

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

400Y0134

SENATE ENGROSSED NO. **SB 21** - 1/31/2017

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to public grain
2 warehouses and grain buyers.

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

4 Section 1. That § 49-43-5.1 be amended to read:

5 49-43-5.1. The application for a license to operate as a public grain warehouse made
6 pursuant to § 49-43-4.2 shall be in writing, in a form prescribed by the commission, and shall
7 set forth the name, principal office or place of business, location of each warehouse if more than
8 one warehouse is operated in separate municipalities or locations, ~~capacity of each warehouse~~
9 and the individual name of each owner or principal in the management of the warehouse. If the
10 warehouse is owned or managed by a corporation, the name of the president, secretary, and
11 treasurer of the corporation shall be stated. The application shall also state that the applicant is
12 seeking a public grain warehouse license and shall contain financial information depicting the
13 financial condition of the business at the time of the application. The application shall contain
14 the affirmation statement set forth in § 22-29-9.1. The application shall be signed by the owner,
15 managing partner, or chief executive officer of the applicant and shall be notarized.



1 If a warehouseman has more than one public grain warehouse in the same municipality, only
2 one license is required for all the public grain warehouses.

3 Section 2. That § 49-43-5.9 be amended to read:

4 49-43-5.9. Upon revocation, termination, or cancellation of a warehouse license, any claim
5 against the warehouseman arising under this chapter shall be made in writing with the
6 commission, ~~warehouseman, and the surety on the warehouse bond~~ within six months after
7 receiving notice of revocation, termination, or cancellation. ~~Failure to make a timely claim shall~~
8 ~~relieve the surety of all obligations to the claimant. However, this section may not be construed~~
9 ~~to reduce the aggregate liability of the surety to other claimants below the face amount of the~~
10 ~~bond then in effect.~~ Upon revocation of a warehouse license, the commission shall ~~cause~~ publish
11 notice of ~~such~~ the revocation ~~to be published~~ once each week for two consecutive weeks in a
12 newspaper of general circulation in each of the counties county in which the licensee maintains
13 a business location and in a newspaper of general circulation within the state ~~and shall cause~~
14 ~~notice of such.~~ The commission shall also send notice of the revocation ~~to be sent~~ by certified
15 mail to ~~all~~ each grain storage receipt and scale ticket ~~holders~~ holder named in the audit prepared
16 pursuant to § 49-43-5.8. The notice shall state the name and address of the warehouseman, the
17 effective date of revocation, and the name and address of the surety on the warehouse bond. The
18 notice shall also state that any claims against the warehouseman shall be made in writing and
19 sent by ordinary mail to the ~~Public Utilities Commission, the warehouseman and the surety on~~
20 ~~the warehouse bond~~ commission within six months after receiving notice of revocation. ~~The~~
21 ~~provisions of this section do not apply if a receiver is appointed as provided in § 49-43-5.6~~
22 ~~before the expiration of six months after receiving notice of revocation, termination, or~~
23 ~~cancellation of the license.~~

24 Section 3. That § 49-43-10.1 be repealed.

1 ~~49-43-10.1. The commission may, at the request of the operator of a public grain warehouse,~~
2 ~~contract to measure grain stored in the operator's public grain warehouse for the purpose of~~
3 ~~comparing the totals of measured grain with recorded totals for that grain.~~

4 Section 4. That § 49-45-1.1 be amended to read:

5 49-45-1.1. Terms used in this chapter mean:

- 6 (1) "Commission," the Public Utilities Commission;
- 7 (2) "Grain," grain, grain sorghums, beans, pulse crops, and oil seeds. ~~However, the~~ The
8 term does not include grain that has been cleaned, processed, and specifically
9 identified for an intended use of planting for reproduction, grain received for
10 consignment that will be processed by the consignee for an intended use of planting
11 for reproduction, or grain purchased to feed livestock;
- 12 (3) "Grain buyer," any person who purchases grain for the purpose of reselling the
13 unprocessed grain or who purchases three hundred thousand dollars worth or more
14 of grain directly from producers in a calendar year. ~~However, nothing~~ Nothing in this
15 chapter applies to the isolated resale of grain by a producer who does not hold
16 himself or herself out as engaging in the business of reselling grain;
- 17 (4) "Person," any natural person, firm, corporation, company, limited liability company,
18 partnership, association, joint stock company or the lessee, trustee, or receiver
19 appointed by any court for any one of the foregoing;
- 20 (5) "Voluntary credit sale," a sale of grain or seeds pursuant to which the sale price is to
21 be paid more than thirty days after the delivery or release of the grain for sale,
22 including those contracts commonly referred to as deferred-payment contracts,
23 deferred-pricing contracts and price-later contracts; and
- 24 (6) "Producer," a person engaged in the business of grain production.

1 Section 5. That § 49-45-7 be amended to read:

2 49-45-7. An application for a grain buyer license shall be filed with the commission and
3 shall be in a form prescribed by the commission. The application shall set forth the name of each
4 owner or principal in the management of the business and shall contain financial information
5 depicting the financial condition of the business at the time of application. If the applicant is a
6 corporation, the application shall include the name of the president, secretary, and treasurer of
7 the corporation. The application shall also include the location of the principal office or place
8 of business and any additional ~~places~~ place of business of the applicant. The application shall
9 contain the affirmation statement set forth in § 22-29-9.1. The application shall be signed by the
10 owner, managing partner, or chief executive officer of the applicant and shall be notarized.

11 Upon receipt of an application and sufficient bond as required by § 49-45-9, the commission
12 may grant the license applied for or may, for good cause shown and after notice and an
13 opportunity for hearing, deny the issuance of the license.

14 If a grain buyer has more than one grain buying facility in the same municipality, only one
15 license is required for all the grain buying facilities.

16 Section 6. That § 49-45-19 be amended to read:

17 49-45-19. Upon revocation, termination, or cancellation of a grain buyer license, any claim
18 against the grain buyer arising under this chapter shall be made in writing with the commission;
19 ~~grain buyer and surety on the grain buyer bond~~ within six months after receiving notice of
20 revocation, termination, or cancellation. ~~Failure to make a timely claim shall relieve the surety~~
21 ~~of all obligations to the claimant. However, this section may not be construed to reduce the~~
22 ~~aggregate liability of the surety to other claimants below the face amount of the bond then in~~
23 ~~effect.~~ Upon revocation of a grain buyer license, the commission shall ~~cause~~ publish notice of
24 the revocation ~~to be published~~ once each week for two consecutive weeks in a newspaper of

1 general circulation in each ~~of the counties~~ county in which the licensee maintains a business
2 location and in a newspaper of general circulation within the state ~~and shall cause.~~ The
3 commission shall also send notice of the revocation ~~to be sent~~ by certified mail to ~~all~~ each scale
4 ticket ~~holders~~ holder named in the audit prepared pursuant to § 49-45-18. The notice shall state
5 the name and address of the grain buyer, the effective date of revocation, and the name and
6 address of the surety on the grain buyer bond. The notice shall also state that any claims against
7 the grain buyer shall be made in writing and sent by ordinary mail to the commission, ~~the grain~~
8 ~~buyer and the surety on the grain buyer bond~~ within six months after receiving notice of
9 revocation. ~~The provisions of this section do not apply if a receiver is appointed as provided in~~
10 ~~§ 49-45-16 before the expiration of six months after receiving notice of revocation, termination,~~
11 ~~or cancellation of the license.~~