 ~~In addition, the~~The commission may assess a ~~civil fine against an~~ grain warehouse
10 that is out of compliance grain warehouse a civil fine in an amount not to exceed ~~one five~~
11 thousand dollars for each day the grain warehouse has been out of compliance, up to a
12 maximum of ~~twenty fifty~~ thousand dollars.

13 **Section 4. That § 49-45-1 be AMENDED:**

14 **49-45-1.** Before transacting the business of a grain buyer in this state, a person
15 shall obtain a grain buyer license from the commission. A violation of this section is a Class
16 1 misdemeanor. Each purchase of grain without a license is a separate offense.

17 ~~Operation as a~~ A grain buyer transacting business without a license may be enjoined
18 upon complaint of the commission. ~~In addition, the~~

19 The commission may assess a civil fine against an unlicensed grain buyer in the
20 amount of ~~one five~~ thousand dollars for each purchase of grain, up to a maximum fine of
21 ~~twenty fifty~~ thousand dollars per licensing period, as set forth in § 49-45-3.

22 For purposes of this section, the term, purchase of grain, means the transaction
23 evidenced by the issuance of a uniform scale ticket or receipt, as described in § 49-45-
24 10.1.

25 **Section 5. That § 49-45-25 be AMENDED:**

26 **49-45-25.** ~~If at any time~~ during the licensing period a grain buyer becomes aware
27 that the grain buyer is not in compliance with each financial standard, as set forth in the
28 commission's rules, the grain buyer shall immediately notify the commission of the grain
29 buyer's financial condition. When notification occurs, the commission shall immediately
30 conduct an examination to determine if any grounds for suspension pursuant to § 49-45-
31 16 have occurred.

32 A willful violation of this section that results in a financial loss to a grain supplier is
33 a Class 6 felony.

1 A willful violation that does not result in a financial loss to a grain supplier is a Class
2 1 misdemeanor.

3 ~~In addition, the~~The commission may assess ~~a civil fine,~~ against an ~~out-of-~~
4 ~~compliance~~ out-of-compliance grain buyer, a civil fine in an amount not to exceed one
5 thousand dollars for each day the grain buyer has been out of compliance, up to a
6 maximum of twenty thousand dollars per licensing period, as set forth in § 49-45-3.

7 **Section 6. That § 49-45-26 be AMENDED:**

8 **49-45-26.** A grain buyer, the owner, manager, or chief executive officer of a grain
9 buyer, or any other person in a managerial position, whether licensed or unlicensed, who
10 or that purchases grain within the this state, shall ~~have the ability to,~~ within five working
11 days of an inspector's request, provide to the inspector, at a licensed location within this
12 state or at the offices of the commission, ~~all of the~~ books, accounts, and electronic records
13 relating to the transactions of the grain buyer, either within or ~~without~~ outside the state,
14 ~~upon request or within five working days of the request. Any requested materials shall be~~
15 ~~provided to the inspector at a licensed location within the state or at the offices of the~~
16 ~~commission.~~

17 A willful violation of this section is a Class 1 misdemeanor.

18 ~~In addition, the~~The commission may assess a civil fine in an amount not to exceed
19 one thousand dollars for each day requested materials are withheld, up to a maximum of
20 twenty thousand dollars per licensing period, as set forth in § 49-45-3.