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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2398

02/20/2012 Authored by Anderson, P.; Eken; Schomacker; Swedzinski; Hamilton and others
The bill was read for the first time and referred to the Committee on Agriculture and Rural Development Policy and Finance

03/07/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Civil Law

03/14/2012 By motion, recalled and re-referred to the Committee on Government Operations and Elections

03/20/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Ways and Means

03/29/2012 Adoption of Report: Pass as Amended and Read Second Time

03/30/2012 Fiscal Calendar, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

04/24/2012 Read Third Time as Amended by Conference and repassed by the House
Read Third Time as Amended by Conference and repassed by the Senate

1.1 A bill for an act

1.2 relating to agriculture; modifying provisions related to pesticides, plants,

1.3 nursery law, inspections, enforcements, seeds, commercial feed, food, animals,

1.4 grain, and weights and measures; modifying certain ethanol and biodiesel

1.5 provisions; delaying the effective date to eliminate certain limitations on wind

1.6 easements; designating Lester as official state soil; establishing Dairy Research,

1.7 Teaching, and Consumer Education Authority; establishing pilot agricultural

1.8 microloan program; providing certain counties with capital improvement

1.9 plan authority; modifying seized animal procedures; providing for food law

1.10 enforcement; making administrative, clarifying, technical, and other conforming

1.11 changes; requiring reports; amending Minnesota Statutes 2010, sections

1.12 17.114, subdivisions 3, 4; 17.982, subdivision 1; 17.983; 17.984, subdivision

1.13 1; 18B.065, subdivision 2a, by adding a subdivision; 18B.316, subdivision

1.14 6; 18G.02, subdivision 14; 18G.07, subdivision 1; 18G.10, subdivision 7,

1.15 by adding a subdivision; 18H.02, subdivision 14, by adding a subdivision;

1.16 18H.10; 18H.14; 18J.01; 18J.02; 18J.03; 18J.04, subdivisions 1, 2, 3, 4; 18J.05,

1.17 subdivisions 1, 2, 6; 18J.06; 18J.07, subdivisions 3, 4, 5; 21.82, subdivisions 7,

1.18 8; 25.33, subdivision 3; 28A.03, subdivisions 3, 5, 6; 28A.21, subdivision 6;

1.19 31.01, subdivisions 2, 3, 4, 21, 25, 28; 31.121; 31.123; 31.13; 31.94; 31A.02,

1.20 subdivisions 13, 14, 15, 16; 31A.23; 32.01, subdivisions 11, 12; 35.0661,

1.21 subdivisions 2, 3; 40A.17; 41A.12, subdivisions 2, 4; 41B.036; 41B.048,

1.22 subdivision 6; 41B.055, subdivision 1; 41B.06; 48.24, subdivision 5; 223.16,

1.23 subdivision 12; 223.17, subdivisions 1, 4, 6, 9; 232.21, subdivisions 2, 6, 12;

1.24 232.22, subdivisions 3, 4, 5, 7; 232.23, subdivisions 2, 5, 10; 232.24, subdivisions

1.25 1, 2; 239.092; 239.093; 239.77, subdivisions 3, 5; 239.791, subdivision 1a;

1.26 347.54, subdivisions 2, 3; Laws 2008, chapter 296, article 1, section 25, as

1.27 amended; Laws 2010, Second Special Session chapter 1, article 1, section 11;

1.28 Laws 2011, chapter 14, section 6; proposing coding for new law in Minnesota

1.29 Statutes, chapters 1; 41B; 346; proposing coding for new law as Minnesota

1.30 Statutes, chapters 32C; 34A; repealing Minnesota Statutes 2010, sections 17B.01;

1.31 17B.02; 17B.03; 17B.04; 17B.041; 17B.0451; 17B.048; 17B.05; 17B.06;

1.32 17B.07; 17B.10; 17B.11; 17B.12; 17B.13; 17B.14; 17B.15, subdivisions 1, 3;

1.33 17B.16; 17B.17; 17B.18; 17B.20; 17B.22, subdivisions 1, 2; 17B.28; 17B.29;

1.34 25.33, subdivision 18; 27.19, subdivisions 2, 3; 27.20; 28.15; 28A.12; 28A.13;

1.35 29.28; 31.031; 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision

1.36 5; 31.631, subdivision 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3;

1.37 31.91; 31A.24; 31A.26; 34.113; 35.243; 35.255; 35.71, subdivisions 1, 2, 3,

1.38 4, 5, 6, 7; 35.72, subdivisions 1, 2, 3, 4, 5; 41B.048, subdivision 7; 223.16,

1.39 subdivision 7; 223.18; 232.21, subdivision 4; 232.24, subdivision 3; 232.25;

2.1 233.01; 233.015; 233.017; 233.02; 233.03; 233.04; 233.05; 233.06; 233.07;
2.2 233.08; 233.09; 233.10; 233.11; 233.12; 233.22; 233.23; 233.24; 233.33; 234.01;
2.3 234.03; 234.04; 234.05; 234.06; 234.08; 234.09; 234.10; 234.11; 234.12; 234.13;
2.4 234.14; 234.15; 234.16; 234.17; 234.18; 234.19; 234.20; 234.21; 234.22; 234.23;
2.5 234.24; 234.25; 234.27; 235.01; 235.02; 235.04; 235.05; 235.06; 235.07; 235.08;
2.6 235.09; 235.10; 235.13; 235.18; 236.01; 236.02; 236.03; 236.04; 236.05; 236.06;
2.7 236.07; 236.08; 236.09; 395.14; 395.15; 395.16; 395.17; 395.18; 395.19; 395.20;
2.8 395.21; 395.22; 395.23; 395.24; Minnesota Rules, parts 1505.0780; 1505.0810;
2.9 1511.0100; 1511.0110; 1511.0120; 1511.0130; 1511.0140; 1511.0150;
2.10 1511.0160; 1511.0170; 1540.0010, subpart 26; 1550.0930, subparts 3, 4, 5, 6, 7;
2.11 1550.1040, subparts 3, 4, 5, 6; 1550.1260, subparts 6, 7; 1562.0100, subparts
2.12 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25;
2.13 1562.0200; 1562.0400; 1562.0700; 1562.0900; 1562.1300; 1562.1800.

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

2.15 **ARTICLE 1**

2.16 **AGRICULTURE POLICY**

2.17 Section 1. **[1.1485] STATE SOIL.**

2.18 Lester is designated as the official soil of the state of Minnesota.

2.19 Sec. 2. Minnesota Statutes 2010, section 17.114, subdivision 3, is amended to read:

2.20 Subd. 3. **Duties.** ~~(a)~~ The commissioner shall:

2.21 (1) establish a clearinghouse and provide information, appropriate educational
2.22 opportunities and other assistance to individuals, producers, and groups about sustainable
2.23 agricultural techniques, practices, and opportunities;

2.24 (2) survey producers and support services and organizations to determine
2.25 information and research needs in the area of sustainable agricultural practices;

2.26 (3) demonstrate the on-farm applicability of sustainable agriculture practices to
2.27 conditions in this state;

2.28 (4) coordinate the efforts of state agencies regarding activities relating to sustainable
2.29 agriculture;

2.30 (5) direct the programs of the department so as to work toward the sustainability of
2.31 agriculture in this state;

2.32 (6) inform agencies of how state or federal programs could utilize and support
2.33 sustainable agriculture practices;

2.34 (7) work closely with farmers, the University of Minnesota, and other appropriate
2.35 organizations to identify opportunities and needs as well as assure coordination and
2.36 avoid duplication of state agency efforts regarding research, teaching, and extension
2.37 work relating to sustainable agriculture; and

(8) work cooperatively with local governments and others to strengthen the connection between farmers who practice sustainable farming methods and urban, rural, and suburban consumers, including, but not limited to, promoting local farmers' markets and community-supported agriculture; and.

~~(9) report to the Environmental Quality Board for review and then to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture every even-numbered year.~~

~~(b) The report under paragraph (a), clause (9), must include:~~

~~(1) the presentation and analysis of findings regarding the current status and trends regarding the economic condition of producers; the status of soil and water resources utilized by production agriculture; the magnitude of off-farm inputs used; and the amount of nonrenewable resources used by Minnesota farmers;~~

~~(2) a description of current state or federal programs directed toward sustainable agriculture including significant results and experiences of those programs;~~

~~(3) a description of specific actions the Department of Agriculture is taking in the area of sustainable agriculture, including, but not limited to, specific actions to strengthen the connection between sustainable farmers and consumers under paragraph (a), clause (8);~~

~~(4) a description of current and future research needs at all levels in the area of sustainable agriculture; and~~

~~(5) suggestions for changes in existing programs or policies or enactment of new programs or policies that will affect farm profitability, maintain soil and water quality, reduce input costs, or lessen dependence upon nonrenewable resources.~~

Sec. 3. Minnesota Statutes 2010, section 17.114, subdivision 4, is amended to read:

Subd. 4. **Integrated pest management.** (a) The state shall promote and facilitate the use of integrated pest management through education, technical or financial assistance, information and research.

(b) The commissioner shall coordinate the development of a state approach to the promotion and use of integrated pest management, which shall include delineation of the responsibilities of the state, public postsecondary institutions, Minnesota Extension Service, local units of government, and the private sector; establishment of information exchange and integration; procedures for identifying research needs and reviewing and preparing informational materials; procedures for factoring integrated pest management into state laws, rules, and uses of pesticides; and identification of barriers to adoption.

~~(c) The commissioner shall report to the Environmental Quality Board for review and then to the house of representatives and senate committees with jurisdiction over the~~

~~environment, natural resources, and agriculture every even-numbered year. The report shall be combined with the report required in subdivision 3.~~

Sec. 4. Minnesota Statutes 2010, section 18B.065, subdivision 2a, is amended to read:

Subd. 2a. **Disposal site requirement.** (a) For agricultural waste pesticides, the commissioner must designate a place in each county of the state that is available at least every other year for persons to dispose of unused portions of agricultural pesticides. The commissioner shall consult with the person responsible for solid waste management and disposal in each county to determine an appropriate location and to advertise each collection event. The commissioner may provide a collection opportunity in a county more frequently if the commissioner determines that a collection is warranted.

(b) For nonagricultural waste pesticides, the commissioner must provide a disposal opportunity each year in each county or enter into a contract with a group of counties under a joint powers agreement or contract for household hazardous waste disposal.

(c) As provided under subdivision 7, the commissioner may enter into cooperative agreements with local units of government to provide the collections required under paragraph (a) or (b) and shall provide a local unit of government, as part of the cooperative agreement, with funding for reasonable costs incurred including, but not limited to, related supplies, transportation, advertising, and disposal costs as well as reasonable overhead costs.

(d) A person who collects waste pesticide under this section shall, on a form provided or in a method approved by the commissioner, record information on each waste pesticide product collected including, but not limited to, the quantity collected and either the product name and its active ingredient or ingredients or the United States Environmental Protection Agency registration number. The person must submit this information to the commissioner at least annually by January 30.

Sec. 5. Minnesota Statutes 2010, section 18B.065, is amended by adding a subdivision to read:

Subd. 10. **Indemnification.** (a) A local unit of government, when operating or participating in a waste pesticide collection program pursuant to a cooperative agreement with the commissioner under this section, is an employee of the state, certified to be acting within the scope of employment, for purposes of the indemnification provisions of section 3.736, subdivision 9, for claims that arise out of the transportation, management, or disposal of any waste pesticide covered by the agreement.

(1) from and after the time the waste permanently leaves the local unit of government's possession and comes into the possession of the state's authorized transporter; and

(2) during the time the waste is transported between the local unit of government facilities by the state's authorized transporter.

(b) The state is not obligated to defend or indemnify a local unit of government under this subdivision to the extent of the local unit of government's liability insurance. The local unit of government's right to indemnify is not a waiver of the limitation, defenses, and immunities available to either the local unit of government or the state by law.

Sec. 6. Minnesota Statutes 2010, section 18B.316, subdivision 6, is amended to read:

Subd. 6. **Agricultural pesticide sales invoices.** (a) Sales invoices for agricultural pesticides sold in or into this state by a licensed agricultural pesticide dealer or a pesticide dealer under this section must show the percent of gross sales fee rate assessed and the gross sales fee paid under section 18B.26, subdivision 3, paragraph (c).

(b) A licensed agricultural pesticide dealer or a pesticide dealer may request an exemption from paragraph (a). The request for exemption must be in writing to the commissioner and must include verifiable information to justify that compliance with paragraph (a) is an extreme business hardship for the licensed agricultural pesticide dealer or pesticide dealer. The commissioner may approve or reject a request for exemption based upon review of the submitted information. An approved exemption under this paragraph is valid for one calendar year. The commissioner must maintain a list of those licensed agricultural pesticide dealers or pesticide dealers that have been granted an exemption on the department's Web site.

(c) A licensed agricultural pesticide dealer or a pesticide dealer issued an exemption under paragraph (b) must include the following statement on each sales invoice for any sale of an agricultural pesticide: "Minnesota Department of Agriculture Annual Gross Sales Fees of 0.55% have been Assessed and Paid on the Sale of an Agricultural Pesticide."

(d) Only the person who actually will pay the gross sales fee may show the rate or the amount of the fee as a line item on the sales invoice.

Sec. 7. Minnesota Statutes 2010, section 18G.02, subdivision 14, is amended to read:

Subd. 14. **Infested.** "Infested" means a plant has been overrun by plant pests, including weeds, or contains or harbors plant pests in a quantity that may threaten other plants.

Sec. 8. Minnesota Statutes 2010, section 18G.07, subdivision 1, is amended to read:

Subdivision 1. **Creation of registry.** (a) The commissioner shall maintain a list of all persons, businesses, and companies that employ persons who provide tree care or tree trimming services in Minnesota. All commercial tree care providers, tree trimmers, and persons who employers that direct employees to remove trees, limbs, branches, brush, or shrubs for hire must be registered by with the commissioner.

(b) Persons or companies who are required to be registered under paragraph (a) must register annually by providing the following to the commissioner:

(1) accurate and up-to-date business name, address, and telephone number;

(2) a complete list of all Minnesota counties in which they work; and

(3) a nonrefundable fee of \$25 for initial application or renewing the registration.

(c) All persons and companies required to be registered under paragraph (a) must register before conducting the activities specified in paragraph (a). Annual registration expires December 31, must be renewed annually, and the renewal fee remitted by January 7~~1~~ of the year for which it is issued. In addition, a penalty of ten percent of the renewal fee due must be charged for each month, or portion of a month, that the fee is delinquent up to a maximum of 30 percent for any application for renewal postmarked after December 31.

Sec. 9. Minnesota Statutes 2010, section 18G.10, subdivision 7, is amended to read:

Subd. 7. **Supplemental, additional, or other certificates and permits.** (a) The commissioner may provide inspection, sampling, or certification services to ensure that Minnesota plant treatment processes, plant products, or commodities meet import requirements of other states or countries.

(b) The state plant regulatory official may issue permits and certificates verifying that various Minnesota agricultural plant treatment processes, products, or commodities meet specified plant health requirements, treatment requirements, or pest absence assurances based on determinations by the commissioner.

Sec. 10. Minnesota Statutes 2010, section 18G.10, is amended by adding a subdivision to read:

Subd. 8. **Misuse of a certificate or permit.** (a) Certificates and permits may not be altered, counterfeited, obtained, or used improperly, for any plant product.

(b) Certificates and permits are not transferable to another location or another person.

Sec. 11. Minnesota Statutes 2010, section 18H.02, subdivision 14, is amended to read:

Subd. 14. **Infested.** "Infested" means a plant has been overrun by plant pests, including weeds, or contains or harbors plant pests in a quantity that may threaten other plants.

Sec. 12. Minnesota Statutes 2010, section 18H.02, is amended by adding a subdivision to read:

Subd. 16a. **Nonhardy.** "Nonhardy" means a plant that cannot be expected to survive or reliably produce flowers and fruit in average minimum winter temperatures at the growing site as determined by the commissioner based upon independent field trials and industry input represented by the United States Department of Agriculture Plant Hardiness Zone designations.

Sec. 13. Minnesota Statutes 2010, section 18H.10, is amended to read:

18H.10 STORAGE OF NURSERY STOCK.

(a) All nursery stock must be kept and displayed under conditions of temperature, light, and moisture sufficient to maintain the viability and vigor of the nursery stock.

(b) Packaged dormant nursery stock must be stored under conditions that retard growth, prevent etiolated growth, and protect its viability.

(c) Balled and burlapped nursery stock being held for sale to the public must be kept in a moisture-holding material approved by the commissioner and not toxic to plants. The moisture-holding material must adequately cover and protect the ball of earth and must be kept moist at all times.

Sec. 14. Minnesota Statutes 2010, section 18H.14, is amended to read:

18H.14 LABELING AND ADVERTISING OF NURSERY STOCK.

(a) Plants, plant materials, or nursery stock must not be labeled or advertised with false or misleading information including, but not limited to, scientific name, variety, place of origin, hardiness zone as defined by the United States Department of Agriculture, and growth habit.

(b) All nonhardy nursery stock as designated by the commissioner must be labeled "nonhardy" in Minnesota.

~~(b)~~ (c) A person may not offer for distribution plants, plant materials, or nursery stock, represented by some specific or special form of notation, including, but not limited to, "free from" or "grown free of," unless the plants are produced under a specific program approved by the commissioner to address the specific plant properties addressed in the special notation claim.

(d) Nursery stock collected from the wild state must be inspected and certified prior to sale and at the time of sale must be labeled "Collected from the Wild." The label must remain on each plant or clump of plants while it is offered for sale and during the distribution process. The collected stock may be grown in nursery rows at least two years, after which the plants may be sold without the labeling required by this paragraph.

Sec. 15. Minnesota Statutes 2010, section 18J.01, is amended to read:

18J.01 DEFINITIONS.

(a) The definitions in sections 18G.02 ~~and~~, 18H.02, 27.01, 223.16, 231.01, and 232.21 apply to this chapter.

(b) For purposes of this chapter, "associated rules" means rules adopted under this chapter, chapter 18G ~~or~~, 18H, 27, 223, 231, or 232, or sections 21.80 to 21.92.

Sec. 16. Minnesota Statutes 2010, section 18J.02, is amended to read:

18J.02 DUTIES OF COMMISSIONER.

The commissioner shall administer and enforce this chapter, chapters 18G ~~and~~, 18H, 27, 223, 231, and 232; sections 21.80 to 21.92~~;~~ and associated rules.

Sec. 17. Minnesota Statutes 2010, section 18J.03, is amended to read:

18J.03 CIVIL LIABILITY.

A person regulated by this chapter, chapter 18G ~~or~~, 18H, 27, 223, 231, or 232, or sections 21.80 to 21.92, is civilly liable for any violation of one of those statutes or associated rules by the person's employee or agent.

Sec. 18. Minnesota Statutes 2010, section 18J.04, subdivision 1, is amended to read:

Subdivision 1. **Access and entry.** The commissioner, upon presentation of official department credentials, must be granted immediate access at reasonable times to sites where a person manufactures, distributes, uses, handles, disposes of, stores, or transports seeds, plants, grain, household goods, general merchandise, produce, or other living or nonliving products or other objects regulated under chapter 18G ~~or~~, 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules.

Sec. 19. Minnesota Statutes 2010, section 18J.04, subdivision 2, is amended to read:

Subd. 2. **Purpose of entry.** (a) The commissioner may enter sites for:

(1) inspection of inventory and equipment for the manufacture, storage, handling, distribution, disposal, or any other process regulated under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

(2) sampling of sites, seeds, plants, products, grain, household goods, general merchandise, produce, or other living or nonliving objects that are manufactured, stored, distributed, handled, or disposed of at those sites and regulated under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

(3) inspection of records related to the manufacture, distribution, storage, handling, or disposal of seeds, plants, products, grain, household goods, general merchandise, produce, or other living or nonliving objects regulated under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

(4) investigating compliance with chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules; or

(5) other purposes necessary to implement chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules.

(b) The commissioner may enter any public or private premises during or after regular business hours without notice of inspection when a suspected violation of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules may threaten public health or the environment.

Sec. 20. Minnesota Statutes 2010, section 18J.04, subdivision 3, is amended to read:

Subd. 3. **Notice of inspection samples and analyses.** (a) The commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If requested, the commissioner shall split any samples obtained and provide them to the owner, operator, or agent in charge. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge within 30 days after an analysis has been performed. If an analysis is not performed, the commissioner must notify the owner, operator, or agent in charge within 30 days of the decision not to perform the analysis.

(b) The sampling and analysis must be done according to methods provided for under applicable provisions of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules. In cases not covered by those sections and methods or in cases where methods are available in which improved applicability has been demonstrated the commissioner may adopt appropriate methods from other sources.

Sec. 21. Minnesota Statutes 2010, section 18J.04, subdivision 4, is amended to read:

Subd. 4. **Inspection requests by others.** (a) A person who believes that a violation of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules has occurred may request an inspection by giving notice to the commissioner of the violation. The notice must be in writing, state with reasonable particularity the grounds for the notice, and be signed by the person making the request.

(b) If after receiving a notice of violation the commissioner reasonably believes that a violation has occurred, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if a violation has occurred.

(c) An inspection conducted pursuant to a notice under this subdivision may cover an entire site and is not limited to the portion of the site specified in the notice. If the commissioner determines that reasonable grounds to believe that a violation occurred do not exist, the commissioner must notify the person making the request in writing of the determination.

Sec. 22. Minnesota Statutes 2010, section 18J.05, subdivision 1, is amended to read:

Subdivision 1. **Enforcement required.** (a) A violation of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or an associated rule is a violation of this chapter.

(b) Upon the request of the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws must take action to the extent of their authority necessary or proper for the enforcement of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules or valid orders, standards, stipulations, and agreements of the commissioner.

Sec. 23. Minnesota Statutes 2010, section 18J.05, subdivision 2, is amended to read:

Subd. 2. **Commissioner's discretion.** If minor violations of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules occur or the commissioner believes the public interest will be best served by a suitable notice of warning in writing, this section does not require the commissioner to:

- (1) report the violation for prosecution;
- (2) institute seizure proceedings; or
- (3) issue a withdrawal from distribution, stop-sale, or other order.

Sec. 24. Minnesota Statutes 2010, section 18J.05, subdivision 6, is amended to read:

Subd. 6. **Agent for service of process.** All persons licensed, permitted, registered, or certified under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules must appoint the commissioner as the agent upon whom all legal process may be served and service upon the commissioner is deemed to be service on the licensee, permittee, registrant, or certified person.

Sec. 25. Minnesota Statutes 2010, section 18J.06, is amended to read:

18J.06 FALSE STATEMENT OR RECORD.

A person must not knowingly make or offer a false statement, record, or other information as part of:

(1) an application for registration, license, certification, or permit under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

(2) records or reports required under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules; or

(3) an investigation of a violation of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules.

Sec. 26. Minnesota Statutes 2010, section 18J.07, subdivision 3, is amended to read:

Subd. 3. **Cancellation of registration, permit, license, certification.** The commissioner may cancel or revoke a registration, permit, license, or certification provided for under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules or refuse to register, permit, license, or certify under provisions of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules if the registrant, permittee, licensee, or certified person has used fraudulent or deceptive practices in the evasion or attempted evasion of a provision of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules.

Sec. 27. Minnesota Statutes 2010, section 18J.07, subdivision 4, is amended to read:

Subd. 4. **Service of order or notice.** (a) If a person is not available for service of an order, the commissioner may attach the order to the facility, site, seed or seed container, plant or other living or nonliving object regulated under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules and notify the owner, custodian, other responsible party, or registrant.

(b) The seed, seed container, plant, or other living or nonliving object regulated under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated

12.1 rules may not be sold, used, tampered with, or removed until released under conditions
12.2 specified by the commissioner, by an administrative law judge, or by a court.

12.3 Sec. 28. Minnesota Statutes 2010, section 18J.07, subdivision 5, is amended to read:

12.4 Subd. 5. **Unsatisfied judgments.** (a) An applicant for a license, permit, registration,
12.5 or certification under provisions of this chapter, chapter 18G ~~or~~ 18H, 27, 223, 231, or
12.6 232; sections 21.80 to 21.92~~;~~ or associated rules may not allow a final judgment against
12.7 the applicant for damages arising from a violation of those statutes or rules to remain
12.8 unsatisfied for a period of more than 30 days.

12.9 (b) Failure to satisfy, within 30 days, a final judgment resulting from a violation
12.10 of this chapter results in automatic suspension of the license, permit, registration, or
12.11 certification.

12.12 Sec. 29. Minnesota Statutes 2010, section 21.82, subdivision 7, is amended to read:

12.13 Subd. 7. **Vegetable seeds.** For vegetable seeds prepared for use in home gardens
12.14 or household plantings the requirements in paragraphs (a) to (p) apply. Vegetable seeds
12.15 packed for sale in commercial quantities to farmers, conservation groups, and other similar
12.16 entities are considered agricultural seeds and must be labeled accordingly.

12.17 (a) The label must contain the name of the kind or kind and variety for each seed
12.18 component in excess of five percent of the whole and the percentage by weight of each
12.19 in order of its predominance. If the variety of those kinds generally labeled as to variety
12.20 is not stated and it is not required to be stated, the label must show the name of the kind
12.21 and the words "variety not stated."

12.22 (b) The percentage that is hybrid must be at least 95 percent of the percentage of pure
12.23 seed shown unless the percentage of pure seed which is hybrid seed is shown separately.
12.24 If two or more kinds of varieties are present in excess of five percent and are named on
12.25 the label, each that is hybrid must be designated as hybrid on the label. Any one kind or
12.26 kind and variety that has pure seed that is less than 95 percent but more than 75 percent
12.27 hybrid seed as a result of incompletely controlled pollination in a cross must be labeled
12.28 to show the percentage of pure seed that is hybrid seed or a statement such as "contains
12.29 from 75 percent to 95 percent hybrid seed." No one kind or variety of seed may be labeled
12.30 as hybrid if the pure seed contains less than 75 percent hybrid seed. The word "hybrid"
12.31 must be shown on the label in conjunction with the kind.

12.32 (c) Blends must be listed on the label using the term "blend" in conjunction with
12.33 the kind.

12.34 (d) Mixtures shall be listed on the label using the term "mixture," "mix," or "mixed."

13.1 (e) The label must show a lot number or other lot identification.

13.2 (f) The origin may be omitted from the label.

13.3 (g) The label must show the year for which the seed was packed for sale listed as
13.4 "packed for (year)" for seed with a percentage of germination that exceeds the standard last
13.5 established by the commissioner, the percentage of germination and the calendar month
13.6 and year that the percentages were determined by test, or the calendar month and year the
13.7 germination test was completed and the statement "sell by (month and year listed here)," which may be no more than 12 months from the date of test, exclusive of the month of test.

13.9 (h) For vegetable seeds which germinate less than the standard last established by
13.10 the commissioner, the label must show:

13.11 (1) a percentage of germination, exclusive of hard or dormant seed or both;

13.12 (2) a percentage of hard or dormant seed or both, if present; and

13.13 (3) the words "below standard" in not less than eight point type and the month and
13.14 year the percentages were determined by test.

13.15 (i) The net weight of the contents or a statement indicating the number of seeds in
13.16 the container or both, must appear on either the container or the label, ~~except that for~~
13.17 ~~containers with contents of 200 seeds or less a statement indicating the number of seeds in~~
13.18 ~~the container may be listed along with or in lieu of the net weight of contents.~~

13.19 (j) The heading for and percentage by weight of pure seed may be omitted from a
13.20 label if the total is more than 90 percent.

13.21 (k) The heading for and percentage by weight of weed seed may be omitted from a
13.22 label if they are not present in the seed.

13.23 (l) The heading "noxious weed seeds" may be omitted from a label if they are not
13.24 present in the seed.

13.25 (m) The heading for and percentage by weight of other crop seed may be omitted
13.26 from a label if it is less than five percent.

13.27 (n) The heading for and percentage by weight of inert matter may be omitted from a
13.28 label if it is less than ten percent.

13.29 (o) The label must contain the name and address of the person who labeled the
13.30 seed or who sells the seed in this state or a code number that has been registered with
13.31 the commissioner.

13.32 (p) The labeling requirements for vegetable seeds prepared for use in home gardens
13.33 or household plantings when sold outside their original containers are met if the seed is
13.34 weighed from a properly labeled container in the presence of the purchaser.

13.35 Sec. 30. Minnesota Statutes 2010, section 21.82, subdivision 8, is amended to read:

14.1 Subd. 8. **Flower seeds.** For flower and wildflower seeds prepared for use in home
14.2 gardens or household plantings, the requirements in paragraphs (a) to (l) apply. Flower
14.3 and wildflower seeds packed for sale in commercial quantities to farmers, conservation
14.4 groups, and other similar entities are considered agricultural seeds and must be labeled
14.5 accordingly.

14.6 (a) The label must contain the name of the kind and variety or a statement of type
14.7 and performance characteristics as prescribed by rule.

14.8 (b) The percentage that is hybrid must be at least 95 percent of the percentage of pure
14.9 seed shown unless the percentage of pure seed which is hybrid seed is shown separately.
14.10 If two or more kinds of varieties are present in excess of five percent and are named on
14.11 the label, each that is hybrid must be designated as hybrid on the label. Any one kind or
14.12 kind and variety that has pure seed that is less than 95 percent but more than 75 percent
14.13 hybrid seed as a result of incompletely controlled pollination in a cross must be labeled
14.14 to show the percentage of pure seed that is hybrid seed or a statement such as "contains
14.15 from 75 percent to 95 percent hybrid seed." No one kind or variety of seed may be labeled
14.16 as hybrid if the pure seed contains less than 75 percent hybrid seed. The word "hybrid"
14.17 must be shown on the label in conjunction with the kind.

14.18 (c) Blends must be listed on the label using the term "blend" in conjunction with
14.19 the kind.

14.20 (d) Mixtures must be listed on the label using the term "mixture," "mix," or "mixed."

14.21 (e) The label must contain the lot number or other lot identification.

14.22 (f) The origin may be omitted from the label.

14.23 (g) The label must contain the year for which the seed was packed for sale listed as
14.24 "packed for (year)" for seed with a percentage of germination that exceeds the standard last
14.25 established by the commissioner, the percentage of germination and the calendar month
14.26 and year that the percentages were determined by test, or the calendar month and year the
14.27 germination test was completed and the statement "sell by (month and year listed here),"
14.28 which may be no more than 12 months from the date of test, exclusive of the month of test.

14.29 (h) For flower seeds which germinate less than the standard last established by
14.30 the commissioner, the label must show:

14.31 (1) percentage of germination exclusive of hard or dormant seed or both;

14.32 (2) percentage of hard or dormant seed or both, if present; and

14.33 (3) the words "below standard" in not less than eight point type and the month and
14.34 year this percentage was determined by test.

14.35 (i) The label must show the net weight of contents or a statement indicating the
14.36 number of seeds in the container, or both, on either the container or the label, ~~except that~~

15.1 ~~for containers with contents of 200 seeds or less a statement indicating the number of~~
15.2 ~~seeds in the container may be listed along with or in lieu of the net weight of contents.~~

15.3 (j) The heading for and percentage by weight of pure seed may be omitted from a
15.4 label if the total is more than 90 percent.

15.5 (k) The heading for and percentage by weight of weed seed may be omitted from a
15.6 label if they are not present in the seed.

15.7 (l) The heading "noxious weed seeds" may be omitted from a label if they are not
15.8 present in the seed.

15.9 (m) The heading for and percentage by weight of other crop seed may be omitted
15.10 from a label if it is less than five percent.

15.11 (n) The heading for and percentage by weight of inert matter may be omitted from a
15.12 label if it is less than ten percent.

15.13 (o) The label must show the name and address of the person who labeled the seed
15.14 or who sells the seed within this state, or a code number which has been registered with
15.15 the commissioner.

15.16 Sec. 31. Minnesota Statutes 2010, section 25.33, subdivision 3, is amended to read:

15.17 Subd. 3. **Distribute.** "Distribute" means to offer for sale, sell, exchange, ~~or~~
15.18 barter, ~~or otherwise supply commercial feed; or to supply, furnish, or otherwise provide~~
15.19 ~~commercial feed to a contract feeder. The term "distribute" shall not include or apply to~~
15.20 any feeds manufactured for livestock owned by the distributor.

15.21 **EFFECTIVE DATE.** This section is effective retroactively from January 1,
15.22 2012, and applies to commercial feed inspection fees assessed by the commissioner of
15.23 agriculture for calendar year 2012 and thereafter.

15.24 Sec. 32. Minnesota Statutes 2010, section 31.13, is amended to read:

15.25 **31.13 ANALYSIS; EVIDENCE.**

15.26 It shall be the duty of the ~~chief chemist and assistants~~ laboratory director, managers,
15.27 and analysts to make analyses and examinations of such articles as shall be furnished
15.28 to them by the commissioner, for the purpose of determining from such examination
15.29 whether such articles are adulterated, misbranded, insufficiently labeled, unwholesome,
15.30 poisonous, or deleterious and whether such articles have been manufactured, used, sold,
15.31 transported, offered for use, sale, or transportation, or had in possession with intent to use,
15.32 sell, or transport in violation of any law now or hereafter enacted relating to food, or of
15.33 any definition, standard, rule, or ruling made and published thereunder, and to certify the

16.1 result of such analysis and examination to the commissioner. A copy of the result of the
16.2 examination or analysis of any such article, duly authenticated, by the ~~chemist~~ analyst
16.3 making such ~~analysis~~ determinations or examination, under oath of such ~~chemist~~ analyst,
16.4 shall be prima facie evidence in all courts of the matters and facts therein contained.

16.5 Sec. 33. Minnesota Statutes 2010, section 31.94, is amended to read:

16.6 **31.94 COMMISSIONER DUTIES.**

16.7 (a) In order to promote opportunities for organic agriculture in Minnesota, the
16.8 commissioner shall:

16.9 (1) survey producers and support services and organizations to determine
16.10 information and research needs in the area of organic agriculture practices;

16.11 (2) work with the University of Minnesota to demonstrate the on-farm applicability
16.12 of organic agriculture practices to conditions in this state;

16.13 (3) direct the programs of the department so as to work toward the promotion of
16.14 organic agriculture in this state;

16.15 (4) inform agencies of how state or federal programs could utilize and support
16.16 organic agriculture practices; and

16.17 (5) work closely with producers, the University of Minnesota, the Minnesota Trade
16.18 Office, and other appropriate organizations to identify opportunities and needs as well
16.19 as ensure coordination and avoid duplication of state agency efforts regarding research,
16.20 teaching, marketing, and extension work relating to organic agriculture.

16.21 (b) By November 15 of each ~~even-numbered~~ year that ends in a zero or a five, the
16.22 commissioner, in conjunction with the task force created in paragraph (c), shall report
16.23 on the status of organic agriculture in Minnesota to the legislative policy and finance
16.24 committees and divisions with jurisdiction over agriculture. The report must include:
16.25 available data on organic acreage and production, available data on the sales or market
16.26 performance of organic products, and recommendations regarding programs, policies, and
16.27 research efforts that will benefit Minnesota's organic agriculture sector.

16.28 ~~(1) a description of current state or federal programs directed toward organic~~
16.29 ~~agriculture, including significant results and experiences of those programs;~~

16.30 ~~(2) a description of specific actions the department of agriculture is taking in the~~
16.31 ~~area of organic agriculture, including the proportion of the department's budget spent on~~
16.32 ~~organic agriculture;~~

16.33 ~~(3) a description of current and future research needs at all levels in the area of~~
16.34 ~~organic agriculture;~~

~~(4) suggestions for changes in existing programs or policies or enactment of new programs or policies that will affect organic agriculture;~~
~~(5) a description of market trends and potential for organic products;~~
~~(6) available information, using currently reliable data, on the price received, yield, and profitability of organic farms, and a comparison with data on conventional farms; and~~
~~(7) available information, using currently reliable data, on the positive and negative impacts of organic production on the environment and human health.~~

(c) A Minnesota Organic Advisory Task Force shall advise the commissioner and the University of Minnesota on policies and programs that will improve organic agriculture in Minnesota, including how available resources can most effectively be used for outreach, education, research, and technical assistance that meet the needs of the organic agriculture community. The task force must consist of the following residents of the state:

- (1) three farmers using organic agriculture methods;
- (2) one wholesaler or distributor of organic products;
- (3) one representative of organic certification agencies;
- (4) two organic processors;
- (5) one representative from University of Minnesota Extension;
- (6) one University of Minnesota faculty member;
- (7) one representative from a nonprofit organization representing producers;
- (8) two public members;
- (9) one representative from the United States Department of Agriculture;
- (10) one retailer of organic products; and
- (11) one organic consumer representative.

The commissioner, in consultation with the director of the Minnesota Agricultural Experiment Station; the dean and director of University of Minnesota Extension; and the dean of the College of Food, Agricultural and Natural Resource Sciences shall appoint members to serve staggered two-year terms.

Compensation and removal of members are governed by section 15.059, subdivision 6. The task force must meet at least twice each year and expires on June 30, 2013.

(d) For the purposes of expanding, improving, and developing production and marketing of the organic products of Minnesota agriculture, the commissioner may receive funds from state and federal sources and spend them, including through grants or contracts, to assist producers and processors to achieve certification, to conduct education or marketing activities, to enter into research and development partnerships, or to address production or marketing obstacles to the growth and well-being of the industry.

(e) The commissioner may facilitate the registration of state organic production and handling operations including those exempt from organic certification according to Code of Federal Regulations, title 7, section 205.101, and certification agents operating within the state.

Sec. 34. **[32C.01] ORGANIZATION.**

Subdivision 1. Establishment. The Dairy Research, Teaching, and Consumer Education Authority is established as a public corporation. The business of the authority must be conducted under the name "Dairy Research, Teaching, and Consumer Education Authority."

Subd. 2. Board of directors. The authority is governed by a board of nine directors. The term of a director, except as otherwise provided in this subdivision, is four years. The commissioner of agriculture is a member of the board. The governor shall appoint four members of the board. Two of the members appointed by the governor must be currently engaged in the business of operating a dairy. Two of the members appointed by the governor must be representatives of Minnesota-based businesses actively engaged in working with or serving Minnesota's dairy industry. The dean of the University of Minnesota College of Food, Agriculture and Natural Resource Sciences, or the dean's designee, is a member of the board. One member of the board must be a representative of a state trade association that represents the interests of milk producers. One member of the board must be a representative of the Minnesota Division of the Midwest Dairy Council. One member of the board must be a member of the agricultural education faculty of the Minnesota State Colleges and Universities System. The four members of the initial board of directors who are appointed by the governor must be appointed for terms of four years, and the other four members must be appointed for an initial term of two years. Vacancies for the governor's appointed positions on the board must be filled by appointment of the governor. Vacancies for other positions on the board must be filled by the named represented entities. Board members must not be compensated for their services.

Subd. 3. Bylaws. The board must adopt bylaws necessary for the conduct of the business of the authority, consistent with this chapter.

Subd. 4. Place of business. The board must locate and maintain the authority's place of business within the state.

Subd. 5. Chair. The board must annually elect from among its members a chair and other officers necessary for the performance of its duties.

19.1 Subd. 6. **Meetings.** The board must meet at least four times each year and may hold
19.2 additional meetings upon giving notice in accordance with the bylaws of the authority.
19.3 Board meetings are subject to chapter 13D.

19.4 Subd. 7. **Conflict of interest.** A director, employee, or officer of the authority may
19.5 not participate in or vote on a decision of the board relating to an organization in which
19.6 the director has either a direct or indirect financial interest.

19.7 Subd. 8. **Economic interest statements.** Directors and officers of the authority are
19.8 public officials for the purpose of section 10A.09, and must file statements of economic
19.9 interest with the Campaign Finance and Public Disclosure Board.

19.10 Sec. 35. **[32C.02] POWERS.**

19.11 Subdivision 1. **General corporate powers.** (a) The authority has the powers granted
19.12 to a business corporation by section 302A.161, subdivisions 3; 4; 5; 7; 8; 9; 11; 12; 13,
19.13 except that the authority may not act as a general partner in any partnership; 14; 15; 16; 17;
19.14 18; and 22, and the powers necessary or convenient to exercise the enumerated powers.

19.15 (b) Section 302A.041 applies to this chapter and the authority in the same manner
19.16 that it applies to business corporations established under chapter 302A.

19.17 Subd. 2. **Facility design; development and operation.** The authority may enter into
19.18 management contracts, lease agreements, or both, with a Minnesota nonprofit corporation
19.19 to design, develop, and operate a facility to further the purposes of this chapter at the site
19.20 determined by the board and on the terms that the board finds desirable. The board must
19.21 identify and acquire a site that will accommodate the following facilities and activities:

- 19.22 (1) housing for bred and lactating animals;
19.23 (2) milking parlor;
19.24 (3) automatic milking systems;
19.25 (4) cross-ventilated and natural-ventilated housing;
19.26 (5) transition cow housing;
19.27 (6) special needs and hospital housing;
19.28 (7) classrooms and a conference room;
19.29 (8) dairy processing facility with retail;
19.30 (9) visitors' center;
19.31 (10) student housing;
19.32 (11) laboratory facilities;
19.33 (12) space to accommodate installation of an anaerobic digester system to research
19.34 energy production from feedstock produced on-site or from off-site sources; and
19.35 (13) space for feed storage to allow for research capabilities at the facility.

Notwithstanding the provisions of section 32C.01, subdivision 7, relating to conflict of interest, a director or officer of the authority who is also a director, officer, or member of a nonprofit corporation with which the authority enters into management contracts or lease agreements may participate in and vote on the decision of the board as to the terms and conditions of management contracts or lease agreements between the Minnesota nonprofit corporation and the authority.

Subd. 3. **Funds.** The authority may accept and use gifts, grants, or contributions from any source to support operation of the facility. Unless otherwise restricted by the terms of a gift or bequest, the board may sell, exchange, or otherwise dispose of, and invest or reinvest the money, securities, or other property given or bequeathed to it. The principal of these funds, the income from them, and all other revenues received by the authority from any nonstate source must be placed in depositories chosen by the board and are subject to expenditure for the board's purposes. Expenditures of \$25,000 or more must be approved by the full board.

Subd. 4. **Animals; regulation.** The authority must comply with all applicable laws and rules relating to quarantine, transportation, examination, habitation, care, and treatment of animals.

Sec. 36. **[32C.03] EMPLOYEES.**

(a) The board may hire an executive director of the authority and other employees the board considers necessary to carry out the program, conduct research, and operate and maintain facilities of the authority.

(b) Persons employed by contractors or lessees are not state employees and may not participate in state retirement, deferred compensation, insurance, or other plans that apply to state employees generally and are not subject to regulation by the Campaign Finance and Public Disclosure Board, provided, however, that any employee of the state or any employee or faculty member of the University of Minnesota or Minnesota State Colleges and Universities System who teaches or conducts research at the authority does not have their status as employees of the state, the University of Minnesota, or Minnesota State Colleges and Universities System interrupted by virtue of having their employment activity take place at facilities owned by the authority.

Sec. 37. **[32C.04] ACCOUNTS; AUDITS.**

The authority may establish funds and accounts that it determines to be reasonable and necessary to conduct the business of the authority. The board shall provide for and

21.1 pay the cost of an independent annual audit of its official books and records by the state
21.2 auditor. A copy of this audit must be filed with the secretary of state.

21.3 Sec. 38. **[32C.05] ANNUAL REPORT.**

21.4 The board shall submit a report to the chairs and ranking minority members of
21.5 the senate and house of representatives agriculture committees and the governor on the
21.6 activities of the authority and its contractors and lessees by February 1 of each year. The
21.7 report must include at least the following:

21.8 (1) a description of each of the programs that the authority has provided or
21.9 undertaken at some time during the previous year;

21.10 (2) an identification of the sources of funding in the previous year for the authority's
21.11 programs including federal, state, and local government, foundations, gifts, donations,
21.12 fees, and all other sources;

21.13 (3) a description of the administrative expenses of the authority during the previous
21.14 year;

21.15 (4) a listing of the assets and liabilities of the authority at the end of the previous
21.16 fiscal year;

21.17 (5) a description of any changes made to the operational plan during the previous
21.18 year; and

21.19 (6) a description of any newly adopted or significant changes to bylaws, policies,
21.20 rules, or programs created or administered by the authority during the previous year.

21.21 Reports must be made to the legislature as required by section 3.195.

21.22 Sec. 39. **[32C.06] EXPIRATION.**

21.23 If by August 1, 2017, the authority board has not identified and acquired a site for a
21.24 facility, as provided in section 32C.02, subdivision 2, sections 32C.01 to 32C.05 and this
21.25 section are repealed on that date. The Department of Agriculture shall notify the revisor of
21.26 statutes if the repealer under this section becomes effective.

21.27 Sec. 40. Minnesota Statutes 2010, section 35.0661, subdivision 2, is amended to read:

21.28 Subd. 2. **Quarantine zones.** Upon an emergency declaration by the governor
21.29 under subdivision 1, the board or any licensed veterinarian designated by the board may
21.30 establish quarantine zones of control in any area where a specific animal is deemed by a
21.31 licensed veterinarian as likely to be infected with the disease based on an actual veterinary
21.32 examination or laboratory testing. Quarantine zones of control to restrict the movement of
21.33 livestock must be the smallest size practicable to prevent the spread of disease and must

22.1 exist for the shortest duration consistent with effective disease control. ~~A quarantine zone~~
22.2 ~~of control must not extend beyond a radius of three miles from an animal deemed as likely~~
22.3 ~~to be infected with the disease, unless the board has adopted a rule regarding a specific~~
22.4 ~~disease requiring a larger quarantine zone of control.~~

22.5 Sec. 41. Minnesota Statutes 2010, section 35.0661, subdivision 3, is amended to read:

22.6 Subd. 3. **Restrictions on movement out of quarantine zones.** (a) The board may
22.7 issue orders restricting the movement of persons, ~~livestock~~, machinery, and personal
22.8 property ~~out of zones~~ off infected premises designated by the board as quarantined under
22.9 subdivision 2. The executive director of the board or any licensed veterinarian designated
22.10 by the board may issue the orders. An order may be issued upon a determination that
22.11 reasonable cause exists to believe that the movement of persons or personal property out
22.12 of a quarantine zone will reasonably threaten to transport a dangerous, infectious, or
22.13 communicable disease outside of the quarantine zone.

22.14 (b) The order must be served upon any person subject to the order. The restrictions
22.15 sought by the board on movement out of a quarantine zone must be limited to the greatest
22.16 extent possible consistent with the paramount disease control objectives as determined by
22.17 the board. An order under this section may be served on any day at any time. The order
22.18 must include a notice of the person's rights under this section, including the ability to enter
22.19 into an agreement to abide by disease control measures under paragraph (c) and the right
22.20 to request a court hearing under paragraph (d).

22.21 (c) No person may be restricted by an order under this subdivision for longer than 72
22.22 hours, exclusive of Saturdays, Sundays, and legal holidays, so long as the person agrees to
22.23 abide by the disease control measures established by the board. The person shall sign an
22.24 acknowledgment form prepared by the board evidencing the person's agreement to abide
22.25 by the disease control measures established by the board.

22.26 (d) A person whose movements are restricted by an order under this subdivision may
22.27 seek a district court hearing on the order at any time after it is served on the person. The
22.28 hearing may be held by electronic means as soon as possible. The subject of the order may:

22.29 (1) contest imposition of the order on grounds that it is an abuse of the board's
22.30 discretion under this section; or

22.31 (2) seek a variance from it to allow movement of a person inconsistent with the
22.32 order, upon a showing that the person would otherwise suffer irreparable harm.

22.33 Sec. 42. Minnesota Statutes 2010, section 40A.17, is amended to read:

22.34 **40A.17 REPORT.**

23.1 The commissioner shall report to the legislature on ~~January~~ March 1 of each
23.2 even-numbered year on activities under this chapter. By July 1, 1985, the report must
23.3 include the survey of public awareness in the awareness program. The report shall include
23.4 recommendations for funding levels and other necessary legislative action.

23.5 Sec. 43. Minnesota Statutes 2010, section 41A.12, subdivision 2, is amended to read:

23.6 Subd. 2. **Activities authorized.** For the purposes of this program, the commissioner
23.7 may issue grants, loans, or other forms of financial assistance. Eligible activities include,
23.8 but are not limited to, grants to livestock producers under the livestock investment grant
23.9 program under section 17.118, bioenergy awards made by the NextGen Energy Board
23.10 under section 41A.105, cost-share grants for the installation of biofuel blender pumps, and
23.11 financial assistance to support other rural economic infrastructure activities.

23.12 Sec. 44. Minnesota Statutes 2010, section 41A.12, subdivision 4, is amended to read:

23.13 Subd. 4. **Sunset.** This section expires on June 30, ~~2013~~ 2015.

23.14 Sec. 45. Minnesota Statutes 2010, section 41B.036, is amended to read:

23.15 **41B.036 GENERAL POWERS OF THE AUTHORITY.**

23.16 For the purpose of exercising the specific powers granted in section 41B.04 and
23.17 effectuating the other purposes of sections 41B.01 to 41B.23 the authority has the general
23.18 powers granted in this section.

23.19 (a) It may sue and be sued.

23.20 (b) It may have a seal and alter the seal.

23.21 (c) It may make, and from time to time, amend and repeal rules consistent with
23.22 sections 41B.01 to 41B.23.

23.23 (d) It may acquire, hold, and dispose of real or personal property for its corporate
23.24 purposes.

23.25 (e) It may enter into agreements, contracts, or other transactions with any federal or
23.26 state agency, any person and any domestic or foreign partnership, corporation, association,
23.27 or organization, including contracts or agreements for administration and implementation
23.28 of all or part of sections 41B.01 to 41B.23.

23.29 (f) It may acquire real property, or an interest therein, in its own name, by purchase
23.30 or foreclosure, where such acquisition is necessary or appropriate.

23.31 (g) It may provide general technical services related to rural finance.

23.32 (h) It may provide general consultative assistance services related to rural finance.

23.33 (i) It may promote research and development in matters related to rural finance.

24.1 (j) It may enter into agreements with lenders, borrowers, or the issuers of securities
24.2 for the purpose of regulating the development and management of farms financed in whole
24.3 or in part by the proceeds of qualified agricultural loans.

24.4 (k) It may enter into agreements with other appropriate federal, state, or local
24.5 governmental units to foster rural finance. It may give advance reservations of loan
24.6 financing as part of the agreements, with the understanding that the authority will only
24.7 approve the loans pursuant to normal procedures, and may adopt special procedures
24.8 designed to meet problems inherent in such programs.

24.9 (l) It may undertake and carry out studies and analyses of rural financing needs
24.10 within the state and ways of meeting such needs including: data with respect to
24.11 geographical distribution; farm size; the distribution of farm credit needs according to
24.12 debt ratios and similar factors; the amount and quality of available financing and its
24.13 distribution according to factors affecting rural financing needs and the meeting thereof;
24.14 and may make the results of such studies and analyses available to the public and may
24.15 engage in research and disseminate information on rural finance.

24.16 (m) It may survey and investigate the rural financing needs throughout the state and
24.17 make recommendations to the governor and the legislature as to legislation and other
24.18 measures necessary or advisable to alleviate any existing shortage in the state.

24.19 (n) It may establish cooperative relationships with such county and multicounty
24.20 authorities as may be established and may develop priorities for the utilization of authority
24.21 resources and assistance within a region in cooperation with county and multicounty
24.22 authorities.

24.23 (o) It may contract with, use, or employ any federal, state, regional, or local public
24.24 or private agency or organization, legal counsel, financial advisors, investment bankers or
24.25 others, upon terms it deems necessary or desirable, to assist in the exercise of any of the
24.26 powers granted in sections 41B.01 to 41B.23 and to carry out the objectives of sections
24.27 41B.01 to 41B.23 and may pay for the services from authority funds.

24.28 (p) It may establish cooperative relationships with counties to develop priorities for
24.29 the use of authority resources and assistance within counties and to consider county plans
24.30 and programs in the process of setting the priorities.

24.31 (q) It may delegate any of its powers to its officers or staff.

24.32 (r) It may enter into agreements with qualified agricultural lenders or others insuring
24.33 or guaranteeing to the state the payment of all or a portion of qualified agricultural loans.

24.34 (s) It may enter into agreements with eligible agricultural lenders providing for
24.35 advance reservations of purchases of participation interests in restructuring loans, if
24.36 the agreements provide that the authority may only purchase participation interests

25.1 in restructuring loans under the normal procedure. The authority may provide in an
25.2 agreement for special procedures or requirements designed to meet specific conditions or
25.3 requirements.

25.4 (t) It may allow farmers who are natural persons to combine programs of the federal
25.5 Agriculture Credit Act of 1987 with programs of the Rural Finance Authority.

25.6 (u) From within available funds generated by program fees, it may provide partial
25.7 or full tuition assistance for farm management programs required under section 41B.03,
25.8 subdivision 3, clause (7).

25.9 (v) It may accept for and on behalf of the state any gift, bequest, devise, grant, or
25.10 interest in money or personal property of any kind tendered to the state for any purpose
25.11 pertaining to the activities of the authority.

25.12 Sec. 46. Minnesota Statutes 2010, section 41B.048, subdivision 6, is amended to read:

25.13 Subd. 6. **Loans.** (a) The authority may disburse loans through a fiscal agent to
25.14 farmers and agricultural landowners who are eligible under subdivision 5. The total
25.15 accumulative loan principal must not exceed \$75,000 per loan.

25.16 (b) The fiscal agent may impose a loan origination fee in the amount of one percent
25.17 of the total approved loan. This fee is to be paid by the borrower to the fiscal agent at
25.18 the time of loan closing.

25.19 (c) The loan may be disbursed over a period not to exceed 12 years.

25.20 (d) A borrower may receive loans, depending on the availability of funds, for planted
25.21 areas up to 160 acres for up to:

25.22 (1) the total amount necessary for establishment of the crop;

25.23 (2) the total amount of maintenance costs, including weed control, during the first
25.24 three years; and

25.25 (3) 70 percent of the estimated value of one year's growth of the crop for years
25.26 four through 12.

25.27 (e) Security for the loan must be the crop, a personal note executed by the borrower,
25.28 an interest in the land upon which the crop is growing, and whatever other security is
25.29 required by the fiscal agent or the authority. All recording fees must be paid by the
25.30 borrower.

25.31 (f) The authority may prescribe forms and establish an application process for
25.32 applicants to apply for a loan.

25.33 (g) The authority may impose a reasonable, nonrefundable application fee for each
25.34 application for a loan under this program. The application fee is initially \$50. Application

fees received by the authority must be deposited in the ~~agroforestry loan program revolving fund established in subdivision 7~~ revolving loan account established under section 41B.06.

(h) Loans under the program must be made using money in the ~~agroforestry loan program revolving fund established in subdivision 7~~ revolving loan account established under section 41B.06.

(i) All repayments of financial assistance granted under this section, including principal and interest, must be deposited into the revolving loan account established under section 41B.06.

~~(j)~~ (j) The interest payable on loans made by the authority for the agroforestry loan program must, if funded by revenue bond proceeds, be at a rate not less than the rate on the revenue bonds, and may be established at a higher rate necessary to pay costs associated with the issuance of the revenue bonds and a proportionate share of the cost of administering the program. The interest payable on loans for the agroforestry loan program funded from sources other than revenue bond proceeds must be at a rate determined by the authority.

~~(k)~~ (k) Loan principal balance outstanding plus all assessed interest must be repaid within 120 days of harvest, but no later than 15 years from planting.

Sec. 47. Minnesota Statutes 2010, section 41B.055, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The authority must establish and implement a livestock equipment ~~pilot~~ loan program to help finance the purchase of livestock-related equipment and make livestock facilities improvements.

Sec. 48. **[41B.056] PILOT AGRICULTURAL MICROLOAN PROGRAM.**

Subdivision 1. **Establishment.** The authority shall establish and implement a pilot agricultural microloan program to help finance the production of specialty crops or eligible livestock. The authority may contract with an intermediary to provide an efficient delivery system for this program.

Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Intermediary" means any lending institution or other organization of a for-profit or nonprofit nature that is in good standing with the state of Minnesota that has the appropriate business structure and trained personnel suitable to providing efficient disbursement of loan funds and the servicing and collection of loans.

(c) "Specialty crops" means agricultural crops, such as annuals, flowers, perennials, and other horticultural products, that are intensively cultivated.

(d) "Eligible livestock" means poultry that has been allowed access to the outside, sheep, or goats.

Subd. 3. **Eligibility.** To be eligible for this program a borrower must:

(1) be a legal resident of Minnesota;

(2) either:

(i) be a member of a protected group as defined in section 43A.02, subdivision 33; or

(ii) be a qualified noncitizen as defined in section 256B.06, subdivision 4, paragraph

(b);

(3) be or plan to become a grower of specialty crops or eligible livestock;

(4) market or contract to market the specialty crops or eligible livestock; and

(5) demonstrate an ability to repay the loan.

Subd. 4. **Loans.** (a) The authority may disburse loans through an intermediary to farmers who are eligible under subdivision 3. The total accumulative loan principal must not exceed \$10,000 per loan.

(b) Refinancing an existing debt is not an eligible purpose.

(c) The loan may be disbursed over a period not to exceed six years.

(d) A borrower may receive loans, depending on the availability of funds, up to 70 percent of the estimated value of the crop or livestock.

(e) Security for the loan must be a personal note executed by the borrower and any other security required by the intermediary or the authority.

(f) The authority may prescribe forms and establish an application process for applicants to apply for a loan.

(g) The interest payable on loans for the pilot agricultural microloan program must be at a rate determined by the authority.

(h) Loans under this program will be made using money in the revolving loan account established under section 41B.06.

(i) Repayments of financial assistance under this section, including principal and interest, must be deposited into the revolving loan account established under section 41B.06.

Sec. 49. Minnesota Statutes 2010, section 41B.06, is amended to read:

41B.06 RURAL FINANCE AUTHORITY REVOLVING LOAN ACCOUNT.

There is established in the rural finance administration fund a Rural Finance Authority revolving loan account that is eligible to receive appropriations and the transfer of loan funds from other programs. All repayments of financial assistance granted from this account, including principal and interest, must be deposited into this account. Interest

28.1 earned on money in the account accrues to the account, and the money in the account
28.2 is appropriated to the commissioner of agriculture for purposes of the Rural Finance
28.3 Authority livestock equipment, methane digester, disaster recovery, ~~and~~ value-added
28.4 agricultural product, agroforestry, and agricultural microloan loan programs, including
28.5 costs incurred by the authority to establish and administer the programs.

28.6 Sec. 50. Minnesota Statutes 2010, section 48.24, subdivision 5, is amended to read:

28.7 Subd. 5. **Treatment of secured or guaranteed loans.** Loans or obligations shall not
28.8 be subject under this section to any limitation based upon such capital and surplus to the
28.9 extent that they are secured or covered by guarantees, or by commitments or agreements
28.10 to take over or to purchase the same, made by:

28.11 (1) ~~the commissioner of agriculture on the purchase of agricultural land~~ Minnesota
28.12 Department of Agriculture;

28.13 (2) any Federal Reserve bank;

28.14 (3) the United States or any department, bureau, board, commission, or establishment
28.15 of the United States, including any corporation wholly owned directly or indirectly by
28.16 the United States;

28.17 (4) the Minnesota Employment and Economic Development Department; or

28.18 (5) a municipality or political subdivision within Minnesota to the extent that the
28.19 guarantee or collateral is a valid and enforceable general obligation of that political body.

28.20 Sec. 51. Minnesota Statutes 2010, section 223.16, subdivision 12, is amended to read:

28.21 Subd. 12. **Public grain warehouse operator.** "Public grain warehouse operator"
28.22 means a person operating a grain warehouse in which grain belonging to persons other
28.23 than the grain warehouse operator is accepted for storage or purchase or who offers grain
28.24 storage or warehouse facilities to the public for hire or a feed-processing plant that
28.25 receives and stores grain, the equivalent of which it processes and returns to the grain's
28.26 owner in amounts, at intervals, and with added ingredients that are mutually agreeable to
28.27 the grain's owner and the person operating the plant.

28.28 Sec. 52. Minnesota Statutes 2010, section 223.17, subdivision 1, is amended to read:

28.29 Subdivision 1. **Licenses.** An application for a grain buyer's license must be filed
28.30 with the commissioner and the license issued before any grain may be purchased. ~~The~~
28.31 ~~commissioner must provide application forms and licenses that state the restrictions and~~
28.32 ~~authority to purchase and store grain under the license being applied for and issued. The~~
28.33 ~~categories of grain buyers' licenses are:~~

- 29.1 ~~(a) private grain warehouse operator's license;~~
 29.2 ~~(b) public grain warehouse operator's license; and~~
 29.3 ~~(c) independent grain buyer's license.~~

29.4 The applicant for a grain buyer's license shall identify all grain buying locations
 29.5 owned or controlled by the grain buyer and all vehicles owned or controlled by the grain
 29.6 buyer used to transport purchased grain. Every applicant for a grain buyer's license shall
 29.7 have a permanent established place of business at each licensed location. An "established
 29.8 place of business" means a permanent enclosed building, including a house or a farm,
 29.9 either owned by the applicant or leased by the applicant for a period of at least one year,
 29.10 and where the books, records, and files necessary to conduct the business are kept and
 29.11 maintained. ~~The commissioner may maintain information on grain buyers by categories~~
 29.12 ~~including, but not limited to, the categories provided in clauses (a) to (c) and grain buyers~~
 29.13 ~~that are licensed to purchase grain using trucks but that do not have a public or private~~
 29.14 ~~warehouse license.~~

29.15 Sec. 53. Minnesota Statutes 2010, section 223.17, subdivision 4, is amended to read:

29.16 Subd. 4. **Bond.** (a) Before a grain buyer's license is issued, the applicant for
 29.17 the license must file with the commissioner a bond in a penal sum prescribed by the
 29.18 commissioner but not less than the following amounts:

- 29.19 ~~(a)~~ (1) \$10,000 for grain buyers whose gross annual purchases are \$100,000 or less;
 29.20 ~~(b)~~ (2) \$20,000 for grain buyers whose gross annual purchases are more than
 29.21 \$100,000 but not more than \$750,000;
 29.22 ~~(c)~~ (3) \$30,000 for grain buyers whose gross annual purchases are more than
 29.23 \$750,000 but not more than \$1,500,000;
 29.24 ~~(d)~~ (4) \$40,000 for grain buyers whose gross annual purchases are more than
 29.25 \$1,500,000 but not more than \$3,000,000;
 29.26 ~~(e)~~ (5) \$50,000 for grain buyers whose gross annual purchases are more than
 29.27 \$3,000,000 but not more than \$6,000,000;
 29.28 ~~(f)~~ (6) \$70,000 for grain buyers whose gross annual purchases are more than
 29.29 \$6,000,000 but not more than \$12,000,000;
 29.30 ~~(g)~~ (7) \$125,000 for grain buyers whose gross annual purchases are more than
 29.31 \$12,000,000 but not more than \$24,000,000; and
 29.32 ~~(h)~~ (8) \$150,000 for grain buyers whose gross annual purchases exceed \$24,000,000.

29.33 (b) A grain buyer who has filed a bond with the commissioner prior to July 1, 2004,
 29.34 is not required to increase the amount of the bond to comply with this section until July 1,
 29.35 2005. The commissioner may postpone an increase in the amount of the bond until July 1,

2006, if a licensee demonstrates that the increase will impose undue financial hardship on the licensee, and that producers will not be harmed as a result of the postponement. The commissioner may impose other restrictions on a licensee whose bond increase has been postponed. The amount of the bond shall be based on the most recent ~~financial statement~~ gross annual grain purchase report of the grain buyer ~~filed under subdivision 6.~~

(c) A first-time applicant for a grain buyer's license shall file a \$50,000 bond with the commissioner. This bond shall remain in effect for the first year of the license. Thereafter, the licensee shall comply with the applicable bonding requirements contained in ~~clauses (a) to (h)~~ paragraph (a), clauses (1) to (8).

(d) In lieu of the bond required by this subdivision the applicant may deposit with the commissioner of management and budget cash, a certified check, a cashier's check, a postal, bank, or express money order, assignable bonds or notes of the United States, or an assignment of a bank savings account or investment certificate or an irrevocable bank letter of credit as defined in section 336.5-102, in the same amount as would be required for a bond.

(e) Bonds must be continuous until canceled. To cancel a bond, a surety must provide 90 days' written notice of the bond's termination date to the licensee and the commissioner.

Sec. 54. Minnesota Statutes 2010, section 223.17, subdivision 6, is amended to read:

Subd. 6. **Financial statements.** ~~For the purpose of fixing or changing the amount of a required bond or for any other proper reason, (a)~~ The commissioner ~~shall~~ may require an annual financial statement from a licensee which has been prepared in accordance with generally accepted accounting principles and which meets the following requirements:

~~(a)~~ (1) The financial statement shall include, but not be limited to the following: ~~(1)~~
(i) a balance sheet; ~~(2)~~
(ii) a statement of income (profit and loss); ~~(3)~~
(iii) a statement of retained earnings; ~~(4)~~
(iv) a statement of changes in financial position; and ~~(5)~~
(v) a statement of the dollar amount of grain purchased in the previous fiscal year of the grain buyer.

~~(b)~~ (2) The financial statement shall be accompanied by a compilation report of the financial statement that is prepared by a grain commission firm or a management firm approved by the commissioner or by an independent public accountant, in accordance with standards established by the American Institute of Certified Public Accountants. Grain buyers purchasing less than 150,000 bushels of grain per calendar year may submit a

31.1 financial statement prepared by a public accountant who is not an employee or a relative
31.2 within the third degree of kindred according to civil law.

31.3 ~~(e)~~ (3) The financial statement shall be accompanied by a certification by the chief
31.4 executive officer or the chief executive officer's designee of the licensee, under penalty
31.5 of perjury, that the financial statement accurately reflects the financial condition of the
31.6 licensee for the period specified in the statement.

31.7 (b) Only one financial statement must be filed for a chain of warehouses owned
31.8 or operated as a single business entity, unless otherwise required by the commissioner.
31.9 Any grain buyer having a net worth in excess of \$500,000,000 need not file the financial
31.10 statement required by this subdivision but must provide the commissioner with a certified
31.11 net worth statement. All financial statements filed with the commissioner are private or
31.12 nonpublic data as provided in section 13.02.

31.13 Sec. 55. Minnesota Statutes 2010, section 223.17, subdivision 9, is amended to read:

31.14 Subd. 9. **Defaults; violations.** It is a violation under this chapter if the commissioner
31.15 finds, after an investigation is conducted, that a complaint is valid or that a licensee is in
31.16 violation of the provisions of this chapter, ~~the commissioner may immediately suspend~~
31.17 ~~the license, in which case the licensee shall surrender the license to the commissioner.~~
31.18 ~~Within 15 days, the licensee may request an administrative hearing subject to chapter 14~~
31.19 ~~to determine whether the license should be revoked. If no request is made within 15 days,~~
31.20 ~~the commissioner shall revoke the license.~~

31.21 Sec. 56. Minnesota Statutes 2010, section 232.21, subdivision 2, is amended to read:

31.22 Subd. 2. **Bond.** "Bond" means an acceptable obligation, running to the state as
31.23 obligee, for the purpose of indemnifying depositors and producers of grain against breach
31.24 of contract by a public grain warehouse ~~or grain bank operator.~~

31.25 Sec. 57. Minnesota Statutes 2010, section 232.21, subdivision 6, is amended to read:

31.26 Subd. 6. **Depositor.** "Depositor" means a person who is the owner or legal holder of
31.27 an outstanding grain warehouse receipt, grain bank receipt or open scale ticket marked
31.28 for storage on which a receipt is to be issued, representing any grain stored in a public
31.29 grain warehouse ~~or grain bank.~~

31.30 Sec. 58. Minnesota Statutes 2010, section 232.21, subdivision 12, is amended to read:

31.31 Subd. 12. **Public grain warehouse operator.** "Public grain warehouse operator"
31.32 means a person licensed to operate a grain warehouse in which grain belonging to persons

other than the grain warehouse operator is accepted for storage or purchase, or who offers grain storage or grain warehouse facilities to the public for hire or a feed-processing plant that receives and stores grain, the equivalent of which, it processes and returns to the grain's owner in amounts, at intervals, and with added ingredients that are mutually agreeable to the grain's owner and the person operating the plant.

Sec. 59. Minnesota Statutes 2010, section 232.22, subdivision 3, is amended to read:

Subd. 3. **Fees; grain buyers and storage account.** There is created in the agricultural fund an account known as the grain buyers and storage account. The commissioner shall set the fees for ~~inspections~~ examinations, certifications, and licenses under sections 232.20 to ~~232.25~~ 232.24 at levels necessary to pay the costs of administering and enforcing sections 232.20 to ~~232.25~~ 232.24. All money collected pursuant to sections 232.20 to ~~232.25~~ and chapters 233 and 236 232.24 shall be paid by the commissioner into the state treasury and credited to the grain buyers and storage account and is appropriated to the commissioner for the administration and enforcement of sections 232.20 to ~~232.25~~ and chapters 233 and 236 232.24. All money collected pursuant to chapter 231 shall be paid by the commissioner into the grain buyers and storage account and is appropriated to the commissioner for the administration and enforcement of chapter 231.

The fees for a license to store grain are as follows:

(a) For a license to store grain, \$110 for each home rule charter or statutory city or town in which a public grain warehouse is operated.

(b) A person with a license to store grain in a public grain warehouse is subject to an examination fee for each licensed location, based on the following schedule for one examination:

Bushel Capacity	Examination Fee
Less than 150,001	\$ 300
150,001 to 250,000	\$ 425
250,001 to 500,000	\$ 545
500,001 to 750,000	\$ 700
750,001 to 1,000,000	\$ 865
1,000,001 to 1,200,000	\$ 1,040
1,200,001 to 1,500,000	\$ 1,205
1,500,001 to 2,000,000	\$ 1,380
More than 2,000,000	\$ 1,555

(c) The fee for the second examination is \$55 per hour per examiner for warehouse operators who choose to have it performed by the commissioner.

33.1 (d) A penalty amount not to exceed ten percent of the fees due may be imposed by
33.2 the commissioner for each month for which the fees are delinquent.

33.3 Sec. 60. Minnesota Statutes 2010, section 232.22, subdivision 4, is amended to read:

33.4 Subd. 4. **Bonding.** (a) Before a license is issued, the applicant for a public grain
33.5 warehouse operator's license shall file with the commissioner a bond in a penal sum
33.6 prescribed by the commissioner. ~~The penal sum on a condition one bond shall be~~
33.7 ~~established by rule by the commissioner pursuant to the requirements of chapter 14 for~~
33.8 ~~all grain outstanding on grain warehouse receipts. The penal sum on a condition two~~
33.9 ~~bond shall not be less than \$10,000 for each location up to a maximum of five locations.~~
33.10 based on the annual average storage liability as stated on the statement of grain in storage
33.11 report or on the gross annual grain purchase report, whichever is greater, and applying
33.12 the following amounts:

33.13 (1) \$10,000 for storages with annual average storage liability of more than \$0 but
33.14 not more than \$25,000;

33.15 (2) \$20,000 for storages with annual average storage liability of more than \$25,001
33.16 but not more than \$50,000;

33.17 (3) \$30,000 for storages with annual average storage liability of more than \$50,001
33.18 but not more than \$75,000;

33.19 (4) \$50,000 for storages with annual average storage liability of more than \$75,001
33.20 but not more than \$100,000;

33.21 (5) \$75,000 for storages with annual average storage liability of more than \$100,001
33.22 but not more than \$200,000;

33.23 (6) \$125,000 for storages with annual average storage liability of more than
33.24 \$200,001 but not more than \$300,000;

33.25 (7) \$175,000 for storages with annual average storage liability of more than
33.26 \$300,001 but not more than \$400,000;

33.27 (8) \$225,000 for storages with annual average storage liability of more than
33.28 \$400,001 but not more than \$500,000;

33.29 (9) \$275,000 for storages with annual average storage liability of more than
33.30 \$500,001 but not more than \$600,000;

33.31 (10) \$325,000 for storages with annual average storage liability of more than
33.32 \$600,001 but not more than \$700,000;

33.33 (11) \$375,000 for storages with annual average storage liability of more than
33.34 \$700,001 but not more than \$800,000;

34.1 (12) \$425,000 for storages with annual average storage liability of more than
34.2 \$800,001 but not more than \$900,000;

34.3 (13) \$475,000 for storages with annual average storage liability of more than
34.4 \$900,001 but not more than \$1,000,000; and

34.5 (14) \$500,000 for storages with annual average storage liability of more than
34.6 \$1,000,000.

34.7 (b) Bonds must be continuous until canceled. To cancel a bond, a surety must provide
34.8 90 days' written notice of the bond's termination date to the licensee and the commissioner.

34.9 Sec. 61. Minnesota Statutes 2010, section 232.22, subdivision 5, is amended to read:

34.10 Subd. 5. **Statement of grain in storage; reports.** (a) All public grain warehouse
34.11 operators must by ~~the tenth day of each month~~ February 15 of each year file with the
34.12 commissioner on ~~forms~~ a form approved by the commissioner a report showing the ~~net~~
34.13 annual average liability of all grain outstanding on grain warehouse receipts ~~as of the close~~
34.14 ~~of business on the last day of~~ that occurred during the preceding month calendar year.

34.15 This report shall be used for the purpose of establishing the penal sum of the bond.

34.16 (b) Warehouse operators that are at a maximum bond and want to continue at
34.17 maximum bond do not need to file this report.

34.18 ~~(b) If~~ (c) It is a violation of this chapter for any public grain warehouse operator
34.19 ~~willfully neglects or refuses to fail~~ to file the report required in clause paragraph (a) for
34.20 ~~two consecutive months, the commissioner may immediately suspend the person's license~~
34.21 ~~and the licensee must surrender the license to the commissioner. Within 15 days the~~
34.22 ~~licensee may request an administrative hearing subject to chapter 14 to determine if the~~
34.23 ~~license should be revoked. If no request is made within 15 days the commissioner shall~~
34.24 ~~revoke the license.~~

34.25 ~~(e)~~ (d) Every public grain warehouse operator shall keep in a place of safety complete
34.26 and accurate records and accounts relating to any grain warehouse operated. The records
34.27 shall reflect each commodity received and shipped daily, the balance remaining in the
34.28 grain warehouse at the close of each business day, a listing of all unissued grain warehouse
34.29 receipts in the operator's possession, a record of all grain warehouse receipts issued which
34.30 remain outstanding and a record of all grain warehouse receipts which have been returned
34.31 for cancellation. Copies of grain warehouse receipts or other documents evidencing
34.32 ownership of grain by a depositor, or other liability of the grain warehouse operator, shall
34.33 be retained as long as the liability exists but must be kept for a minimum of three years.

35.1 ~~(d)~~ (e) Every public grain warehouse operator must maintain in the grain warehouse
35.2 at all times grain of proper grade and sufficient quantity to meet delivery obligations on
35.3 all outstanding grain warehouse receipts.

35.4 Sec. 62. Minnesota Statutes 2010, section 232.22, subdivision 7, is amended to read:

35.5 Subd. 7. **Bond disbursement.** (a) The ~~condition one~~ bond of a public grain
35.6 warehouse operator must be conditioned that the public grain warehouse operator issuing
35.7 a grain warehouse receipt is liable to the depositor for the delivery of the kind, grade and
35.8 net quantity of grain called for by the receipt.

35.9 ~~(b) The condition two bond shall provide for payment of loss caused by the grain~~
35.10 ~~buyer's failure to pay, upon the owner's demand, the purchase price of grain sold to the~~
35.11 ~~grain buyer. The bond shall be conditioned upon the grain buyer being duly licensed as~~
35.12 ~~provided herein. The bond shall not cover any transaction which constitutes a voluntary~~
35.13 ~~extension of credit.~~

35.14 ~~(c)~~ (b) Upon notification of default, the commissioner shall determine the validity
35.15 of all claims and notify all parties having filed claims. Any aggrieved party may appeal
35.16 the commissioner's determination by requesting, within 15 days, that the commissioner
35.17 initiate a contested case proceeding. In the absence of such a request, or following the
35.18 issuance of a final order in a contested case, the surety company shall issue payment to
35.19 those claimants entitled to payment. If the commissioner determines it is necessary, the
35.20 commissioner may apply to the district court for an order appointing a trustee or receiver
35.21 to manage and supervise the operations of the grain warehouse operator in default. The
35.22 commissioner may participate in any resulting court proceeding as an interested party.

35.23 ~~(d)~~ (c) For the purpose of determining the amount of bond disbursement against all
35.24 valid claims under a condition one bond, all grain owned or stored in the public grain
35.25 warehouse shall be sold and the combined proceeds deposited in a special fund. Payment
35.26 shall be made from the special fund satisfying the valid claims of grain warehouse receipt
35.27 holders.

35.28 ~~(e)~~ (d) If a public grain warehouse operator has become liable to more than one
35.29 depositor or producer by reason of breaches of the conditions of the bond and the
35.30 amount of the bond is insufficient to pay, beyond the proceeds of the special fund, the
35.31 entire liability to all valid claimants, the proceeds of the bond and special fund shall be
35.32 apportioned among the valid claimants on a pro rata basis.

35.33 ~~(f)~~ (e) A bond is not cumulative from one licensing period to the next. The maximum
35.34 liability of the bond shall be its face value for the licensing period.

36.1 Sec. 63. Minnesota Statutes 2010, section 232.23, subdivision 2, is amended to read:

36.2 Subd. 2. **Scale tickets.** A public or private grain warehouse operator, upon
36.3 receiving grain, shall issue a scale ticket for each load of grain received. Scale tickets shall
36.4 contain the name, location and the date of each transaction, weight, volume, kind of
36.5 grain, signature of warehouse operator, and be consecutively numbered. Electronic scale
36.6 tickets do not require a signature. A duplicate copy of each scale ticket shall remain in the
36.7 possession of the public or private grain warehouse operator as a permanent record. The
36.8 original scale ticket shall be delivered to the depositor upon receipt of each load of grain.
36.9 Each scale ticket shall have printed across its face "This is a memorandum, nonnegotiable,
36.10 possession of which does not signify that settlement has or has not been consummated."
36.11 The scale ticket shall state specifically whether the grain is received on contract, for
36.12 storage, for shipment or consignment or sold. If the grain is received on contract or sold,
36.13 the price shall be indicated on the scale ticket. All paper scale tickets shall be dated and
36.14 signed by the public or private grain warehouse operator or the operator's agent or manager.

36.15 Sec. 64. Minnesota Statutes 2010, section 232.23, subdivision 5, is amended to read:

36.16 Subd. 5. **Void agreements; penalty.** A provision or agreement in a grain warehouse
36.17 receipt not contained in subdivision 4 is void. The failure to issue a grain warehouse
36.18 receipt, as directed, or the issuance of slips, memoranda or other forms of receipt
36.19 embracing a different grain warehouse or storage contract is a misdemeanor, and no
36.20 slip, memorandum or other form of receipt is admissible as evidence in any civil action.
36.21 Nothing in sections 232.20 to ~~232.25~~ 232.24 requires or compels any person operating a
36.22 flour, cereal or feed mill or malthouse doing a manufacturing business, to receive, store or
36.23 purchase at the mill or malthouse any kind of grain.

36.24 Sec. 65. Minnesota Statutes 2010, section 232.23, subdivision 10, is amended to read:

36.25 Subd. 10. **Delivery of grain.** (a) On the redemption of a grain warehouse receipt
36.26 and payment of all lawful charges, the grain represented by the receipt is immediately
36.27 deliverable to the depositor or the depositor's order, and is not subject to any further charge
36.28 for storage after demand for delivery has been made and proper facilities for receiving and
36.29 shipping the grain have been provided. If delivery has not commenced within 48 hours
36.30 after demand has been made and proper facilities have been provided, the public grain
36.31 warehouse operator issuing the grain warehouse receipt is liable to the owner in damages
36.32 not exceeding two cents per bushel for each day's delay, unless the public grain warehouse
36.33 operator makes delivery to different owners in the order demanded as rapidly as it can be
36.34 done through ordinary diligence, or unless insolvency has occurred.

(b) If a disagreement arises between the person receiving and the person delivering the grain at a public grain warehouse in this state as to the proper grade or dockage of any grain, an average sample of at least three quarts of the grain in dispute may be taken by either or both of the persons interested. The sample shall be certified by both the owner and the public grain warehouse operator as being true samples of the grain in dispute on the delivery day. The samples shall be forwarded in a suitable airtight container by parcel post or express, prepaid, with the name and address of both parties, to ~~the head of the~~ a United States Department of Agriculture authorized grain inspection program of the ~~Department of Agriculture~~, who shall, upon request, examine the grain, and determine what grade or dockage the samples of grain are entitled to under the inspection rules. Before the results of the inspection are released to the person requesting the inspection, the person shall pay the required fee. The fee shall be the same as that required for similar services rendered by the grain inspection program.

Sec. 66. Minnesota Statutes 2010, section 232.24, subdivision 1, is amended to read:

Subdivision 1. **Schedule of inspection examination.** A licensee under sections 232.20 to 232.25 is subject to two ~~audits~~ examinations annually conducted by the commissioner or the agricultural marketing service of the United States Department of Agriculture. The commissioner may, by rule, authorize one ~~audit~~ examination to be conducted by a qualified nongovernmental unit.

Sec. 67. Minnesota Statutes 2010, section 232.24, subdivision 2, is amended to read:

Subd. 2. **Financial reports.** A licensee under sections 232.20 to 232.25 upon request must provide to the commissioner a copy of the financial reports of an audit conducted by a qualified nongovernmental unit containing information the commissioner requires.

Sec. 68. Minnesota Statutes 2010, section 239.092, is amended to read:

239.092 SALE FROM BULK.

(a) Bulk sales of commodities, when the buyer and seller are not both present to witness the measurement, must be accompanied by a delivery ticket containing the following information:

- (1) the name and address of the person who weighed or measured the commodity;
- (2) the date delivered;
- (3) the quantity delivered;
- (4) the count of individually wrapped packages delivered, if more than one is included in the quantity delivered;

38.1 (5) the quantity on which the price is based, if different than the quantity delivered;
38.2 and

38.3 (6) the identity of the commodity in the most descriptive terms commercially
38.4 practicable, including representations of quality made in connection with the sale.

38.5 (b) This section is not intended to conflict with the bulk sale requirements of the
38.6 Department of Agriculture. If a conflict occurs, the law and rules of the Department of
38.7 Agriculture govern.

38.8 (c) Firewood sold or distributed ~~across state boundaries or more than 100 miles~~
38.9 ~~from its origin in this state~~ must include delivery ticket information regarding the harvest
38.10 locations of the wood by county or counties and state.

38.11 (d) Paragraph (c) may be enforced using the authority granted in this chapter or
38.12 section 18J.05 or 84D.13.

38.13 Sec. 69. Minnesota Statutes 2010, section 239.093, is amended to read:

38.14 **239.093 INFORMATION REQUIRED WITH PACKAGE.**

38.15 (a) A package offered, exposed, or held for sale must bear a clear and conspicuous
38.16 declaration of:

38.17 (1) the identity of the commodity in the package, unless the commodity can be easily
38.18 identified through the wrapper or container;

38.19 (2) the net quantity in terms of weight, measure, or count;

38.20 (3) the name and address of the manufacturer, packer, or distributor, if the packages
38.21 were not produced on the premises where they are offered, exposed, or held for sale; and

38.22 (4) the unit price, if the packages are part of a lot containing random weight
38.23 packages of the same commodity.

38.24 (b) This section is not intended to conflict with the packaging requirements of the
38.25 Department of Agriculture. If a conflict occurs, the laws and rules of the Department of
38.26 Agriculture govern.

38.27 (c) Firewood sold or distributed ~~across state boundaries or more than 100 miles from~~
38.28 ~~its origin in this state~~ must include information regarding the harvest locations of the wood
38.29 by county or counties and state on each label or wrapper.

38.30 (d) Paragraph (c) may be enforced using the authority granted in this chapter or
38.31 section 18J.05 or 84D.13.

38.32 Sec. 70. Minnesota Statutes 2010, section 239.77, subdivision 3, is amended to read:

38.33 Subd. 3. **Exceptions.** (a) The minimum content requirements of subdivision 2 do
38.34 not apply to fuel used in the following equipment:

(1) motors located at an electric generating plant regulated by the Nuclear Regulatory Commission;

(2) railroad locomotives;

(3) off-road taconite and copper mining equipment and machinery;

(4) off-road logging equipment and machinery; and

(5) ~~until May 1, 2010, vehicles and equipment used exclusively on an aircraft landing field~~ vessels of the United States Coast Guard and vessels subject to inspection under United States Code, title 46, section 3301, subsection (1), (9), (10), (13), or (15).

(b) The exemption in paragraph (a), clause (1), expires 30 days after the Nuclear Regulatory Commission has approved the use of biodiesel fuel in motors at electric generating plants under its regulation.

(c) The minimum content requirements of subdivision 2 do not apply to Number 1 diesel fuel sold or offered for sale during the months of October, November, December, January, February, and March.

(d) This subdivision expires ~~on~~ May 1, ~~2012~~ 2015.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 71. Minnesota Statutes 2010, section 239.77, subdivision 5, is amended to read:

Subd. 5. **Annual report.** (a) Beginning in 2009, the commissioner of agriculture must report by January 15 of each year to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over agriculture policy and finance regarding the implementation of the minimum content requirements in subdivision 2, including information about the price and supply of biodiesel fuel. The report shall include information about the impacts of the biodiesel mandate on the development of biodiesel production capacity in the state, and on the use of feedstock grown or raised in the state for biodiesel production. The report must include any written comments received from members of the biodiesel fuel task force by January 1 of that year designated by them for inclusion in the report.

(b) The commissioner of agriculture, in consultation with the commissioner of commerce and the Biodiesel Fuel Task Force, shall study the need to continue the exceptions in subdivision 3. The 2013 report under paragraph (a) shall include recommendations for studies and other research needs to make a determination on the need for the exceptions, including any recommendations for use of the agricultural growth, research, and innovation program funding to conduct the research. The 2014 report under paragraph (a) shall contain the commissioner of agriculture's recommendations on whether to continue any of the exceptions in subdivision 3.

Sec. 72. Minnesota Statutes 2010, section 239.791, subdivision 1a, is amended to read:

Subd. 1a. **Minimum ethanol content required.** (a) Except as provided in subdivisions 10 to 14, on August 30, ~~2013~~ 2015, and thereafter, a person responsible for the product shall ensure that all gasoline sold or offered for sale in Minnesota must contain at least the quantity of ethanol required by clause (1) or (2), whichever is greater:

(1) 20 percent denatured ethanol by volume; or

(2) the maximum percent of denatured ethanol by volume authorized in a waiver granted by the United States Environmental Protection Agency.

(b) For purposes of enforcing the minimum ethanol requirement of paragraph (a), clause (1), a gasoline/ethanol blend will be construed to be in compliance if the ethanol content, exclusive of denaturants and other permitted components, comprises not less than 18.4 percent by volume and not more than 20 percent by volume of the blend as determined by an appropriate United States Environmental Protection Agency or American Society of Testing Materials standard method of analysis of alcohol content in motor fuels.

(c) This subdivision expires on December 31, ~~2012~~ 2014, if by that date:

(1) the commissioner of agriculture certifies and publishes the certification in the State Register that at least 20 percent of the volume of gasoline sold in the state is denatured ethanol; or

(2) federal approval has not been granted under paragraph (a), clause (1). The United States Environmental Protection Agency's failure to act on an application shall not be deemed approval under paragraph (a), clause (1), or a waiver under section 211(f)(4) of the Clean Air Act, United States Code, title 42, section 7545, subsection (f), paragraph (4).

Sec. 73. **[346.47] SEIZED ANIMALS.**

Subdivision 1. Definitions. As used in this section:

(1) "establishment" means any public or private agency, person, society, or corporation having custody of animals that are seized under the authority of the state or any political subdivision of the state; and

(2) "regular business day" means a day during which the establishment having custody of an animal is open to the public not less than four consecutive hours between the hours of 8:00 a.m. and 7:00 p.m.

Subd. 2. Impoundment; record keeping. All animals seized by public authority must be held in an establishment for redemption by the owner for at least five regular business days of the establishment or for a longer time specified by municipal ordinance. Establishments must maintain the following records of the animals in custody, and preserve the records for at least six months:

41.1 (1) the description of the animal by species, breed, sex, approximate age, and other
41.2 distinguishing traits;

41.3 (2) the location at which the animal was seized;

41.4 (3) the date of seizure;

41.5 (4) the name and address of the person from whom any animal three months of age
41.6 or over was received; and

41.7 (5) the name and address of the person to whom any animal three months of age
41.8 or over was transferred.

41.9 The records must be maintained in a form permitting easy perusal by the public.

41.10 A person may view the records and animals in custody at any time during which the
41.11 establishment is open to the public.

41.12 Subd. 3. **Release of animals.** A person must not release an animal seized and held
41.13 under this section for research or product testing, either directly or through an animal
41.14 dealer. This subdivision does not apply to the temporary transfer of an animal to a college
41.15 of veterinary medicine or veterinary technology school accredited by the American
41.16 Veterinary Medicine Association for the purpose of sterilization or needed veterinary care.

41.17 Sec. 74. Minnesota Statutes 2010, section 347.54, subdivision 2, is amended to read:

41.18 Subd. 2. **Reclaimed.** A dangerous dog seized under subdivision 1 may be reclaimed
41.19 by the owner of the dog upon payment of impounding and boarding fees, and presenting
41.20 proof to the appropriate animal control authority that the requirements of sections 347.51
41.21 and 347.52 will be met. A dog not reclaimed under this subdivision within seven days
41.22 may be disposed of ~~as provided under section 35.71, subdivision 3~~ in a manner permitted
41.23 by law, and the owner is liable to the animal control authority for costs incurred in
41.24 confining and disposing of the dog.

41.25 Sec. 75. Minnesota Statutes 2010, section 347.54, subdivision 3, is amended to read:

41.26 Subd. 3. **Subsequent offenses; seizure.** If a person has been convicted of a
41.27 misdemeanor for violating a provision of section 347.51, 347.515, or 347.52, and the
41.28 person is charged with a subsequent violation relating to the same dog, the dog must be
41.29 seized by the animal control authority having jurisdiction. If the owner is convicted of the
41.30 crime for which the dog was seized, the court shall order that the dog be destroyed in a
41.31 proper and humane manner and the owner pay the cost of confining and destroying the
41.32 animal. If the owner is not convicted and the dog is not reclaimed by the owner within
41.33 seven days after the owner has been notified that the dog may be reclaimed, the dog may be
41.34 disposed of ~~as provided under section 35.71, subdivision 3~~ in a manner permitted by law.

42.1 Sec. 76. Laws 2008, chapter 296, article 1, section 25, the effective date, as amended
42.2 by Laws 2010, chapter 333, article 1, section 33, is amended to read:

42.3 **EFFECTIVE DATE.** This section is effective June 1, ~~2012~~ 2017.

42.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

42.5 Sec. 77. Laws 2010, Second Special Session chapter 1, article 1, section 11, is
42.6 amended to read:

42.7 Sec. 11. **AGRICULTURE** **\$ 4,000,000**

42.8 To the commissioner of agriculture:

42.9 (1) \$3,800,000 is for the purposes specified

42.10 in Minnesota Statutes, section 12A.04; and

42.11 (2) notwithstanding section 2, subdivision 1,

42.12 \$200,000 is for the purpose of mental health

42.13 counseling to assist agricultural producers

42.14 and their families located in any rural disaster

42.15 area declared by the Federal Emergency

42.16 Management Agency or the United States

42.17 Department of Agriculture.

42.18 This appropriation is from the general fund.

42.19 **EFFECTIVE DATE.** This section is effective retroactively from October 19, 2010,
42.20 the effective date of Laws 2010, Second Special Session chapter 1.

42.21 Sec. 78. Laws 2011, chapter 14, section 6, is amended by adding an effective date to
42.22 read:

42.23 **EFFECTIVE DATE.** This section is effective retroactively from April 16, 2011.

42.24 Sec. 79. **STEELE COUNTY; CIP BONDING AUTHORITY.**

42.25 (a) The governing body of Steele County may, by resolution, include in its capital
42.26 improvement plan under Minnesota Statutes, section 373.40, buildings to be acquired,
42.27 constructed, and improved at its fairgrounds for use by its agricultural society.

42.28 (b) The buildings authorized by paragraph (a) constitute "capital improvements"
42.29 for all purposes of Minnesota Statutes, section 373.40, if the principal amount of bonds
42.30 issued to finance the buildings do not exceed \$650,000.

EFFECTIVE DATE. This section is effective the day after the governing body of Steele County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 80. **WADENA COUNTY; CIP BONDING AUTHORITY.**

(a) The governing body of Wadena County may, by resolution, include in its capital improvement plan under Minnesota Statutes, section 373.40, buildings to be acquired, constructed, and improved at its fairgrounds for use by its agricultural society.

(b) The buildings authorized by paragraph (a) constitute "capital improvements" for all purposes of Minnesota Statutes, section 373.40, if the principal amount of bonds issued to finance the buildings do not exceed \$1,000,000.

EFFECTIVE DATE. This section is effective the day after the governing body of Wadena County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 81. **NEXT GENERATION BIOFUEL BLENDS.**

The NextGen Energy Board, established in Minnesota Statutes, section 41A.105, shall include in its February 2013 report to the legislature an analysis of next generation biofuels that can be blended with gasoline or other energy sources. The report shall analyze research on next generation biofuel blends and information on federal approvals needed and the status of the federal approval for next generation biofuel blends, and make policy recommendations for updating Minnesota's biofuels mandates to reflect current industry practices. The commissioner of agriculture shall convene an advisory group to advise and assist the NextGen Energy Board in the analysis and report. Members of the group may include representatives of the next generation biofuels industry, the ethanol industry, persons with biofuels engineering or other biofuels expertise, suppliers of biofuels feedstocks or inputs, and other persons with applicable knowledge or expertise as designated by the commissioner.

Sec. 82. **BALANCE TRANSFER.**

The balance in the agroforestry loan program revolving fund established under Minnesota Statutes, section 41B.048, is transferred to the revolving loan account established under Minnesota Statutes, section 41B.06, and the agroforestry loan program revolving fund is abolished.

Sec. 83. **REPEALER.**

(a) Minnesota Statutes 2010, sections 17B.01; 17B.02; 17B.03; 17B.04; 17B.041; 17B.0451; 17B.048; 17B.05; 17B.06; 17B.07; 17B.10; 17B.11; 17B.12; 17B.13; 17B.14; 17B.15, subdivisions 1 and 3; 17B.16; 17B.17; 17B.18; 17B.20; 17B.22, subdivisions 1 and 2; 17B.28; 17B.29; 25.33, subdivision 18; 27.19, subdivisions 2 and 3; 27.20; 35.243; 35.255; 35.71, subdivisions 1, 2, 3, 4, 5, 6, and 7; 35.72, subdivisions 1, 2, 3, 4, and 5; 41B.048, subdivision 7; 223.16, subdivision 7; 223.18; 232.21, subdivision 4; 232.24, subdivision 3; 232.25; 233.01; 233.015; 233.017; 233.02; 233.03; 233.04; 233.05; 233.06; 233.07; 233.08; 233.09; 233.10; 233.11; 233.12; 233.22; 233.23; 233.24; 233.33; 234.01; 234.03; 234.04; 234.05; 234.06; 234.08; 234.09; 234.10; 234.11; 234.12; 234.13; 234.14; 234.15; 234.16; 234.17; 234.18; 234.19; 234.20; 234.21; 234.22; 234.23; 234.24; 234.25; 234.27; 235.01; 235.02; 235.04; 235.05; 235.06; 235.07; 235.08; 235.09; 235.10; 235.13; 235.18; 236.01; 236.02; 236.03; 236.04; 236.05; 236.06; 236.07; 236.08; 236.09; 395.14; 395.15; 395.16; 395.17; 395.18; 395.19; 395.20; 395.21; 395.22; 395.23; and 395.24, are repealed.

(b) Minnesota Rules, parts 1505.0780; 1505.0810; 1511.0100; 1511.0110; 1511.0120; 1511.0130; 1511.0140; 1511.0150; 1511.0160; 1511.0170; 1562.0100, subparts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25; 1562.0200; 1562.0400; 1562.0700; 1562.0900; 1562.1300; and 1562.1800, are repealed.

ARTICLE 2

FOOD LAW ENFORCEMENT

Section 1. Minnesota Statutes 2010, section 17.982, subdivision 1, is amended to read:

Subdivision 1. **Criminal penalties.** A person who violates a provision of chapter ~~25, 28A, 29, 31, 31A, or 31B, or 34~~ for which a penalty has not been prescribed is guilty of a misdemeanor.

Sec. 2. Minnesota Statutes 2010, section 17.983, is amended to read:

17.983 ADMINISTRATIVE PENALTIES AND ENFORCEMENT.

Subdivision 1. **Administrative penalties; citation.** If a person has violated a provision of chapter 25, ~~28A, 29, 31, 31A, 31B, or 32, or 34~~, the commissioner may issue a written citation to the person by personal service or by certified mail. The citation must describe the nature of the violation and the statute or rule alleged to have been violated; state the time for correction, if applicable; and the amount of any proposed fine. The citation must advise the person to notify the commissioner in writing within 30 days if the

person wishes to appeal the citation. If the person fails to appeal the citation, the citation is the final order and not subject to further review.

Subd. 3. **Contested case.** If a person appeals a citation or a penalty assessment within the time limits in subdivision 1, the commissioner shall initiate a contested proceeding under chapter 14. ~~The report of the administrative law judge is the final decision of the commissioner of agriculture.~~

Sec. 3. Minnesota Statutes 2010, section 17.984, subdivision 1, is amended to read:

Subdivision 1. **Authority.** To carry out the commissioner's enforcement duties under chapter ~~29, 31, 31A, 32, or 34~~, the commissioner may, upon presenting appropriate credentials, during regular working hours and at other reasonable times, inspect premises subject to the commissioner's enforcement and licensing authority for reasons related to the commissioner's enforcement and licensing authority; request information from persons with information relevant to an inspection; and inspect relevant papers and records, including business records. The commissioner may issue notices in lieu of citations for minor violations if a notice is in the public interest.

Sec. 4. Minnesota Statutes 2010, section 28A.03, subdivision 3, is amended to read:

Subd. 3. **Person.** "Person" ~~means any individual, firm, corporation, company, association, cooperative, or partnership and includes any trustee, receiver, assignee, or other similar representative thereof~~ has the meaning given in section 34A.01, subdivision 10.

Sec. 5. Minnesota Statutes 2010, section 28A.03, subdivision 5, is amended to read:

Subd. 5. **Food.** "Food₂" ~~includes every article used for, entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery, or condiment for humans, whether simple, mixed or compound.~~ "nonperishable food," "frozen food," "perishable food," and "readily perishable food" have the meanings given in section 34A.01.

~~(a) "Perishable food" is food which includes, but is not limited to fresh fruits, fresh vegetables, and other products which need protection from extremes of temperatures in order to avoid decomposition by microbial growth or otherwise.~~

~~(b) "Readily perishable food" is food or a food ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry or other food or food ingredient which is capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.~~

46.1 (e) "Frozen food" is food which is processed and preserved by freezing in accordance
46.2 with good commercial practices and which is intended to be sold in the frozen state.

46.3 (d) For the purposes of this definition, packaged food in hermetically sealed
46.4 containers processed by heat to prevent spoilage; packaged pickles, jellies, jams and
46.5 condiments in sealed containers; bakery products such as bread, rolls, buns, donuts,
46.6 fruit-filled pies and pastries; dehydrated packaged food; and dry or packaged food so low in
46.7 moisture content as to preclude development of microorganisms are not "perishable food,"
46.8 "readily perishable food," or "frozen food" within the meaning of paragraphs (a), (b), and
46.9 (c), when they are stored and handled in accordance with good commercial practices.

46.10 (e) "Nonperishable food" is food described in paragraph (d) with a shelf life of
46.11 more than 90 days.

46.12 Sec. 6. Minnesota Statutes 2010, section 28A.03, subdivision 6, is amended to read:

46.13 Subd. 6. **Sell; sale.** "Sell" and "sale" ~~include the keeping, offering, or exposing for~~
46.14 ~~sale, use, transporting, transferring, negotiating, soliciting, or exchange of food, the having~~
46.15 ~~in possession with intent to sell, use, transport, negotiate, solicit, or exchange the same~~
46.16 ~~and the storing, or carrying thereof in aid of traffic therein whether done or permitted in~~
46.17 ~~person or through others~~ have the meanings given in section 34A.01, subdivision 12.

46.18 Sec. 7. Minnesota Statutes 2010, section 28A.21, subdivision 6, is amended to read:

46.19 Subd. 6. **Expiration.** Notwithstanding section 15.059, subdivision 5, this section
46.20 expires June 30, ~~2012~~ 2017.

46.21 Sec. 8. Minnesota Statutes 2010, section 31.01, subdivision 2, is amended to read:

46.22 Subd. 2. **Person.** "Person" ~~means any individual, firm, partnership, copartnership,~~
46.23 ~~society, association, company, or corporation and includes any trustee, receiver, assignee~~
46.24 ~~or other similar representative thereof~~ has the meaning given in section 34A.01,
46.25 subdivision 10.

46.26 Sec. 9. Minnesota Statutes 2010, section 31.01, subdivision 3, is amended to read:

46.27 Subd. 3. **Food.** "Food" ~~means articles used for food or drink for humans or other~~
46.28 ~~animals, chewing gum, and articles used for components of any such article~~ has the
46.29 meaning given in section 34A.01, subdivision 4.

46.30 Sec. 10. Minnesota Statutes 2010, section 31.01, subdivision 4, is amended to read:

Subd. 4. **Sell and sale.** "Sell" and "sale" ~~shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such article in the conduct of any food operation~~ have the meanings given in section 34A.01, subdivision 12.

Sec. 11. Minnesota Statutes 2010, section 31.01, subdivision 21, is amended to read:

Subd. 21. **Label.** "Label" ~~means a display of written, printed, or graphic matter upon the immediate container of any article, and includes a like display, if required by law or rule, on the outside container or wrapper, if any there be, of the retail package of such article~~ has the meaning given in section 34A.01, subdivision 6.

Sec. 12. Minnesota Statutes 2010, section 31.01, subdivision 25, is amended to read:

Subd. 25. **Labeling.** "Labeling" ~~means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers, or accompanying such article~~ has the meaning given in section 34A.01, subdivision 7.

Sec. 13. Minnesota Statutes 2010, section 31.01, subdivision 28, is amended to read:

Subd. 28. **Pesticide chemical.** "Pesticide chemical" ~~means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of chapter 24, or the Federal Insecticide, Fungicide and Rodenticide Act (United States Code, title 7, sections 135-135k), as amended, and which is used in the production, storage, or transportation of raw agricultural commodities~~ has the meaning given in section 18B.01, subdivision 18.

Sec. 14. Minnesota Statutes 2010, section 31.121, is amended to read:

31.121 FOOD ADULTERATION.

A food shall be deemed to be adulterated: if it is covered by section 34A.02.

~~(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or~~

~~(b) If it bears or contains any added poisonous or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive, which is unsafe within the meaning of section 31.122; or~~

~~(c) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 31.122; or~~

~~(d) If it is or it bears or contains any food additive which is unsafe within the meaning of section 31.122; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 31.122, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of section 31.122 and this clause, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or~~

~~(e) If it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or~~

~~(f) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or~~

~~(g) If it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter, or of an animal that has been fed upon the uncooked offal from a slaughterhouse; or~~

~~(h) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or~~

~~(i) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption in effect pursuant to section 31.122 or section 409 of the federal act; or~~

~~(j) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or~~

~~(k) If any substance has been substituted wholly or in part therefor; or~~

~~(l) If damage or inferiority has been concealed in any manner; or~~

~~(m) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is; or~~

~~(n) If it is confectionery, and (1) has partially or completely imbedded therein any nonnutritive object; provided, that this clause shall not apply in the case of any nonnutritive object if in the judgment of the commissioner, as provided by rules, such object is of~~

~~practical functional value to the confectionery product and would not render the product injurious or hazardous to health; or (2) bears or contains any nonnutritive substance; provided, that this clause shall not apply to (i) a confection containing alcohol as defined in section 31.76, or (ii) a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of the Minnesota Food Law; and provided further, that the commissioner may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances; or~~

~~(o) If it is or bears or contains any color additive which is unsafe within the meaning of section 31.122; or~~

~~(p) If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.~~

Sec. 15. Minnesota Statutes 2010, section 31.123, is amended to read:

31.123 FOOD MISBRANDING.

A food ~~shall be deemed to be~~ is misbranded: if it is covered by section 34A.03.

~~(a) If its labeling is false or misleading in any particular, or if its labeling, whether on the commodity itself, its container or its package, fails to conform with the requirements of Laws 1974, chapter 84;~~

~~(b) If it is offered for sale under the name of another food;~~

~~(c) If it is an imitation of another food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10 and 31.102; or if it is an imitation of another food that is not subject to clause (g), unless in either case its label bears in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated;~~

~~(d) If its container is so made, formed, or filled as to be misleading;~~

~~(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the net quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label; provided, that under this subclause reasonable variations shall be permitted, and exemptions as to small packages shall be established by rules prescribed by the commissioner;~~

~~(f) If any word, statement, or other information required by or under authority of the Minnesota Food Law to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;~~

~~(g) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by sections 31.10 and 31.102, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such rules, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food;~~

~~(h) If it purports to be or is represented as (1) a food for which a standard of quality has been prescribed by rules as provided by sections 31.10 and 31.102, and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard, or (2) a food for which a standard or standards of fill of container have been prescribed by rule as provided by sections 31.10 and 31.102, and it falls below the standard of fill of container applicable thereto unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard;~~

~~(i) If it is not subject to the provisions of clause (g), unless it bears labeling clearly giving (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that to the extent that compliance with the requirements of this subclause is impractical or results in deception or unfair competition, exemptions shall be established by rules promulgated by the commissioner;~~

~~(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the commissioner determines to be, and by rules prescribes as, necessary in order to fully inform purchasers as to its value for such uses;~~

~~(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this clause is impracticable, exemptions shall be established by rules promulgated by the commissioner. The provisions of this clause and clauses (g) and (i) with respect to artificial coloring do not apply to butter, cheese or ice~~

51.1 ~~cream. The provisions with respect to chemical preservatives do not apply to a pesticide~~
51.2 ~~chemical when used in or on a raw agricultural commodity which is the product of the soil;~~

51.3 ~~(l) If it is a raw agricultural commodity which is the product of the soil, bearing or~~
51.4 ~~containing a pesticide chemical applied after harvest, unless the shipping container of such~~
51.5 ~~commodity bears labeling which declares the presence of such chemical in or on such~~
51.6 ~~commodity and the common or usual name and the function of such chemical; provided,~~
51.7 ~~however, that no such declaration shall be required while such commodity, having been~~
51.8 ~~removed from the shipping container, is being held or displayed for sale at retail out of~~
51.9 ~~such container in accordance with the custom of the trade;~~

51.10 ~~(m) If it is a product intended as an ingredient of another food and when used~~
51.11 ~~according to the directions of the purveyor will result in the final food product being~~
51.12 ~~adulterated or misbranded;~~

51.13 ~~(n) If it is a color additive unless its packaging and labeling are in conformity with~~
51.14 ~~such packaging and labeling requirements applicable to such color additive prescribed~~
51.15 ~~under the provisions of the federal act.~~

51.16 Sec. 16. Minnesota Statutes 2010, section 31A.02, subdivision 13, is amended to read:

51.17 Subd. 13. **Adulterated.** "Adulterated" means ~~a carcass, part of a carcass, meat,~~
51.18 ~~poultry, poultry food product, or meat food product under one or more of the following~~
51.19 ~~circumstances: an item is covered by section 34A.02.~~

51.20 ~~(a) if it bears or contains a poisonous or harmful substance which may render~~
51.21 ~~it injurious to health; but if the substance is not an added substance, the article is not~~
51.22 ~~adulterated if the quantity of the substance in or on the article does not ordinarily make it~~
51.23 ~~injurious to health;~~

51.24 ~~(b) if it bears or contains, by administration of a substance to the live animal or~~
51.25 ~~otherwise, an added poisonous or harmful substance, other than (1) a pesticide chemical in~~
51.26 ~~or on a raw agricultural commodity; (2) a food additive; or (3) a color additive, which~~
51.27 ~~may, in the judgment of the commissioner, make the article unfit for human food;~~

51.28 ~~(c) if it is, in whole or in part, a raw agricultural commodity that bears or contains a~~
51.29 ~~pesticide chemical which is unsafe within the meaning of section 408 of the Federal~~
51.30 ~~Food, Drug, and Cosmetic Act;~~

51.31 ~~(d) if it bears or contains a food additive which is unsafe within the meaning of~~
51.32 ~~section 409 of the Federal Food, Drug, and Cosmetic Act;~~

51.33 ~~(e) if it bears or contains a color additive which is unsafe within the meaning of~~
51.34 ~~section 706 of the Federal Food, Drug, and Cosmetic Act;~~

~~(f) if it contains a filthy, putrid, or decomposed substance or is for any other reason unfit for human food;~~

~~(g) if it has been prepared, packed, or held under unsanitary conditions so that it may be contaminated with filth or harmful to health;~~

~~(h) if it is wholly or partly the product of an animal which has died otherwise than by slaughter;~~

~~(i) if its container is wholly or partly composed of a poisonous or harmful substance which may make the contents harmful to health;~~

~~(j) if it has been intentionally subjected to radiation, unless the use of the radiation conformed with a regulation or exemption in effect under section 409 of the Federal Food, Drug, and Cosmetic Act;~~

~~(k) if a valuable constituent has been wholly or partly omitted or removed from it; if a substance has been wholly or partly substituted for it; if damage or inferiority has been concealed; or if a substance has been added to it or mixed or packed with it so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is; or~~

~~(l) if it is margarine containing animal fat and any of the raw material used in it wholly or partly consisted of a filthy, putrid, or decomposed substance.~~

Sec. 17. Minnesota Statutes 2010, section 31A.02, subdivision 14, is amended to read:

Subd. 14. **Misbranded.** "Misbranded" means ~~a carcass, part of a carcass, meat, poultry, poultry food product, or meat food product under one or more of the following circumstances:~~ an item is covered by section 34A.03.

~~(a) if its labeling is false or misleading;~~

~~(b) if it is offered for sale under the name of another food;~~

~~(c) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" followed immediately by the name of the food imitated;~~

~~(d) if its container is made, formed, or filled so as to be misleading;~~

~~(e) if its package or other container does not have a label showing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations permitted and exemptions for small packages established in rules of the commissioner;~~

~~(f) if a word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling is not prominently and conspicuously~~

placed on the label or labeling in terms that make it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) if it is represented as a food for which a definition and standard of identity or composition has been prescribed by rules of the commissioner under section 31A.07, unless (1) it conforms to the definition and standard, and (2) its label bears the name of the food specified in the definition and standard and, if required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in the food;

(h) if it is represented as a food for which a standard of fill of container has been prescribed by rules of the commissioner under section 31A.07, and it falls below the applicable standard of fill of container, unless its label bears, in the manner and form the rules specify, a statement that it falls below the standard;

(i) if it is not subject to paragraph (g), unless its label bears (1) the usual name of the food, if there is one, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient; except that spices, flavorings, and colorings may, when authorized by the commissioner, be designated as spices, flavorings, and colorings without naming each. To the extent that compliance with clause (2) is impracticable, or results in deception or unfair competition, the commissioner shall establish exemptions by rule;

(j) if it purports to be or is represented for special dietary uses, unless its label bears the information concerning its vitamin, mineral, and other dietary properties that the commissioner, after consultation with the Secretary of Agriculture of the United States, determines by rule to be necessary to inform purchasers of its value for special dietary uses;

(k) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact;

(l) if it fails to bear, directly or on its container, as the commissioner by rule prescribes, the inspection legend and other information the commissioner may require by rule to assure that it will not have false or misleading labeling and that the public will be told how to keep the article wholesome.

Sec. 18. Minnesota Statutes 2010, section 31A.02, subdivision 15, is amended to read:

Subd. 15. **Label.** "Label" means a display of written, printed, or graphic matter on an article's immediate container, not including package liners has the meaning given in section 34A.01, subdivision 6.

Sec. 19. Minnesota Statutes 2010, section 31A.02, subdivision 16, is amended to read:

Subd. 16. **Labeling.** "Labeling" ~~means labels and other written, printed, or graphic matter (1) on an article or its containers or wrappers, or (2) accompanying an article~~ has the meaning given in section 34A.01, subdivision 7.

Sec. 20. Minnesota Statutes 2010, section 31A.23, is amended to read:

31A.23 DETENTION OF ANIMALS OR PRODUCTS.

This section applies to a carcass, part of a carcass, meat, or meat food product of an animal, a product exempted from the definition of a meat food product, or a dead, dying, disabled, or diseased animal. If an authorized representative of the commissioner finds such an article or animal on premises where it is held for purposes of, during, or after distribution in intrastate commerce, and there is reason to believe that it is adulterated or misbranded and is usable as human food, or that it has not been inspected, in violation of sections 31A.01 to 31A.16, the Federal Meat Inspection Act, or the Federal Food, Drug, and Cosmetic Act, or that the article or animal has been or is intended to be distributed in violation of a provision of those laws, it may be detained by the representative for up to 20 days pending action under section ~~31A.24~~ 34A.11, subdivision 2, or notification of federal authorities having jurisdiction over the article or animal. It must not be moved by a person, firm, or corporation from the place at which it is located when detained, until released by the representative. The representative may require all official marks to be removed from the article or animal before it is released unless the commissioner is satisfied that the article or animal is eligible to retain the official marks.

Sec. 21. Minnesota Statutes 2010, section 32.01, subdivision 11, is amended to read:

Subd. 11. **Adulterated.** "Adulterated" ~~has the meaning given it in section 31.01, subdivision 19, and acts amendatory thereof~~ means an item is covered by section 34A.02.

Sec. 22. Minnesota Statutes 2010, section 32.01, subdivision 12, is amended to read:

Subd. 12. **Misbranded.** "Misbranded" or "misbranding" ~~has the meaning given in section 31.01, subdivision 5, and acts amendatory thereof~~ means an item is covered by section 34A.03.

Sec. 23. **[34A.01] DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section and chapters 28, 28A, 29, 30, 31, 31A, 32, and 34 apply to this chapter. The definitions in this section apply to chapter 32.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture.

55.1 Subd. 3. **Federal act.** "Federal act" means the federal Food, Drug, and Cosmetic
55.2 Act, as amended, United States Code, title 21, sections 301 et seq.

55.3 Subd. 4. **Food.** "Food" means every ingredient used for, entering into the
55.4 consumption of, or used or intended for use in the preparation of food, drink, confectionery,
55.5 or condiment for humans or other animals, whether simple, mixed, or compound; and
55.6 articles used as components of these ingredients.

55.7 Subd. 5. **Frozen food.** "Frozen food" is food that is processed and preserved by
55.8 freezing and which is intended to be sold in the frozen state.

55.9 Subd. 6. **Label.** "Label" means a display of written, printed, or graphic matter
55.10 upon or affixed to the container of any food, and includes a like display, if required by
55.11 law or rule, on the outside container or wrapper, if there is one, of the retail package
55.12 of the food, not including package liners.

55.13 Subd. 7. **Labeling.** "Labeling" means labels and other written, printed, or graphic
55.14 matter:

55.15 (1) on food or its containers or wrappers;

55.16 (2) accompanying or supporting food; or

55.17 (3) a placard in, on, or adjacent to the food.

55.18 Subd. 8. **Nonperishable food.** "Nonperishable food" is food with a shelf life of
55.19 more than 90 days and that is not perishable food, readily perishable food, or frozen food.

55.20 Subd. 9. **Perishable food.** "Perishable food" means food including, but not limited
55.21 to, fresh fruits, fresh vegetables, and other products that need protection from extremes of
55.22 temperatures in order to avoid decomposition by microbial growth or otherwise.

55.23 Subd. 10. **Person.** "Person" means any individual, firm, partnership, cooperative,
55.24 society, joint stock association, association, company, or corporation and includes any
55.25 officer, employee, agent, trustee, receiver, assignee, or other similar business entity or
55.26 representative of one of those entities.

55.27 Subd. 11. **Readily perishable food.** "Readily perishable food" is food or a food
55.28 ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry,
55.29 or other food or food ingredient that is capable of supporting growth of infectious or
55.30 toxigenic microorganisms. Readily perishable food requires time and temperature control
55.31 to limit pathogenic microorganism growth or toxin formation.

55.32 Subd. 12. **Sell; sale.** "Sell" and "sale" mean keeping, offering, or exposing for sale,
55.33 use, transporting, transferring, negotiating, soliciting, or exchanging food; having in
55.34 possession with intent to sell, use, transport, negotiate, solicit, or exchange food; storing,
55.35 manufacturing, producing, processing, packing, and holding of food for sale; dispensing or

56.1 giving food; or supplying or applying food in the conduct of any food operation or carrying
56.2 food in aid of traffic in food whether done or permitted in person or through others.

56.3 Sec. 24. **[34A.012] EXCLUSIONS.**

56.4 The following items are not perishable food, readily perishable food, or frozen food:

56.5 (1) packaged pickles;

56.6 (2) jellies, jams, and condiments in sealed containers;

56.7 (3) bakery products such as bread, rolls, buns, donuts, fruit-filled pies, and pastries;

56.8 (4) dehydrated packaged food;

56.9 (5) dry or packaged food with a water activity that precludes development of
56.10 microorganisms; and

56.11 (6) food in unopened hermetically sealed containers that is commercially processed
56.12 to achieve and maintain commercial sterility under conditions of nonrefrigerated storage
56.13 and distribution.

56.14 Sec. 25. **[34A.02] ADULTERATION.**

56.15 Food is adulterated if:

56.16 (1) it bears or contains any poisonous or deleterious substance which may render
56.17 it injurious to health; but if the substance is not an added substance, the item is not
56.18 adulterated under this clause if the quantity of the substance in the item does not ordinarily
56.19 render it injurious to health;

56.20 (2) it bears or contains any added poisonous, deleterious, or nonnutritive substance,
56.21 other than one which is a pesticide in or on a raw agricultural commodity; a food additive;
56.22 or a color additive, that is unsafe within the meaning of section 31.122 or section 406
56.23 of the federal act;

56.24 (3) it bears or contains, by administration of a substance to the live animal or
56.25 otherwise, an added poisonous or harmful substance, other than a pesticide in or on a raw
56.26 agricultural commodity, a food additive, or a color additive, that may, in the judgment of
56.27 the commissioner, make the article unfit for human food;

56.28 (4) it is unsafe or bears or contains any food additive that is unsafe within the
56.29 meaning of section 31.122 or section 409 of the federal act;

56.30 (5) it is or bears or contains any color additive that is unsafe within the meaning of
56.31 section 31.122 or section 706 of the federal act;

56.32 (6) it is a raw agricultural commodity and it bears or contains a pesticide that is
56.33 unsafe within the meaning of section 31.122 or section 408 of the federal act;

(7) it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;

(8) it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health;

(9) it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter that is unsafe within the meaning of section 402(a)(1) or (2) of the federal act, or of an animal that has been fed upon the uncooked offal from a slaughterhouse;

(10) its container is wholly or partly composed of any poisonous or deleterious substance that may render the contents injurious to health;

(11) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule, regulation, or exemption in effect pursuant to section 31.122 or section 409 of the federal act;

(12) any valuable constituent has been in whole or in part omitted or abstracted from the food; if any substance has been substituted wholly or in part for the food; or if damage or inferiority has been concealed in any manner;

(13) any substance has been added to it or mixed or packed with it so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is;

(14) its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling; or

(15) it is confectionery and:

(i) has partially or completely imbedded in the food any nonnutritive object, provided that this clause does not apply in the case of any nonnutritive object if in the judgment of the commissioner, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to human or animal health; or

(ii) bears or contains any nonnutritive substance; provided that this item does not apply to a confection containing alcohol as defined in section 31.76, or a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of the confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this chapter, and provided further that the commissioner may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances.

58.1 Sec. 26. **[34A.03] MISBRANDING.**

58.2 (a) Food is misbranded if:

58.3 (1) its labeling is false or misleading in any particular, or its labeling, whether on
58.4 the item itself, its container, or its package, fails to conform with the requirements of
58.5 this chapter;

58.6 (2) it is offered for sale or distributed under the name of another food;

58.7 (3) it is an imitation of another food for which a definition and standard of identity
58.8 have been prescribed by rules as provided by sections 31.10 and 31.102; or if it is an
58.9 imitation of another food that is not subject to clause (5), unless in either case its label
58.10 bears in type of uniform size and prominence the word "imitation" and immediately
58.11 thereafter the name of the food imitated;

58.12 (4) its container is so made, formed, or filled as to be misleading;

58.13 (5) it purports to be or is represented as a food for which a definition and standard
58.14 of identity have been prescribed by rules as provided by sections 31.10, 31.102, and
58.15 31A.07, unless it conforms to that definition and standard, and its label bears the name
58.16 of the food specified in the definition and standard, and insofar as may be required by
58.17 the rules, the common names of optional ingredients, other than spices, flavoring, and
58.18 coloring, present in the food;

58.19 (6) it purports to be or is represented as:

58.20 (i) a food for which a standard of quality has been prescribed by rules as provided by
58.21 sections 31.10 and 31.102, and its quality falls below that standard unless its label bears in
58.22 a manner and form the rules specify, a statement that it falls below the standard; or

58.23 (ii) a food for which a standard or standards of fill of container have been prescribed
58.24 by rule as provided by sections 31.10, 31.102, and 31A.07, and it falls below the standard
58.25 of fill of container applicable thereto unless its label bears, in a manner and form the rules
58.26 specify, a statement that it falls below the standard;

58.27 (7) it is not subject to clause (5), unless it bears labeling clearly giving the common
58.28 or usual name of the food, if there is one, and in case it is fabricated from two or more
58.29 ingredients, the common or usual name of each ingredient, except that spices, flavorings,
58.30 and colorings, other than those sold as such, may be designated as spices, flavorings, and
58.31 colorings, without naming each, provided that to the extent that compliance with the
58.32 requirements of this clause is impractical or results in deception or unfair competition,
58.33 exemptions must be established by rules promulgated by the commissioner;

58.34 (8) it purports to be or is represented for special dietary uses, unless its label
58.35 bears information concerning its vitamin, mineral, and other dietary properties as the

59.1 commissioner determines to be, and by rules prescribed as, necessary in order to fully
59.2 inform purchasers as to its value for those uses;

59.3 (9) it bears or contains any artificial flavoring, artificial coloring, or chemical
59.4 preservative, unless it bears labeling stating that fact; provided that, to the extent that
59.5 compliance with the requirements of this clause is impracticable, exemptions must be
59.6 established by rules promulgated by the commissioner. The provisions of this clause and
59.7 clauses (5) and (7) with respect to artificial coloring do not apply to butter, cheese, or ice
59.8 cream. The provisions with respect to chemical preservatives do not apply to a pesticide
59.9 when used in or on a raw agricultural commodity which is the product of the soil;

59.10 (10) it is a product intended as an ingredient of another food and when used
59.11 according to the directions of the purveyor will result in the final food product being
59.12 adulterated or misbranded;

59.13 (11) it is a color additive unless its packaging and labeling are in conformity with
59.14 such packaging and labeling requirements applicable to the color additive prescribed
59.15 under the provisions of the federal act;

59.16 (12) it is food subject to section 31.101, subdivision 10, or chapter 31A, that fails to
59.17 bear, directly or on its container, as the commissioner by rule prescribes, the inspection
59.18 legend and other information the commissioner may require by rule to ensure that it
59.19 will not have false or misleading labeling, and that the public will be told how to keep
59.20 the article wholesome; or

59.21 (13) its labeling would deceive or mislead the purchaser with respect to its
59.22 composition or suitability.

59.23 (b) Food is also misbranded if it is a raw agricultural commodity which is the
59.24 product of the soil, bearing or containing a pesticide applied after harvest, unless the
59.25 shipping container of that commodity bears labeling which declares the presence of the
59.26 chemical in or on the commodity and the common or usual name and the function of the
59.27 chemical. No such declaration is required while the commodity, having been removed
59.28 from the shipping container, is being held or displayed for sale at retail out of the container
59.29 in accordance with the custom of the trade.

59.30 **Sec. 27. [34A.04] ENFORCEMENT.**

59.31 Subdivision 1. **Enforcement required.** (a) The commissioner shall enforce this
59.32 chapter and chapters 28, 28A, 29, 30, 31, 31A, and 34. To carry out the enforcement duties
59.33 under these chapters, the commissioner may, upon presenting appropriate credentials,
59.34 during regular working hours and at other reasonable times, inspect premises subject
59.35 to the commissioner's enforcement and licensing authority; require information from

persons with information relevant to an inspection; and inspect and copy relevant papers and records, including business records.

(b) The commissioner may administer oaths, take and cause to be taken depositions of witnesses, and issue subpoenas, and may petition the district court in the county in which the premises is located to compel compliance with subpoenas or to permit an inspection.

(c) Violations of chapters 28, 28A, 29, 30, 31, 31A, and 34, or rules adopted under chapters 28, 28A, 29, 30, 31, 31A, and 34 are a violation of this chapter.

(d) Upon the request of the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws shall take action to the extent of their authority necessary or proper for the enforcement of this chapter or standards, stipulations, and agreements of the commissioner.

Subd. 2. **Commissioner's discretion.** If minor violations of this chapter occur or the commissioner believes the public interest will be best served by a suitable notice of warning in writing, this chapter does not require the commissioner to take any additional action.

Subd. 3. **Civil actions.** Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action upon the request of the commissioner and agreement by the attorney general.

Subd. 4. **Injunction.** The commissioner may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of provisions of this chapter.

Subd. 5. **Criminal actions.** Each county attorney or city attorney to whom the commissioner reports any violation of this chapter shall consider instituting appropriate proceedings in the proper courts and prosecuting them in the manner required by law. If the county or city attorney refuses to prosecute, the attorney general, on request of the commissioner, may prosecute.

Sec. 28. **[34A.05] FALSE STATEMENT OR RECORD.**

A person must not knowingly make or offer a false statement, record, or other information as part of:

(1) an application for registration, listing, license, certification, or permit subject to this chapter;

(2) records or reports required subject to this chapter; or

(3) an investigation of a violation of this chapter.

61.1 Sec. 29. **[34A.06] ADMINISTRATIVE ACTIONS.**

61.2 Subdivision 1. **Administrative enforcement.** (a) The commissioner may enforce
61.3 this chapter by written warning, administrative meeting, cease and desist, forced sale,
61.4 detention, embargo, condemnation, citation, corrective action order, seizure, agreement,
61.5 withdrawal from distribution, or administrative penalty if the commissioner determines
61.6 that the remedy is in the public interest.

61.7 (b) For facilities required to submit a plan review under rules of the commissioner of
61.8 agriculture, the commissioner may withdraw by written order the approval of a facility or
61.9 equipment if:

61.10 (1) hazards to human life exist; or

61.11 (2) there is satisfactory evidence that the person to whom the approval was issued
61.12 has used fraudulent or deceptive practices to evade or attempt to evade provisions of
61.13 this chapter.

61.14 (c) Any action under this subdivision may be appealed pursuant to section 34A.08.

61.15 Subd. 2. **License revocation, suspension, and refusal.** (a) The commissioner
61.16 may revoke, suspend, limit, modify, or refuse to grant or renew a registration, listing,
61.17 permit, license, or certification if a person violates or has violated this chapter within
61.18 the last three years.

61.19 (b) The commissioner may revoke, suspend, limit, modify, or refuse to grant or
61.20 renew a registration, listing, permit, license, or certification to a person from another state
61.21 if that person has had a registration, permit, license, or certification denied, revoked,
61.22 or suspended by another state for an offense reasonably related to the requirements,
61.23 qualifications, or duties of a registration, permit, license, or certification issued under
61.24 this chapter.

61.25 (c) The commissioner may revoke, suspend, limit, modify, or refuse to grant or
61.26 renew a registration, listing, permit, license, or certification to a person after receiving
61.27 satisfactory evidence that the registrant, permittee, licensee, or certificate holder has used
61.28 fraudulent and deceptive practices in the evasion or attempted evasion of this chapter.

61.29 (d) A registration, listing, permit, license, or certification may not be revoked or
61.30 suspended until the registrant, permittee, licensee, or certificate holder has been given
61.31 opportunity for a hearing by the commissioner. After receiving notice of revocation or
61.32 suspension, a registrant, permittee, licensee, registrant, or certificate holder has ten days to
61.33 request a hearing, or another time period mutually agreed to by both parties. If no request is
61.34 made within ten days or other agreed-upon time, the registration, listing, permit, license, or
61.35 certification is revoked or suspended. In the case of a refusal to grant a registration, listing,
61.36 permit, license, or certification, the registrant, permittee, licensee, registrant, or certificate

62.1 holder has ten days from notice of refusal to request a hearing. Upon receiving a request
62.2 for hearing, the department shall proceed pursuant to section 34A.08, subdivision 2.

62.3 Sec. 30. **[34A.07] ADMINISTRATIVE PENALTIES.**

62.4 Subdivision 1. **Assessment.** (a) In determining the amount of the administrative
62.5 penalty, the commissioner shall consider the economic gain received by the person
62.6 allowing or committing the violation, the gravity of the violation in terms of actual or
62.7 potential damage to human or animal health and the environment, the willfulness of the
62.8 violation, number of violations, history of past violations, and other factors justice may
62.9 require, if the additional factors are specifically identified in the inspection report. For a
62.10 violation after an initial violation, the commissioner shall also consider the similarity of
62.11 the most recent previous violation and the violation to be penalized, the time elapsed since
62.12 the last violation, the number of previous violations, and the response of the person to the
62.13 most recent previous violation identified.

62.14 (b) The commissioner may issue an administrative citation assessing an
62.15 administrative penalty of up to \$1,500 for each violation of this chapter. Each day a
62.16 violation continues is a separate violation. The citation must describe the nature of the
62.17 violation, the statute or rule alleged to have been violated, the time for correction, if
62.18 applicable, and the amount of any proposed fine. The citation must advise the person to
62.19 notify the commissioner in writing within 20 days, or another time period mutually agreed
62.20 to by the commissioner and the person subject to the citation, if the person wishes to
62.21 appeal the citation, and that if the person fails to appeal the citation, the citation is the
62.22 final order and not subject to further review.

62.23 (c) An administrative penalty may be assessed if the person subject to a written order
62.24 does not comply with the order in the time provided in the order.

62.25 Subd. 2. **Collection of penalty.** (a) If a person subject to an administrative penalty
62.26 fails to pay the penalty, which must be part of a final citation by the commissioner, by 30
62.27 days after the final order is issued, the commissioner may commence a civil action for
62.28 double the assessed penalty plus attorney fees and costs.

62.29 (b) An administrative penalty may be recovered in a civil action in the name of the
62.30 state brought in the district court of the county where the violation is alleged to have
62.31 occurred or the district court where the commissioner has an office.

62.32 Sec. 31. **[34A.08] APPEAL OF ADMINISTRATIVE ACTION OR PENALTY.**

62.33 Subdivision 1. **Notice of appeal.** (a) After service of a citation under section 34A.07
62.34 or order under section 34A.06, subdivision 1, a person has 20 days from receipt of the

63.1 citation or order, or another time period mutually agreed to by the commissioner and the
63.2 person subject to the citation or order, to notify the commissioner in writing that the
63.3 person intends to contest the citation or order through a hearing. The hearing request
63.4 must specifically identify the order or citation being contested and state the grounds for
63.5 contesting it.

63.6 (b) If the person fails to notify the commissioner that the person intends to contest
63.7 the citation or order, the citation or order is final and not subject to further judicial or
63.8 administrative review.

63.9 Subd. 2. **Administrative review.** If a person notifies the commissioner that
63.10 the person intends to contest a citation or order issued under this chapter, the Office
63.11 of Administrative Hearings shall conduct a hearing in accordance with the applicable
63.12 provisions of chapter 14 for hearings in contested cases.

63.13 Sec. 32. **[34A.09] CIVIL PENALTIES.**

63.14 Subdivision 1. **General penalty.** A person who violates this chapter or an order,
63.15 standard, stipulation, agreement, citation, or schedule of compliance of the commissioner
63.16 or impedes, hinders, or otherwise prevents or attempts to prevent performance of a duty
63.17 by the commissioner in connection with this chapter is subject to a civil penalty of up to
63.18 \$7,500 per day of violation as determined by the court.

63.19 Subd. 2. **Actions to compel performance.** In an action to compel performance of
63.20 an order of the commissioner to enforce this chapter, the court must require a defendant
63.21 adjudged responsible to perform the acts within the person's power that are reasonably
63.22 necessary to accomplish the purposes of the order.

63.23 Subd. 3. **Recovery of penalties by civil action.** The civil penalties and payments
63.24 provided for in this section may be recovered by a civil action brought by the county
63.25 attorney or the attorney general in the name of the state.

63.26 Sec. 33. **[34A.10] CRIMINAL PENALTIES.**

63.27 Subdivision 1. **General violation.** Except as provided in subdivisions 2 and 3, a
63.28 person is guilty of a misdemeanor if the person violates this chapter or an order, standard,
63.29 citation, stipulation, agreement, or schedule of compliance of the commissioner, or
63.30 impedes, hinders, or otherwise prevents, or attempts to prevent the commissioner or a
63.31 duly authorized agent in performance of a duty in connection with this chapter. Unless
63.32 otherwise specified in this chapter, each separate violation is a separate offense, except
63.33 that in the case of a violation through continuing failure or neglect to obey this chapter,
63.34 each day the failure or neglect continues is a separate offense.

64.1 Subd. 2. **Violation endangering humans or animals.** A person is guilty of a
64.2 gross misdemeanor if the person violates this chapter or an order, standard, stipulation,
64.3 agreement, or schedule of compliance of the commissioner and the violation endangers
64.4 humans or animals.

64.5 Subd. 3. **Violation with knowledge.** A person is guilty of a gross misdemeanor if
64.6 the person knowingly violates this chapter or an order, standard, stipulation, agreement, or
64.7 schedule of compliance of the commissioner.

64.8 Sec. 34. **[34A.11] EMBARGO, SEIZURE, AND CONDEMNATION.**

64.9 Subdivision 1. **Tag, notice, or withdrawal from distribution.** If the commissioner
64.10 finds probable cause to believe that any food, animal, or consumer commodity is being
64.11 distributed in violation of this chapter or rules under this chapter, or is adulterated or so
64.12 misbranded as to be dangerous or fraudulent, the commissioner shall affix to the food,
64.13 animal, or consumer commodity a tag, withdrawal from distribution order, or other
64.14 appropriate marking giving notice that the food, animal, or consumer commodity is, or is
64.15 suspected of being, adulterated, misbranded, or distributed in violation of this chapter,
64.16 and has been detained or embargoed, and warning all persons not to remove or dispose
64.17 of the food, animal, or consumer commodity by sale or otherwise until permission for
64.18 removal or disposal is given by the commissioner or the court. It is unlawful for a person
64.19 to remove or dispose of a detained or embargoed food, animal, or consumer commodity by
64.20 sale or otherwise without the commissioner's or a court's permission and each transaction
64.21 is a separate violation of this subdivision.

64.22 Subd. 2. **Seizure.** A carcass; part of a carcass; meat or meat food product of an
64.23 animal; or dead, dying, disabled, or diseased animal that is being transported in intrastate
64.24 commerce, or is held for sale in this state after transportation in intrastate commerce, may
64.25 be proceeded against, seized, and condemned if:

64.26 (1) it is or has been prepared, sold, transported, or otherwise distributed, offered, or
64.27 received for distribution in violation of this chapter;

64.28 (2) it is usable as human food and is adulterated or misbranded; or

64.29 (3) it is in any other way in violation of this chapter.

64.30 The commissioner may act against the article or animal at any time on a complaint
64.31 in the district court of the judicial district where the article or animal is found.

64.32 Subd. 3. **Action for condemnation.** If food or an article or animal detained or
64.33 embargoed under subdivision 1 has been found by the commissioner to be adulterated
64.34 or misbranded or in violation of this chapter, the commissioner shall petition the district
64.35 court in the county in which the food or animal is detained or embargoed for an order and

65.1 decree for the condemnation of the food or animal. The commissioner shall release the
65.2 food or animal when this chapter and rules adopted under this chapter have been complied
65.3 with or the food or animal is found to be not adulterated or misbranded.

65.4 Subd. 4. **Remedies.** If the court finds that a detained or embargoed food or animal
65.5 is adulterated, misbranded, or in violation of this chapter or rules adopted under this
65.6 chapter, the following remedies are available:

65.7 (1) after entering a decree, the food or animal may be destroyed at the expense of
65.8 the claimant under the supervision of the commissioner, and all court costs, fees, storage,
65.9 and other proper expenses must be assessed against the claimant of the food or animal or
65.10 the claimant's agent; and

65.11 (2) if adulteration or misbranding can be corrected by proper labeling or processing
65.12 of the food or animal, the court, after entry of the decree and after costs, fees, and expenses
65.13 have been paid and a good and sufficient bond, conditioned that the food or animal must
65.14 be properly labeled or processed, has been executed, may by order direct that the food or
65.15 animal be delivered to the claimant for proper labeling or processing under the supervision
65.16 of the commissioner. The expense of the supervision must be paid by the claimant. The
65.17 food or animal must be returned to the claimant and the bond must be discharged on the
65.18 representation to the court by the commissioner that the food or animal is no longer in
65.19 violation and that the expenses for the supervision have been paid.

65.20 Subd. 5. **Duties of commissioner.** If the commissioner finds in any room, building,
65.21 vehicle of transportation, or other structure any meat, seafood, poultry, vegetable, fruit, or
65.22 other perishable articles of food that are unsound, or contain any filthy, decomposed, or
65.23 putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the
65.24 commissioner shall condemn or destroy the item or in any other manner render the item as
65.25 unsalable as human food, and no one has any cause of action against the commissioner
65.26 on account of the commissioner's action.

65.27 Subd. 6. **Emergency response.** If the governor declares an emergency order under
65.28 section 12.31 and if the commissioner finds or has probable cause to believe that livestock,
65.29 food, or a consumer commodity within a specific area is likely to be adulterated because
65.30 of the emergency or so misbranded as to be dangerous or fraudulent, or is in violation of
65.31 section 31.131, subdivision 1, the commissioner may embargo a geographic area that is
65.32 included in the declared emergency. The commissioner shall provide notice to the public
65.33 and to those with custody of the product in as thorough a manner as is practicable under
65.34 the emergency circumstances.

65.35 Sec. 35. **[34A.12] POWERS OF THE COMMISSIONER.**

66.1 Subdivision 1. **Gathering information.** The commissioner may, for the purposes
66.2 of this chapter:

66.3 (1) gather and compile information concerning and investigate the organization,
66.4 business, conduct, practices, and management of a person in intrastate commerce and
66.5 the person's relation to other persons; and

66.6 (2) require, by general or special orders, a person, persons, or a class of persons
66.7 engaged in intrastate commerce to file with the commissioner, in the form the
66.8 commissioner prescribes, annual and special reports or answers in writing to specific
66.9 questions, giving the commissioner the information the commissioner requires about the
66.10 organization, business, conduct, practices, management, and relation to other persons, of
66.11 the person filing the reports or answers. The reports and answers must be made under
66.12 oath, or otherwise, as the commissioner prescribes, and filed with the commissioner within
66.13 a reasonable time the commissioner prescribes, unless additional time is granted by the
66.14 commissioner.

66.15 Subd. 2. **Examination of documents for evidence.** (a) For purposes of this
66.16 chapter, the commissioner must at all reasonable times be allowed to examine and
66.17 copy documentary evidence of a person being investigated or proceeded against. The
66.18 commissioner may subpoena witnesses and require the production of documentary
66.19 evidence of a person relating to any matter under investigation. The commissioner
66.20 may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive
66.21 evidence.

66.22 (b) Attendance of witnesses and the production of documentary evidence may
66.23 be required at a designated hearing place. In case of disobedience to a subpoena, the
66.24 commissioner may invoke the aid of the district court to require the attendance and
66.25 testimony of witnesses and the production of documentary evidence.

66.26 (c) The district court, in case of refusal to obey a subpoena issued to a person, may
66.27 issue an order requiring the person to appear before the commissioner or to produce
66.28 documentary evidence if ordered, or to give evidence touching the matter in question.
66.29 Failure to obey the order of the court may be punishable by the court as a contempt.

66.30 (d) Upon the application of the attorney general at the request of the commissioner,
66.31 the district court may order a person to comply with this chapter or an order of the
66.32 commissioner made under this chapter.

66.33 (e) The commissioner may order testimony to be taken by deposition in a proceeding
66.34 or investigation pending under this chapter at any state of the proceeding or investigation.
66.35 Depositions may be taken before a person designated by the commissioner and having
66.36 power to administer oaths. The testimony must be reduced to writing by the person taking

67.1 the deposition or under the person's direction and must then be signed by the witness. A
67.2 person may be compelled to appear and depose and to produce documentary evidence
67.3 in the same manner as witnesses may be compelled to appear and testify and produce
67.4 documentary evidence before the commissioner.

67.5 (f) Witnesses summoned before the commissioner may be paid the same fees and
67.6 mileage that are paid witnesses in the district courts. Witnesses whose depositions are
67.7 taken and the persons taking them may be entitled to the fees that are paid for those
67.8 services in the district court.

67.9 (g) A person is not excused from attending and testifying or from producing books,
67.10 papers, schedules of charges, contracts, agreements, or other documentary evidence
67.11 before the commissioner or in obedience to the subpoena of the commissioner whether
67.12 the subpoena is signed or issued by the commissioner or the commissioner's agent, or in
67.13 any cause or proceeding, criminal or otherwise, based upon or growing out of an alleged
67.14 violation of this chapter because the testimony or evidence, documentary or otherwise,
67.15 required of the person may tend to incriminate the person or subject the person to a
67.16 penalty or forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture
67.17 on account of a matter concerning which the person is compelled, after having claimed
67.18 a privilege against self-incrimination, to testify or produce evidence, documentary or
67.19 otherwise, except that a witness is not exempt from prosecution and punishment for
67.20 perjury committed in testifying.

67.21 Subd. 3. **Penalties related to testimony and records.** (a) A person who neglects
67.22 or refuses to attend and testify, to answer a lawful inquiry, or to produce documentary
67.23 evidence, if it is in the person's power to do so in obedience to the subpoena or lawful
67.24 requirement of the commissioner, is guilty of a misdemeanor.

67.25 (b) A person who willfully:

67.26 (1) makes or causes to be made a false entry or statement of fact in a report required
67.27 under this chapter;

67.28 (2) makes or causes to be made a false entry in an account, record, or memorandum
67.29 kept by a person subject to this chapter;

67.30 (3) neglects or fails to make or to cause to be made full and correct entries in the
67.31 accounts, records, or memoranda of all facts and transactions relating to the person's
67.32 business;

67.33 (4) leaves the jurisdiction of this state;

67.34 (5) mutilates, alters, or by any other means falsifies documentary evidence of a
67.35 person subject to this chapter; or

68.1 (6) refuses to submit to the commissioner, for inspection and copying, any
68.2 documentary evidence of a person subject to this chapter in the person's possession or
68.3 control, is guilty of a misdemeanor.

68.4 (c) A person required by this chapter to file an annual or special report who fails to
68.5 do so within the time fixed by the commissioner for filing the report and continues the
68.6 failure for 30 days after notice of failure to file, is guilty of a misdemeanor.

68.7 (d) An officer or employee of this state who makes public information obtained by
68.8 the commissioner without the commissioner's authority, unless directed by a court, is
68.9 guilty of a misdemeanor.

68.10 Sec. 36. **REPEALER.**

68.11 (a) Minnesota Statutes 2010, sections 28.15; 28A.12; 28A.13; 29.28; 31.031;
68.12 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision
68.13 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3; 31.91; 31A.24; 31A.26; and
68.14 34.113, are repealed.

68.15 (b) Minnesota Rules, parts 1540.0010, subpart 26; 1550.0930, subparts 3, 4, 5, 6,
68.16 and 7; 1550.1040, subparts 3, 4, 5, and 6; and 1550.1260, subparts 6 and 7, are repealed.

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ARTICLE 1 AGRICULTURE POLICY Page.Ln 2.15

ARTICLE 2 FOOD LAW ENFORCEMENT Page.Ln 44.19

17B.01 CITATION.

Sections 17B.01 to 17B.29 may be cited as the Minnesota Grain Inspection, Weighing, Sampling, and Analysis Act.

17B.02 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 17B.01 to 17B.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 the commissioner's authorized representative.

Subd. 3a. **Discount.** "Discount" means an offer or purchase price for grain that is lower than the base or standard price offered by a buyer at a certain time and at a specified location. A discount price represents the lower than normal value of the grain because of inferior quality as determined by measurement of grade, dockage, test weight, or other factors.

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

Subd. 5. **Premium.** "Premium" means an offer or a purchase price for corn, soybeans, or wheat that exceeds the base or standard price offered by a buyer at a certain time and at a specified location. A premium price represents the higher than normal value of the grain because of superior quality as determined by measurement of grade, dockage, test weight, or other factors.

Subd. 6. **Test equipment.** "Test equipment" means the mechanical and electronic devices commonly used in measurement of grain qualities including protein content, moisture content, and test weight.

Subd. 7. **Test equipment operator.** "Test equipment operator" means a person assigned by the management of an elevator or grain storage facility who is chiefly responsible for the preparation and analysis of grain samples for protein content, test weight, moisture content, and other qualities upon which price is determined.

17B.03 GRAIN WEIGHING, SAMPLING, ANALYSIS; LABORATORY EVALUATION.

Subdivision 1. **Commissioner's powers.** The commissioner of agriculture shall exercise general supervision over the inspection, grading, weighing, sampling, and analysis of grain subject to the provisions of the United States Grain Standards Act of 1976 and the rules promulgated thereunder by the United States Department of Agriculture. This activity may take place within or outside the state of Minnesota. Scale testing must be performed at export locations or, upon request from and with the consent of the delegated authority, at domestic locations. Fees for the testing of scales and weighing equipment shall be fixed by the commissioner and must be uniform with those charged by the Division of Weights and Measures of the Department of Commerce.

Subd. 2. **Samples.** The commissioner also may accept upon request samples drawn by and certified to by contracting parties for inspection, analysis and grading by state laboratory personnel.

Subd. 3. **Laboratories.** 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.

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 point within the state, 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 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 the shipper fails to do so, the official weight shall be prima facie evidence of the quantity of grain shipped in such car.

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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.

17B.041 REVIEW OF ACCURACY OF TEST EQUIPMENT AND TEST EQUIPMENT OPERATORS.

Subdivision 1. **Periodic review; equipment and operators.** The commissioner shall implement, by rule, a program for the periodic review of protein analysis, test weight, dockage testing devices, moisture testing equipment, and other equipment used to determine qualities upon which price is determined, and the operators of the equipment. If a review is performed by department personnel at the site of the test equipment, the review must consist of the performance of routine tests and analysis on one or more samples of grain by the principal operator of the test equipment.

Subd. 2. **Tagging of out-of-compliance test equipment.** Personnel of the department who perform an on-site review of test equipment and operators shall prohibit the further use of test equipment that fails to meet and maintain acceptable tolerance levels established by rule.

Subd. 3. **Follow-up review upon request.** The commissioner shall arrange for a follow-up review within seven business days of a periodic review if a follow-up review is requested by the test equipment operator.

Subd. 4. **Request for commissioner to schedule a review.** A purchaser or seller of grain may request the commissioner to perform a review of the test equipment and test equipment operator that is used to test the grain. A signed request must be submitted to the commissioner and upon receipt of a request, the commissioner shall schedule a review at a reasonable time considering other duties and responsibilities of the department personnel.

Subd. 5. **State not liable.** The state is not liable to a seller or purchaser of grain for losses resulting from erroneous tests or analysis by test equipment or test equipment operators, whether reviewed by the department or not, if the commissioner and the department have exercised due care in the scheduling and conduct of reviews under subdivisions 1 and 3.

17B.0451 GRAIN QUALITY; PREMIUMS; DISCOUNTS.

Subdivision 1. **Corn; weight.** A purchaser of corn who provides a discount for corn that falls below the standard test weight for corn must offer an equal or greater premium for corn that has a test weight higher than the standard test weight.

Subd. 2. **Soybeans; weight.** A purchaser of soybeans who provides a discount for soybeans that fall below the standard test weight for soybeans must offer an equal or greater premium for soybeans that have a test weight higher than the standard test weight.

Subd. 3. **Wheat; weight.** A purchaser of wheat who provides a discount for wheat that falls below the standard test weight for wheat must offer an equal or greater premium for wheat that has a test weight higher than the standard test weight.

Subd. 4. **Corn; foreign material.** A purchaser of corn who provides a discount for corn that falls below the standard for foreign material for corn must offer an equal or greater premium for corn that has less foreign material than the standard. For corn, foreign material includes broken corn and foreign material.

Subd. 5. **Soybeans; foreign material.** A purchaser of soybeans who provides a discount for soybeans that fall below the standard for foreign material for soybean must offer an equal or greater premium for soybeans that have less foreign material than the standard.

Subd. 6. **Wheat; foreign material.** A purchaser of wheat who provides a discount for wheat that falls below the standard for foreign material for wheat must offer an equal or greater premium for wheat that has less foreign material than the standard.

Subd. 7. **Corn; damage.** A purchaser of corn who provides a discount for corn that falls below the standard for total damaged kernels for corn must offer an equal or greater premium for corn that has less total damaged kernels than the standard.

Subd. 8. **Soybeans; damage.** A purchaser of soybeans who provides a discount for soybeans that fall below the standard for total damaged kernels for soybeans must offer an equal or greater premium for soybeans that have less total damaged kernels than the standard.

Subd. 9. **Wheat; damage.** A purchaser of wheat who provides a discount for wheat that falls below the standard for total damaged kernels for wheat must offer an equal or greater premium for wheat that has less total damaged kernels than the standard.

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Subd. 10. **Effective date.** Subdivision 1, 2, 3, 4, 5, 6, 7, 8, or 9 is effective 30 days after at least three states representing 30 percent or more of the national production of that grain according to the current United States Department of Agriculture crop production summary requires that a premium be paid for the grain based on the factors provided in the section. Subdivision 1, 2, 3, 4, 5, 6, 7, 8, or 9 applies to purchasers of grain in this state 30 days after the commissioner publishes notice in the State Register that the subdivision is effective. The commissioner must notify affected licensed purchasers of grain that subdivision 1, 2, 3, 4, 5, 6, 7, 8, or 9 is effective by ten days after notice is published in the State Register.

17B.048 LOADS MAY BE AVERAGED.

Subdivision 1. **Loads averaged by mutual agreement.** A purchaser and a seller of grain may, by mutual agreement, average the measurements from multiple loads of acceptable quality grain with respect to those factors used to determine price.

Subd. 2. **Notice to be posted.** A business licensed to buy or receive grain must post the following notice in a conspicuous place. The notice must be at least 8-1/2 by 11 inches in size with letters at least one-half inch in size stating: "UNDER MINNESOTA STATUTES, SECTION 17B.048, A PURCHASER AND A SELLER OF GRAIN MAY, BY MUTUAL AGREEMENT, AVERAGE THE MEASUREMENTS FROM MULTIPLE LOADS OF ACCEPTABLE QUALITY GRAIN WITH RESPECT TO THOSE FACTORS USED TO DETERMINE PRICE." The commissioner shall provide copies of the notice to each business licensed to buy or receive grain.

17B.05 DISPUTES ON GRADES, DOCKAGE; STATE ARBITRATION.

(a) If a disagreement arises between a person receiving and a person delivering grain in this state as to the proper grade, dockage, moisture content, protein content, or other factors used in establishing the market price of the grain, an average sample of the grain in dispute may be taken by either or both of the parties interested. The commissioner shall prescribe a procedure for taking samples and having the samples certified by both the person receiving and the person delivering the grain as being true samples of the grain in dispute on the day the grain is delivered and sampled. Samples must be forwarded prepaid in suitable air-tight containers, with the names and addresses of the person receiving and the person delivering the grain, to the head of the Grain Inspection Division of the department. The head of the Grain Inspection Division shall examine samples submitted, and determine the proper grade, dockage, moisture content, protein content, and other factors used in establishing the market price of the samples of grain in accordance with the inspection rules and the standards established by the United States Department of Agriculture and the state of Minnesota. The test results must be based on the arithmetic mean of the samples submitted. If a person requesting the inspection asks for determination of some but not all of the factors that affect market price, the department shall perform only the requested tests on the samples. A person requesting the inspection must pay the required fee before the results of the inspection are released. The fee charged must be the same as that required for similar services rendered by the Grain Inspection Division. Payment for the grain involved in a disagreement must be made on the basis of grade, dockage, moisture content, protein content, and other market pricing factors certified by the department on samples submitted. An appeal of the determination made by the department may be made as provided under the United States Grain Standards Act, United States Code, title 7, section 79, subsection (c), and the Code of Federal Regulations, title 7, sections 800.125 to 800.140. A person receiving or delivering grain that is subject to this section is liable for damages resulting from not abiding by the determination made by the department. A person who violates this section is subject to penalties prescribed in section 17B.29.

(b) A licensed business that uses test equipment as defined in section 17B.02 to perform tests or analysis on grain to be purchased or placed in storage must post at the place of business a notice informing persons selling or delivering grain of their right to have a representative sample of the grain forwarded to the Grain Inspection Division for analysis. The commissioner shall provide copies of the notice to each business licensed to buy or receive grain. The business must display the notice in a conspicuous location as prescribed by the commissioner.

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 principal assistants selected by the

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

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 as needed 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 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, in accordance with the Administrative Procedure Act, as it deems necessary for the enforcement of this section and section 17B.06. 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.

17B.10 STANDARD SAMPLES.

The commissioner shall furnish standard samples of grain of each Minnesota grade to any grain warehouse operator in the state, upon request and payment of the actual cost thereof.

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, warehouse operator, or carrier or otherwise. The commissioner shall provide inspection service for interhouse transfers or when grain is "run for grade" within a house if requested by the warehouse operator. All rights and privileges covering reinspection and appeal in all such cases are hereby preserved to all interested parties.

17B.12 APPEALS; PROCEDURE.

Any owner, consignee, or shipper of grain, or any warehouse operator, who is dissatisfied with the inspection of grain may appeal to the Board of Grain Standards by filing a notice of appeal with the commissioner and paying a fee to be fixed by the commissioner. The commissioner shall promptly transmit the notice to the Board of Grain Standards. The decision of the board fixing the grade of the grains is final.

17B.13 WEIGHERS, RESTRICTIONS, BONDING.

Subdivision 1. **Export and other terminal points.** The commissioner shall appoint at each designated export terminal point weighers as may be necessary to control the weighing of all grain received at or shipped from each designated export terminal point, except when the shipment is specifically exempted by the administrator of the federal grain inspection service. These weighers shall have the supervision or control of the other weighing of grain at other terminal points when requested by the operator of the facility desiring the service.

Subd. 2. **Licensed persons.** The commissioner may hire as official inspection personnel any individual who is licensed to perform functions of official inspection under the United States Grain Standards Act.

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 signed certificate, 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

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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.

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 the buyer's 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.

17B.15 FEES FOR INSPECTION AND WEIGHING; DEDICATED ACCOUNT.

Subdivision 1. **Administration; appropriation.** The fees for inspection and weighing shall be fixed by the commissioner and be a lien upon the grain. The commissioner shall set fees for all inspection and weighing in an amount adequate to pay the expenses of carrying out and enforcing the purposes of sections 17B.01 to 17B.22, including the portion of general support costs and statewide indirect costs of the agency attributable to that function, with a reserve sufficient for up to six months. The commissioner shall review the fee schedule twice each year. Fee adjustments are not subject to chapter 14. Payment shall be required for services rendered.

All fees collected and all fines and penalties for violation of any provision of this chapter shall be deposited in the grain inspection and weighing account, which is created in the agricultural fund for carrying out the purpose of sections 17B.01 to 17B.22. The money in the account, including interest earned on the account, is annually appropriated to the commissioner of agriculture to administer the provisions of sections 17B.01 to 17B.22. When money from any other account is used to administer sections 17B.01 to 17B.22, the commissioner shall notify the chairs of the Agriculture, Environment and Natural Resources Finance, and Ways and Means Committees of the house of representatives; the Agriculture and Rural Development and Finance Committees of the senate; and the Finance Division of the Environment and Natural Resources Committee of the senate.

Subd. 3. **Minimum charge.** The schedule of fees shall provide that any elevator, mill, or other business requesting a weighing or inspection service, shall pay a minimum charge per hour for each employee requested or assigned. Any fees earned by the employee shall be credited against the charge made therefor. The minimum charge shall be assessed only after taking into consideration all fees earned and all hours charged. When deemed necessary by the commissioner, a charge for actual overtime costs may be made.

17B.16 QUALIFICATIONS.

No inspector, sampler, nor weigher shall during that person's 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 the inspector, sampler, or weigher be a member of any board of trade or organization of like character.

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.

17B.18 OBSTRUCTING WEAHER.

Any person who shall obstruct any state weigher in the performance of the weigher's official duties, by preventing proper access to the scales used in weighing grain or otherwise, is guilty of a misdemeanor.

17B.20 BREAKING OF SEALS; PENALTY; EXAMINATION OF CARS.

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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 the owner's 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, 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.

17B.22 EMPLOYEE; MISCONDUCT; PERSONATION.

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 an official duty shall be guilty of a gross misdemeanor.

17B.28 ENFORCEMENT; RULES.

The commissioner shall enforce the provisions of Laws 1974, chapter 548 including semiannual adjustment of the fees for services rendered and shall promulgate, in the manner provided by law, such rules as the commissioner deems necessary or desirable to carry out the provisions of sections 17B.01 to 17B.29. Until such rules are promulgated, the rules of the Public Service Commission, chapter five, PSC 150 to 169, as amended, promulgated pursuant to Minnesota Statutes, sections 14.05 to 14.28, and not inconsistent with sections 17B.01 to 17B.29, 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.

17B.29 PENALTIES.

Any person who shall violate any of the provisions of sections 17B.01 to 17B.29 where no specific penalty is prescribed shall be guilty of a gross misdemeanor.

25.33 DEFINITIONS.

Subd. 18. **Contract feeder.** "Contract feeder" means a person who as an independent contractor, feeds commercial feed to animals, pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.

27.19 VIOLATIONS, PENALTIES.

Subd. 2. **Civil penalty.** (a) A person who violates a provision of this chapter or rules adopted under this chapter is subject to a civil penalty not to exceed \$500 per violation.

(b) In addition, the person's license may be suspended, revoked, or canceled by the commissioner, upon ten days' notice and opportunity to be heard. Action under this subdivision is a civil penalty.

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(c) A civil penalty amount received by the commissioner under this section must be deposited in the wholesale produce dealer account.

Subd. 3. **Criminal penalty.** (a) A person who willfully violates a provision of this chapter or rules adopted under this chapter is guilty of a misdemeanor.

(b) Upon conviction, or upon conviction in a federal court for violation of the federal statutes relative to fraudulent use of the mails or in any court of other criminal acts under a federal food or drug statute or a statute of this state administered by the commissioner of agriculture pertaining to the conduct of the person's business, the commissioner may immediately revoke and cancel the license of the person convicted, without further hearing.

27.20 ENFORCEMENT.

The commissioner shall be charged with the enforcement of the provisions of sections 27.01 to 27.14 and 27.19 and of the rules made and published thereunder. Upon complaint made it shall be the duty of the county attorney to prosecute all cases arising in the attorney's county for violation of sections 27.01 to 27.14 and 27.19, or of the rules made and published thereunder. The commissioner and duly authorized agents and inspectors appointed by the commissioner for the purpose of enforcing the provisions of sections 27.01 to 27.14 and 27.19 shall have the power of police officers in this enforcement.

28.15 PENALTIES.

Any person, firm, or corporation violating any provision of this chapter relating to cold storage warehousing is guilty of a misdemeanor for a first offense and for the second or subsequent offense, is guilty of a gross misdemeanor.

28A.12 VIOLATIONS.

Any person who does not comply with the provisions of sections 28A.01 to 28A.16 or rules issued thereunder shall be guilty of a misdemeanor.

28A.13 POWER TO SUSPEND OR REVOKE LICENSES.

Whenever the commissioner has reason to believe that any provision of law relating to the manufacturing, processing, distribution, handling and sale of food, or rule issued by the commissioner thereunder, has been violated, the commissioner may suspend or revoke a license or permit granted under section 28A.04, or may limit the permission of the license or permit to only those aspects of the licensee's or permittee's business which are in conformity with the law and rules. Any person may be restrained by injunction from engaging in any business operation or category thereof for which that person is not validly licensed or for which a permit has not been issued. This suspension or revocation shall be made only after notice to the licensee or permittee and an opportunity to be heard with reference to the grounds for suspension or revocation, and this action by the commissioner shall in no way exempt such licensee or permittee from the penalties otherwise imposed in this chapter. The commissioner shall serve upon the licensee or permittee by registered letter containing a copy thereof, an order to show cause why the license or permit should not be permanently revoked, stating the grounds thereof, and the time and place of hearing, which time shall not be less than ten days after the date of mailing of the order. At the appointed time and place, and at such times as the matter may be adjourned to, the commissioner, or an appointed hearing officer, shall hear all proper evidence relating to the cause of the proposed revocation and, within a reasonable time thereafter, shall make and file a decision of the matter and forthwith mail to the licensee or permittee a copy thereof.

29.28 VIOLATIONS, PENALTIES.

A person violating this chapter is guilty of a misdemeanor. Each day a violation continues is a separate offense.

31.031 INJUNCTION PROCEEDINGS.

In addition to the remedies hereinafter provided and irrespective of whether there exists an adequate remedy at law, the commissioner is hereby authorized to apply to the district courts of this state, and other appropriate courts, for a temporary restraining order or a temporary or permanent injunction restraining any person from violating any provisions of section 31.02, and

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prohibiting any person from engaging in any actions which the commissioner deems likely to cause or result in violations of section 31.02.

31.041 REPORTING MINOR VIOLATIONS.

Nothing in the Minnesota Food Law shall be construed as requiring the commissioner to report minor violations for the institution of proceedings when the commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

31.05 EMBARGOES AND CONDEMNATIONS.

Subdivision 1. **Definitions.** As used in this section, "animals" means cattle; swine; sheep; goats; poultry; farmed cervidae, as defined in section 35.153, subdivision 3; llamas, as defined in section 17.455, subdivision 2; ratitae, as defined in section 17.453, subdivision 3; equines; and other large domesticated animals.

Subd. 1a. **Tag or notice.** A duly authorized agent of the commissioner who finds or has probable cause to believe that any food, animal, or consumer commodity is adulterated or so misbranded as to be dangerous or fraudulent, or is in violation of section 31.131 shall affix to such article or animal a tag or other appropriate marking giving notice that such article or animal is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article or animal by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article or animal by sale or otherwise without such permission.

Subd. 2. **Action for condemnation.** When an article or animal detained or embargoed under subdivision 1 has been found by such agent to be adulterated, or misbranded, the agent shall petition the district court in the county in which the article or animal is detained or embargoed for an order and decree for the condemnation of such article or animal. Any such agent who has found that an article or animal so detained or embargoed is not adulterated or misbranded, shall remove the tag or other marking.

Subd. 3. **Remedies.** If the court finds that a detained or embargoed article or animal is adulterated or misbranded, such article or animal shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or animal or the claimant's agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article or animal, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article or animal shall be so labeled or processed, has been executed, may by order direct that such article or animal be delivered to claimant thereof for such labeling or processing under the supervision of an agent of the commissioner. The expense of such supervision shall be paid by claimant. The article or animal shall be returned to the claimant and the bond shall be discharged on the representation to the court by the commissioner that the article or animal is no longer in violation and that the expenses of such supervision have been paid.

Subd. 4. **Duties of commissioner.** Whenever the commissioner or any of the commissioner's authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit, or other perishable articles of food which are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the commissioner, or the commissioner's authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food, and no one shall have any cause of action against the commissioner or the commissioner's authorized agent on account of such action.

Subd. 5. **Emergency response.** In the event of an emergency declared by the governor's order under section 12.31, if the commissioner finds or has probable cause to believe that livestock, food, or a consumer commodity within a specific area is likely to be adulterated because of the emergency or so misbranded as to be dangerous or fraudulent, or is in violation of section 31.131, subdivision 1, the commissioner may embargo a geographic area that is included in the declared emergency. The commissioner shall provide notice to the public and to those with custody of the product in as thorough a manner as is practical under the emergency circumstances.

31.14 DUTY TO PROSECUTE.

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It shall be the duty of each county attorney, or city attorney to whom the commissioner reports any violation of the Minnesota Food Law, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of the Minnesota Food Law is reported to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present views before the commissioner or the commissioner's designated agent, either orally or in writing, in person, or by attorney, with regard to such contemplated proceeding.

31.393 PENALTIES.

Whoever shall, without permission of the commissioner, use any brand, label, or device authorized by the commissioner, or who shall fail to furnish reports containing information required or within the time specified, or who shall fail to obey any lawful direction of the commissioner given while carrying out the provisions of sections 31.31 to 31.392, or shall use any raw materials, articles, or substances forbidden to be used in canning, packing, or preserving vegetables or fruits, or shall violate, or fail to comply with, any of the provisions of sections 31.31 to 31.392, or the rules made thereunder, shall be guilty of a misdemeanor.

31.58 VIOLATIONS, PENALTIES.

Any person violating any of the provisions of sections 31.51 to 31.56 or any rules made hereunder is guilty of a misdemeanor; and upon conviction, may be punished by a fine of not less than \$25, or by imprisonment in the county jail for not less than 30 days for the first offense, and in the sum of not less than \$50 or by imprisonment in the county jail for not less than 60 days for each subsequent offense.

31.592 PENALTY.

Any slaughterer who by act or failure to act violates section 31.591 is guilty of a misdemeanor and shall be punished accordingly.

31.621 SALE OF HORSE MEAT FOR HUMAN CONSUMPTION.

Subd. 5. **Violation a misdemeanor.** Any person violating any of the provisions of this section shall be deemed guilty of a gross misdemeanor.

31.631 HORSE MEAT INTENDED FOR OTHER THAN HUMAN CONSUMPTION.

Subd. 4. **Violation, penalty.** Any person violating any provisions of this section shall be guilty of a gross misdemeanor.

31.633 MEAT OR POULTRY SUBSTITUTES; INDICATION ON MENU; PENALTIES.

Subd. 2. **Misdemeanor.** Any person who violates the provisions of subdivision 1 is guilty of a misdemeanor.

31.681 VIOLATIONS.

Any person violating the provisions of sections 31.651 to 31.681 or the rules made pursuant thereto shall be guilty of a misdemeanor.

31.74 SALE OF IMITATION HONEY.

Subd. 3. **Enforcement, injunctive relief.** The commissioner of agriculture shall enforce the provisions of this section and may enjoin the sale or offer for sale of any product packaged, labeled or advertised in violation of this section.

31.91 PENALTIES.

Subdivision 1. **Misdemeanor.** Except where otherwise specifically provided, any person violating, or failing to comply with, any of the provisions of this chapter or any act amendatory

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thereof, or any of the provisions of any of the rules, definitions, standards, or rulings made and filed with the secretary of state thereunder, shall be guilty of a misdemeanor. Each separate violation of this chapter, or any act amendatory thereof, shall be, unless otherwise specifically provided therein, a separate offense, except that in the case of a violation through continuing failure or neglect to obey the provisions of this chapter, or any act amendatory thereof, each day of continuance of such failure or neglect shall be deemed a separate offense.

Subd. 2. **Injunction.** In addition to the remedies herein provided, the commissioner may commence proceedings in the district court of any county in which any violation of this chapter, or any act amendatory thereof, has occurred or is threatening to occur for a temporary or permanent injunction against any person violating or threatening to violate any provision of this chapter, or any act amendatory thereof.

31A.24 SEIZURE AND CONDEMNATION.

Subdivision 1. **What can be seized.** This section applies to a carcass, part of a carcass, meat or meat food product of animals or to a dead, dying, disabled, or diseased animal that is being transported in intrastate commerce, or is held for sale in this state after transportation in intrastate commerce. These articles or animals may be proceeded against, seized, and condemned, if (1) they are or have been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of sections 31A.01 to 31A.31; (2) they are usable as human food and are adulterated or misbranded; or (3) they are in any other way in violation of sections 31A.01 to 31A.31. The department may act against the article or animal at any time, on a complaint in the district court of the judicial district where the article or animal is found.

Subd. 2. **Sale of condemned items.** If the article or animal is condemned it must, after entry of the decree, be disposed of by destruction or sale as the court directs. If it is sold, the proceeds must be paid to the state, less the court costs and fees and storage and other proper expenses, but the article or animal must not be sold contrary to this chapter, the Federal Meat Inspection Act, or the Federal Food, Drug, and Cosmetic Act. If a bond is delivered conditioned that the article or animal must not be sold or otherwise disposed of contrary to this chapter or federal law, the court may direct that the article or animal be delivered to its owner subject to supervision by authorized representatives of the commissioner that is necessary to assure compliance with the applicable laws.

Subd. 3. **Types of proceedings; awards of costs.** When a decree of condemnation is entered against the article or animal and it is released under bond or destroyed, court costs and fees and storage and other proper expenses must be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings for condemnation must be in rem. Either party may demand trial by jury of any issue of fact joined in any case, and all proceedings must be at the suit of and in the name of the state.

This section does not change the authority for condemnation or seizure conferred by other provisions of this chapter, or other laws.

31A.26 VIOLATIONS AND PENALTIES.

Subdivision 1. **Misdemeanors.** A person who violates a provision of this chapter or a rule adopted under it for which no other criminal penalty is provided is guilty of a misdemeanor.

Subd. 2. **Minor violations.** This chapter does not require the commissioner to report for prosecution or for the institution of injunction proceedings minor violations of sections 31A.01 to 31A.31 if the commissioner believes that the public interest will be adequately served by a suitable written warning.

34.113 PENALTY.

Any person violating any of the provisions of sections 34.02 to 34.11, or of any rules made thereunder or now in force, shall be guilty of a misdemeanor and be punished by a fine of not less than \$25 or by imprisonment in the county jail for not less than 30 days for the first offense; and in the sum of not less than \$50 or by imprisonment in the county jail for not less than 60 days for each subsequent offense.

35.243 RULES FOR CONTROL OF BRUCELLOSIS IN CATTLE.

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The Board of Animal Health shall adopt rules to provide for the control of brucellosis in cattle. The rules may include provisions for quarantine, tests, and vaccinations, and such other measures as the board deems appropriate.

35.255 PSEUDORABIES PROGRAM RULES.

The Board of Animal Health shall adopt rules to implement a program to control pseudorabies in swine, including pseudorabies testing of breeding swine and restricted movement of feeder pigs.

35.71 UNCLAIMED AND UNREDEEMED ANIMALS IMPOUNDED; SCIENTIFIC USE OR OTHER DISPOSITION.

Subdivision 1. **Definitions.** As used in this section, "establishment" means any public or private agency, person, society, or corporation having custody of animals which are seized under the authority of the state or any political subdivision of the state and "institution" means a school or college of agriculture, veterinary medicine, medicine, pharmacy, or dentistry, or an educational or scientific establishment properly concerned with investigation or instruction concerning the structure or functions of living organisms or the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

Subd. 2. **Application for license.** An institution may apply to the board for a license to obtain animals from establishments. If, after investigation, the board finds that the institution requesting a license is a fit and proper agency to receive a license, and that the public interest will be served by granting it a license, the board may issue a license to the institution authorizing it to obtain animals under this section.

Subd. 3. **Stray animals; seizure, disposition.** All animals seized by public authority must be held for redemption by the owner for at least five regular business days of the impounding agency or for a longer time specified by municipal ordinance. For the purpose of this subdivision, "regular business day" means a day during which the establishment having custody of an animal is open to the public not less than four consecutive hours between the hours of 8:00 a.m. and 7:00 p.m. Establishments must maintain the following records of the animals in custody, and preserve the records for at least six months:

(a) the description of the animal by species, breed, sex, approximate age, and other distinguishing traits;

(b) the location at which the animal was seized;

(c) the date of seizure;

(d) the name and address of the person from whom any animal three months of age or over was received; and

(e) the name and address of the person to whom any animal three months of age or over was transferred.

The records must be maintained in a form permitting easy perusal by the public. A person may view the records and animals in custody at any time during which the establishment is open to the public. At the end of the five-day period, all animals which remain unredeemed must be made available to any licensed institution which has requested that number of animals. However, if a tag affixed to the animal or a statement by the animal's owner after the animal's seizure specifies that the animal may not be used for research, the animal must not be made available to any institution and may, in the discretion of the establishment, be destroyed after the expiration of the five-day period. If a request is made by a licensed institution to an establishment for more animals than are available at the time of the request, the establishment must withhold from destruction all unclaimed and unredeemed animals until the request has been filled. The actual expense of holding animals beyond the time of notice to the institution of their availability must be borne by the institution receiving them. An establishment which fails or refuses to comply with this section is ineligible for any further public funds from any county or municipality. Upon receipt of a sworn statement by an authorized officer or employee of a licensed institution of noncompliance by any establishment with this section, the treasurer of any municipality or other political subdivision of the state may not pay any public funds to the establishment until the complainant withdraws its statement of noncompliance or until the board either determines that the complaint of noncompliance was without foundation or that the establishment has given adequate assurance of future compliance and the treasurer of the municipality or other political subdivision has been notified of the determination in writing. If it appears upon a person's complaint that an officer, agent, or employee of an establishment is violating or failing to carry out the provisions of this section, the attorney general or county attorney of the county in which the

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establishment is located, in addition to any other remedies, may bring an action in the name of the state against the establishment, officer, agent, or employee to enjoin compliance with this section.

Subd. 4. **Transportation of animals.** A licensed institution must provide, at its own expense, for the transportation of animals from the establishment to the institution and must use them only in the conduct of its scientific and educational activities.

Subd. 5. **Annual license fee.** Each licensed institution must pay to the board a license fee of \$50 for each calendar year or part of a calendar year. License fees must be deposited in the general fund of the state treasury.

Subd. 6. **Revocation of license.** After 15 days' written notice and an opportunity to be heard, the board may revoke the license granted any institution if the institution has (1) violated this section, or (2) failed to comply with the conditions of the board in respect to the issuance of its license.

Subd. 7. **Rules.** The board may adopt rules consistent with this section necessary to carry out the provisions of this section, and may, if the board considers it advisable or in the public interest, inspect or investigate any institution which has applied for a license or has been granted a license under this section.

35.72 MILK OR CREAM; TESTING BY BOARD.

Subdivision 1. **Establishment defined.** As used in this section "establishment" means a creamery, milk or cream collecting station, or place of business where milk or cream is purchased or assembled for processing or sale.

Subd. 2. **Right of entry on premises.** The board or its authorized agents may enter the premises or buildings of any establishment to collect samples of milk or cream delivered to the establishment.

Subd. 3. **Samples, procurement.** Upon demand of the board or its authorized agents, the operator of an establishment shall submit containers of milk or cream delivered to the establishment to the board or agents before any milk or cream is removed or any substance or thing is added, and shall allow the board or agent to take a sample of one ounce in weight or less of milk or cream from each container for the purpose of applying any recognized test to determine the existence of disease in the cattle which produced the milk or cream.

Subd. 4. **Names, addresses.** The operator of the establishment shall furnish the board or agents the name and address of the person delivering each container of milk or cream to the establishment, and the name and address of the owner or caretaker of the cattle which produced the milk or cream.

Subd. 5. **Contamination, prevention.** The board or agent shall use due diligence to prevent contamination of the milk or cream while procuring samples and to delay as little as possible the normal operation of the establishment.

41B.048 AGROFORESTRY LOAN PROGRAM.

Subd. 7. **Revolving fund.** There is established in the state treasury an agroforestry loan program revolving fund that is eligible to receive appropriations or the proceeds of bond sales. All repayments of financial assistance granted under subdivision 2, including principal and interest, must be deposited into this fund. Interest earned on money in the fund accrues to the fund, and money in the fund is appropriated to the commissioner for purposes of the agroforestry loan program, including costs incurred by the authority to establish and administer the program.

223.16 DEFINITIONS.

Subd. 7. **Independent grain buyer.** "Independent grain buyer" means a person without a private or public grain warehouse license who is licensed to engage in the business of purchasing grain for resale.

223.18 PENALTY.

A person buying grain without first obtaining a grain buyer's license is guilty of a misdemeanor. Each day of operation without a grain buyer's license constitutes a separate offense. In case of license revocation, no new license shall be granted to the person whose license was revoked nor to anyone either directly or indirectly engaged with the person in the licensed business for two years. A grain dealer who withholds records from the commissioner, keeps or

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files records knowing them to be false, alters records fraudulently, or presents records to the commissioner knowing them to be false, is guilty of a gross misdemeanor.

232.21 DEFINITIONS.

Subd. 4. **Condition one bond.** "Condition one bond" means a bond for a public grain warehouse operator when grain belonging to persons other than the warehouse operator is accepted for storage.

232.24 SCHEDULE OF INSPECTION, FINANCIAL REPORTS.

Subd. 3. **Inspection, sampling.** The commissioner or the commissioner's authorized agent shall sample, inspect, and grade grains received or distributed from grain warehouses at such time and place and to such an extent as the commissioner may deem necessary to determine whether sampling, inspection, and grading conducted by the warehouse operator conforms with the standards set by the Board of Grain Standards. The commissioner may obtain any additional information the commissioner deems necessary and is authorized to enter upon any public or private premises during regular business hours in order to carry out the provisions of this subdivision.

232.25 PENALTY.

A person who violates the provisions of sections 232.20 to 232.25 is guilty of a misdemeanor. The department may, if it finds after a hearing that any of the provisions of sections 232.20 to 232.25 have been violated by a person holding a license to operate a public grain warehouse, suspend or revoke the license. In case of revocation, no new license shall be granted to the person whose license was revoked nor to any one either directly or indirectly engaged in the licensed business for two years.

233.01 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

Subd. 1a. **Department.** "Department" means the Department of Agriculture.

Subd. 2. **Warehouse operator.** "Warehouse operator" means the party, copartnership, association, or corporation engaged in the operation of a public terminal warehouse.

Subd. 3. **Public terminal warehouse.** "Public terminal warehouse" means an elevator or warehouse designated as a terminal point in which grain not belonging to the warehouse operator is received for storage, whether for hire or without charge. The term includes warehouses where grain stored for different owners is mixed with the grain of other owners and where the identity of the different lots or parcels is not preserved and warehouses where grain other than that of the warehouse operator is stored in separate bins and its identity preserved.

233.015 EXCLUSION.

Provisions of sections 233.03, 233.04, 233.06, and 233.09 that relate to grade and dockage do not apply to a public terminal warehouse if:

(1) the warehouse is used and operated exclusively for cleaning, drying, cooling, mixing, and conditioning for the market of grain belonging to others and storing that grain until it is disposed of by its owner; and

(2) in that warehouse, the grain of each owner or depositor is stored in separate bins or tanks and is kept separate from the grain of every other owner or depositor, and no grain belonging to that warehouse operator is received, handled, or stored.

233.017 RECEIPT ISSUANCE.

If grain is delivered to a public terminal warehouse, the receipt must be issued in the name of the owner or owner's agent unless otherwise ordered in writing.

233.02 RULES.

The department shall make necessary rules in regard to the receipt, care, and delivery of grain, the issuance, cancellation, division, and consolidation of warehouse receipts, and other

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matters relative to the management of the business of public terminal warehouses the department considers proper, consistent with this chapter.

233.03 DUTIES OF A WAREHOUSE OPERATOR.

Subdivision 1. **Receipt of grain; inspection.** A warehouse operator shall receive for storage and shipment, to the extent of warehouse capacity, all grain in suitable condition for storage tendered in the usual course of business, without discrimination of any kind. Grain must be inspected on receipt and stored with other grain of the same grade subject to other provisions of this chapter.

Subd. 2. **Warehouse receipt; form.** At the time of receipt of the grain, the warehouse operator shall issue and deliver to the owner or consignee a warehouse receipt, authorized by the department, in the following form:

Warehouse Receipt No.
..... Elevator Co.
....., Minn., The
..... Elevator Company has received in store in its elevator
known as situated at
..... Minnesota, for storage
from owner, bushels of which has been
duly inspected by a duly authorized inspector of grain appointed
by the Department of Agriculture of Minnesota, or licensed by the
Secretary of Agriculture of the United States, and has been graded
by the inspector as No. and is that grade.
This grain, or an equal amount of grain of the same kind and grade,
is deliverable upon the return of this receipt properly endorsed by
the owner above named and the payment of all lawful charges; in
case of grain stored separately in a special bin, at the request of the
owner or consignee, the identity of the grain will be preserved
while in store and the grain will be delivered as a separate lot or
parcel, in accordance with the law, upon surrender of the receipt.
Loss by fire, heating or the elements is at the owner's risk.

Countersigned by

.....
Secretary

The Elevator Company
conducts this elevator as a public terminal warehouse and receives
and stores therein grain of others for hire.
..... bushels grade.

.....
By

STUB RECORD

	Initial	Car No.	Bushels
Receipt No			
Received in store from			
.....			
Bushels Lbs..... Grade.....			
Car No.	Bushels	Car No.	Bushels

Subd. 3. **Other duties regarding receipts.** The receipts must be consecutively numbered and delivered to the owner immediately upon receipt of each lot or parcel of grain, giving the

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grain's correct grade and weight. The manner of receipt of the grain must be stated in the receipt, along with the number and distinctive mark of each car, and the name of each barge or other vessel. The failure to issue a receipt as directed or the issuance of a warehouse receipt that does not comply with this section is a misdemeanor. A warehouse receipt may, at the request of the owner or consignee, provide for delivery of the grain it represents to the depositor or another specified person, and may have printed or stamped on it the words "nonnegotiable."

233.04 GRAIN REDELIVERED ON WAREHOUSE RECEIPT.

Upon return of the receipt for grain not stored in separate bins to the proper warehouse operator, properly endorsed, and upon payment or tender of all advances and legal charges, grain of the same grade and quantity named in the receipt must be delivered to the holder of the receipt within 24 hours after facilities for receiving the grain have been provided. The identical grain, if stored in separate bins, must be delivered. A warehouse operator who fails to deliver it is liable to the owner in damages at the rate of one cent a bushel for each day's delay, unless the property is delivered to the several owners in the order of demand as rapidly as it can be done by ordinary diligence. If the warehouse operator fails to deliver the grain, the person entitled to it may recover it if it is kept in separate bins, the same amount of grain of the same grade if it is stored with other grain, or the value of the grain in a civil action. A warehouse operator who fails to deliver grain to the person entitled to it is guilty of theft.

233.05 WAREHOUSE OPERATOR NOT TO SELL WITHOUT AUTHORITY FROM OWNER.

A warehouse operator may not, in violation of this chapter, sell or otherwise dispose of or deliver out of store any grain stored in the warehouse without the express authority of its owner and the return of the storage receipt, mix together grain of different grades in store, select grain of different qualities but of the same grade for storage or delivery, tamper with grain of others while in the operator's possession or custody with the purpose of securing personal profit or a profit for another person, or attempt to deliver grain of one grade for that of another. A person who violates this section must be punished by a fine of not more than \$3,000 or imprisonment in the Minnesota Correctional Facility-Stillwater for not more than five years, or both.

233.06 GRAIN STORED IN SEPARATE BINS.

At the request of the owner or consignee, a warehouse operator shall store grain of an owner or consignee in separate bins bearing the name of the owner or consignee. The warehouse operator shall issue to the owner or consignee, distinguishing whether owner or consignee, a warehouse receipt or receipts for all or any part of the grain. Every warehouse receipt must contain the name of the owner or consignee and state the amount, kind, and grade of grain for which the receipt is issued and that the grain of the owner or consignee is stored separately from the grain of any other owner or consignee. The warehouse operator shall, on presentation and surrender of the warehouse receipt bearing the proper endorsement of the person to whom it was issued, deliver to the person surrendering the receipt the amounts of the same grain demanded and of the same grade as called for by receipt. The warehouse operator, at the request of the owner or consignee, shall clean, dry, mix or otherwise improve the condition or value of the grain, and it must be delivered separately from the grain of any other owner or consignee upon the order of the owner or consignee, in accordance with the terms of the warehouse receipt issued for it and endorsed by the owner or consignee. A special bin receipt, at the request of the owner or consignee, may have printed or stamped on it the words "nonnegotiable" and the delivery of the identical grain described in it must be a sufficient delivery and satisfaction of the receipt.

233.07 INSPECTION AT PUBLIC TERMINAL WAREHOUSE.

Grain received at a public terminal warehouse must be inspected and graded at the time of its receipt by an inspector licensed by the United States Department of Agriculture under the United States Grain Standards Act if the grain has not previously been inspected by a licensed inspector. No inspection is required of grain being moved between elevators owned or operated by the same person, firm, or corporation. Interested parties have the right of reinspection and appeal.

233.08 LICENSE.

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No public terminal warehouse may be operated or receive grain for storage until the owners or parties in charge and operating the warehouse obtain a license from the department authorizing the warehouse operator to operate a warehouse under this chapter. Licenses issued or renewed annually expire at midnight on June 30 following the date of issuance or renewal. Before a license may be issued, written application must be made to the department for a license specifying the kind of warehouse, the nature of its construction, its capacity and location, the name of the firm or corporation operating it, each member of the firm or officer of the corporation, and other facts the department requires. The department shall act on the application with reasonable dispatch. If no reason exists for refusing the application, a license must be issued upon the payment of the fee set by the commissioner. The amount of the fee must be set to cover the costs of administering and enforcing this chapter.

A license may be revoked by the department for violation of the law or a rule of the department, but may only be revoked upon a written notice or complaint specifying the charges and after a hearing before the department. A license may be refused to a warehouse operator whose license has been revoked within the preceding year.

Fees collected under this chapter must be paid into the grain buyers and storage account established in section 232.22.

233.09 STATEMENT OF GRAIN IN WAREHOUSE; REPORTS.

A warehouse operator shall post conspicuously in the operator's business office by Tuesday morning of each week a statement of the amount of grain of each kind and grade in store in the warehouse at the close of business on the preceding Saturday and send a similar statement, verified by the operator or a bookkeeper having personal knowledge of the facts, to the warehouse registrar of the department. The operator shall also make a daily statement to the registrar of:

(1) the amount of each kind and grade of grain received in store in the warehouse the preceding day;

(2) the amount shipped or delivered, and the warehouse receipt canceled on the delivery, stating the number of each receipt and the amount, kind, and grade of grain shipped or delivered on it;

(3) the amount, kind, and grade of grain delivered for which no warehouse receipt was issued and how and when the grain was received, the aggregate of reported cancellation and delivery of unreceipted grain corresponding in amount, grade, and kind with the shipments and deliveries reported; and

(4) the receipts canceled upon issue of new ones, with the number of each canceled receipt and the one issued in its place.

The operator shall furnish the registrar further information regarding receipts issued or canceled necessary for a correct record of the receipts and of grain received and delivered. The operator shall send a verified statement to the department of the condition and management of each terminal warehouse under the operator's control at the times and in the form the department requires.

233.10 PUBLICATION OF RATES; CHARGES FOR HANDLING AND STORING GRAIN.

A warehouse operator operating a public terminal warehouse located within the switching limits of St. Paul, Minneapolis, Duluth, or other terminal points under section 233.01, subdivision 3, shall annually publish a schedule of storage rates for the ensuing year. The schedule must be published during the first week in July in a newspaper published in the place where the warehouse is situated. The newspaper in which the rates are published must be a daily, if there is one. The rates may not be increased during the year and the warehouse operator may not discriminate in applying rates. The charges for receiving, handling, and delivering grain at a warehouse and the charges for storing grain in a warehouse must be fixed by the department, subject to Minnesota Statutes 1969, chapter 15.

233.11 INSPECTION.

A person who has an interest in grain stored in a public terminal warehouse and a state grain inspector have the right to examine stored grain and all parts of the warehouse at all times during ordinary business hours. The warehouse operator and the operator's agents shall furnish proper facilities for an examination under this section.

233.12 RIGHTS OF OWNER AND SHIPPER EXTENDED TO OTHERS.

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A right or privilege granted by this chapter to the owner or shipper of grain for storage in a public terminal warehouse and a right granted to that owner while the grain remains in and is removed from the warehouse, is extended to and may be exercised by an individual or association of individuals, copartners, cooperative company or association, or corporation. A right or privilege granted by this chapter to citizens, associations, or corporations in this state may be exercised by a citizen, association, or corporation of another state who may exercise the same rights and privileges as citizens, associations, or corporations of this state and be subject to the same restrictions and liabilities.

233.22 WITHHOLDING GRAIN.

The owner or consignee of grain consigned to a public terminal warehouse may have the grain withheld from storage and delivered to or at the direction of the owner or consignee by giving notice to the carrier who possesses the grain and to the warehouse operator to whom the grain was consigned, and paying all charges that may be a lien on the grain. The grain must be removed within 24 hours after the car or boat containing it is placed in a proper and convenient place for unloading. If the grain is delivered contrary to the notice, the warehouse operator and the carrier delivering the grain are jointly and severally liable to the owner for double its value.

233.23 UNAUTHORIZED STORAGE.

No contract, agreement, understanding, or combination may be entered into between a warehouse operator and a common carrier or other person for the delivery of grain at a public terminal warehouse contrary to the direction of the owner. No grain may be delivered or received contrary to the direction of the owner.

233.24 INSPECT SCALES.

Scales in public terminal warehouses or scales used for weighing grain in railroad yards at terminal points are under the control of the Department of Agriculture and subject to inspection by it and are exempt from the jurisdiction of sealers of weights and measures. They must be inspected at the request of a person interested in grain weighed or to be weighed on them. If scales are found to be incorrect, the cost of inspection must be paid by their owner or by the person requesting inspection. No scales found to be incorrect may be used until they are reexamined and found correct.

233.33 POLICE PROTECTION.

Subdivision 1. **Protection to grain.** Railroad companies, warehouse operators, and millers operating at the terminal points of this state shall furnish sufficient police protection at their terminal yards and on their terminal tracks to securely protect all cars containing grain while in their possession, shall prohibit and restrain all unauthorized persons from entering or loitering in or about their respective railroad yards or tracks and from entering any cars of grain under their control or removing grain from the cars, and shall employ and detail security guards as necessary to carry out this section.

Subd. 2. **Violations and penalties.** A railroad company, warehouse operator, or miller operating at a terminal point of this state who fails to comply with this section is guilty of a misdemeanor. An unauthorized person who removes grain from a car before the car is unloaded or who sweeps or removes grain from a car after it is unloaded at a terminal point in this state, is guilty of a misdemeanor.

234.01 PURPOSE.

The purpose of this chapter is to provide the owner of grain in this state with means of warehousing the grain on the farm, under proper restrictions and safeguards, as a basis for credit and to aid in the orderly marketing of the grain.

234.03 DUTIES OF DEPARTMENT.

The department shall carry out this chapter and may:

- (1) make rules that are necessary or desirable to carry out this chapter and consistent with it;
- (2) make reasonable and necessary rules about the construction and maintenance of granaries, cribs, bins, or other receptacles to protect the grain stored in them under this chapter; and

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(3) prepare and have printed under the same conditions as other state printing necessary blanks, forms, and other printed matter, charging a fee for the printed matter that will meet the cost of production.

234.04 SUPERVISORY BOARDS.

The department may appoint local supervisory boards for a county or counties when the department considers them necessary to supervise, under the direction of the department, grain in storage, issuance of certificates against the grain, and carrying out and enforcing this chapter.

Local supervisory boards shall consist of not less than three nor more than seven members, each of whom is a producer of grain in the state and a Minnesota resident. Each member, upon appointment, shall qualify by taking oath similar to that required of public officials and continue in office until a successor is appointed by the department. The department may fill vacancies arising by reason of the resignation, death, or removal by it of a member.

The members of a local supervisory board shall select officers, keep records, and perform duties the department requires.

234.05 PRIVILEGES OPEN TO ALL.

This chapter covers all owners equally. An owner desiring to place grain in storage and have certificates issued against the grain under this chapter shall apply to the department in the manner and upon the forms provided by it for that purpose.

234.06 LOCAL SEALER.

The department may, upon the recommendation of a local supervisory board or upon the request in writing of ten or more producers of grain, appoint a local sealer for all or part of a county or counties. A sealer must take an oath similar to that required of public officials. A sealer appointed under this section has the same authority as a peace officer with respect to this chapter, rules adopted under it, and its enforcement.

234.08 DUTIES OF SEALER.

Under the direction of the department, a sealer shall:

- (1) supervise the storage of grain;
- (2) ascertain the amount stored by each owner who wants to come under this chapter;
- (3) determine the exact grade and quantity of stored grain, so far as possible under rules made under this chapter;

(4) ascertain, before issuing a certificate, that the bin, crib, granary, or other receptacle in which grain is stored is satisfactory for the storage of that grain and that the receptacle conforms to the applicable rules of the department.

A sealer shall, before delivering a certificate to an owner, ascertain that there are no other certificates outstanding upon the grain and seal the receptacle in which the grain is stored as provided in this chapter. The sealer shall then make periodic inspections of the sealed receptacles at times and in the manner the department requires, but at least once every 90 days. The sealer shall send to the department, and to the owner when requested, a report or affidavit concerning each periodic inspection in the form required by the department. The report must cover the amount and condition of the grain under seal and the condition of the structure within which it is stored.

234.09 SEALER MAY INSPECT GRAIN.

The sealer shall have authority at all times to enter premises to inspect grain in storage or in the granary, crib, bin, or other receptacle in which it has been stored. Acceptance of a certificate by an owner is consent for the sealer or a person authorized by the department to enter and inspect the sealed grain and the receptacle in which it is stored.

234.10 SEALS.

Seals under this chapter must be furnished by the department and contain the following language:

"Sealed by authority state of Minnesota, Department of Agriculture.

Any person tampering with this seal or removing any grain herein shall be subject to a fine and imprisonment as provided by law.

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Consecutive No....."

234.11 CERTIFICATES.

Certificates must be upon forms prepared and furnished by the department and contain:

- (1) the date and consecutive number of the certificate;
- (2) a particular description of the receptacle in which the grain is stored and of the premises on which it is located;
- (3) a description of the grain as required by rules made under this chapter;
- (4) the name of the owner or owners, whether ownership is sole, joint, or in trust, and in case of tenants, the date of the expiration of the lease;
- (5) a statement that no other certificates are outstanding on the grain represented by the certificate;
- (6) a statement whether grain will be delivered to the bearer, to a specified person, or to a specified person or the person's order, and at what place it will be delivered;
- (7) a facsimile signature of each of the members of the department and the counter signature of the sealer;
- (8) a statement of loans or other indebtedness that in any manner constitutes a lien, whether statutory or contractual, including a mortgage or landlord's lien upon the grain; and
- (9) the form of waivers of liens.

234.12 OWNER TO EXERCISE REASONABLE CARE.

No term or condition may be inserted in a certificate, whether negotiable or otherwise, that purports to relieve the owner from exercising that degree of care in the safekeeping of the grain in storage a reasonably prudent person would exercise with regard to similar property that person owns.

234.13 MAY ISSUE MORE THAN ONE CERTIFICATE.

The sealer may issue to the owner one or more certificates under this chapter but each certificate must cover a separate granary, crib, or bin.

234.14 CERTIFICATE TO BE IN QUADRUPLICATE.

Certificates issued under this chapter must be issued in quadruplicate, with three copies marked "Duplicate – No Value." The original and one duplicate copy must be delivered to the owner and the other duplicate copies must be filed with the department or the local supervisory warehouse board for the county in which the grain is stored if a board has been established in the county under section 234.04.

234.15 OWNER TO DELIVER DUPLICATE.

An owner who negotiates the original certificate shall at the same time deliver to the assignee the duplicate or the receipt of the county recorder for the certificate. The assignee may file the duplicate in the office of the county recorder of the county in which the grain is located. The duplicate must remain in the custody of the county recorder, subject to exceptions in this chapter.

234.16 DUPLICATE FILED WITH COUNTY RECORDER.

If a duplicate is filed in the office of the county recorder, the recorder shall index it in the chattel mortgage index or other suitable index book showing the date of the certificate, its number, to whom it was issued, and the kind, quantity, and location of the grain. The recorder shall collect 35 cents for each certificate indexed. The filing and indexing of a certificate gives the same notice as the filing and indexing of a chattel mortgage.

234.17 FILING ASSIGNMENTS.

If the owner or holder of a certificate assigns it in writing, the county recorder shall on request of the assignee enter a copy of the assignment on the duplicate in the recorder's office and

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enter in the index book the date of the assignment and the names of the assignor and the assignee. The recorder shall collect 25 cents for each assignment entered.

234.18 CANCELLATION OF CERTIFICATES.

The owner may have a certificate canceled by delivering the original to the department or the board by which it was issued with the request that it be canceled. The department or board shall stamp the original "canceled" with the date of the cancellation and keep it. Upon notice in writing from the department or board issuing a certificate that it has been canceled, the county recorder shall release the duplicate filed of record without charge.

234.19 OWNER TO DELIVER GRAIN.

In the absence of a lawful excuse provided by this chapter, the owner shall deliver the grain stored upon demand by the holder of the certificate of the grain, if the demand is accompanied by an offer to surrender the certificate.

234.20 EXCUSE FOR REFUSAL.

If the owner refuses or fails to deliver the goods in compliance with a demand by the holder of a certificate that complies with section 234.19, the burden is upon the owner to establish the existence of a lawful excuse for the refusal.

234.21 EXPENSE OF SUPERVISION.

To defray the expenses of supervision, the owner shall pay a fee at the time of sealing to the department or the local supervisory board of the county in which the grain is stored. The amount of the fee must be determined by the rules made under this chapter, but may not exceed one cent per bushel for grain inspected and sealed by the sealer. Out of the funds thus created, the compensation of the sealer as fixed by the department must be paid by it or by the board of the county in which the grain is stored, subject to its approval.

234.22 FEES FOR SEALER.

In the exercise of the power and functions of a peace officer in connection with this chapter, the sealer is entitled to the same fees provided by law for the performance of similar duties.

234.23 VIOLATION; PENALTY.

A person unlawfully removing, breaking, or interfering or tampering with a seal, lock, or other fastening placed upon a granary, crib, bin, or other receptacle for grain under this chapter, except when the removal is imperative to prevent the damage, loss, or destruction of stored grain, is guilty of a gross misdemeanor.

234.24 FRAUDULENT CERTIFICATES.

An owner, the agent or servant of an owner, a member of a board, or a sealer, who fraudulently issues or aids in fraudulently issuing a certificate for grain knowing that it contains a false statement, is guilty of a crime. Each offense is punishable by imprisonment in the county jail for up to one year or by a fine of up to \$3,000, or both.

234.25 VIOLATIONS; PENALTIES.

Subdivision 1. **Unlawful delivery.** An owner or an officer, agent, or servant of an owner, who delivers grain out of the possession of the owner knowing that a negotiable certificate, the negotiating of which would transfer the right to the possession of the grain, is outstanding and uncanceled without obtaining the possession of the certificate at or before the time of the delivery, is guilty of a crime. Each offense is punishable by imprisonment in the county jail for up to one year or by a fine of up to \$3,000, or both.

Subd. 2. **Other unlawful acts.** After the issuance and negotiation of a certificate for grain in storage, an owner who takes, sells, mortgages, pledges, hypothecates, or otherwise encumbers, or attempts to take, sell, mortgage, pledge, or otherwise encumber the grain, or who removes it from

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its receptacle is guilty of a crime. Each offense is punishable by a fine of not less than \$100 nor more than \$3,000 or by imprisonment in the county jail for not more than one year, or both.

234.27 UNIFORM COMMERCIAL CODE TO APPLY.

The provisions of article 7 of the Uniform Commercial Code relative to the negotiation, transfer, sale, or endorsement of warehouse receipts, apply, to the extent possible, to the negotiation, transfer, sale, or endorsement of certificates under this chapter.

For the purpose of application of the Uniform Commercial Code:

(a) A certificate authorized by the department which evidences the storing of grain under this chapter is a document of title as defined in section 336.1-201(b)(16).

(b) A person who has title to and possession of grain stored under this chapter is a warehouse as defined in section 336.7-102(a)(3).

235.01 SUPERVISION OVER GRAIN.

The Department of Agriculture shall supervise the grain interests of the state; buying, selling, handling, and storage of grain; and management of public warehouses and public grain markets, including chambers of commerce, boards of trade, and grain exchanges. The department shall investigate, on complaint or 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. The department may compel the discontinuance of unfair practices or unfair discrimination in grain transactions and make rules for carrying out and enforcing state laws relating to subjects covered by this section.

235.02 FLAX SEED AND SOYBEANS.

In chapters 216 to 235, "grain" includes flax seed and soybeans.

235.04 OVERLOADING GRAIN CARS.

A railway company shall place painted lines inside each of its cars used for the carriage of grain indicating the height to which the various kinds of grain may be loaded in that car. No car may be loaded with a kind of grain above its appropriate line. The person loading a car shall state in the bill of lading, before it is signed by the agent of the railway company, that the car is loaded to or below the line, and the railway agent, before signing the bill, shall verify the statement. A signed bill of lading is prima facie evidence of the loading, and no charges for loading in excess of the quantity so limited may be made against that car.

A railway company that fails to equip a car in accordance with this section may not collect charges for the transportation of grain in the car above the regular tariff rates for carload lots. A person who loads a car above the appropriate line and an agent of a railway company who refuses to sign a bill of lading is guilty of a misdemeanor, punishable by a fine of not less than \$10 nor more than \$25.

235.05 CARRIERS' RECEIPTS; PENALTY FOR FAILURE TO GIVE.

A common carrier transporting grain shall give the shipper on request a receipt for the number of pounds of grain received from the shipper and deliver that quantity to the consignee or proper connecting carrier, less loss from transportation of no more than 60 pounds per car.

The carrier forfeits to the state for each refusal to give a receipt not less than \$10 nor more than \$50 and for each failure to deliver the proper quantity of grain not less than \$50 nor more than \$200.

235.06 ELEVATOR CHARGES, WHEN FORBIDDEN.

No railroad company may charge or collect elevator or other charges for handling grain or for the use of an elevator when grain is loaded by the shipper and not passed through an elevator, or make a distinction in charges against a person shipping grain otherwise than through an elevator.

235.07 DELIVERY FOR STORAGE A BAILMENT.

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The delivery of grain to a warehouse operator for storage, although it is mingled with that of others or shipped or removed from the original place of storage, is a bailment and not a sale.

235.08 WAREHOUSE RECEIPTS; NUMBERING.

Warehouse receipts for grain issued by the same warehouse must be consecutively numbered. No two receipts bearing the same number may be issued from the same warehouse during a year, except in case of a lost or destroyed receipt. In that case, the new receipt must bear the same date and number as the original and must be plainly marked on its face "Duplicate."

235.09 UNLICENSED WAREHOUSES.

A person or corporation operating a warehouse without a license forfeits to the state for each day's operation \$50 and the operation may be enjoined upon complaint of the department.

235.10 UNLAWFUL DISCRIMINATION IN SALE OR PURCHASE OF GRAIN.

A person, firm, copartnership, or corporation engaged in the business of buying grain, either for itself or others, may not, with the intention of creating a monopoly or destroying the business of a competitor, discriminate between different localities, of this state by purchasing grain of a particular grade and condition at a higher price or rate in one locality than in another after making due allowance for the difference, if any, in actual cost of transportation from the locality of purchase, to the locality of manufacture, use, or distribution. Violation of this section is a gross misdemeanor.

235.13 VIOLATIONS; PENALTIES.

Violation of chapters 216 to 235, if no specific penalty is prescribed, is a gross misdemeanor.

235.18 ENFORCEMENT.

The department shall enforce section 235.10 using all its legal powers.

236.01 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to sections 236.01 to 236.09.

Subd. 2. **Person.** "Person" means an individual, partnership, association, corporation, or joint venture or a combination of these.

Subd. 3. **Grain bank.** "Grain bank" means a feed-processing plant that receives and stores grain, the equivalent of which, except as is otherwise permitted by section 236.04, it processes and returns to the grain's owner in amounts, at intervals, and with added ingredients that are mutually agreeable to the grain's owner and the person operating the plant. "Grain bank" does not include a seed cleaning plant.

Subd. 4. **Grain bank receipt.** "Grain bank receipt" means a nonnegotiable receipt issued to the owner of grain or the owner's agent.

Subd. 5. **Department.** "Department" means the Department of Agriculture.

236.02 GRAIN BANK LICENSING; BONDING OF APPLICANTS.

Subdivision 1. **Licensing requirement.** A person who (1) operates an establishment that processes grain into feed and (2) is licensed to buy grain as a private local grain warehouse operator under section 223.17 may obtain a license to operate a grain bank. A person licensed under section 232.22 to operate a public grain warehouse is not required to obtain a separate grain bank license. No person may conduct a grain bank without a grain bank license or a public grain warehouse operator's license.

Subd. 2. **Issuance.** A grain bank license must be obtained from the department. The department may issue a grain bank license when the applicant has complied with the bond requirements of sections 236.01 to 236.09. A grain bank license is required in addition to a license to buy grain as a private local grain warehouse operator and permits the licensee to conduct a grain bank in accordance with sections 236.01 to 236.09.

Subd. 3. **Expiration; posting; revocation.** Grain bank licenses expire at midnight on June 30 each year. A license is required for each location where a grain bank is operated. Licenses are revocable by the department for cause upon notice and hearing. Licenses and rules regulating

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the operation of the grain bank must be posted in a prominent and easily accessible place in the grain bank.

Subd. 4. **Fees.** The license fee is \$140 for each home rule charter or statutory city or town in which a private grain warehouse is operated and which will be used to operate a grain bank. A penalty amount not to exceed ten percent of the fees due may be imposed by the commissioner for each month for which the fees are delinquent. The license fee must be set by the commissioner in an amount sufficient to cover the costs of administering and enforcing this chapter. Fees collected under this chapter must be paid into the grain buyers and storage account established in section 232.22.

Subd. 5. **Bond.** A license may not be issued for the operation of a grain bank until the applicant has filed with the department a bond in a sum set by the department. The bond may not be less than \$1,500 for each license and must at all times be large enough to protect the holders of outstanding grain bank receipts. Bonds must be filed annually and cover the period of the grain bank license. Bonds must run to the state of Minnesota and be for the benefit of all persons storing grain in a grain bank. They must be conditioned upon the faithful performance by the grain bank operator of the law relating to the operation of grain banks by the grain bank operator and related rules of the department. The department may require increases in the amounts of bonds as it considers necessary for the protection of grain bank receipt holders. The surety of grain bank bonds must be a corporate surety company authorized to transact business in Minnesota.

Subd. 6. **Action on bond.** A person for whose benefit the bond is given may commence an action in district court.

Subd. 7. **Single bond.** A person who is granted a grain bank license at more than one location may, with the department's approval, file one bond covering all locations in a total amount the department requires under sections 236.01 to 236.09 and rules made under sections 236.01 to 236.09. A person, firm, or corporation licensed as a public grain warehouse operator and bonded under section 232.22 may include liability for outstanding nonnegotiable grain bank receipts under the coverage of that bond in lieu of securing a separate grain bank bond under this section.

236.03 GRAIN BANK RECEIPT; CONTENTS.

A grain bank receipt, authorized by the department, must be issued for each delivery of grain to the grain bank. Each receipt must contain the name and address of the grain bank establishment, the names of the persons for whom the grain is delivered to the grain bank, the kind, quantity, and grade of grain to be redelivered to the owner of the grain, and other relevant factors required by the rules of the department.

236.04 CHARGES.

Grain for which a grain bank receipt is issued must be received and stored for processing. Storage charges must be paid by the owner at rates prescribed by section 232.23 from ten days after the date on which the grain is delivered to the grain bank until the date the grain or processed grain represented by a grain bank receipt is redelivered to the owner of the grain. Storage charges must be computed and recorded at the time of the redelivery of grain or processed grain to the owner or at the time of sale by the owner. If grain evidenced by a grain bank receipt is not processed or is not sold to the operator of the grain bank, the grain's owner or the owner's authorized agent may obtain redelivery of grain of the kind, quantity, and grade shown on the grain bank receipt covering that grain, if the owner or the authorized agent pays the grain bank operator a delivery charge. Sections 236.01 to 236.09 do not authorize the storage of grain or the issuance of a grain bank receipt for grain that is not intended, when received at the grain bank, to be redelivered to the owner of the grain or an authorized agent as a part of mixed or as otherwise processed feeds within a reasonable time after receipt.

236.05 DUTIES OF GRAIN BANK OPERATOR.

Subdivision 1. **Insurance.** The operator of the grain bank shall keep all stored grain insured against loss by fire, windstorm, and extended coverage risks for the account of the owner and furnish the department with the evidence it requires that the insurance is in force.

Subd. 2. **Receipt and storage of grain.** The grain bank operator shall determine the quantities, kinds, and grades of grain to be received from a depositor, and grain equal to the grade shown on the receipt to be due the owner of the grain on redelivery must be used in the delivery back to the owner. Commingling of like kinds of grain and the addition to the grain of materials used in the lawful formulation of mixed feeds are permitted as required by the depositor of the grain. If, through no fault of the grain bank operator, redelivery of grain equal to the grade shown

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on the receipt cannot be made, then redelivery to the owner of a lesser grade may be made if the operator pays to the owner in money the difference in market value between the two grades.

Subd. 3. **Deliveries of processed feeds.** Deliveries of mixed or otherwise processed feeds formulated from grain bank stocks must be at intervals of time and in quantities that are mutually agreeable to the grain owner and the grain bank operator.

Subd. 4. **Separate records.** The operator of a grain bank shall keep separate records for each customer of the balances that remain between the grain bank operator and the owner of grain who has deposited grain in the grain bank, including but not limited to the charges made under section 236.04 and the figures that support all balances shown.

Subd. 5. **Grain on hand.** The operator of the grain bank shall keep on hand at all times grain sufficient to cover all outstanding storage receipts and outstanding grain bank receipts balances.

236.06 GRAIN BANK'S POSSESSORY LIEN.

The operator of a grain bank has a possessory lien against grain represented by a grain bank receipt for all charges and money owed the operator by the owner of the grain as a result of the receiving, storing, processing, and other activities performed by the operator for the owner as part of the grain bank operation. In the event of inconsistency between this section and the Uniform Commercial Code, this section applies.

236.07 REPORTS.

A person licensed to operate a grain bank under sections 236.01 to 236.09 shall give the department on forms prescribed by it the reports the department reasonably requires and other information required by the rules of the department.

No license may be issued to a licensed grain bank operator who has failed to make the reports required in this section.

The department may have each grain bank, its business, and the mode of conducting its business inspected by one or more of its members or by its authorized agent when inspection is considered proper. The property, records, and proceedings of each grain bank are subject to inspection at all times during business hours.

236.08 RULES.

The department may make rules that are reasonably necessary relative to grain bank operations.

236.09 PENALTIES FOR VIOLATIONS.

A person who violates sections 236.01 to 236.09 or rules made by the department under sections 236.01 to 236.09 is guilty of a misdemeanor. If the department finds after a hearing that a person licensed to operate a grain bank in this state has violated sections 236.01 to 236.09 or rules made under sections 236.01 to 236.09, the department may suspend or revoke the license. In case of a revocation, no new license may be granted to the person whose license is revoked nor to anyone directly or indirectly engaged in that business for one year.

395.14 SEED AND FEED LOANS.

Authority is granted to any county in the state to lend money to residents of the county who are citizens of the United States or resident aliens or who have declared their intention of becoming citizens of the United States, for the purpose of purchasing seed and feed for teams whenever there has been a total or partial failure of crops in the county, by reason of hail, flood, drought, fire, or other cause. Qualified residents must own, or hold under contract for deed, land previously under cultivation and cropped and in condition capable of being cropped during the ensuing year, but must be unable to procure seed for planting their land and feed for their teams while doing the planting and must be in imminent danger of losing their property. If not less than 25 resident landowners of the county, before March first next following the crop failure, present to the auditor of the county a petition signed by them asking that the county lend money to residents suffering by reason of the crop failure, for the purpose of purchasing seed and feed, the auditor shall receive and file the petition and at once call a meeting of the county board to consider the petition. The county board shall, on or before the second Monday in March, next following, meet and consider the petition and may enter an order that the county lend, from its general fund,

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sums as it deems necessary for the purpose; however, the amount shall not, with the existing indebtedness of the county, exceed the amount of indebtedness fixed by the laws of this state.

395.15 APPLICATIONS TO COUNTY AUDITOR.

Any resident freeholder of such county may apply for seed and feed or either of them, for personal use as follows: The freeholder shall file with the county auditor, on or before the second Monday in March, a verified written application therefor showing the following facts:

- (1) the freeholder's name, residence, and the places where the freeholder has resided during the past five years;
- (2) all lands owned or occupied by the freeholder and the freeholder's interest therein and the encumbrances, if any, thereon;
- (3) all personal property owned by the freeholder and the encumbrances, if any, thereon;
- (4) the number of acres the freeholder seeded and harvested last year and the number of bushels of grain threshed therefrom;
- (5) the description of land desired to be prepared for crop and seed, its condition and number of acres plowed and unplowed;
- (6) the number of horses and oxen owned by the freeholder and the encumbrances, if any, thereon;
- (7) the number of bushels and kind of seed desired and the number of bushels of feed required; and
- (8) that the freeholder is poor and unable to procure seed or feed from any other source.

395.16 COUNTY BOARD; WHEN TO RECEIVE APPLICATIONS.

The county auditor shall file and number the applications in the order received and call the county board to meet on the second Tuesday in March next following; and the board shall meet and consider these applications separately and in the order of their filing, and may grant such applications, in whole or in part, as appears to it just and proper. Not more than 200 bushels of wheat, or its equivalent in other seed, shall be furnished to any one person.

The county board is hereby granted authority, in its discretion, to direct the filing by the auditor of the petition provided for in section 395.14 after March 1st, and to receive applications for grain after the second Monday in March and to act upon such petition and application the same as if received prior to the respective dates provided in section 395.15.

The county board shall make an order specifying the names of persons and amounts allowed with the kind and quantities of seed and feed granted, and the county auditor shall issue and deliver to the applicant a warrant showing such allowance. Such warrant shall be for the purchase of such seed and feed and for no other purpose whatever, and shall be paid by the county treasurer only when there is endorsed on the back thereof a receipt signed by the applicant, acknowledging receipt by the applicant from some reputable person, of the seed and feed therein specified.

395.17 COUNTY AUDITOR AND COUNTY ATTORNEY TO COUNSEL BOARD.

The county auditor and county attorney are hereby required to attend all meetings of the county board provided in sections 395.14 to 395.24 and to carefully examine all applications filed under the provisions of sections 395.14 to 395.24 and shall give the board the benefit of all information they may have relative to the applicants, and shall counsel, advise, and assist the county board in the discharge of its duties under sections 395.14 to 395.24.

395.18 CONDITION OF CONTRACT.

The warrant provided for in section 395.16 shall not be delivered until the applicant shall have signed a contract in duplicate, attested by the county auditor, to the effect that the applicant, for and in consideration of the seed and feed specified received from the county, promises to pay to the county the amount allowed for the same, on or before the first day of October following, with interest at the rate of six percent per annum, that such amount shall be a first lien upon the crop raised from the seed and, in addition thereto, shall be taxable against the real property of the applicant for which seed and feed was furnished. The contract shall also contain a true description of the land upon which the applicant intends to and will sow and plant such seed, in due season next following, and shall specify that the written application shall be a part of this contract. The auditor shall forthwith record one of such duplicate contracts with the county

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recorder of the county, for which the applicant shall pay the required recording fee and file the other duplicate in the auditor's office.

395.19 COUNTY TO HAVE LIEN UPON CROPS.

Upon the filing of the contracts provided for in section 395.18, the county shall acquire a just and valid lien upon the crops of grain raised each year by the person receiving the seed or feed, for the amount owing to the county upon the contract, as against all creditors, purchasers, or mortgagees, whether in good faith, or otherwise, and the filing of the contract shall be held and considered to be full and sufficient notice to all parties of the existence and extent of the lien, which shall continue in force until the amount covered by the contract is fully paid.

395.20 INDEBTEDNESS DUE OCTOBER 1, RATE OF INTEREST.

The amount of such indebtedness upon such contracts shall become due and payable on the first day of October in the year in which the seed or feed, or both, is furnished, together with interest on such amount from the date of the warrants issued therefor, at the rate of six percent per annum; and, if the indebtedness be not paid on or before the first day of November of that year it shall then be the duty of the auditor of the county to cause the amount of the indebtedness to be entered upon the tax list of the county, as a tax against the land owned by the applicant for whom the aid was furnished, to be collected as other taxes are collected under the laws of this state.

395.21 MARKETING OF GRAIN.

Each and every person who has received seed or feed, or both, under the provisions of sections 395.14 to 395.24, shall, as soon as crops for the year wherein payment is to be made are harvested and threshed, market a sufficient amount of grain to pay the amount then due on the contract and pay the same over to the auditor of the county.

395.22 PENALTY FOR VIOLATION.

Any person who shall, contrary to the provisions of sections 395.14 to 395.24, sell, transfer, take, or carry away, or in any manner dispose of, the seed or feed, or any part thereof, furnished by the county under sections 395.14 to 395.24 or shall use or dispose of such seed or feed, or any part thereof, for any other purpose than that of planting or sowing with same as stated in the application and contract, or shall sell, transfer, take, or carry away, or in any manner dispose of, the crop or any part thereof, produced from the sowing or planting of such seed, before the same is paid for, is guilty of a misdemeanor and shall pay all the costs of prosecution, and whoever under any of the provisions of sections 395.14 to 395.24 shall be found guilty of false swearing shall be deemed to have committed perjury and shall upon conviction suffer the pains and penalties of that crime. Upon the recording of the contract in the office of the county recorder, and the sowing of the seed obtained therefor, the title and right of possession to the growing crop and to the grain produced from the seed shall be in the county which shall have furnished the seed until the debt incurred for such seed or feed, shall have been paid, and any seizure thereof or interference therewith except by the applicant and those in the applicant's employ, for the purpose of harvesting, threshing, and marketing the same to pay such debt, shall be deemed a conversion thereof and treble damages may be recovered against the person so converting the same by the county furnishing such seed and feed.

395.23 DUTIES OF POLICE OFFICERS.

It shall be the duty of the town clerk of a town and the members of the county board, sheriff, and county attorneys of any county furnishing seed or feed, having any knowledge of the violation of the provisions of sections 395.14 to 395.24, to file a complaint with a district court. The court shall issue a warrant for the arrest of the offender, and proceed to hear and determine the matter or to bind the offender over to appear before the grand jury, as the case may be.

395.24 PRO RATA DISTRIBUTION.

If more seed grain is applied for than can be supplied by the county board, a pro rata distribution shall be made by it among those who shall have been found entitled to the benefits of sections 395.14 to 395.24. The board shall have the right to refuse any application which it

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may deem improper to grant, and may revise their adjustment of applications at any time before final distribution.

1505.0780 WILD NURSERY STOCK.

It shall be a violation of the Plant Pest Act to sell, offer for sale, or distribute nursery stock collected from the wild state unless it is so labeled. These labels must state "Collected from the wild" and must remain on each plant or clump of plants while it is offered for sale and during the process of distribution. Such collected stock may be grown in nursery rows at least two years and then offered for sale without such labeling.

1505.0810 CARE OF BALLED AND BURLAPPED NURSERY STOCK HELD FOR SALE.

It shall be required that balled and burlapped nursery stock being held for sale to the public be kept in sawdust, shingle tow, peat, or some other moisture-holding material not toxic to plants. This moisture-holding material must adequately cover and protect the ball of earth which must be kept moist at all times.

1511.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1511.0100 to 1511.0170.

Subp. 2. **Department.** "Department" means the Minnesota Department of Agriculture.

Subp. 3. **Person.** "Person" means an individual, firm, copartnership, cooperative, company, association, or receiver licensed by the department to purchase grain or store grain for others.

Subp. 4. **Test equipment.** "Test equipment" means mechanical or electronic devices commonly used in the measurement of grain qualities, including equipment that determines moisture or protein content, test weight per bushel apparatus, and dockage testing devices.

Subp. 5. **Reject tag.** "Reject tag" means a device that is applied to test equipment that fails to meet established tolerances.

Subp. 6. **Tolerances.** "Tolerances" means values fixing the minimum or maximum limit of allowable error or departure from true performance or value.

Subp. 7. **Standard sample.** "Standard sample" means a sample of grain with a known measurement of quality or weight for the purpose of testing equipment.

Subp. 8. **Grain.** "Grain" means cereal grain, coarse grain, or oilseed in unprocessed form for which a standard has been established by the United States Secretary of Agriculture or the Minnesota Board of Grain Standards, dry edible beans, or other agricultural crops designated by the commissioner by rule.

Subp. 9. **Onsite review.** "Onsite review" means the testing of equipment and test equipment operators conducted where grain quality is determined for grain that is received for purchase or storage.

Subp. 10. **Condemned tag.** "Condemned tag" means a device that is applied to equipment that is beyond a state of repair rendering the equipment unfit for making grain quality determinations.

Subp. 11. **Chief equipment operator.** "Chief equipment operator" means a person assigned by the firm management as the responsible person for operating equipment used to determine grain quality.

Subp. 12. **Authorized service representative.** "Authorized service representative" means a person that has been certified by the manufacturer or distributor of the test equipment as being technically qualified and capable of servicing their test equipment.

1511.0110 ESTABLISHED TOLERANCES.

Established tolerances for each type of equipment are:

- A. moisture determination, plus or minus 0.5 of one percent;
- B. protein determination, plus or minus 0.5 of one percent;
- C. test weight determination, plus or minus one-half pound; and
- D. dockage determination, plus or minus 0.5 of one percent.

1511.0120 TEST EQUIPMENT LIST PROVIDED TO DEPARTMENT.

A person who receives grain for purchase or storage in Minnesota shall provide the department with a list of equipment used to determine grain quality on forms provided by the department. The list must include the model number, serial number, and make or brand name of

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each piece of equipment used to determine moisture or protein content, test weight measuring apparatus, and dockage testing devices.

1511.0130 TESTING GRAIN EQUIPMENT.

Subpart 1. **Testing for accuracy.** Persons in Minnesota who receive grain for purchase or storage are subject to having the equipment used to determine grain quality routinely tested for accuracy by the department. The test equipment must include mechanical or electronic devices that are used to determine moisture or protein content, test weight scales, and dockage testing devices.

Subp. 2. **Standard samples.** Standard samples for testing equipment, prepared by the department, must be forwarded to persons or firms that perform quality determinations for grain received for purchase or storage.

Subp. 3. **Analysis; results.** Department standard samples received by a firm must be analyzed by the designated chief equipment operator. Test results must be recorded on the forms provided by the department and returned to the department within five days of receipt of the standard samples.

1511.0140 RETESTING OF EQUIPMENT.

Test equipment that does not meet the established tolerances must be retested. A second set of standard test samples must be forwarded for test equipment that exceeds the established tolerance. Results of the second set of standard test samples must be returned to the department within five days of receipt of the standard test samples.

1511.0150 ONSITE REVIEWS OF TEST EQUIPMENT AND EQUIPMENT OPERATORS.

The department may randomly perform an on-site review of test equipment and the chief test equipment operator at each location where grain is being received for purchase or storage. An on-site review must be conducted during normal business hours. An on-site review may be conducted when one or more of the following conditions are determined by the department:

- A. if the test results of standard samples are not returned to the department within the prescribed time;
- B. if test equipment fails to meet the established tolerance on the second set of standard test samples;
- C. if the department determines that inaccurate test results may be caused by the chief test equipment operators' procedures;
- D. if the department determines that the environmental conditions in the area where the test equipment is operated may be inadequate; and
- E. if the department receives a signed statement from a purchaser or seller of grain requesting a review of the test equipment or test equipment operator.

1511.0160 TAGGING OF TEST EQUIPMENT.

Subpart 1. **Attachment and removal of tags.** Test equipment found to exceed the established tolerances during an on-site review must have a reject tag attached to the test equipment by the department and the equipment must not be further used to determine the quality of grain received for purchase or storage until the test equipment has been serviced and the reject tag is removed:

- A. by an employee of the department, upon completion of testing that shows the equipment to be within the established tolerance; or
- B. by an authorized service representative who certifies to the department that the equipment has been serviced and tested for compliance within the established tolerance.

Subp. 2. **Return of tags.** A reject tag must be returned to the department immediately upon placing the equipment back into service. The information requested on the reverse side of the reject tag must be completed and contain the signature of the authorized service representative or the department employee.

Subp. 3. **Condemned tag.** A condemned tag must be attached to test equipment used to determine grain quality when it is determined that the test equipment is no longer serviceable.

1511.0170 POSTING NOTICE.

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A person in Minnesota who receives grain for purchase or for storage must post a notice, furnished by the department, informing persons delivering grain for sale or storage of their right to have a representative sample of the grain in dispute forwarded to the department for analysis. The notice must be posted in a conspicuous place in conjunction with the license to buy or buy and store grain.

1540.0010 DEFINITIONS.

Subp. 26. **Person.** "Person" means natural persons, individuals, firms, partnerships, corporations, companies, societies, and associations, and every agent, officer, or employee of any thereof. This term shall import both the singular and the plural as the case may be.

1550.0930 DEFINITIONS.

Subp. 3. **Food.** "Food" includes every article used for, entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery, or condiment for humans, whether simple, mixed, or compound. (Minnesota Statutes, section 28A.03, paragraph (d).)

1550.0930 DEFINITIONS.

Subp. 4. **Frozen food.** "Frozen food" shall mean any food which is processed, packaged, and preserved by freezing in accordance with good commercial practices and which is intended for sale in the frozen state.

1550.0930 DEFINITIONS.

Subp. 5. **Perishable food.** "Perishable food" is food which includes, but is not limited to, fresh fruits, such as apples, bananas, oranges, and grapefruit; and fresh vegetables, such as lettuce, carrots, beans, radishes, onions, and potatoes.

1550.0930 DEFINITIONS.

Subp. 6. **Readily perishable food.** "Readily perishable food" shall mean any food or beverage or ingredients consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry, or other food which is capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

1550.0930 DEFINITIONS.

Subp. 7. **Exclusion.** For the purposes of parts 1550.0930 to 1550.1020, packaged food in hermetically sealed containers processed by heat to prevent spoilage; packaged pickles; jellies and condiments in sealed containers; bakery products such as bread, rolls, buns, donuts, fruit filled pies, and pastries; dehydrated packaged food; and dry or powdered packaged food so low in moisture content as to preclude development of microorganisms are not "perishable food," "readily perishable food," or "frozen food" within the meaning of subparts 4 to 6.

1550.1040 DEFINITIONS.

Subp. 3. **Label.** "Label" means a display of written, printed, or graphic matter upon the immediate container of any article, and includes a like display, if required by law or rule, on the outside container or wrapper, if any there be, of the retail package of such article.

1550.1040 DEFINITIONS.

Subp. 4. **Labeling.** "Labeling" means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers, or accompanying such article.

1550.1040 DEFINITIONS.

Subp. 5. **Perishable food.** "Perishable food" means any food intended for human consumption (other than meat, poultry, frozen food, or fresh fruit or vegetables), which has a quality assurance date.

1550.1040 DEFINITIONS.

Subp. 6. **Person.** "Person" means any individual, partnership, copartnership, society, association, company, or corporation.

1550.1260 DEFINITIONS.

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Subp. 6. **Misbranded or misbranding.** "Misbranded or misbranding" applies to all articles of food as described in Minnesota Statutes, section 31.01, subdivision 5.

1550.1260 DEFINITIONS.

Subp. 7. **Perishable, readily perishable food.** "Perishable food" and "readily perishable food" means food or ingredients which require refrigeration at 45 degrees Fahrenheit or lower before and/or after fabrication and until sold to the consumer.

1562.0100 DEFINITIONS.

Subp. 3. **Cash sale.** "Cash sale" means:

A. a sale for which payment is tendered to the seller not later than the close of business on the next business day after the sale, either by cash or by check, or by mailing or wiring funds to the seller's account in the amount of at least 80 percent of the value of the grain at delivery; or

B. a sale of a shipment of grain which is part of a multiple shipment sale, for which a scale ticket clearly marked "cash" has been received by the seller before completion of the entire sale, and for which payment is tendered in cash or by check not later than ten days after the sale of that shipment, except that when the entire sale is completed, payment is tendered in cash or by check not later than the close of business on the next business day, or within 48 hours, whichever is later.

1562.0100 DEFINITIONS.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's designee.

1562.0100 DEFINITIONS.

Subp. 5. **Department.** "Department" means the Minnesota Department of Agriculture.

1562.0100 DEFINITIONS.

Subp. 6. **Depositor.** "Depositor" means a person who is the owner or legal holder of an outstanding grain warehouse receipt, grain bank receipt, or open scale ticket marked for storage on which a receipt is to be issued, representing any grain stored in a public grain warehouse or grain bank.

1562.0100 DEFINITIONS.

Subp. 7. **Grain.** "Grain" means any cereal grain, coarse grain, or oilseed in unprocessed form for which a standard has been established by the United States Secretary of Agriculture or the Minnesota Board of Grain Standards, dry edible beans, or other agricultural crops designated by the commissioner by rule.

1562.0100 DEFINITIONS.

Subp. 8. **Grain bank.** "Grain bank" means a feed processing plant that receives and stores grain, the equivalent of which, except as is otherwise permitted by Minnesota Statutes, section 236.04, it processes and returns to the grain's owner in amounts, at intervals, and with added ingredients that are mutually agreeable to the grain's owner and the person operating the plant.

1562.0100 DEFINITIONS.

Subp. 9. **Grain bank bond.** "Grain bank bond" means an obligation acceptable to and running to the state, as obligee, for the purpose of indemnifying depositors of grain against the breach of a grain bank storage contract by a person with a grain bank license.

1562.0100 DEFINITIONS.

Subp. 10. **Grain bank receipt.** "Grain bank receipt" means a nonnegotiable receipt issued to the owner of the grain, or the owner's agent, for grain which is being stored for the purpose of being processed into feed.

1562.0100 DEFINITIONS.

Subp. 11. **Grain buyer.** "Grain buyer" means a person who purchases grain from a producer with the exception of a person who purchases seed grain for crop production or who purchases grain as feed for the person's own livestock.

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1562.0100 DEFINITIONS.

Subp. 12. **Grain buyer's bond.** "Grain buyer's bond" means an obligation acceptable to and running to the state, as obligee, for the purpose of indemnifying producers of grain against the breach of a cash sale contract by a licensed grain buyer.

1562.0100 DEFINITIONS.

Subp. 13. **Grain purchase receipt.** "Grain purchase receipt" means a memorandum issued by a grain buyer to a seller at the time grain is delivered from the seller to the grain buyer, and which shows the weight or quantity and kind of grain.

1562.0100 DEFINITIONS.

Subp. 14. **Grain storage bond.** "Grain storage bond" means an obligation acceptable to and running to the state, as obligee, for the purpose of indemnifying depositors of grain against the breach of a grain storage contract by a person licensed to store grain.

1562.0100 DEFINITIONS.

Subp. 15. **Grain warehouse.** "Grain warehouse" means an elevator, flour, cereal or feed mill, malthouse or warehouse in which grain belonging to a person other than the warehouse operator is received for purchase or storage.

1562.0100 DEFINITIONS.

Subp. 16. **Grain warehouse receipt.** "Grain warehouse receipt" means a formal record issued to a depositor by a grain warehouse operator under Minnesota Statutes, section 232.23.

1562.0100 DEFINITIONS.

Subp. 17. **Independent grain buyer.** "Independent grain buyer" means a person who buys grain from producers and does not operate a grain warehouse.

1562.0100 DEFINITIONS.

Subp. 18. **Person.** "Person" means a corporation, company, joint stock company or association, partnership, firm, or individual and includes their agents, trustees, assignees, or duly appointed receivers.

1562.0100 DEFINITIONS.

Subp. 19. **Private grain warehouse operator.** "Private grain warehouse operator" means a person operating a grain warehouse for the sole purpose of purchasing, handling, processing, and shipping grain or its by-products who is not licensed by the commissioner to accept grain belonging to others for storage. "Private grain warehouse operator" includes any person licensed under the United States Warehouse Act.

1562.0100 DEFINITIONS.

Subp. 20. **Producer.** "Producer" means a person who grows grain on land that the person owns or leases.

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Subp. 21. **Public grain warehouse operator.** "Public grain warehouse operator" means a person operating a grain warehouse in which grain belonging to persons other than the grain warehouse operator is accepted for storage or purchase or who offers grain storage or warehouse facilities to the public for hire.

1562.0100 DEFINITIONS.

Subp. 22. **Public terminal warehouse.** "Public terminal warehouse" has the meaning given in Minnesota Statutes, section 233.01.

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Subp. 23. **Scale ticket.** "Scale ticket" means a memorandum issued by a grain elevator or warehouse operator to a depositor at the time grain is delivered showing the weight and kind of grain.

1562.0100 DEFINITIONS.

Subp. 24. **Vehicle.** "Vehicle" means a device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

1562.0100 DEFINITIONS.

Subp. 25. **Voluntary extension of credit contract.** "Voluntary extension of credit contract" means a contract for the purchase of a specific amount of grain from a producer in which title to the grain passes to the grain buyer upon delivery but the price is to be determined or payment for the grain is to be made at a date later than the date of delivery of the grain to the grain buyer. Voluntary extension of credit contracts include deferred or delayed payment contracts, unpriced sales, no price established contracts, average pricing contracts, and all other contractual arrangements with the exception of cash sales and grain storage agreements evidenced by a grain warehouse receipt or scale ticket marked "storage."

1562.0200 LICENSING.

Before purchasing or storing grain in Minnesota a person must file with the commissioner an application for a license on forms provided by the commissioner. No person may buy grain from producers in Minnesota without first obtaining a grain buyer's license or store grain for others in Minnesota without first obtaining a grain storage license.

Applications may be submitted any time during the year. Each license must be renewed every year on July 1. All licenses expire at midnight each June 30. Only one person may obtain a license to buy or store grain at any one grain warehouse.

A separate license is required for each home rule charter or statutory city or town in which a grain buyer or public grain warehouse operator buys or stores grain.

1562.0400 TYPES OF LICENSES.

Subpart 1. **Grain buyer.** A license to buy grain is a license issued to an independent grain buyer, private grain warehouse operator, or public grain warehouse operator who buys grain from producers.

Subp. 2. **Grain storage.** A license to store grain is a license issued to a public grain warehouse operator who accepts grain for storage or who offers grain storage facilities to the public for hire.

Subp. 3. **Grain bank.** A grain bank license is a license issued to a private or public grain warehouse operator who processes grain into feed and who has a license to buy grain.

1562.0700 BOND.

Subpart 1. **Requirement.** Before a license to buy or store grain is issued, the applicant for the license must file with the commissioner a bond or acceptable security in lieu of a bond in an amount prescribed by this part. The bond or other acceptable security provides coverage at all licensed locations.

Subp. 1a. **Duration of bond.** The bond must be continuous until canceled. To cancel a bond, the surety must provide 90 days written notice of the bond's termination date to the licensee and the commissioner.

Subp. 1b. **Acceptable security in lieu of a bond.** In lieu of the bond required by this part, the license applicant may deposit with the commissioner of management and budget cash, or a certified check, cashier's check, money order, assignable bond or note of the United States, certificate of deposit, or an irrevocable bank letter of credit in the same amount as would be required for the bond.

Subp. 2. [Repealed, 33 SR 8]

Subp. 3. **Grain buyer's bond; first time applicant.** A first time applicant for a grain buyer's license shall file a \$20,000 grain buyer's bond with the commissioner. This bond must remain in effect for the first year of the license. A first time applicant includes a person previously licensed to buy grain who has not renewed the license for one or more years.

Subp. 4. **Grain storage bond.** The amount of bond required for grain storage is based on 50 percent of the local market value of grain stored by a public grain warehouse operator in Minnesota. The minimum grain storage bond is \$20,000. The maximum grain storage bond is

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\$500,000, excluding any grain bank liability. The storage bond amount may be increased during the license year. However, the storage bond may not be reduced during the license year.

Subp. 5. **Grain bank bond.** The grain bank bond is based on 50 percent of the local market value of grain stored in grain banks in Minnesota. A person licensed to store grain may include the additional liability for grain bank grain in the determination of the amount of the storage bond in lieu of obtaining a separate grain bank bond. The minimum grain bank bond is \$1,500. The maximum grain bank bond is \$150,000. The grain bank bond amount may be increased during the license year. The grain bank bond may not be reduced during the license year.

1562.0900 STATEMENT OF GRAIN IN STORAGE.

Subpart 1. **Monthly grain storage reports.** A person with a grain bank license or a license to store grain must, by the tenth day of each month, file with the commissioner on forms provided by the commissioner a monthly storage report showing the net monetary liability, based on the local market price, of all grain outstanding on grain bank receipts, grain warehouse receipts, and scale tickets marked "store" as of the close of business on the last day of the preceding month.

Subp. 2. **Determination of grain bank and grain storage bond amount.** The monthly grain storage reports referred to in subpart 1, shall be used for the purpose of determining the dollar amount of the grain bank bond and the grain storage bond, and for determining whether these bond amounts should be increased during the license year.

Subp. 3. **Penalty.** If a person willfully neglects or refuses to file the reports required in subpart 1 for two consecutive months, the commissioner may immediately suspend the person's license and the licensee must surrender the license to the commissioner. Within 15 days the licensee may request an administrative hearing subject to Minnesota Statutes, chapter 14 to determine if the license should be revoked. If no request is made within 15 days, the commissioner shall revoke the license.

Subp. 4. **Exceptions.** A person with the maximum grain bank bond or grain storage bond is not required to submit a monthly grain storage report. A person who has the maximum grain bank bond or storage bond and who requests a reduction in the bond amount must submit 12 consecutive monthly grain storage reports, to verify the request for a reduced bond amount. Persons having their bond amount reduced under this procedure must continue to submit monthly storage reports to the department. A reduction in the bond amount under this provision shall commence with the next licensing period.

1562.1300 SCALE TICKET.

A grain warehouse operator, upon receiving grain, shall issue a scale ticket for each load of grain received. A duplicate copy of each scale ticket must remain in the possession of the grain warehouse operator as a permanent record. The original scale ticket must be delivered to the seller or depositor upon receipt of each load of grain.

The scale ticket must state specifically whether the grain was sold on contract or for cash and the price at which the grain was sold. If the grain was not sold, then the scale ticket must state whether the grain was received for storage. The term "contract" signifies any form of sale except a cash sale.

All scale tickets must be consecutively prenumbered and must contain the following information:

- A. the name and address of the grain warehouse operator;
- B. the name of the seller or depositor;
- C. the location and date of the transaction;
- D. the weight, volume, and kind of grain; and
- E. the signature of the grain warehouse operator.

1562.1800 BOND COVERAGE.

Subpart 1. **Grain buyers bond.** The grain buyers bond provides for payment of loss to producers caused by a licensed grain buyer's failure to pay, upon the owner's demand, for grain purchased in Minnesota according to the terms of a cash sale.

Subp. 2. **Grain storage bond.** The grain storage bond provides for payment of loss caused by the failure of a person licensed to store grain in Minnesota to deliver stored grain to the depositor's order, or for nonpayment of grain when the depositor orders that the grain be sold in lieu of taking redelivery of the grain in storage.

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Subp. 3. **Grain bank bond.** The grain bank bond provides for payment of loss caused by the failure of a person with a grain bank license in Minnesota to deliver grain bank receipted grain to the depositor's order, or for nonpayment of grain when the depositor orders that the grain bank receipted grain be sold in lieu of taking redelivery of the grain in the grain bank.