

Subd. 2. It shall be submitted in a form prescribed by the higher education coordinating commission.

Sec. 3. [136A.53] ADMISSION STANDARDS; RECRUITMENT. Nothing in this act shall be construed to require an institution to lower admission standards or to require institutions to increase the recruitment of nonresident students.

Approved April 12, 1974.

CHAPTER 548—H.F.No.3352
[Coded in Part]

An act relating to agriculture; grain weighing, sampling and analysis; providing penalties; amending Minnesota Statutes 1971, Sections 232.08; and 235.01; repealing Minnesota Statutes 1971, Sections 232.05; 233.135; 233.137; 233.17 to 233.21; 233.25 to 233.32; 233.34 to 233.40; 235.03; 235.11; 235.12; 235.14 to 235.17; and 235.19.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [17B.01] AGRICULTURE; GRAIN INSPECTION, WEIGHING, SAMPLING AND ANALYSIS; CITATION. Sections 1 to 29 may be cited as the Minnesota grain inspection, weighing, sampling, and analysis act.

Sec. 2. [17B.02] DEFINITIONS. Subdivision 1. As used in sections 1 to 29, the terms defined in this section have the meanings given them.

Subd. 2. DEPARTMENT. "Department" means the Minnesota department of agriculture.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of agriculture or his authorized representative.

Subd. 4. PERSON. "Person" means any individual, firm, copartnership, cooperative, company, association, and corporation, or their lessees, trustees, or receivers.

Sec. 3. [17B.03] GRAIN WEIGHING, SAMPLING, ANALYSIS; LABORATORY EVALUATION. Subdivision 1. The commissioner of agriculture shall exercise general supervision over the inspection, grading, weighing, sampling, and analysis of grain within the state of Minnesota.

Subd. 2. The commissioner also may accept upon request samples drawn by and certified to by contracting parties for inspection, analy-

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sis and grading by state laboratory personnel.

Subd. 3. The commissioner may establish a procedure to be used in evaluating grain testing laboratories and their laboratory procedures and methodology to the end that such laboratory procedures and methodology may be uniform with state procedures and methodology.

Sec. 4. [17B.04] STATE INSPECTION AND WEIGHING. Subdivision 1. **FURNISHING SERVICE.** The commissioner, upon proper application for state inspection or weighing of grain by any person interested at any other point than St. Paul, Minneapolis, or Duluth, may furnish such service, if the commissioner deems it expedient; provided, such person first agrees to pay all costs of the service. Rules governing state inspection and weighing at other terminals shall apply at such points.

Subd. 2. **SHIPPER TO AFFIX TAGS.** Every shipper of grain shall fasten upon the inside of each car shipped by him a card giving the number and initials or other distinctive mark of such car, the date of shipment, and the exact weight of the grain in such car, as claimed by the shipper. If he fails to do so, the official weight shall be prima facie evidence of the quantity of grain shipped in such car.

Subd. 3. **SAMPLES TO BE FURNISHED; FEES.** The commissioner is hereby authorized to furnish persons entitled thereto, when requested by them, samples of grain from any car from which samples are taken for inspection and grading. The fees for the furnishing of such samples shall be fixed by the commissioner.

Sec. 5. [17B.05] DISPUTES ON GRADES, DOCKAGE; STATE ARBITRATION. If any dispute or disagreement arises between the person receiving and the person delivering grain in this state as to the proper grade or dockage, or both, of such grain, an average sample of at least three quarts of said grain in dispute may be taken by either or both of the parties interested. Said sample or samples shall be certified to by both the owner and receiver as being true samples of the grain in dispute on the day upon which the grain is delivered. Such samples shall be forwarded prepaid in a suitable air-tight container, with the names and address of both parties, to the head of the grain inspection program of the Minnesota department of agriculture who shall, upon request, examine said grain, and adjudge what grade or dockage, or both, said samples of grain are entitled to under the inspection rules. Before the results of the inspection are released to the person requesting the inspection, said person shall make payment of the required fee. *The fee charged shall be the same as that required for similar services rendered by the grain inspection program.*

Sec. 6. [17B.06] BOARD OF GRAIN STANDARDS. There is hereby created a board of grain standards. The board shall consist of the head of the grain inspection program of the department and two of his principal assistants selected by the commissioner for terms speci-

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fied by the commissioner. This board shall have jurisdiction over all grain standards hereafter established in Minnesota.

Sec. 7. [17B.07] OFFICIAL TITLE OF BOARD; MEETINGS. The official title of the board shall be "The Minnesota board of grain standards" and it shall have jurisdiction over all grain appeal cases brought before it.

The board shall meet annually on or before June 15, and shall establish the grades of all grain subject to state inspection which shall be known as the "Minnesota grades", and all grain received at any public warehouse shall be graded accordingly. Such grades shall not be changed before the next annual meeting without the concurrence of at least two members of the board. At the time of establishing Minnesota grades, the board also shall adopt such rules and regulations, in accordance with the administrative procedure act, as it deems necessary for the enforcement of sections 6 and 7. In establishing the grades, in addition to the physical qualities of the grain, there shall be taken into consideration the milling and bread-producing quality of all grain products used as human food. The board shall determine the grade, and dockage, if any, of all grain in all cases where appeals from the decisions of the chief inspector have been taken and for such purpose they may request fresh samples of such grain to be furnished directly to the board. Dockage shall be considered as being of two classes; first, that having value and second, that having no value. At the annual meeting the board shall ascertain and determine what dockage contained in grain is of value and publish a list thereof in connection with the publication of the Minnesota grades. Any foreign content of the grain shall not be considered in establishing the grade. Whenever grain containing dockage of value is sold to any public local warehouse or mill, terminal warehouse, or to any flour mill located in St. Paul, Minneapolis, or Duluth, or any other point within the state, which is now or may hereafter be designated as a terminal point, such sale shall not be considered to include such dockage of value, but such dockage shall be paid for at its market value or shall be returned to the vendor of said grain at the option of the vendee.

Sec. 8. [17B.08] BOND FOR HEAD OF GRAIN INSPECTION PROGRAM. The head of the grain inspection program for the department shall give bond to the state in the sum of \$10,000, with sureties to be approved by the commissioner, conditioned for the faithful and impartial discharge of the duties of his office according to law and rules and regulations prescribed by the commissioner, and the payment of damages sustained by any person, caused by his failure to perform such duties.

Sec. 9. [17B.09] BONDS FOR INSPECTORS. Each inspector shall give bond as required by the commissioner in the sum of \$5,000.

Sec. 10. [17B.10] STANDARD SAMPLES. The commissioner shall furnish standard samples of grain of each Minnesota grade to any

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grain warehouseman in the state, upon request and payment of the actual cost thereof.

Sec. 11. [17B.11] DUTY OF INSPECTORS. The commissioner shall inspect and grade all grain received at any terminal warehouse when requested to do so by any person having a contractual or other financial interest in such grain as the owner, seller, purchaser, warehouseman, or carrier or otherwise. He shall provide inspection service for interhouse transfers or when grain is "run for grade" within a house if requested by the warehouseman. All rights and privileges covering reinspection and appeal in all such cases are hereby preserved to all interested parties.

Sec. 12. [17B.12] APPEALS; PROCEDURE. Any owner, consignee, or shipper of grain, or any warehouseman, who is dissatisfied with the inspection of grain may appeal to the board of grain standards by filing notice of such appeal with the commissioner and paying a fee, to be fixed by the commissioner, which shall be refunded if the appeal is sustained. The commissioner shall forthwith transmit the notice to said board of grain standards. The decision of said board, fixing the grade of such grains shall be final.

Sec. 13. [17B.13] WEIGHERS, RESTRICTIONS, BONDING. The commissioner shall appoint at each terminal point such weighers as may be necessary, who shall have control of the weighing of all grain received for sale or storage at each terminal warehouse, except those terminal warehouses licensed under the provisions of the United States Warehouse Act, and except when otherwise ordered by the party shipping the grain. Said weighers shall have the supervision or control of the other weighing of grain when requested by the operator of the facility desiring the service. Every weigher shall give bond to the state in the sum of \$5,000 conditioned for the faithful discharge of his duty.

Sec. 14. [17B.14] RECORDS AND CERTIFICATES. Subdivision 1. **FURNISHING OF CERTIFICATES; EVIDENCE.** Every weigher shall keep such records as may be prescribed by the commissioner, and shall furnish to any person for whom weighing is done a certificate under his hand, showing the amount of each weight, the number and initial letter or other distinctive mark of each car weighed, the place and date of weighing, and the contents of the car. Such certificate shall be prima facie evidence of the facts therein certified.

Subd. 2. CERTIFICATES; INSPECTION; WEIGHING. Every person operating any elevator, building, or place in this state for the purchase, storage, or deposit of any grain or other farm commodity shall be entitled to receive from, and shall demand of, the officer whose duty it is to issue the same the official certificate of inspection in duplicate, together with the weighing certificate in duplicate, for any grain or other farm commodity shipped from such elevator, building, or place, and inspected and weighed as provided by the laws of this state.

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Subd. 3. **DUPLICATE TO BE DELIVERED TO BUYER.** Within ten days from the delivery of any certificate, as provided in subdivision 2, the person receiving the same shall deliver to the local buyer at the place where such grain or other farm commodity is purchased, stored, or deposited, one of the duplicate certificates and the same shall be retained by such local buyer in his office or place of business for 30 days thereafter and be subject to examination by any person desiring to inspect same.

Subd. 4. **FAILURE TO DELIVER; PENALTY.** Any person mentioned in subdivision 2 who shall fail to deliver any certificate mentioned in subdivision 2 within the time and as provided in subdivision 3 shall be guilty of a misdemeanor; and the weight and grade of the grain or other farm commodity, as shown by the records of the local buyer, shall be taken as a basis of settlement between the local buyer of any such grain or farm commodity and the person failing to deliver the certificate.

Sec. 15. **[17B.15] FEES FOR INSPECTION AND WEIGHING.** The fees for inspection and weighing shall be fixed by the commissioner and be a lien upon the grain. If the grain is in transit, such fees shall be paid by the carrier and treated as advance charges, and, if received for storage, such fees shall be paid by the warehouseman, and added to the storage charges.

All moneys so collected and all fines and penalties for violation of any provision of this chapter shall be paid into the state treasury.

Sec. 16. **[17B.16] QUALIFICATIONS.** No inspector, sampler, nor weigher shall during his term of service be in any way interested in the handling, storing, shipping, purchasing, or selling of grain or any of its products, nor in the employment of any person engaged therein, nor shall he be a member of any board of trade or organization of like character.

Sec. 17. **[17B.17] REMOVAL OF EMPLOYEE.** Upon written complaint filed with the commissioner, charging any inspector, sampler, or weigher with official misconduct, inefficiency, incompetency, or neglect of duty, the commissioner shall investigate such charge and, if it be sustained, remove such employee.

Sec. 18. **[17B.18] OBSTRUCTING WEAHER.** Any person who shall obstruct any state weigher in the performance of his official duties, by preventing his proper access to the scales used in weighing grain or otherwise, is guilty of a misdemeanor.

Sec. 19. **[17B.19] CERTIFICATES NOT ISSUED UNDER STATE AUTHORITY; USE OF CERTAIN WORDS PROHIBITED.** No person not connected with the department shall use the term "weighmaster", "state weighmaster", any representation of the seal of the state, or any other words or device calculated or tending to indicate that the certi-

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cate or receipt is issued under state authority, or to otherwise deceive or mislead the public or any person interested, when issuing certificates or receipts purporting to show the weight of grain, hay or straw. Where weighing is done under the authority of the charter or an ordinance of any city, or under the auspices of any incorporated chamber of commerce, board of trade, or exchange, any certificate or receipt issued therefor shall on its face plainly show its source and the signature of the person signing the same shall be followed by a designation plainly showing the capacity in which the signer is acting, and the term "weighmaster" may be a part of the designation. Every such certificate or receipt issued by anyone other than the duly authorized representatives of the commissioner shall have plainly stamped or printed across its face in red ink in letters not less than one quarter of an inch high the words, "This certificate is not issued under state authority".

Sec. 20. [17B.20] BREAKING OF SEALS; PENALTY; EXAMINATION OF CARS. Subdivision 1. **WHO MAY BREAK SEALS.** No person shall knowingly break the seal on any car of grain subject to state inspection prior to delivery thereof, except the employees of the department, and the owner of the grain, or his authorized agent, under rules prescribed by the commissioner.

Subd. 2. **UNAUTHORIZED BREAKING OF SEALS; MISDEMEANOR.** Any person who, without legal authority, shall break or remove any seal upon any car loaded with grain, or otherwise break or enter such car, shall be guilty of a misdemeanor.

Subd. 3. **EXAMINATION OF CARS.** An employee of the department before opening the doors of any cars containing grain, upon their arrival at any of the several places designated by law as terminal points in this state, for the purposes of inspecting the same, shall first ascertain the condition of such cars and determine whether any leakages have occurred while the cars were in transit; also whether or not the doors were properly secured and sealed, making a record of such facts in all cases and recording the same in a proper book to be kept for the purpose. After such examination shall have been made and recorded and the inspection of such grain has been made, the above mentioned employee shall securely close and reseal such car doors as have been opened by him, using a special seal of the department for the purpose. A record of all original seals broken by the employee and the time when broken, a record of all state seals substituted therefor and the time when such state seals were substituted, together with a full description of the seals, with their numbers, shall be made by the employee.

Sec. 21. [17B.21] BONDS, SUITS THEREON. All bonds required by this chapter shall be filed with the secretary of state, and suit may be brought thereon by any person injured by the misconduct of the principal.

Sec. 22. [17B.22] EMPLOYEE; MISCONDUCT; PERSONATION.

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Subdivision 1. **FALSELY ACTING AS INSPECTOR.** Any person not duly appointed and qualified who shall assume to act as a state inspector of grain shall be guilty of a misdemeanor.

Subd. 2. **MISCONDUCT OF EMPLOYEES.** Any employee of the department who shall knowingly or carelessly inspect or weigh any grain improperly, or give any false certificate of inspection or weight, or accept money or other consideration directly or indirectly for any neglect or improper performance of duty or who shall be guilty of any neglect of duty, and any person who shall improperly influence or attempt to influence any such officer in the performance of his official duty shall be guilty of a gross misdemeanor.

Subd. 3. **PENALTY.** Any person violating any provision of section 19 shall be guilty of a misdemeanor.

Sec. 23. **[17B.23] ALFALFA, SWEET CLOVER, RED CLOVER, AND GRASS SEEDS.** Alfalfa seed, sweet clover seed, red clover seed, and all grass seeds now or hereafter grown in commercial quantities in this state are hereby made subject to and brought within the provisions of the laws of this state which authorize, provide for, and regulate the establishment of "Minnesota grades" and the grading thereunder of wheat and similar grains, including sections 8 to 21, and all other applicable provisions of the statutes. The commissioner shall have plenary power, so far as the same may be constitutionally delegated, to supplement the provisions of the statutes and adopt the same to the purpose of sections 23 to 26; and, to that end, the commissioner may make, promulgate, and enforce all rules, regulations, directions, and orders appropriate or convenient for the aforesaid.

Sec. 24. **[17B.24] GRADING AND INSPECTION.** The commissioner may determine from time to time with or without public hearing whether alfalfa seed, sweet clover seed, red clover seed, and grass seeds, or any one or more of them, are being produced in this state in quantities and under conditions respecting the sale or use thereof which permit of practical grading and inspection under the provisions of sections 23 to 26; and may defer, suspend, or discontinue such grading and inspection whenever for as long as the same is found by the commissioner to be impractical or without substantial public benefit. Appropriate findings and orders covering such matters shall be made by the commissioner and may be appealed from or reviewed in the same manner as other orders of the commissioner.

Sec. 25. **[17B.25] FEES.** Fees for grading and inspection under sections 23 to 26 may be assessed and collected by the commissioner in the same manner as in the case of grain grading and inspection; but such fees may be modified or varied in amount from time to time so as to cover the full cost of all grading and inspection hereunder.

Sec. 26. **[17B.26] SALARIES AND EXPENSES.** The commissioner hereby is authorized to employ such additional help as is rea-

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sonably necessary in carrying out the provisions and purposes of sections 23 to 29.

Sec. 27. [17B.27] FUMIGATING GRAIN TO CHANGE COLOR; PENALTY. Any person who shall sell or offer for sale or for shipment and sale any barley or other grain, which shall have been subjected to fumigation, or other treatment by sulphur or other material, or to any other chemical process, affecting the color thereof, shall be punished by a fine of not more than \$500 or by imprisonment in the state prison for not more than one year or by both such fine and imprisonment, and be liable to any person injured in treble damages. Barley and oats may be purified by fumigation, or treatment with sulphur, under such restrictions, rules, and regulations as the commissioner shall prescribe for such purpose and when so purified may be sold and marketed as "purified barley" or "purified oats", and not otherwise.

Sec. 28. [17B.28] POWERS AND DUTIES OF THE COMMISSIONER. The commissioner shall enforce the provisions of this act including semiannual adjustment of the fees for services rendered and shall promulgate, in the manner provided by law, such rules and regulations as he deems necessary or desirable to carry out the provisions of sections 1 to 29. Until such regulations are promulgated, the rules and regulations of the public service commission, Chapter Five, PSC 150 to 169, as amended, promulgated pursuant to Minnesota Statutes, Section 15.0412, and not inconsistent with sections 1 to 29 of this act, shall remain in full force and effect and shall be enforced by the commissioner until amended or repealed by the commissioner in accordance with the administrative procedure act.

Sec. 29. [17B.29] PENALTIES. Any person who shall violate any of the provisions of sections 1 to 29 where no specific penalty is prescribed shall be guilty of a gross misdemeanor.

Sec. 30. Minnesota Statutes 1971, Section 232.08, is amended to read:

232.08 GRAIN, DELIVERY ON STORAGE RECEIPT. Subdivision 1. On the return and surrender of any storage receipts and payment of all lawful charges, the grain represented thereby shall be immediately deliverable to the owner, or his order, and shall not be subject to any further charge for storage after demand for delivery shall have been made and proper facilities for receiving ~~or~~ and shipping the same have been provided. If not delivered within 24 hours after such demand and proper facilities have been provided, the public local grain warehouseman issuing such storage receipt shall be liable to the owner in damages not exceeding one cent a bushel for each day's delay, unless he shall make delivery to different owners in the order demanded as rapidly as it can be done by ordinary diligence. The owner of the storage receipt shall order the car or other vehicle in which the grain covered by his receipt is to be transported, and the grain shall be delivered forthwith when the car or other vehicle so ordered is in proper condi-

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tion for loading and is placed at the warehouse.

Subd. 2. If any dispute or disagreement arises between the party receiving and the party delivering the grain at any public local grain warehouse in this state as to the proper grade or dockage, or both, of any grain, an average sample of at least three quarts of said grain in dispute may be taken by either or both of the parties interested. Said sample or samples shall be certified to by both the owner and public local grain warehouseman as being true samples of the grain in dispute on the day upon which the grain is delivered. Such samples shall be forwarded in a suitable ~~sack~~ air-tight container by parcel post or express, prepaid, with the name and address of both parties, to the ~~chief inspector of grain at St. Paul or Minneapolis~~ head of the grain inspection program of the Minnesota department of agriculture, who shall, upon request, examine said grain, and adjudge what grade or dockage, or both, said samples of grain are entitled to under the inspection rules. ~~If the grain in question is damp, or otherwise out of condition, a pint of such samples shall be placed in an airtight container and forwarded with such sample or samples. Before the results of the inspection are released to the person requesting the inspection, said person shall make payment of the required fee. The fee charged shall be the same as that required for similar services rendered by the grain inspection program.~~

Subd. 3. Each public local grain warehouseman shall post in a conspicuous place within his warehouse the text of subdivisions 2 and 3 of this section ~~and the schedule of charges prescribed by the department for the services rendered hereunder which shall be the same as for similar services rendered by the grain inspection department. When a sample of grain is forwarded to the chief inspector of grain under this section, the charges of the department for services to be rendered shall be tendered in advance.~~

Sec. 31. Minnesota Statutes 1971, Section 235.01, is amended to read:

235.01 SUPERVISION OVER GRAIN. The department of public service shall exercise general supervision over the grain interests of the state and of buying, selling, handling, ~~inspection, weighing,~~ and storage of grain, and of the management of public warehouses and public grain markets, including chambers of commerce, boards of trade, and grain exchanges; investigate, on complaint or upon its own motion, all cases of fraud and injustice in the grain trade, unfair practices, or unfair discrimination in the buying or selling of grain; have the power to compel the discontinuance of such unfair practices or unfair discrimination; and make all proper rules and regulations for carrying out and enforcing the provisions of all laws of the state relating to such subjects.

Sec. 32. **REPEALER.** Minnesota Statutes 1971, Sections 232.05; 233.135; 233.137; 233.17; 233.18; 233.19; 233.20; 233.21; 233.25; 233.26;

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233.27; 233.28; 233.29; 233.30; 233.31; 233.32; 233.34; 233.35; 233.37; 233.38; 233.39; 233.40; 235.03; 235.11; 235.12; 235.14; 235.15; 235.16; 235.17; and 235.19, are repealed.

Sec. 33. **EFFECTIVE DATE.** This act takes effect the day following its final enactment.

Approved April 11, 1974.

CHAPTER 549—H.F.No.3368

An act relating to veterans; rewards and privileges; preference; removal; requiring a veteran to request in writing a hearing on removal; requiring notification of intent to discharge to be in writing; amending Minnesota Statutes 1971, Section 197.46.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1971, Section 197.46, is amended to read:

197.46 VETERANS PREFERENCE ACT; REMOVAL FORBIDDEN; RIGHT OF MANDAMUS. Any person whose rights may be in any way prejudiced contrary to any of the provisions of this section, shall be entitled to a writ of mandamus to remedy the wrong. No person holding a position by appointment or employment in the state of Minnesota or in the several counties, cities, towns, ~~villages~~, school districts and all other political subdivisions or agencies thereof, who is an honorably discharged veteran, shall be removed from such position or employment except for incompetency or misconduct shown after a hearing, upon due notice, upon stated charges, in writing.

Any veteran who has been notified of the intent to discharge him from an appointed position or employment pursuant to this section shall be notified in writing of such intent to discharge and of his right to request a hearing within 60 days of receipt of the notice of intent to discharge. The failure of a veteran to request a hearing within the provided 60-day period shall constitute a waiver of his right to a hearing. Such failure shall also waive all other available legal remedies for reinstatement.

Request for a hearing concerning such a discharge shall be made in writing and submitted by mail or personal service to the employment office of the concerned employer or other appropriate office or person.

In all governmental subdivisions having an established civil service board or commission, or merit system authority, such hearing for

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