



2022 South Dakota Legislature

Senate Bill 38

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

1 **An Act to prohibit a grain broker from engaging in certain transactions or activities**
 2 **and to provide a penalty therefor.**

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

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

5 **49-45-1.** Before transacting the business of a grain buyer in this state, a person
 6 shall obtain a grain buyer license from the commission.

7 A violation of this section is a Class 5 felony if the person holds himself or herself
 8 out to be a grain broker and a Class 1 misdemeanor in all other cases. Each purchase of
 9 grain without a license is a separate offense.

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

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

15 For purposes of this section, the term, purchase of grain, means a transaction
 16 evidenced by the issuance of a uniform scale ticket or receipt, as described in § 49-45-
 17 10.1.

18 **Section 2. That § 49-45-1.1 be AMENDED:**

19 **49-45-1.1.** Terms used in this chapter mean:

- 20 (1) "Commission," the Public Utilities Commission;
- 21 (2) "Grain," grain, grain sorghums, beans, pulse crops, and oil seeds. The term does
 22 not include grain that has been cleaned, processed, and specifically identified for
 23 an intended use of planting for reproduction, grain received for consignment that

- 1 will be processed by the consignee for an intended use of planting for reproduction,
 2 or grain purchased to feed livestock;
- 3 (3) "Grain broker," a person who is involved in the negotiation of a grain transaction in
 4 this state and:
- 5 (a) Is compensated for that involvement by at least one party to the
 6 transaction; and
- 7 (b) Does not take title to the grain that is subject to the transaction;
- 8 (4) "Grain buyer," any person who purchases grain for the purpose of reselling the
 9 unprocessed grain or who purchases three hundred thousand dollars' worth or
 10 more of grain directly from producers in a calendar year. Nothing in this chapter
 11 applies to the isolated resale of grain by a producer who does not hold himself or
 12 herself out as engaging in the business of reselling grain;
- 13 ~~(4)~~(5) "Holds himself or herself out," the creation of an assumption or the use of any
 14 kind of title, sign, symbol, document, or term indicating or conveying the idea
 15 that the person whose name is so connected is competent, qualified, authorized,
 16 or entitled to engage in certain activities;
- 17 (6) "Person," any natural person, firm, corporation, company, limited liability
 18 company, partnership, association, or joint stock company, or the lessee, trustee,
 19 or receiver appointed by any court for any one of the foregoing;
- 20 ~~(5)~~(7) "Producer," a person engaged in the business of grain production; and
- 21 (8) "Voluntary credit sale," a sale of grain or seeds pursuant to which the sale price is
 22 to be paid more than thirty days after the delivery or release of the grain for sale,
 23 including those contracts commonly referred to as deferred-payment contracts,
 24 deferred-pricing contracts, and price-later contracts, and
- 25 ~~(6)~~ "Producer," a person engaged in the business of grain production.

26 **Section 3. That chapter 49-45 be amended with a NEW SECTION:**

- 27 It is a Class 5 felony for a grain broker to:
- 28 (1) Negotiate or attempt to negotiate a grain transaction with a grain buyer, who is
 29 not licensed in accordance with this chapter; or
- 30 (2) Take title or attempt to take title to grain that is subject to a transaction
 31 being negotiated by the grain broker.
- 32 The commission may assess a civil fine against a grain broker in the amount of
 33 five thousand dollars for each violation of this section, up to a maximum fine of
 34 fifty-thousand dollars, annually.