

SENATE BILL NO. 1265

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

4754S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 276.401, RSMo, and to enact in lieu thereof one new section relating to grain dealers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 276.401, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 276.401,
3 to read as follows:

276.401. 1. Sections 276.401 to 276.582 shall be
2 known as the "Missouri Grain Dealer Law".

3 2. The provisions of the Missouri grain dealer law
4 shall apply to grain purchases where title to the grain
5 transfers from the seller to the buyer within the state of
6 Missouri.

7 3. Unless otherwise specified by contractual
8 agreement, title shall be deemed to pass to the buyer as
9 follows:

10 (1) On freight on board (FOB) origin or freight on
11 board (FOB) basing point contracts, title transfers at time
12 and place of shipment;

13 (2) On delivered contracts, when and where
14 constructively placed, or otherwise made available at
15 buyer's original destination;

16 (3) On contracts involving in-store commodities, at
17 the storing warehouse and at the time of contracting or
18 transfer, and/or mailing of documents, if required, by

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 certified mail, unless and to the extent warehouse tariff,
20 warehouse receipt and/or storage contract assumes the risk
21 of loss and/or damage.

22 4. As used in sections 276.401 to 276.582, unless the
23 context otherwise requires, the following terms mean:

24 (1) "Auditor", a person appointed under sections
25 276.401 to 276.582 by the director to assist in the
26 administration of sections 276.401 to 276.582, and whose
27 duties include making inspections, audits and investigations
28 authorized under sections 276.401 to 276.582;

29 (2) "Authorized agent", any person who has the legal
30 authority to act on behalf of, or for the benefit of,
31 another person;

32 (3) "Buyer", any person who buys or contracts to buy
33 grain;

34 (4) "Certified public accountant", any person licensed
35 as such under chapter 326;

36 (5) "Claimant", any person who requests payment for
37 grain sold by him to a dealer, but who does not receive
38 payment because the purchasing dealer fails or refuses to
39 make payment;

40 (6) "Credit sales contracts", a conditional grain
41 sales contract wherein payment and/or pricing of the grain
42 is deferred to a later date. Credit sales contracts
43 include, but are not limited to, all contracts meeting the
44 definition of deferred payment contracts, and/or delayed
45 price contracts;

46 (7) "Current assets", resources that are reasonably
47 expected to be realized in cash, sold, or consumed (prepaid
48 items) within one year of the balance sheet date;

49 (8) "Current liabilities", obligations reasonably
50 expected to be liquidated within one year and the

51 liquidation of which is expected to require the use of
52 existing resources, properly classified as current assets,
53 or the creation of additional liabilities. Current
54 liabilities include obligations that, by their terms, are
55 payable on demand unless the creditor has waived, in
56 writing, the right to demand payment within one year of the
57 balance sheet date;

58 (9) "Deferred payment agreement", a conditional grain
59 sales transaction establishing an agreed upon price for the
60 grain and delaying payment to an agreed upon later date or
61 time period. Ownership of the grain, and the right to sell
62 it, transfers from seller to buyer so long as the conditions
63 specified in section 276.461 and section 411.325 are met;

64 (10) "Deferred pricing agreement", a conditional grain
65 sales transaction wherein no price has been established on
66 the grain, the seller retains the right to price the grain
67 later at a mutually agreed upon method of price
68 determination. Deferred pricing agreements include, but are
69 not limited to, contracts commonly known as no price
70 established contracts, price later contracts, and basis
71 contracts on which the purchase price is not established at
72 or before delivery of the grain. Ownership of the grain,
73 and the right to sell it, transfers from seller to buyer so
74 long as the conditions specified in section 276.461 and
75 section 411.325 are met;

76 (11) "Delivery date" shall mean the date upon which
77 the seller transfers physical possession, or the right of
78 physical possession, of the last unit of grain in any given
79 transaction;

80 (12) "Department", the Missouri department of
81 agriculture;

82 (13) "Designated representative", an employee or
83 official of the department designated by the director to
84 assist in the administration of sections 276.401 to 276.582;

85 (14) "Director", the director of the Missouri
86 department of agriculture or his designated representative;

87 (15) "Generally accepted accounting principles", the
88 conventions, rules and procedures necessary to define
89 accepted accounting practice, which include broad guidelines
90 of general application as well as detailed practices and
91 procedures generally accepted by the accounting profession,
92 and which have substantial authoritative support from the
93 American Institute of Certified Public Accountants;

94 (16) "Grain", all grains for which the United States
95 Department of Agriculture has established standards under
96 the United States Grain Standards Act, Sections 71 to 87,
97 Title 7, United States Code, and any other agricultural
98 commodity or seed prescribed by the director by regulation;

99 (17) "Grain dealer" or "dealer", any person engaged in
100 the business of, or as a part of his business participates
101 in, buying grain where title to the grain transfers from the
102 seller to the buyer within the state of Missouri. "Grain
103 dealer" or "dealer" shall not be construed to mean or
104 include:

105 (a) Any person or entity who is a member of a
106 recognized board of trade or futures exchange and whose
107 trading in grain is limited solely to trading with other
108 members of a recognized board of trade or futures exchange;
109 provided, that grain purchases from a licensed warehouseman,
110 farmer/producer or any other individual or entity in a
111 manner other than through the purchase of a grain futures
112 contract on a recognized board of trade or futures exchange

113 shall be subject to sections 276.401 to 276.582. Exempted
114 herein are all futures transactions;

115 (b) A producer or feeder of grain for livestock or
116 poultry buying grain for his own farming or feeding purposes
117 [who purchases grain exclusively from licensed grain dealers
118 or whose total grain purchases from producers during his or
119 her fiscal year do not exceed fifty thousand bushels];

120 (c) Any person or entity whose grain purchases in the
121 state of Missouri are made exclusively from licensed grain
122 dealers;

123 (d) A manufacturer or processor of registered or
124 unregistered feed whose total grain purchases from producers
125 during his or her fiscal year [do not exceed fifty thousand
126 bushels] and who pays for all grain purchases from producers
127 at the time of physical transfer of the grain from the
128 seller or his or her agent to the buyer or his or her agent
129 and whose resale of such grain is solely in the form of
130 manufactured or processed feed or feed by-products or whole
131 feed grains to be used by the purchaser thereof as feed;

132 (18) "Grain transport vehicle", a truck, tractor-
133 trailer unit, wagon, pup, or any other vehicle or trailer
134 used by a dealer, whether owned or leased by him, to
135 transport grain which he has purchased; except that, bulk or
136 bagged feed delivery trucks which are used principally for
137 the purpose of hauling feed and any trucks for which the
138 licensed gross weight does not exceed twenty-four thousand
139 pounds shall not be construed to be a grain transport
140 vehicle;

141 (19) "Insolvent" or "insolvency", (a) an excess of
142 liabilities over assets or (b) the inability of a person to
143 meet his financial obligations as they come due, or both (a)
144 and (b);

145 (20) "Interested person", any person having a
146 contractual or other financial interest in grain sold to a
147 dealer, licensed, or required to be licensed;

148 (21) "Location", any site other than the principal
149 office where the grain dealer engages in the business of
150 purchasing grain;

151 (22) "Minimum price contract", a conditional grain
152 sales transaction establishing an agreed upon minimum price
153 where the seller may participate in subsequent price gain,
154 if any. Ownership of the grain, and the right to sell it,
155 transfers from the seller to the buyer so long as the
156 conditions specified in section 276.461 and section 411.325
157 are met;

158 (23) "Person", any individual, partnership,
159 corporation, cooperative, society, association, trustee,
160 receiver, public body, political subdivision or any other
161 legal or commercial entity of any kind whatsoever, and any
162 member, officer or employee thereof;

163 (24) "Producer", any owner, tenant or operator of land
164 who has an interest in and receives all or any part of the
165 proceeds from the sale of grain or livestock produced
166 thereon;

167 (25) "Purchase", to buy or contract to buy grain;

168 (26) "Sale", the passing of title from the seller to
169 the buyer in consideration of the payment or promise of
170 payment of a certain price in money, or its equivalent;

171 (27) "Value", any consideration sufficient to support
172 a simple contract.

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