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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

1.1 A bill for an act  
1.2 relating to agriculture; modifying provisions related to pesticides, plants, nursery  
1.3 law, inspections, enforcements, food, animals, grain, and weights and measures;  
1.4 establishing Dairy Research, Teaching, and Consumer Education Authority;  
1.5 providing for food law enforcement; making technical and conforming changes;  
1.6 repealing obsolete provisions; imposing penalties; requiring reports; amending  
1.7 Minnesota Statutes 2010, sections 17.114, subdivisions 3, 4; 17.982, subdivision  
1.8 1; 17.983; 18.87; 18B.065, subdivision 2a, by adding a subdivision; 18B.316,  
1.9 subdivision 6; 18G.02, subdivision 14; 18G.07, subdivision 1; 18G.10,  
1.10 subdivision 7, by adding a subdivision; 18H.02, subdivision 14, by adding a  
1.11 subdivision; 18H.10; 18H.14; 18J.01; 18J.02; 18J.03; 18J.04, subdivisions  
1.12 1, 2, 3, 4; 18J.05, subdivisions 1, 2, 6; 18J.06; 18J.07, subdivisions 3, 4, 5;  
1.13 21.82, subdivisions 7, 8; 25.33, subdivisions 5, 13, 14; 25.36; 25.37; 28A.03,  
1.14 subdivisions 3, 5, 6; 28A.21, subdivision 6; 31.01, subdivisions 2, 3, 4, 21,  
1.15 25, 28; 31.121; 31.123; 31.13; 31.94; 31A.02, subdivisions 13, 14, 15, 16;  
1.16 31A.23; 32.01, subdivisions 11, 12; 35.0661, subdivisions 2, 3; 40A.17; 41A.12,  
1.17 subdivisions 2, 4; 223.16, subdivision 12; 223.17, subdivisions 1, 4, 6, 9; 232.21,  
1.18 subdivisions 2, 6, 12; 232.22, subdivisions 3, 4, 5, 7; 232.23, subdivisions  
1.19 2, 5, 10; 232.24, subdivisions 1, 2; 239.092; 239.093; Laws 2010, Second  
1.20 Special Session chapter 1, article 1, section 11; Laws 2011, chapter 14, section  
1.21 6; proposing coding for new law as Minnesota Statutes, chapters 32C; 34A;  
1.22 repealing Minnesota Statutes 2010, sections 17.984; 17B.01; 17B.02; 17B.03;  
1.23 17B.04; 17B.041; 17B.0451; 17B.048; 17B.05; 17B.06; 17B.07; 17B.10;  
1.24 17B.11; 17B.12; 17B.13; 17B.14; 17B.15, subdivisions 1, 3; 17B.16; 17B.17;  
1.25 17B.18; 17B.20; 17B.22, subdivisions 1, 2; 17B.28; 17B.29; 27.19, subdivisions  
1.26 2, 3; 27.20; 28.15; 28A.12; 28A.13; 29.28; 31.031; 31.041; 31.05; 31.14;  
1.27 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision 4; 31.633,  
1.28 subdivision 2; 31.681; 31.74, subdivision 3; 31.91; 31A.24; 31A.26; 32.078;  
1.29 32.475, subdivision 7; 32.61; 32.90; 34.113; 35.243; 35.255; 35.67; 35.72,  
1.30 subdivisions 1, 2, 3, 4, 5; 223.16, subdivision 7; 223.18; 232.21, subdivision  
1.31 4; 232.24, subdivision 3; 232.25; 233.01; 233.015; 233.017; 233.02; 233.03;  
1.32 233.04; 233.05; 233.06; 233.07; 233.08; 233.09; 233.10; 233.11; 233.12; 233.22;  
1.33 233.23; 233.24; 233.33; 234.01; 234.03; 234.04; 234.05; 234.06; 234.08; 234.09;  
1.34 234.10; 234.11; 234.12; 234.13; 234.14; 234.15; 234.16; 234.17; 234.18; 234.19;  
1.35 234.20; 234.21; 234.22; 234.23; 234.24; 234.25; 234.27; 235.01; 235.02; 235.04;  
1.36 235.05; 235.06; 235.07; 235.08; 235.09; 235.10; 235.13; 235.18; 236.01; 236.02;  
1.37 236.03; 236.04; 236.05; 236.06; 236.07; 236.08; 236.09; 395.14; 395.15; 395.16;  
1.38 395.17; 395.18; 395.19; 395.20; 395.21; 395.22; 395.23; 395.24; Minnesota  
1.39 Rules, parts 1505.0780; 1505.0810; 1511.0100; 1511.0110; 1511.0120;

2.1 1511.0130; 1511.0140; 1511.0150; 1511.0160; 1511.0170; 1540.0010, subpart  
2.2 26; 1550.0930, subparts 3, 4, 5, 6, 7; 1550.1040, subparts 3, 4, 5, 6; 1550.1260,  
2.3 subparts 6, 7; 1562.0100, subparts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17,  
2.4 18, 19, 20, 21, 22, 23, 24, 25; 1562.0200; 1562.0400; 1562.0700; 1562.0900;  
2.5 1562.1300; 1562.1800.

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

2.7 **ARTICLE 1**

2.8 **POLICY AND TECHNICAL PROVISIONS**

2.9 Section 1. Minnesota Statutes 2010, section 17.114, subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.15 Sec. 2. Minnesota Statutes 2010, section 17.114, subdivision 4, is amended to read:

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

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

3.26 ~~(c) The commissioner shall report to the Environmental Quality Board for review~~  
3.27 ~~and then to the house of representatives and senate committees with jurisdiction over the~~  
3.28 ~~environment, natural resources, and agriculture every even-numbered year. The report~~  
3.29 ~~shall be combined with the report required in subdivision 3.~~

3.30 Sec. 3. Minnesota Statutes 2010, section 18.87, is amended to read:

3.31 **18.87 PENALTY.**

3.32 (a) A violation of section 18.86 or a rule adopted under that section is a misdemeanor.  
3.33 Inspectors, county-designated employees, or their appointed assistants are not subject to

4.1 the penalties of this section for failure, neglect, or refusal to perform duties imposed on  
4.2 them by sections 18.76 to 18.91.

4.3 (b) A county may collect from a public land owner a civil penalty of up to \$1,000 for  
4.4 each violation of section 18.86 or a rule adopted under that section. The public land owner  
4.5 must pay the penalty from funds provided for maintenance of the land or from the general  
4.6 revenue or operating fund of the agency responsible for the land.

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

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

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

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

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

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

4.32 Subd. 10. **Indemnification.** (a) A local unit of government, when operating or  
4.33 participating in a waste pesticide collection program pursuant to a cooperative agreement  
4.34 with the commissioner under this section, is an employee of the state, certified to be

5.1 acting within the scope of employment, for purposes of the indemnification provisions of  
5.2 section 3.736, subdivision 9, for claims that arise out of the transportation, management,  
5.3 or disposal of any waste pesticide covered by the agreement:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.15 (c) All persons and companies required to be registered under paragraph (a) must  
6.16 register before conducting the activities specified in paragraph (a). Annual registration  
6.17 expires December 31, must be renewed annually, and the renewal fee remitted by January  
6.18 71 of the year for which it is issued. In addition, a penalty of ten percent of the renewal fee  
6.19 due must be charged for each month, or portion of a month, that the fee is delinquent up to  
6.20 a maximum of 30 percent for any application for renewal postmarked after December 31.

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

6.22 Subd. 7. **Supplemental, additional, or other certificates and permits.** (a) The  
6.23 commissioner may provide inspection, sampling, or certification services to ensure  
6.24 that Minnesota plant treatment processes, plant products<sub>2</sub>, or commodities meet import  
6.25 requirements of other states or countries.

6.26 (b) The state plant regulatory official may issue permits and certificates verifying that  
6.27 various Minnesota agricultural plant treatment processes, products<sub>2</sub>, or commodities meet  
6.28 specified plant health requirements, treatment requirements, or pest absence assurances  
6.29 based on determinations by the commissioner.

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

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

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

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

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

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

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

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

7.14 **18H.10 STORAGE OF NURSERY STOCK.**

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

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

7.19 (c) Balled and burlapped nursery stock being held for sale to the public must be kept  
7.20 in a moisture-holding material approved by the commissioner and not toxic to plants.

7.21 The moisture-holding material must adequately cover and protect the ball of earth and  
7.22 must be kept moist at all times.

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

7.24 **18H.14 LABELING AND ADVERTISING OF NURSERY STOCK.**

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

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

7.31 ~~(b)~~ (c) A person may not offer for distribution plants, plant materials, or nursery  
7.32 stock, represented by some specific or special form of notation, including, but not limited

8.1 to, "free from" or "grown free of," unless the plants are produced under a specific program  
8.2 approved by the commissioner to address the specific plant properties addressed in the  
8.3 special notation claim.

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

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

8.10 **18J.01 DEFINITIONS.**

8.11 (a) The definitions in sections 18G.02 ~~and~~, 18H.02, 27.01, 223.16, 231.01, and  
8.12 232.21 apply to this chapter.

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

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

8.16 **18J.02 DUTIES OF COMMISSIONER.**

8.17 The commissioner shall administer and enforce this chapter, chapters 18G ~~and~~, 18H,  
8.18 27, 223, 231, and 232; sections 21.80 to 21.92~~;2~~; and associated rules.

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

8.20 **18J.03 CIVIL LIABILITY.**

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

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

8.25 Subdivision 1. **Access and entry.** The commissioner, upon presentation of official  
8.26 department credentials, must be granted immediate access at reasonable times to sites  
8.27 where a person manufactures, distributes, uses, handles, disposes of, stores, or transports  
8.28 seeds, plants, grain, household goods, general merchandise, produce, or other living or  
8.29 nonliving products or other objects regulated under chapter 18G ~~or~~, 18H, 27, 223, 231, or  
8.30 232; sections 21.80 to 21.92~~;2~~; or associated rules.

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

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

9.3 (1) inspection of inventory and equipment for the manufacture, storage, handling,  
9.4 distribution, disposal, or any other process regulated under chapter 18G ~~or~~ 18H, 27, 223,  
9.5 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

9.6 (2) sampling of sites, seeds, plants, products, grain, household goods, general  
9.7 merchandise, produce, or other living or nonliving objects that are manufactured, stored,  
9.8 distributed, handled, or disposed of at those sites and regulated under chapter 18G ~~or~~  
9.9 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

9.10 (3) inspection of records related to the manufacture, distribution, storage, handling,  
9.11 or disposal of seeds, plants, products, grain, household goods, general merchandise,  
9.12 produce, or other living or nonliving objects regulated under chapter 18G ~~or~~ 18H, 27,  
9.13 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules;

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

9.16 (5) other purposes necessary to implement chapter 18G ~~or~~ 18H, 27, 223, 231, or  
9.17 232; sections 21.80 to 21.92~~;~~ or associated rules.

9.18 (b) The commissioner may enter any public or private premises during or after  
9.19 regular business hours without notice of inspection when a suspected violation of chapter  
9.20 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~ or associated rules may  
9.21 threaten public health or the environment.

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

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

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

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

10.2 Subd. 4. **Inspection requests by others.** (a) A person who believes that a violation  
10.3 of chapter 18G ~~or~~<sub>2</sub> 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> or associated  
10.4 rules has occurred may request an inspection by giving notice to the commissioner of the  
10.5 violation. The notice must be in writing, state with reasonable particularity the grounds  
10.6 for the notice, and be signed by the person making the request.

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

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

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

10.17 Subdivision 1. **Enforcement required.** (a) A violation of chapter 18G ~~or~~<sub>2</sub> 18H, 27,  
10.18 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> or an associated rule is a violation of this  
10.19 chapter.

10.20 (b) Upon the request of the commissioner, county attorneys, sheriffs, and other  
10.21 officers having authority in the enforcement of the general criminal laws must take action  
10.22 to the extent of their authority necessary or proper for the enforcement of chapter 18G ~~or~~<sub>2</sub>  
10.23 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> or associated rules or valid orders,  
10.24 standards, stipulations, and agreements of the commissioner.

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

10.26 Subd. 2. **Commissioner's discretion.** If minor violations of chapter 18G ~~or~~<sub>2</sub>  
10.27 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> or associated rules occur or the  
10.28 commissioner believes the public interest will be best served by a suitable notice of  
10.29 warning in writing, this section does not require the commissioner to:

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

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

11.1 Subd. 6. **Agent for service of process.** All persons licensed, permitted, registered,  
 11.2 or certified under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> or  
 11.3 associated rules must appoint the commissioner as the agent upon whom all legal process  
 11.4 may be served and service upon the commissioner is deemed to be service on the licensee,  
 11.5 permittee, registrant, or certified person.

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

11.7 **18J.06 FALSE STATEMENT OR RECORD.**

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

11.10 (1) an application for registration, license, certification, or permit under chapter 18G  
 11.11 ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> or associated rules;

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

11.14 (3) an investigation of a violation of chapter 18G ~~or~~ 18H, 27, 223, 231, or 232;  
 11.15 sections 21.80 to 21.92~~;~~<sub>2</sub> or associated rules.

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

11.17 Subd. 3. **Cancellation of registration, permit, license, certification.** The  
 11.18 commissioner may cancel or revoke a registration, permit, license, or certification  
 11.19 provided for under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub>  
 11.20 or associated rules or refuse to register, permit, license, or certify under provisions of  
 11.21 chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> or associated rules  
 11.22 if the registrant, permittee, licensee, or certified person has used fraudulent or deceptive  
 11.23 practices in the evasion or attempted evasion of a provision of chapter 18G ~~or~~ 18H, 27,  
 11.24 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> or associated rules.

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

11.26 Subd. 4. **Service of order or notice.** (a) If a person is not available for service of an  
 11.27 order, the commissioner may attach the order to the facility, site, seed or seed container,  
 11.28 plant or other living or nonliving object regulated under chapter 18G ~~or~~ 18H, 27, 223,  
 11.29 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> or associated rules and notify the owner, custodian,  
 11.30 other responsible party, or registrant.

11.31 (b) The seed, seed container, plant, or other living or nonliving object regulated  
 11.32 under chapter 18G ~~or~~ 18H, 27, 223, 231, or 232; sections 21.80 to 21.92~~;~~<sub>2</sub> 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),"  
13.8 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 5, is amended to read:

15.17 Subd. 5. **Commercial feed.** "Commercial feed" means materials or combinations  
15.18 of materials that are distributed or intended to be distributed for use as feed or for  
15.19 mixing in feed, including feed for aquatic animals, unless the materials are specifically  
15.20 exempted. Unmixed whole seeds and physically altered entire unmixed seeds, if the  
15.21 whole or physically altered seeds are not chemically changed or are not adulterated  
15.22 within the meaning of section 25.37, paragraph (a), are exempt. The commissioner by  
15.23 rule may exempt from this definition, or from specific provisions of sections 25.31 to  
15.24 25.43, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual  
15.25 chemical compounds or substances if those commodities, compounds, or substances  
15.26 are not intermixed with other materials, and are not adulterated within the meaning of  
15.27 section 25.37, paragraph (a). Commercial feed does not include feed produced and used  
15.28 by a distributor.

15.29 **EFFECTIVE DATE.** This section is effective retroactively from January 1,  
15.30 2012, and applies to commercial feed inspection fees assessed by the commissioner of  
15.31 agriculture for calendar year 2012 and thereafter.

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

15.33 **31.13 ANALYSIS; EVIDENCE.**

16.1 It shall be the duty of the ~~chief chemist and assistants~~ laboratory director, managers,  
16.2 and analysts to make analyses and examinations of such articles as shall be furnished  
16.3 to them by the commissioner, for the purpose of determining from such examination  
16.4 whether such articles are adulterated, misbranded, insufficiently labeled, unwholesome,  
16.5 poisonous, or deleterious and whether such articles have been manufactured, used, sold,  
16.6 transported, offered for use, sale, or transportation, or had in possession with intent to use,  
16.7 sell, or transport in violation of any law now or hereafter enacted relating to food, or of  
16.8 any definition, standard, rule, or ruling made and published thereunder, and to certify the  
16.9 result of such analysis and examination to the commissioner. A copy of the result of the  
16.10 examination or analysis of any such article, duly authenticated, by the ~~chemist~~ analyst  
16.11 making such ~~analysis determinations~~ or examination, under oath of such ~~chemist~~ analyst,  
16.12 shall be prima facie evidence in all courts of the matters and facts therein contained.

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

16.14 **31.94 COMMISSIONER DUTIES.**

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

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

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

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

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

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

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

- 17.1 ~~(1) a description of current state or federal programs directed toward organic~~  
 17.2 ~~agriculture, including significant results and experiences of those programs;~~  
 17.3 ~~(2) a description of specific actions the department of agriculture is taking in the~~  
 17.4 ~~area of organic agriculture, including the proportion of the department's budget spent on~~  
 17.5 ~~organic agriculture;~~  
 17.6 ~~(3) a description of current and future research needs at all levels in the area of~~  
 17.7 ~~organic agriculture;~~  
 17.8 ~~(4) suggestions for changes in existing programs or policies or enactment of new~~  
 17.9 ~~programs or policies that will affect organic agriculture;~~  
 17.10 ~~(5) a description of market trends and potential for organic products;~~  
 17.11 ~~(6) available information, using currently reliable data, on the price received, yield,~~  
 17.12 ~~and profitability of organic farms, and a comparison with data on conventional farms; and~~  
 17.13 ~~(7) available information, using currently reliable data, on the positive and negative~~  
 17.14 ~~impacts of organic production on the environment and human health.~~
- 17.15 (c) A Minnesota Organic Advisory Task Force shall advise the commissioner and the  
 17.16 University of Minnesota on policies and programs that will improve organic agriculture in  
 17.17 Minnesota, including how available resources can most effectively be used for outreach,  
 17.18 education, research, and technical assistance that meet the needs of the organic agriculture  
 17.19 community. The task force must consist of the following residents of the state:
- 17.20 (1) three farmers using organic agriculture methods;  
 17.21 (2) one wholesaler or distributor of organic products;  
 17.22 (3) one representative of organic certification agencies;  
 17.23 (4) two organic processors;  
 17.24 (5) one representative from University of Minnesota Extension;  
 17.25 (6) one University of Minnesota faculty member;  
 17.26 (7) one representative from a nonprofit organization representing producers;  
 17.27 (8) two public members;  
 17.28 (9) one representative from the United States Department of Agriculture;  
 17.29 (10) one retailer of organic products; and  
 17.30 (11) one organic consumer representative.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19.15 Subdivision 1. **General corporate powers.** (a) The authority has the powers granted  
 19.16 to a business corporation by section 302A.161, subdivisions 3; 4; 5; 7; 8; 9; 11; 12; 13,  
 19.17 except that the authority may not act as a general partner in any partnership; 14; 15; 16; 17;  
 19.18 18; and 22, and the powers necessary or convenient to exercise the enumerated powers.

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

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

19.26 (1) housing for bred and lactating animals;

19.27 (2) milking parlor;

19.28 (3) automatic milking systems;

19.29 (4) cross-ventilated and natural-ventilated housing;

19.30 (5) transition cow housing;

19.31 (6) special needs and hospital housing;

19.32 (7) classrooms and a conference room;

19.33 (8) dairy processing facility with retail;

19.34 (9) visitors' center;

19.35 (10) student housing;

- 20.1 (11) laboratory facilities;  
20.2 (12) space to accommodate installation of an anaerobic digester system to research  
20.3 energy production from feedstock produced on-site or from off-site sources; and  
20.4 (13) space for feed storage to allow for research capabilities at the facility.

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

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

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

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

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

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

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

21.2 The authority may establish funds and accounts that it determines to be reasonable  
 21.3 and necessary to conduct the business of the authority. The board shall provide for and  
 21.4 pay the cost of an independent annual audit of its official books and records by the state  
 21.5 auditor. A copy of this audit must be filed with the secretary of state.

21.6 Sec. 38. [32C.05] ANNUAL REPORT.

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

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

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

21.16 (3) a description of the administrative expenses of the authority during the previous  
 21.17 year;

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

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

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

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

21.25 Sec. 39. Minnesota Statutes 2010, section 35.0661, subdivision 2, is amended to read:

21.26 Subd. 2. **Quarantine zones.** Upon an emergency declaration by the governor  
 21.27 under subdivision 1, the board or any licensed veterinarian designated by the board may  
 21.28 establish quarantine zones of control in any area where a specific animal is deemed by a  
 21.29 licensed veterinarian as likely to be infected with the disease based on an actual veterinary  
 21.30 examination or laboratory testing. Quarantine zones of control to restrict the movement of  
 21.31 livestock must be the smallest size practicable to prevent the spread of disease and must  
 21.32 exist for the shortest duration consistent with effective disease control. ~~A quarantine zone~~  
 21.33 ~~of control must not extend beyond a radius of three miles from an animal deemed as likely~~

22.1 ~~to be infected with the disease, unless the board has adopted a rule regarding a specific~~  
 22.2 ~~disease requiring a larger quarantine zone of control.~~

22.3 Sec. 40. Minnesota Statutes 2010, section 35.0661, subdivision 3, is amended to read:

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

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

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

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

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

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

22.31 Sec. 41. Minnesota Statutes 2010, section 40A.17, is amended to read:

22.32 **40A.17 REPORT.**

22.33 The commissioner shall report to the legislature on ~~January~~ March 1 of each  
 22.34 even-numbered year on activities under this chapter. By July 1, 1985, the report must

23.1 include the survey of public awareness in the awareness program. The report shall include  
23.2 recommendations for funding levels and other necessary legislative action.

23.3 Sec. 42. Minnesota Statutes 2010, section 41A.12, subdivision 2, is amended to read:

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

23.10 Sec. 43. Minnesota Statutes 2010, section 41A.12, subdivision 4, is amended to read:

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

23.12 Sec. 44. Minnesota Statutes 2010, section 223.16, subdivision 12, is amended to read:

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

23.20 Sec. 45. Minnesota Statutes 2010, section 223.17, subdivision 1, is amended to read:

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

- 23.26 ~~(a) private grain warehouse operator's license;~~  
23.27 ~~(b) public grain warehouse operator's license; and~~  
23.28 ~~(c) independent grain buyer's license.~~

23.29 The applicant for a grain buyer's license shall identify all grain buying locations  
23.30 owned or controlled by the grain buyer and all vehicles owned or controlled by the grain  
23.31 buyer used to transport purchased grain. Every applicant for a grain buyer's license shall  
23.32 have a permanent established place of business at each licensed location. An "established

24.1 place of business" means a permanent enclosed building, including a house or a farm,  
 24.2 either owned by the applicant or leased by the applicant for a period of at least one year,  
 24.3 and where the books, records, and files necessary to conduct the business are kept and  
 24.4 maintained. ~~The commissioner may maintain information on grain buyers by categories~~  
 24.5 ~~including, but not limited to, the categories provided in clauses (a) to (c) and grain buyers~~  
 24.6 ~~that are licensed to purchase grain using trucks but that do not have a public or private~~  
 24.7 ~~warehouse license.~~

24.8 Sec. 46. Minnesota Statutes 2010, section 223.17, subdivision 4, is amended to read:

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

24.12 ~~(a)~~ (1) \$10,000 for grain buyers whose gross annual purchases are \$100,000 or less;

24.13 ~~(b)~~ (2) \$20,000 for grain buyers whose gross annual purchases are more than  
 24.14 \$100,000 but not more than \$750,000;

24.15 ~~(c)~~ (3) \$30,000 for grain buyers whose gross annual purchases are more than  
 24.16 \$750,000 but not more than \$1,500,000;

24.17 ~~(d)~~ (4) \$40,000 for grain buyers whose gross annual purchases are more than  
 24.18 \$1,500,000 but not more than \$3,000,000;

24.19 ~~(e)~~ (5) \$50,000 for grain buyers whose gross annual purchases are more than  
 24.20 \$3,000,000 but not more than \$6,000,000;

24.21 ~~(f)~~ (6) \$70,000 for grain buyers whose gross annual purchases are more than  
 24.22 \$6,000,000 but not more than \$12,000,000;

24.23 ~~(g)~~ (7) \$125,000 for grain buyers whose gross annual purchases are more than  
 24.24 \$12,000,000 but not more than \$24,000,000; and

24.25 ~~(h)~~ (8) \$150,000 for grain buyers whose gross annual purchases exceed \$24,000,000.

24.26 (b) A grain buyer who has filed a bond with the commissioner prior to July 1, 2004,  
 24.27 is not required to increase the amount of the bond to comply with this section until July 1,  
 24.28 2005. The commissioner may postpone an increase in the amount of the bond until July 1,  
 24.29 2006, if a licensee demonstrates that the increase will impose undue financial hardship on  
 24.30 the licensee, and that producers will not be harmed as a result of the postponement. The  
 24.31 commissioner may impose other restrictions on a licensee whose bond increase has been  
 24.32 postponed. The amount of the bond shall be based on the most recent ~~financial statement~~  
 24.33 gross annual grain purchase report of the grain buyer ~~filed under subdivision 6.~~

24.34 (c) A first-time applicant for a grain buyer's license shall file a \$50,000 bond with the  
 24.35 commissioner. This bond shall remain in effect for the first year of the license. Thereafter,

25.1 the licensee shall comply with the applicable bonding requirements contained in ~~clauses~~  
 25.2 ~~(a) to (h)~~ paragraph (a), clauses (1) to (8).

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

25.9 (e) Bonds must be continuous until canceled. To cancel a bond, a surety must provide  
 25.10 90 days' written notice of the bond's termination date to the licensee and the commissioner.

25.11 Sec. 47. Minnesota Statutes 2010, section 223.17, subdivision 6, is amended to read:

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

25.16 ~~(a) (1)~~ (1) The financial statement shall include, but not be limited to the following: ~~(1)~~

25.17 (i) a balance sheet; ~~(2)~~

25.18 (ii) a statement of income (profit and loss); ~~(3)~~

25.19 (iii) a statement of retained earnings; ~~(4)~~

25.20 (iv) a statement of changes in financial position; and ~~(5)~~

25.21 (v) a statement of the dollar amount of grain purchased in the previous fiscal year  
 25.22 of the grain buyer.

25.23 ~~(b) (2)~~ (2) The financial statement shall be accompanied by a compilation report of the  
 25.24 financial statement that is prepared by a grain commission firm or a management firm  
 25.25 approved by the commissioner or by an independent public accountant, in accordance with  
 25.26 standards established by the American Institute of Certified Public Accountants. Grain  
 25.27 buyers purchasing less than 150,000 bushels of grain per calendar year may submit a  
 25.28 financial statement prepared by a public accountant who is not an employee or a relative  
 25.29 within the third degree of kindred according to civil law.

25.30 ~~(c) (3)~~ (3) The financial statement shall be accompanied by a certification by the chief  
 25.31 executive officer or the chief executive officer's designee of the licensee, under penalty  
 25.32 of perjury, that the financial statement accurately reflects the financial condition of the  
 25.33 licensee for the period specified in the statement.

25.34 (b) Only one financial statement must be filed for a chain of warehouses owned  
 25.35 or operated as a single business entity, unless otherwise required by the commissioner.

26.1 Any grain buyer having a net worth in excess of \$500,000,000 need not file the financial  
26.2 statement required by this subdivision but must provide the commissioner with a certified  
26.3 net worth statement. All financial statements filed with the commissioner are private or  
26.4 nonpublic data as provided in section 13.02.

26.5 Sec. 48. Minnesota Statutes 2010, section 223.17, subdivision 9, is amended to read:

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

26.13 Sec. 49. Minnesota Statutes 2010, section 232.21, subdivision 2, is amended to read:

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

26.17 Sec. 50. Minnesota Statutes 2010, section 232.21, subdivision 6, is amended to read:

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

26.22 Sec. 51. Minnesota Statutes 2010, section 232.21, subdivision 12, is amended to read:

26.23 Subd. 12. **Public grain warehouse operator.** "Public grain warehouse operator"  
26.24 means a person licensed to operate a grain warehouse in which grain belonging to persons  
26.25 other than the grain warehouse operator is accepted for storage or purchase, or who offers  
26.26 grain storage or grain warehouse facilities to the public for hire or a feed-processing  
26.27 plant that receives and stores grain, the equivalent of which, it processes and returns to  
26.28 the grain's owner in amounts, at intervals, and with added ingredients that are mutually  
26.29 agreeable to the grain's owner and the person operating the plant.

26.30 Sec. 52. Minnesota Statutes 2010, section 232.22, subdivision 3, is amended to read:

27.1 Subd. 3. **Fees; grain buyers and storage account.** There is created in the  
 27.2 agricultural fund an account known as the grain buyers and storage account. The  
 27.3 commissioner shall set the fees for ~~inspections~~ examinations, certifications, and licenses  
 27.4 under sections 232.20 to ~~232.25~~ 232.24 at levels necessary to pay the costs of administering  
 27.5 and enforcing sections 232.20 to ~~232.25~~ 232.24. All money collected pursuant to sections  
 27.6 232.20 to ~~232.25~~ and chapters 233 and 236 232.24 shall be paid by the commissioner into  
 27.7 the state treasury and credited to the grain buyers and storage account and is appropriated  
 27.8 to the commissioner for the administration and enforcement of sections 232.20 to ~~232.25~~  
 27.9 ~~and chapters 233 and 236~~ 232.24. All money collected pursuant to chapter 231 shall be  
 27.10 paid by the commissioner into the grain buyers and storage account and is appropriated to  
 27.11 the commissioner for the administration and enforcement of chapter 231.

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

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

27.15 (b) A person with a license to store grain in a public grain warehouse is subject to  
 27.16 an examination fee for each licensed location, based on the following schedule for one  
 27.17 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

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

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

27.33 Sec. 53. Minnesota Statutes 2010, section 232.22, subdivision 4, is amended to read:

27.34 Subd. 4. **Bonding.** (a) Before a license is issued, the applicant for a public grain  
 27.35 warehouse operator's license shall file with the commissioner a bond in a penal sum  
 27.36 prescribed by the commissioner. ~~The penal sum on a condition one bond shall be~~  
 27.37 ~~established by rule by the commissioner pursuant to the requirements of chapter 14 for~~

28.1 ~~all grain outstanding on grain warehouse receipts. The penal sum on a condition two~~  
28.2 ~~bond shall not be less than \$10,000 for each location up to a maximum of five locations.~~  
28.3 based on the annual average storage liability as stated on the statement of grain in storage  
28.4 report or on the gross annual grain purchase report, whichever is greater, and applying  
28.5 the following amounts:

28.6 (1) \$10,000 for storages with annual average storage liability of more than \$0 but  
28.7 not more than \$25,000;

28.8 (2) \$20,000 for storages with annual average storage liability of more than \$25,001  
28.9 but not more than \$50,000;

28.10 (3) \$30,000 for storages with annual average storage liability of more than \$50,001  
28.11 but not more than \$75,000;

28.12 (4) \$50,000 for storages with annual average storage liability of more than \$75,001  
28.13 but not more than \$100,000;

28.14 (5) \$75,000 for storages with annual average storage liability of more than \$100,001  
28.15 but not more than \$200,000;

28.16 (6) \$125,000 for storages with annual average storage liability of more than  
28.17 \$200,001 but not more than \$300,000;

28.18 (7) \$175,000 for storages with annual average storage liability of more than  
28.19 \$300,001 but not more than \$400,000;

28.20 (8) \$225,000 for storages with annual average storage liability of more than  
28.21 \$400,001 but not more than \$500,000;

28.22 (9) \$275,000 for storages with annual average storage liability of more than  
28.23 \$500,001 but not more than \$600,000;

28.24 (10) \$325,000 for storages with annual average storage liability of more than  
28.25 \$600,001 but not more than \$700,000;

28.26 (11) \$375,000 for storages with annual average storage liability of more than  
28.27 \$700,001 but not more than \$800,000;

28.28 (12) \$425,000 for storages with annual average storage liability of more than  
28.29 \$800,001 but not more than \$900,000;

28.30 (13) \$475,000 for storages with annual average storage liability of more than  
28.31 \$900,001 but not more than \$1,000,000; and

28.32 (14) \$500,000 for storages with annual average storage liability of more than  
28.33 \$1,000,000.

28.34 (b) Bonds must be continuous until canceled. To cancel a bond, a surety must provide  
28.35 90 days' written notice of the bond's termination date to the licensee and the commissioner.

29.1 Sec. 54. Minnesota Statutes 2010, section 232.22, subdivision 5, is amended to read:

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

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

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

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

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

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

29.29 Sec. 55. Minnesota Statutes 2010, section 232.22, subdivision 7, is amended to read:

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

29.34 ~~(b) The condition two bond shall provide for payment of loss caused by the grain~~  
29.35 ~~buyer's failure to pay, upon the owner's demand, the purchase price of grain sold to the~~

30.1 ~~grain buyer. The bond shall be conditioned upon the grain buyer being duly licensed as~~  
30.2 ~~provided herein. The bond shall not cover any transaction which constitutes a voluntary~~  
30.3 ~~extension of credit.~~

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

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

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

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

30.25 Sec. 56. Minnesota Statutes 2010, section 232.23, subdivision 2, is amended to read:

30.26 Subd. 2. **Scale tickets.** A public or private grain warehouse operator, upon  
30.27 receiving grain, shall issue a scale ticket for each load of grain received. Scale tickets shall  
30.28 contain the name, location and the date of each transaction, weight, volume, kind of  
30.29 grain, signature of warehouse operator, and be consecutively numbered. Electronic scale  
30.30 tickets do not require a signature. A duplicate copy of each scale ticket shall remain in the  
30.31 possession of the public or private grain warehouse operator as a permanent record. The  
30.32 original scale ticket shall be delivered to the depositor upon receipt of each load of grain.  
30.33 Each scale ticket shall have printed across its face "This is a memorandum, nonnegotiable,  
30.34 possession of which does not signify that settlement has or has not been consummated."  
30.35 The scale ticket shall state specifically whether the grain is received on contract, for

31.1 storage, for shipment or consignment or sold. If the grain is received on contract or sold,  
31.2 the price shall be indicated on the scale ticket. All paper scale tickets shall be dated and  
31.3 signed by the public or private grain warehouse operator or the operator's agent or manager.

31.4 Sec. 57. Minnesota Statutes 2010, section 232.23, subdivision 5, is amended to read:

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

31.13 Sec. 58. Minnesota Statutes 2010, section 232.23, subdivision 10, is amended to read:

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

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

32.1 the person shall pay the required fee. The fee shall be the same as that required for similar  
32.2 services rendered by the grain inspection program.

32.3 Sec. 59. Minnesota Statutes 2010, section 232.24, subdivision 1, is amended to read:

32.4 Subdivision 1. **Schedule of inspection examination.** A licensee under sections  
32.5 232.20 to 232.25 is subject to two ~~audits~~ examinations annually conducted by the  
32.6 commissioner or the agricultural marketing service of the United States Department of  
32.7 Agriculture. The commissioner may, by rule, authorize one ~~audit~~ examination to be  
32.8 conducted by a qualified nongovernmental unit.

32.9 Sec. 60. Minnesota Statutes 2010, section 232.24, subdivision 2, is amended to read:

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

32.13 Sec. 61. Minnesota Statutes 2010, section 239.092, is amended to read:

32.14 **239.092 SALE FROM BULK.**

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

32.18 (1) the name and address of the person who weighed or measured the commodity;

32.19 (2) the date delivered;

32.20 (3) the quantity delivered;

32.21 (4) the count of individually wrapped packages delivered, if more than one is  
32.22 included in the quantity delivered;

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

32.24 and

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

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

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

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

33.3 Sec. 62. Minnesota Statutes 2010, section 239.093, is amended to read:

33.4 **239.093 INFORMATION REQUIRED WITH PACKAGE.**

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

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

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

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

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

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

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

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

33.22 Sec. 63. Laws 2010, Second Special Session chapter 1, article 1, section 11, is  
 33.23 amended to read:

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

33.25 To the commissioner of agriculture for  
 33.26 the purposes specified in Minnesota  
 33.27 Statutes, section 12A.04. Notwithstanding  
 33.28 section 2, subdivision 1, for the purposes  
 33.29 of mental health counseling authorized  
 33.30 under Minnesota Statutes, section 12A.04,  
 33.31 this appropriation is available to assist  
 33.32 agricultural producers and their families  
 33.33 located in any rural disaster area declared

34.1 by the Federal Emergency Management  
 34.2 Agency or the United States Department of  
 34.3 Agriculture. This appropriation is from the  
 34.4 general fund.

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

34.7 Sec. 64. Laws 2011, chapter 14, section 6, is amended by adding an effective date to  
 34.8 read:

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

34.10 Sec. 65. **REPEALER.**

34.11 (a) Minnesota Statutes 2010, sections 17B.01; 17B.02; 17B.03; 17B.04; 17B.041;  
 34.12 17B.0451; 17B.048; 17B.05; 17B.06; 17B.07; 17B.10; 17B.11; 17B.12; 17B.13; 17B.14;  
 34.13 17B.15, subdivisions 1 and 3; 17B.16; 17B.17; 17B.18; 17B.20; 17B.22, subdivisions  
 34.14 1 and 2; 17B.28; 17B.29; 27.19, subdivisions 2 and 3; 27.20; 35.243; 35.255; 35.67;  
 34.15 35.72, subdivisions 1, 2, 3, 4, and 5; 223.16, subdivision 7; 223.18; 232.21, subdivision  
 34.16 4; 232.24, subdivision 3; 232.25; 233.01; 233.015; 233.017; 233.02; 233.03; 233.04;  
 34.17 233.05; 233.06; 233.07; 233.08; 233.09; 233.10; 233.11; 233.12; 233.22; 233.23; 233.24;  
 34.18 233.33; 234.01; 234.03; 234.04; 234.05; 234.06; 234.08; 234.09; 234.10; 234.11; 234.12;  
 34.19 234.13; 234.14; 234.15; 234.16; 234.17; 234.18; 234.19; 234.20; 234.21; 234.22; 234.23;  
 34.20 234.24; 234.25; 234.27; 235.01; 235.02; 235.04; 235.05; 235.06; 235.07; 235.08; 235.09;  
 34.21 235.10; 235.13; 235.18; 236.01; 236.02; 236.03; 236.04; 236.05; 236.06; 236.07; 236.08;  
 34.22 236.09; 395.14; 395.15; 395.16; 395.17; 395.18; 395.19; 395.20; 395.21; 395.22; 395.23;  
 34.23 and 395.24, are repealed.

34.24 (b) Minnesota Rules, parts 1505.0780; 1505.0810; 1511.0100; 1511.0110;  
 34.25 1511.0120; 1511.0130; 1511.0140; 1511.0150; 1511.0160; 1511.0170; 1562.0100,  
 34.26 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;  
 34.27 1562.0200; 1562.0400; 1562.0700; 1562.0900; 1562.1300; and 1562.1800, are repealed.

## 34.28 **ARTICLE 2**

### 34.29 **FOOD SAFETY**

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

35.1 Subdivision 1. **Criminal penalties.** A person who violates a provision of chapter  
 35.2 ~~25, 28A, 29, 31, 31A, or 31B, or 34~~ for which a penalty has not been prescribed is guilty  
 35.3 of a misdemeanor.

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

35.5 **17.983 ADMINISTRATIVE PENALTIES AND ENFORCEMENT.**

35.6 Subdivision 1. **Administrative penalties; citation.** If a person has violated a  
 35.7 provision of chapter 25, ~~28A, 29, 31, 31A, 31B, or 32, or 34~~, the commissioner may issue  
 35.8 a written citation to the person by personal service or by certified mail. The citation must  
 35.9 describe the nature of the violation and the statute or rule alleged to have been violated;  
 35.10 state the time for correction, if applicable; and the amount of any proposed fine. The  
 35.11 citation must advise the person to notify the commissioner in writing within 30 days if the  
 35.12 person wishes to appeal the citation. If the person fails to appeal the citation, the citation  
 35.13 is the final order and not subject to further review.

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

35.18 Sec. 3. Minnesota Statutes 2010, section 25.33, subdivision 13, is amended to read:

35.19 Subd. 13. **Label.** "Label" ~~means a display of written, printed, or graphic matter~~  
 35.20 ~~upon or affixed to the container in which a commercial feed is distributed, or on the~~  
 35.21 ~~invoice or delivery slip with which a commercial feed is distributed~~ has the meaning given  
 35.22 in section 34A.01, subdivision 6.

35.23 Sec. 4. Minnesota Statutes 2010, section 25.33, subdivision 14, is amended to read:

35.24 Subd. 14. **Labeling.** "Labeling" ~~means all labels and other written, printed,~~  
 35.25 ~~or graphic matter upon a commercial feed or any of its containers or wrapper or~~  
 35.26 ~~accompanying or supporting such commercial feed~~ has the meaning given in section  
 35.27 34A.01, subdivision 7.

35.28 Sec. 5. Minnesota Statutes 2010, section 25.36, is amended to read:

35.29 **25.36 MISBRANDING.**

35.30 A commercial feed is misbranded if: it is covered by one or more of the clauses  
 35.31 in section 34A.03.

35.32 ~~(1) its labeling is false or misleading in any particular;~~

- 36.1 ~~(2) it is distributed under the name of another commercial feed;~~  
 36.2 ~~(3) it is not labeled as required in section 25.35;~~  
 36.3 ~~(4) it purports to be or is represented as a commercial feed or it purports to contain or~~  
 36.4 ~~is represented as containing a commercial feed ingredient unless that commercial feed or~~  
 36.5 ~~feed ingredient conforms to the definition, if any, prescribed by rule by the commissioner;~~  
 36.6 ~~(5) any word, statement, or other information required by or under authority of~~  
 36.7 ~~sections 25.31 to 25.43 to appear on the label or labeling is not prominently placed on it~~  
 36.8 ~~with such conspicuousness as compared with other words, statements, designs, or devices~~  
 36.9 ~~in the labeling, and in such terms as to render it likely to be read and understood by the~~  
 36.10 ~~ordinary individual under customary conditions of purchase and use; or~~  
 36.11 ~~(6) its labeling would deceive or mislead the purchaser with respect to its~~  
 36.12 ~~composition or suitability.~~

36.13 Sec. 6. Minnesota Statutes 2010, section 25.37, is amended to read:

36.14 **25.37 ADULTERATION.**

36.15 ~~(a)~~ A commercial feed or a material exempted from the definition of commercial  
 36.16 feed under section 25.33, subdivision 5, is adulterated if: it is covered by one or more of  
 36.17 the clauses in section 34A.02, subdivision 2.

36.18 ~~(1) it bears or contains a poisonous or deleterious substance which may render it~~  
 36.19 ~~injurious to health; but in case the substance is not an added substance, the commercial~~  
 36.20 ~~feed is not considered adulterated if the quantity of the substance in the commercial feed~~  
 36.21 ~~does not ordinarily render it injurious to health;~~

36.22 ~~(2) it bears or contains an added poisonous, deleterious, or nonnutritive substance~~  
 36.23 ~~which is unsafe within the meaning of section 406 of the Federal Food, Drug, and~~  
 36.24 ~~Cosmetic Act, other than the one which is a pesticide chemical in or on a raw agricultural~~  
 36.25 ~~commodity, or a food additive;~~

36.26 ~~(3) it is unsafe or bears or contains any food additive which is unsafe within the~~  
 36.27 ~~meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;~~

36.28 ~~(4) it is a raw agricultural commodity and it bears or contains a pesticide chemical~~  
 36.29 ~~which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and~~  
 36.30 ~~Cosmetic Act; provided, that where a pesticide chemical has been used in or on a~~  
 36.31 ~~raw agricultural commodity in conformity with an exemption granted or a tolerance~~  
 36.32 ~~prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act and that raw~~  
 36.33 ~~agricultural commodity has been subjected to processing such as canning, cooking,~~  
 36.34 ~~freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on~~  
 36.35 ~~the processed feed is not unsafe if the residue in or on the raw agricultural commodity has~~

37.1 ~~been removed to the extent possible in good manufacturing practice and the concentration~~  
37.2 ~~of the residue in the processed feed is not greater than the tolerance prescribed for the raw~~  
37.3 ~~agricultural commodity unless the feeding of the processed feed will result or is likely to~~  
37.4 ~~result in a pesticide residue in the edible product of the animal, which is unsafe within the~~  
37.5 ~~meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act;~~

37.6 ~~(5) it is, or it bears or contains any color additive which is unsafe within the meaning~~  
37.7 ~~of section 706 of the Federal Food, Drug, and Cosmetic Act;~~

37.8 ~~(6) it is, or it bears or contains, any new animal drug which is unsafe within the~~  
37.9 ~~meaning of section 512 of the Federal Food, Drug, and Cosmetic Act;~~

37.10 ~~(7) it consists, in whole or in part, of any filthy, putrid, or decomposed substance, or~~  
37.11 ~~is otherwise unfit for feed;~~

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

37.14 ~~(9) it is, in whole or in part, the product of a diseased animal or of an animal which~~  
37.15 ~~has died otherwise than by slaughter which is unsafe within the meaning of section~~  
37.16 ~~402(a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act;~~

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

37.19 ~~(11) it has been intentionally subjected to radiation, unless the use of the radiation~~  
37.20 ~~was in conformity with a regulation or exemption in effect under section 409 of the~~  
37.21 ~~Federal Food, Drug, and Cosmetic Act.~~

37.22 ~~(b) A commercial feed is adulterated if:~~

37.23 ~~(1) any valuable constituent has been in whole or in part omitted or abstracted from~~  
37.24 ~~it or any less valuable substance substituted for a constituent;~~

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

37.27 ~~(3) it contains a drug and the methods used in or the facilities or controls used for~~  
37.28 ~~its manufacture, processing, or packaging do not conform to current good manufacturing~~  
37.29 ~~practice rules promulgated by the commissioner to assure that the drug meets the safety~~  
37.30 ~~requirements of sections 25.31 to 25.43 and has the identity and strength and meets the~~  
37.31 ~~quality and purity characteristics which it purports or is represented to possess. In adopting~~  
37.32 ~~rules under this clause, the commissioner shall adopt the current good manufacturing~~  
37.33 ~~practice rules for medicated feed premixes and for medicated feeds established under~~  
37.34 ~~authority of the Federal Food, Drug, and Cosmetic Act, unless the commissioner~~  
37.35 ~~determines that they are not appropriate to the conditions which exist in this state; or~~

38.1 ~~(4) it contains viable weed seeds in amounts exceeding limits established by the~~  
38.2 ~~commissioner by rule.~~

38.3 Sec. 7. Minnesota Statutes 2010, section 28A.03, subdivision 3, is amended to read:

38.4 Subd. 3. **Person.** "Person" ~~means any individual, firm, corporation, company,~~  
38.5 ~~association, cooperative, or partnership and includes any trustee, receiver, assignee, or~~  
38.6 ~~other similar representative thereof~~ has the meaning given in section 34A.01, subdivision  
38.7 10.

38.8 Sec. 8. Minnesota Statutes 2010, section 28A.03, subdivision 5, is amended to read:

38.9 Subd. 5. **Food.** "Food<sub>2</sub>" ~~includes every article used for, entering into the~~  
38.10 ~~consumption of, or used or intended for use in the preparation of food, drink, confectionery,~~  
38.11 ~~or condiment for humans, whether simple, mixed or compound. "nonperishable food,"~~  
38.12 "frozen food," "perishable food," and "readily perishable food" have the meanings given  
38.13 in section 34A.01.

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

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

38.21 ~~(c) "Frozen food" is food which is processed and preserved by freezing in accordance~~  
38.22 ~~with good commercial practices and which is intended to be sold in the frozen state.~~

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

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

38.32 Sec. 9. Minnesota Statutes 2010, section 28A.03, subdivision 6, is amended to read:

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

39.6 Sec. 10. Minnesota Statutes 2010, section 28A.21, subdivision 6, is amended to read:

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

39.9 Sec. 11. Minnesota Statutes 2010, section 31.01, subdivision 2, is amended to read:

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

39.14 Sec. 12. Minnesota Statutes 2010, section 31.01, subdivision 3, is amended to read:

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

39.18 Sec. 13. Minnesota Statutes 2010, section 31.01, subdivision 4, is amended to read:

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

39.24 Sec. 14. Minnesota Statutes 2010, section 31.01, subdivision 21, is amended to read:

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

39.29 Sec. 15. Minnesota Statutes 2010, section 31.01, subdivision 25, is amended to read:

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

40.4 Sec. 16. Minnesota Statutes 2010, section 31.01, subdivision 28, is amended to read:

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

40.11 Sec. 17. Minnesota Statutes 2010, section 31.121, is amended to read:

40.12 **31.121 FOOD ADULTERATION.**

40.13 A food shall be deemed to be adulterated: if it is covered by one or more of the  
40.14 clauses in section 34A.02.

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

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

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

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

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

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

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

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

41.11 ~~(i) If it has been intentionally subjected to radiation, unless the use of the radiation~~  
41.12 ~~was in conformity with a rule or exemption in effect pursuant to section 31.122 or section~~  
41.13 ~~409 of the federal act; or~~

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

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

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

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

41.21 ~~(n) If it is confectionery, and (1) has partially or completely imbedded therein any~~  
41.22 ~~nonnutritive object; provided, that this clause shall not apply in the case of any nonnutritive~~  
41.23 ~~object if in the judgment of the commissioner, as provided by rules, such object is of~~  
41.24 ~~practical functional value to the confectionery product and would not render the product~~  
41.25 ~~injurious or hazardous to health; or (2) bears or contains any nonnutritive substance;~~  
41.26 ~~provided, that this clause shall not apply to (i) a confection containing alcohol as defined~~  
41.27 ~~in section 31.76, or (ii) a safe nonnutritive substance which is in or on confectionery by~~  
41.28 ~~reason of its use for some practical functional purpose in the manufacture, packaging, or~~  
41.29 ~~storing of such confectionery if the use of the substance does not promote deception of the~~  
41.30 ~~consumer or otherwise result in adulteration or misbranding in violation of any provision~~  
41.31 ~~of the Minnesota Food Law; and provided further, that the commissioner may, for the~~  
41.32 ~~purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules~~  
41.33 ~~allowing or prohibiting the use of particular nonnutritive substances; or~~

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

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

42.4 Sec. 18. Minnesota Statutes 2010, section 31.123, is amended to read:

42.5 **31.123 FOOD MISBRANDING.**

42.6 A food ~~shall be deemed to be~~ is misbranded: if it is covered by one or more of the  
42.7 clauses in section 34A.03, paragraph (a).

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

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

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

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

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

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

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

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

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

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

43.20 ~~(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical~~  
43.21 ~~preservative, unless it bears labeling stating that fact; provided, that to the extent that~~  
43.22 ~~compliance with the requirements of this clause is impracticable, exemptions shall be~~  
43.23 ~~established by rules promulgated by the commissioner. The provisions of this clause and~~  
43.24 ~~clauses (g) and (i) with respect to artificial coloring do not apply to butter, cheese or ice~~  
43.25 ~~cream. The provisions with respect to chemical preservatives do not apply to a pesticide~~  
43.26 ~~chemical when used in or on a raw agricultural commodity which is the product of the soil;~~

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

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

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

44.4 Sec. 19. Minnesota Statutes 2010, section 31A.02, subdivision 13, is amended to read:

44.5 Subd. 13. **Adulterated.** "Adulterated" means ~~a carcass, part of a carcass, meat,~~  
44.6 ~~poultry, poultry food product, or meat food product under one or more of the following~~  
44.7 ~~circumstances:~~ an item is covered by one or more of the clauses in section 34A.02,  
44.8 subdivision 1.

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

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

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

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

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

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

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

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

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

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

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

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

45.8 Sec. 20. Minnesota Statutes 2010, section 31A.02, subdivision 14, is amended to read:

45.9 Subd. 14. **Misbranded.** "Misbranded" means ~~a carcass, part of a carcass, meat,~~  
45.10 ~~poultry, poultry food product, or meat food product under one or more of the following~~  
45.11 ~~circumstances: an item is covered by one or more of the clauses in section 34A.03,~~  
45.12 ~~paragraph (a).~~

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

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

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

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

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

45.24 ~~(f) if a word, statement, or other information required by or under authority of this~~  
45.25 ~~chapter to appear on the label or other labeling is not prominently and conspicuously~~  
45.26 ~~placed on the label or labeling in terms that make it likely to be read and understood by the~~  
45.27 ~~ordinary individual under customary conditions of purchase and use;~~

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

45.34 ~~(h) if it is represented as a food for which a standard of fill of container has been~~  
45.35 ~~prescribed by rules of the commissioner under section 31A.07, and it falls below the~~

46.1 ~~applicable standard of fill of container, unless its label bears, in the manner and form the~~  
46.2 ~~rules specify, a statement that it falls below the standard;~~

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

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

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

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

46.20 Sec. 21. Minnesota Statutes 2010, section 31A.02, subdivision 15, is amended to read:

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

46.24 Sec. 22. Minnesota Statutes 2010, section 31A.02, subdivision 16, is amended to read:

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

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

46.29 **31A.23 DETENTION OF ANIMALS OR PRODUCTS.**

46.30 This section applies to a carcass, part of a carcass, meat, or meat food product of an  
46.31 animal, a product exempted from the definition of a meat food product, or a dead, dying,  
46.32 disabled, or diseased animal. If an authorized representative of the commissioner finds  
46.33 such an article or animal on premises where it is held for purposes of, during, or after

47.1 distribution in intrastate commerce, and there is reason to believe that it is adulterated or  
47.2 misbranded and is usable as human food, or that it has not been inspected, in violation of  
47.3 sections 31A.01 to 31A.16, the Federal Meat Inspection Act, or the Federal Food, Drug,  
47.4 and Cosmetic Act, or that the article or animal has been or is intended to be distributed in  
47.5 violation of a provision of those laws, it may be detained by the representative for up to  
47.6 20 days pending action under section ~~31A.24~~ 34A.11, subdivision 2, or notification of  
47.7 federal authorities having jurisdiction over the article or animal. It must not be moved  
47.8 by a person, firm, or corporation from the place at which it is located when detained,  
47.9 until released by the representative. The representative may require all official marks to  
47.10 be removed from the article or animal before it is released unless the commissioner is  
47.11 satisfied that the article or animal is eligible to retain the official marks.

47.12 Sec. 24. Minnesota Statutes 2010, section 32.01, subdivision 11, is amended to read:

47.13 Subd. 11. **Adulterated.** "Adulterated" ~~has the meaning given it in section 31.01,~~  
47.14 ~~subdivision 19, and acts amendatory thereof~~ means an item is covered by one or more of  
47.15 the clauses in section 34A.02, subdivision 1.

47.16 Sec. 25. Minnesota Statutes 2010, section 32.01, subdivision 12, is amended to read:

47.17 Subd. 12. **Misbranded.** "Misbranded" or "misbranding" ~~has the meaning given in~~  
47.18 ~~section 31.01, subdivision 5, and acts amendatory thereof~~ means an item is covered by one  
47.19 or more of the clauses in section 34A.03, paragraph (a).

47.20 Sec. 26. **[34A.01] DEFINITIONS.**

47.21 Subdivision 1. **Applicability.** The definitions in this section and chapters 28, 28A,  
47.22 29, 30, 31, 31A, 32, and 34 apply to this chapter. Only the definitions in this section  
47.23 apply to chapters 25 and 32. The enforcement provisions in this chapter do not apply to  
47.24 violations of chapters 25 and 32.

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

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

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

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

48.1 Subd. 6. **Label.** "Label" means a display of written, printed, or graphic matter  
48.2 upon or affixed to:

48.3 (1) the container of any food, and includes a like display, if required by law or rule,  
48.4 on the outside container or wrapper, if there is one, of the retail package of the food,  
48.5 not including package liners; or

48.6 (2) the invoice or delivery slip with which commercial feed is distributed.

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

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

48.10 (2) accompanying or supporting food; or

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

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

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

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

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

48.26 Subd. 12. **Sell; sale.** "Sell" and "sale" mean keeping, offering, or exposing for sale,  
48.27 use, transporting, transferring, negotiating, soliciting, or exchanging food; having in  
48.28 possession with intent to sell, use, transport, negotiate, solicit, or exchange food; storing,  
48.29 manufacturing, producing, processing, packing, and holding of food for sale; dispensing or  
48.30 giving food; or supplying or applying food in the conduct of any food operation or carrying  
48.31 food in aid of traffic in food whether done or permitted in person or through others.

48.32 Sec. 27. **[34A.012] EXCLUSIONS.**

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

48.34 (1) packaged pickles;

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

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

49.2 (4) dehydrated packaged food;

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

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

49.8 Sec. 28. **[34A.02] ADULTERATION.**

49.9 Subdivision 1. **Adulterated food.** Food is adulterated if:

49.10 (1) it bears or contains any poisonous or deleterious substance which may render it  
49.11 injurious to human or animal health; but if the substance is not an added substance, the  
49.12 item is not adulterated under this clause if the quantity of the substance in the item does  
49.13 not ordinarily render it injurious to human or animal health;

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

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

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

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

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

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

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

49.33 (9) it is in whole or in part the product of a diseased animal or of an animal which  
49.34 has died otherwise than by slaughter that is unsafe within the meaning of section 402(a)(1)

50.1 or (2) of the federal act, or of an animal that has been fed upon the uncooked offal from a  
50.2 slaughterhouse;

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

50.5 (11) it has been intentionally subjected to radiation, unless the use of the radiation  
50.6 was in conformity with a rule, regulation, or exemption in effect pursuant to section  
50.7 31.122 or section 409 of the federal act;

50.8 (12) any valuable constituent has been in whole or in part omitted or abstracted from  
50.9 the food, if any substance has been substituted wholly or in part for the food, or if damage  
50.10 or inferiority has been concealed in any manner. In the case of commercial feed, the  
50.11 substituted constituent must be of lesser value in order to be adulterated;

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

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

50.17 (15) it is confectionery and:

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

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

50.31 Subd. 2. **Commercial feed or material.** For only commercial feed or material  
50.32 exempted from the definition of commercial feed under section 25.33, subdivision 5,  
50.33 an item is adulterated if:

50.34 (1) it contains viable weed seeds in amounts exceeding limits established by the  
50.35 commissioner by rule or in sections 21.71 to 21.78;

51.1 (2) it is, bears, or contains any new animal drug which is unsafe within the meaning  
51.2 of section 512 of the federal act; or

51.3 (3) it contains a drug and the methods used in or the facilities or controls used for its  
51.4 manufacture, processing, or packaging do not conform to the current good manufacturing  
51.5 practice rules promulgated by the commissioner to ensure that the drug meets the safety  
51.6 requirements of sections 25.31 to 25.43 and has the identity and strength and meets the  
51.7 quality and purity characteristics that it purports or is represented to possess. In adopting  
51.8 rules under this clause, the commissioner shall adopt the current good manufacturing  
51.9 practice rules for medicated feed premixes and for medicated feeds established under  
51.10 authority of the federal act, unless the commissioner determines that they are not  
51.11 appropriate to the conditions that exist in this state.

51.12 Sec. 29. **[34A.03] MISBRANDING.**

51.13 (a) Food is misbranded if:

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

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

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

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

51.24 (5) it purports to be or is represented as a food for which a definition and standard  
51.25 of identity have been prescribed by rules as provided by sections 31.10, 31.102, and  
51.26 31A.07 unless it conforms to that definition and standard, and its label bears the name  
51.27 of the food specified in the definition and standard, and insofar as may be required by  
51.28 the rules, the common names of optional ingredients, other than spices, flavoring, and  
51.29 coloring, present in the food;

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

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

51.34 (ii) a food for which a standard or standards of fill of container have been prescribed  
51.35 by rule as provided by sections 31.10, 31.102, and 31A.07, and which falls below the

52.1 standard of fill of container applicable thereto unless its label bears, in a manner and form  
52.2 that the rules specify, a statement that it falls below the standard;

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

52.10 (8) it purports to be or is represented for special dietary uses, unless its label  
52.11 bears information concerning its vitamin, mineral, and other dietary properties as the  
52.12 commissioner determines to be, and by rules prescribed as, necessary in order to fully  
52.13 inform purchasers as to its value for those uses;

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

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

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

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

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

52.34 (b) Food is also misbranded if it is a raw agricultural commodity which is the  
52.35 product of the soil, bearing or containing a pesticide applied after harvest, unless the  
52.36 shipping container of that commodity bears labeling which declares the presence of the

53.1 chemical in or on the commodity and the common or usual name and the function of the  
53.2 chemical. No such declaration is required while the commodity, having been removed  
53.3 from the shipping container, is being held or displayed for sale at retail out of the container  
53.4 in accordance with the custom of the trade.

53.5 Sec. 30. **[34A.04] ENFORCEMENT.**

53.6 Subdivision 1. **Enforcement required.** (a) The commissioner shall enforce this  
53.7 chapter and chapters 28, 28A, 29, 30, 31, 31A, and 34. To carry out the enforcement duties  
53.8 under these chapters, the commissioner may, upon presenting appropriate credentials,  
53.9 during regular working hours and at other reasonable times, inspect premises subject  
53.10 to the commissioner's enforcement and licensing authority; require information from  
53.11 persons with information relevant to an inspection; and inspect and copy relevant papers  
53.12 and records, including business records.

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

53.16 (c) Violations of chapters 28, 28A, 29, 30, 31, 31A, and 34, or rules adopted under  
53.17 chapters 28, 28A, 29, 30, 31, 31A, and 34 are a violation of this chapter. The enforcement  
53.18 provisions in this chapter do not apply to violations of chapters 25 and 32.

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

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

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

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

53.34 Subd. 5. **Criminal actions.** Each county attorney or city attorney to whom the  
53.35 commissioner reports any violation of this chapter shall institute appropriate proceedings

54.1 in the proper courts without delay and prosecute them in the manner required by law. If  
54.2 the county or city attorney refuses to prosecute, the attorney general, on request of the  
54.3 commissioner, may prosecute.

54.4 Sec. 31. **[34A.05] FALSE STATEMENT OR RECORD.**

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

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

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

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

54.11 Sec. 32. **[34A.051] ILLEGAL SALES.**

54.12 It is a violation of law to sell, in or into Minnesota, food that is from a place of  
54.13 business located outside of Minnesota that has not been licensed, inspected, permitted,  
54.14 or otherwise approved by the local, tribal, state, or national government charged with  
54.15 enforcement of food safety regulations in that jurisdiction or by Minnesota, unless the  
54.16 product itself has been so inspected and approved and bears a stamp or similar indicia  
54.17 of such inspection and approval.

54.18 Sec. 33. **[34A.06] ADMINISTRATIVE ACTIONS.**

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

54.24 (b) For facilities required to submit a plan review under Minnesota Rules, chapter  
54.25 4626, the commissioner may withdraw by written order the approval of a facility or  
54.26 equipment if:

54.27 (1) hazards to human life exist; or

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

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

54.32 Subd. 2. **License revocation, suspension, and refusal.** (a) The commissioner  
54.33 may revoke, suspend, limit, modify, or refuse to grant or renew a registration, listing,

55.1 permit, license, or certification if a person violates or has violated this chapter within  
55.2 the last three years.

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

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

55.13 (d) A registration, listing, permit, license, or certification may not be revoked or  
55.14 suspended until the registrant, permittee, licensee, or certificate holder has been given  
55.15 opportunity for a hearing by the commissioner. After receiving notice of revocation or  
55.16 suspension, a registrant, permittee, licensee, registrant, or certificate holder has ten days to  
55.17 request a hearing, or another time period mutually agreed to by both parties. If no request is  
55.18 made within ten days or other agreed-upon time, the registration, listing, permit, license, or  
55.19 certification is revoked or suspended. In the case of a refusal to grant a registration, listing,  
55.20 permit, license, or certification, the registrant, permittee, licensee, registrant, or certificate  
55.21 holder has ten days from notice of refusal to request a hearing. Upon receiving a request  
55.22 for hearing, the department shall proceed pursuant to section 34A.08, subdivision 2.

55.23 **Sec. 34. [34A.07] ADMINISTRATIVE PENALTIES.**

55.24 Subdivision 1. **Assessment.** (a) In determining the amount of the administrative  
55.25 penalty, the commissioner shall consider the economic gain received by the person  
55.26 allowing or committing the violation, the gravity of the violation in terms of actual or  
55.27 potential damage to human or animal health and the environment, the willfulness of  
55.28 the violation, the number of violations, the history of past violations, and other factors  
55.29 justice may require, if the additional factors are specifically identified in the inspection  
55.30 report. For a violation after an initial violation, the commissioner shall also consider the  
55.31 similarity of the most recent previous violation and the violation to be penalized, the time  
55.32 elapsed since the last violation, the number of previous violations, and the response of  
55.33 the person to the most recent previous violation identified.

55.34 (b) The commissioner may issue an administrative citation assessing an  
55.35 administrative penalty of up to \$1,500 for each violation of this chapter. Each day a

56.1 violation continues is a separate violation. The citation must describe the nature of the  
56.2 violation, the statute or rule alleged to have been violated, the time for correction, if  
56.3 applicable, and the amount of any proposed fine. The citation must advise the person to  
56.4 notify the commissioner in writing within 20 days, or another time period mutually agreed  
56.5 to by the commissioner and the person subject to the citation, if the person wishes to  
56.6 appeal the citation, and that if the person fails to appeal the citation, the citation is the  
56.7 final order and not subject to further review.

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

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

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

56.17 Sec. 35. **[34A.08] APPEAL OF ADMINISTRATIVE ACTION OR PENALTY.**

56.18 Subdivision 1. **Notice of appeal.** (a) After service of a citation under section 34A.07  
56.19 or order under section 34A.06, subdivision 1, a person has 20 days from receipt of the  
56.20 citation or order, or another time period mutually agreed to by the commissioner and the  
56.21 person subject to the citation or order, to notify the commissioner in writing that the  
56.22 person intends to contest the citation or order through a hearing. The hearing request  
56.23 must specifically identify the order or citation being contested and state the grounds for  
56.24 contesting it.

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

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

56.32 Sec. 36. **[34A.09] CIVIL PENALTIES.**

56.33 Subdivision 1. **General penalty.** A person who violates this chapter or an order,  
56.34 standard, stipulation, agreement, citation, or schedule of compliance of the commissioner

57.1 or impedes, hinders, or otherwise prevents, or attempts to prevent performance of a duty  
 57.2 by the commissioner in connection with this chapter is subject to a civil penalty of up to  
 57.3 \$7,500 per day of violation as determined by the court.

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

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

57.11 Sec. 37. **[34A.10] CRIMINAL PENALTIES.**

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

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

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

57.27 Sec. 38. **[34A.11] EMBARGO, SEIZURE, AND CONDEMNATION.**

57.28 Subdivision 1. **Tag, notice, or withdrawal from distribution.** If the commissioner  
 57.29 finds probable cause to believe that any food, animal, or consumer commodity is being  
 57.30 distributed in violation of this chapter or rules under this chapter, or is adulterated or so  
 57.31 misbranded as to be dangerous or fraudulent, the commissioner shall affix to the food,  
 57.32 animal, or consumer commodity a tag, withdrawal from distribution order, or other  
 57.33 appropriate marking giving notice that the food, animal, or consumer commodity is, or is  
 57.34 suspected of being, adulterated, misbranded, or distributed in violation of this chapter,

58.1 and has been detained or embargoed, and warning all persons not to remove or dispose  
58.2 of the food, animal, or consumer commodity by sale or otherwise until permission for  
58.3 removal or disposal is given by the commissioner or the court. It is unlawful for a person  
58.4 to remove or dispose of a detained or embargoed food, animal, or consumer commodity by  
58.5 sale or otherwise without the commissioner's or a court's permission and each transaction  
58.6 is a separate violation of this subdivision.

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

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

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

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

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

58.17 Subd. 3. **Action for condemnation.** If food or an article or animal detained or  
58.18 embargoed under subdivision 1 has been found by the commissioner to be adulterated  
58.19 or misbranded or in violation of this chapter, the commissioner shall petition the district  
58.20 court in the county in which the food or animal is detained or embargoed for an order and  
58.21 decree for the condemnation of the food or animal. The commissioner shall release the  
58.22 food or animal when this chapter and rules adopted under this chapter have been complied  
58.23 with or the food or animal is found to be not adulterated or misbranded.

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

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

58.31 (2) if adulteration or misbranding can be corrected by proper labeling or processing  
58.32 of the food or animal, the court, after entry of the decree and after costs, fees, and expenses  
58.33 have been paid and a good and sufficient bond, conditioned that the food or animal must  
58.34 be properly labeled or processed, has been executed, may by order direct that the food or  
58.35 animal be delivered to the claimant for proper labeling or processing under the supervision  
58.36 of the commissioner. The expense of the supervision must be paid by the claimant. The

59.1 food or animal must be returned to the claimant and the bond must be discharged on the  
59.2 representation to the court by the commissioner that the food or animal is no longer in  
59.3 violation and that the expenses for the supervision have been paid.

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

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

59.19 Sec. 39. **[34A.12] POWERS OF THE COMMISSIONER.**

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

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

59.25 (2) require, by general or special orders, a person, persons, or a class of persons  
59.26 engaged in intrastate commerce to file with the commissioner, in the form the  
59.27 commissioner prescribes, annual and special reports or answers in writing to specific  
59.28 questions, giving the commissioner the information the commissioner requires about the  
59.29 organization, business, conduct, practices, management, and relation to other persons, of  
59.30 the person filing the reports or answers. The reports and answers must be made under  
59.31 oath, or otherwise, as the commissioner prescribes, and filed with the commissioner within  
59.32 a reasonable time the commissioner prescribes, unless additional time is granted by the  
59.33 commissioner.

59.34 Subd. 2. **Examination of documents for evidence.** (a) For purposes of this  
59.35 chapter, the commissioner must at all reasonable times be allowed to examine and

60.1 copy documentary evidence of a person being investigated or proceeded against. The  
60.2 commissioner may subpoena witnesses and require the production of documentary  
60.3 evidence of a person relating to any matter under investigation. The commissioner  
60.4 may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive  
60.5 evidence.

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

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

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

60.17 (e) The commissioner may order testimony to be taken by deposition in a proceeding  
60.18 or investigation pending under this chapter at any state of the proceeding or investigation.  
60.19 Depositions may be taken before a person designated by the commissioner and having  
60.20 power to administer oaths. The testimony must be reduced to writing by the person taking  
60.21 the deposition or under the person's direction and must then be signed by the witness. A  
60.22 person may be compelled to appear and depose and to produce documentary evidence  
60.23 in the same manner as witnesses may be compelled to appear and testify and produce  
60.24 documentary evidence before the commissioner.

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

60.29 (g) A person is not excused from attending and testifying or from producing books,  
60.30 papers, schedules of charges, contracts, agreements, or other documentary evidence  
60.31 before the commissioner or in obedience to the subpoena of the commissioner whether  
60.32 the subpoena is signed or issued by the commissioner or the commissioner's agent, or in  
60.33 any cause or proceeding, criminal or otherwise, based upon or growing out of an alleged  
60.34 violation of this chapter because the testimony or evidence, documentary or otherwise,  
60.35 required of the person may tend to incriminate the person or subject the person to a  
60.36 penalty or forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture

61.1 on account of a matter concerning which the person is compelled, after having claimed  
61.2 a privilege against self-incrimination, to testify or produce evidence, documentary or  
61.3 otherwise, except that a witness is not exempt from prosecution and punishment for  
61.4 perjury committed in testifying.

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

61.9 (b) A person who willfully:

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

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

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

61.17 (4) leaves the jurisdiction of this state;

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

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

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

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

61.29 **Sec. 40. REPEALER.**

61.30 (a) Minnesota Statutes 2010, sections 17.984; 28.15; 28A.12; 28A.13; 29.28; 31.031;  
61.31 31.041; 31.05; 31.14; 31.393; 31.58; 31.592; 31.621, subdivision 5; 31.631, subdivision  
61.32 4; 31.633, subdivision 2; 31.681; 31.74, subdivision 3; 31.91; 31A.24; 31A.26; 32.078;  
61.33 32.475, subdivision 7; 32.61; 32.90; and 34.113, are repealed.

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

APPENDIX  
Article locations in H2398-1

ARTICLE 1 POLICY AND TECHNICAL PROVISIONS ..... Page.Ln 2.7  
ARTICLE 2 FOOD SAFETY ..... Page.Ln 34.28

**17.984 INVESTIGATION.**

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.

Subd. 2. **Failure to comply.** 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.

**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

## APPENDIX

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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.

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.

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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.

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,

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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 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.

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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 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,

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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 WEIGHER.**

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.**

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.**

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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.

#### **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.

(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

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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 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

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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.**

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.**

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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 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.

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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.

### **32.078 SUSPENSION OR CANCELLATION.**

The commissioner is empowered to suspend or cancel any license issued pursuant to the provisions of sections 32.071 to 32.076 after a hearing upon written notice containing the grounds therefor, which notice shall be served personally upon the licensee or the licensee's agent at least five days prior to such hearing.

### **32.475 BUTTER, GRADING AND LABELING.**

Subd. 7. **Penalty.** Any person violating any provision of this section shall be guilty of a misdemeanor.

### **32.61 LICENSES; REVOCATION, SUSPENSION.**

The Department of Agriculture shall have the power to suspend or revoke any license or certificate of registration thus granted, for failure to comply with the provisions of sections 32.56 to 32.64, or rules made thereunder.

### **32.90 PENALTY.**

Any person, firm, corporation, association or copartnership violating any of the provisions of this chapter or any amendatory act for which no specific penalty is provided shall be guilty of a misdemeanor.

### **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.**

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.

### **35.67 RABIES INVESTIGATION.**

If the executive director of the Board of Animal Health, or a board of health as defined in section 145A.02, subdivision 2, receives a written complaint that rabies exists in a town or city in the board's jurisdiction, the board of health shall investigate, either personally or through subordinate officers, the truth of the complaint. A board of health may also make an investigation and determination independently, without having received a complaint. The fact that a board of health has investigated and determined that rabies does not exist in a jurisdiction does not deprive the executive director of the Board of Animal Health of jurisdiction or authority to make an investigation and determination with reference to the territory. For the purposes of sections 35.67 to 35.69, the jurisdiction of the executive director of the Board of Animal Health is the entire state.

### **35.72 MILK OR CREAM; TESTING BY BOARD.**

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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.

#### **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 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

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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 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

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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 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

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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.**

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;

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(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.**

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

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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
- (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.**

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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.

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

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(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 QUADRUPPLICATE.**

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 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.**

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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 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

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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.**

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

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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 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.

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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 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

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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, 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;

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(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 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

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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 may deem improper to grant, and may revise their adjustment of applications at any time before final distribution.