



2024 South Dakota Legislature

Senate Bill 22

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

1 **An Act to amend language regarding the licensing period for a grain buyer.**

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

3 **Section 1. That § 49-45-1.1 be AMENDED:**

4 **49-45-1.1.** Terms used in this chapter mean:

- 5 (1) "Commission," the Public Utilities Commission;
- 6 (2) "Grain," grain, grain sorghums, beans, pulse crops, and oil seeds. The term does
7 not include grain that has been cleaned, processed, and specifically identified for
8 an intended use of planting for reproduction, grain received for consignment that
9 will be processed by the consignee for an intended use of planting for reproduction,
10 or grain purchased to feed livestock;
- 11 (3) "Grain broker," a person who is involved in the negotiation of a grain transaction in
12 this state and:
13 (a) Is compensated for that involvement by at least one party to the
14 transaction; and
15 (b) Does not take title to the grain that is subject to the transaction;
- 16 (4) "Grain buyer," any person who purchases grain for the purpose of reselling the
17 unprocessed grain or who purchases three hundred thousand dollars' worth or
18 more of grain directly from producers in a ~~calendar~~ license year, which begins on
19 July first and ends on June thirtieth. Nothing in this chapter applies to the isolated
20 resale of grain by a producer who does not hold himself or herself out as engaging
21 in the business of reselling grain;
- 22 (5) "Holds himself or herself out," the creation of an assumption or the use of any
23 kind of title, sign, symbol, document, or term indicating or conveying the idea
24 that the person whose name is so connected is competent, qualified, authorized,
25 or entitled to engage in certain activities;

- 1 (6) "Person," any natural person, firm, corporation, company, limited liability
 2 company, partnership, association, or joint stock company, or the lessee, trustee,
 3 or receiver appointed by any court for any one of the foregoing;
- 4 (7) "Producer," a person engaged in the business of grain production; and
- 5 (8) "Voluntary credit sale," a sale of grain ~~or seeds~~ pursuant to which the sale price is
 6 to be paid more than thirty days after the delivery or release of the grain for sale,
 7 including those contracts commonly referred to as deferred-payment contracts,
 8 deferred-pricing contracts, and price-later contracts.

9 **Section 2. That § 49-45-7.1 be AMENDED:**

10 **49-45-7.1.** An applicant may apply for a Class A grain buyer's license or a Class
 11 B grain buyer's license. No grain buyer with a Class B grain buyer's license may purchase
 12 grain in excess of five million dollars for the annual licensed ~~period~~ year or enter into
 13 voluntary credit sale contracts. The commission shall require an applicant for a Class A
 14 grain buyer's license to submit a more detailed review of its financial condition than an
 15 applicant for a Class B grain buyer's license.

16 **Section 3. That § 49-45-9 be AMENDED:**

17 **49-45-9.** Before any grain buyer license is issued by the commission, the applicant
 18 ~~shall~~ must file with the commission a bond conditioned to secure the faithful performance
 19 of the applicant's obligations as a grain buyer and the applicant's full and unreserved
 20 compliance with the laws of this state and the rules of the commission, relating to the
 21 purchase of grain by the grain buyer. The bond is for the specific purpose of protecting
 22 persons selling grain to the grain buyer. However, the bond may not benefit any person
 23 entering into a voluntary credit sale with a grain buyer. Any person who does business as
 24 a grain buyer without a bond is guilty of a Class 1 misdemeanor. Each day a person
 25 conducts the business of a grain buyer without a bond is a separate offense.

26 The amount of the bond for a Class A or Class B grain buyer's license ~~shall~~ must
 27 be based on a rolling average of the dollar amount of grain purchased by the applicant in
 28 ~~South Dakota~~ this state during the last three ~~calendar~~ license years. For a new grain buyer,
 29 the first year's bond ~~shall~~ must be based on projected purchases. For a grain buyer with
 30 less than three years of experience as a grain buyer, the bond ~~shall~~ must be based on the
 31 average actual purchases made by the grain buyer in all of its previous years as a grain
 32 buyer or projected purchases, whichever amount is higher. The bond applies to all grain
 33 purchases for all of the grain buyer's business locations.

1 The amount of the bond for a Class A grain buyer's license is:

| 2 Dollar Amount of Grain Purchased | Bond Requirement |
|------------------------------------|------------------|
| 3 Less than \$2,000,001 | \$50,000 |
| 4 \$2,000,001--\$5,000,000 | \$100,000 |
| 5 \$5,000,001-\$10,000,000 | \$150,000 |
| 6 \$10,000,001-\$20,000,000 | \$200,000 |
| 7 \$20,000,001-\$30,000,000 | \$250,000 |
| 8 \$30,000,001-\$40,000,000 | \$300,000 |
| 9 \$40,000,001-\$55,000,000 | \$350,000 |
| 10 \$55,000,001-\$70,000,000 | \$400,000 |
| 11 \$70,000,001-\$85,000,000 | \$450,000 |
| 12 \$85,000,001-\$100,000,000 | \$500,000 |

13 Bond requirements are increased twenty-five thousand dollars for each additional
14 ten million dollars in purchases above one hundred million dollars.

15 The amount of the bond for a Class B grain buyer's license is:

| 16 Dollar Amount of Grain Purchased | Bond Requirement |
|-------------------------------------|------------------|
| 17 Less than \$2,000,001 | \$50,000 |
| 18 \$2,000,001--\$5,000,000 | \$100,000 |

19 The grain buyer may stipulate to a higher bond amount requested by the
20 commission or may post additional security in another form.

21 **Section 4. That § 49-45-10 be AMENDED:**

22 **49-45-10.** A grain buyer ~~shall~~ must pay the purchase price to the owner or the
23 owner's agent for grain upon delivery or demand of the owner or agent unless payment
24 is to be made in accordance with the terms of a voluntary credit sale ~~which~~ that complies
25 with the requirements of this chapter and rules promulgated thereto. Full payment of any
26 cash purchase ~~shall~~ must be made by the Class A grain buyer within thirty days of final
27 delivery. A Class B grain buyer must pay for the grain included on a uniform scale ticket
28 or comparable receipt, as defined in § 49-45-10.1, within thirty days of issuance.