



2022 South Dakota Legislature
Senate Bill 35
ENROLLED

AN ACT

ENTITLED An Act to increase penalties for actions related to grain transactions.

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

Section 1. That § 49-43-4.2 be AMENDED:

49-43-4.2. No owner, lessee, or manager of a public grain warehouse may transact business as a public grain warehouse until a license has been issued by the commission. Any person who violates this section is guilty of a Class 1 misdemeanor.

Each day that a person is in violation of this section is a separate offense.

The operation of a public grain warehouse, without a license, may be enjoined by the commission.

The commission may assess a civil fine against an unlicensed warehouse operator in the amount of five thousand dollars per day, up to a maximum of fifty thousand dollars.

Section 2. That § 49-43-41 be AMENDED:

49-43-41. Any public grain warehouse operator, owner, manager, or chief executive officer of a grain warehouse, or any other person in a managerial position in the state who refuses access to the warehouse's books and accounts or hinders and delays the commission or any of its employees or agents in examining the books and accounts, may be assessed a civil fine not exceeding twenty thousand dollars.

Section 3. That § 49-43-62 be AMENDED:

49-43-62. If during the licensing period a grain warehouse operator becomes aware that the grain warehouse is not in compliance with each financial standard, as set forth in the commission's rules, the grain warehouse operator shall immediately notify the commission of the grain warehouse's financial condition. When notification occurs, the commission shall immediately conduct an examination to determine if any grounds for suspension pursuant to § 49-43-5.6 have occurred.

A willful violation of this section that results in a financial loss to a grain depositor is a Class 6 felony.

A willful violation that does not result in a financial loss to a grain depositor is a Class 1 misdemeanor.

The commission may assess a grain warehouse that is out of compliance a civil fine in an amount not to exceed five thousand dollars for each day the grain warehouse has been out of compliance, up to a maximum of fifty thousand dollars.

Section 4. That § 49-45-1 be AMENDED:

49-45-1. Before transacting the business of a grain buyer in this state, a person shall obtain a grain buyer license from the commission. A violation of this section is a Class 1 misdemeanor. Each purchase of grain without a license is a separate offense.

A grain buyer transacting business without a license may be enjoined upon complaint of the commission.

The commission may assess a civil fine against an unlicensed grain buyer in the amount of five thousand dollars for each purchase of grain, up to a maximum fine of fifty thousand dollars per licensing period, as set forth in § 49-45-3.

For purposes of this section, the term, purchase of grain, means the transaction evidenced by the issuance of a uniform scale ticket or receipt, as described in § 49-45-10.1.

Section 5. That § 49-45-25 be AMENDED:

49-45-25. If during the licensing period a grain buyer becomes aware that the grain buyer is not in compliance with each financial standard, as set forth in the commission's rules, the grain buyer shall immediately notify the commission of the grain buyer's financial condition. When notification occurs, the commission shall immediately conduct an examination to determine if any grounds for suspension pursuant to § 49-45-16 have occurred.

A willful violation of this section that results in a financial loss to a grain supplier is a Class 6 felony.

A willful violation that does not result in a financial loss to a grain supplier is a Class 1 misdemeanor.

The commission may assess, against an out-of-compliance grain buyer, a civil fine in an amount not to exceed one thousand dollars for each day the grain buyer has been

out of compliance, up to a maximum of twenty thousand dollars per licensing period, as set forth in § 49-45-3.

Section 6. That § 49-45-26 be AMENDED:

49-45-26. A grain buyer, the owner, manager, or chief executive officer of a grain buyer, or any other person in a managerial position, whether licensed or unlicensed, who or that purchases grain in this state, shall, within five working days of an inspector's request, provide to the inspector, at a licensed location within this state or at the offices of the commission, all books, accounts, and electronic records relating to the transactions of the grain buyer, either within or outside the state.

A willful violation of this section is a Class 1 misdemeanor.

The commission may assess a civil fine in an amount not to exceed one thousand dollars for each day requested materials are withheld, up to a maximum of twenty thousand dollars per licensing period, as set forth in § 49-45-3.

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I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 35

2022 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2022

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2022
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 35
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State