

CHAPTER 235

GENERAL PROVISIONS RELATING TO GRAIN

235.01 SUPERVISION OVER GRAIN.

HISTORY. 1885 c. 144 ss. 39, 40; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 20, 21; G.S. 1894 ss. 7697, 7698; R.L. 1905 s. 2100; G.S. 1913 s. 4497; 1919 c. 254 s. 8; 1921 c. 314 s. 1; G.S. 1923 s. 5084; 1925 c. 266; M.S. 1927 s. 5084.

The rules of the commission require state weighers at the time of weighing loaded cars to make and enter in the record notations as to any bad order condition of the cars and to enter such notations as part of the record. Copies of such records are not admissible in evidence unless duly authenticated but such authentication may be waived. *St. Anthony v Great Northern*, 127 M 299, 149 NW 471.

Notwithstanding the grain futures act, the federal trade commission has jurisdiction except as to certain matters to enter a cease and desist order against chamber of commerce conducting a grain market. *Chamber of Commerce v Federal Trade Commission*, 13 F(2d) 673.

The federal trade commission has jurisdiction to forbid publications which are instruments in carrying out a boycott or conspiracy by a chamber of commerce conducting a grain market. *Chamber of Commerce v Federal Trade Commission*, 13 F(2d) 673.

Chamber of commerce conducting a grain market is not justified in employing false and misleading propaganda against a competing concern because of use of similar means against it by such competitor. *Chamber of Commerce v Federal Trade Commission*, 13 F(2d) 673.

The United States supreme court upheld the Minnesota licensing system as applied to a warehouseman who stored and shipped only his own grain. The applicable statute declared grain elevators and warehouses to be public elevators or warehouses and required them to obtain licenses and submit to state regulations. *Cargil v Minnesota*, 180 US 452; *Roig v Puerto Rico*, 147 F(2d) 91.

Commission may determine by itself the method and manner of exercising supervision and is not bound to adhere to any earlier practice. OAG Nov. 2, 1934 (371b-3).

Dealings in commodity futures. 18 MLR 544.

235.02 GRAIN INCLUDES FLAX SEED AND SOY BEANS.

HISTORY. R.L. 1905 s. 2104; G.S. 1913 s. 4501; G.S. 1923 s. 5088; M.S. 1927 s. 5088; 1939 c. 133; M. Supp s. 5088.

Flax is included with the meaning and intent of this section and is subject to the protection of the warehouse law. *State v Cowdery*, 79 M 94, 81 NW 750.

A warehouse receipt is a contract of bailment and not a sale. *State v Cowdery*, 79 M 94, 81 NW 750.

235.03 SHIPPER TO AFFIX TAGS.

HISTORY. 1893 c. 29 s. 6; G.S. 1894 s. 7712; R. L. 1905 s. 2101; G.S. 1913 s. 4498; G.S. 1923 s. 5085; M.S. 1927 s. 5085.

The evidence sustained a finding that plaintiff, a consignor of certain flax shipped over the defendant's road, was the owner of same and entitled to recover of defendant for loss during transportation; but this shipment originated in the state of North Dakota with destination at Minneapolis, and this section applies to intrastate shipment and does not apply to interstate transactions such as this. *Farmers Elevator v Great Northern*, 131 M 152, 154 NW 954.

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235.04 OVERLOADING GRAIN CARS.

HISTORY. 1895 c. 150; R.L. 1905 s. 2099; G.S. 1913 s. 4496; G.S. 1923 s. 5083; M.S. 1927 s. 5083.

235.05 CARRIERS' RECEIPTS; PENALTY FOR FAILURE TO GIVE.

HISTORY. 1875 c. 88 ss. 1, 2; G.S. 1878 c. 124 ss. 10, 11; G.S. 1894 ss. 7653, 7654; R.L. 1905 s. 2093, 2094; G.S. 1913 ss. 4491, 4492; G.S. 1923 ss. 5079, 5080; M.S. 1927 ss. 5079, 5080.

When a shipper in an action to recover the value of grain lost in transit introduces in evidence a bill of lading calling for a delivery of a certain specified amount of grain at the point of destination and then proves that a less amount was delivered, the presumption arises that the loss was caused by the carrier, and the burden is then on the carrier to prove the contrary by fair preponderance of evidence. *National Elevator v Great Northern*, 137 M 217, 163 NW 164.

The penal provision in this section does not in any manner affect the civil liability of the carrier. This civil liability remains as at common law. *National Elevator v Great Northern*, 138 M 100, 164 NW 79; 140 M 382, 168 NW 134.

235.06 ELEVATOR CHARGES, WHEN FORBIDDEN.

HISTORY. 1870 c. 19 s. 1; G.S. 1878 c. 34 s. 64; G.S. 1894 s. 2713; R.L. 1905 s. 2095; G.S. 1913 s. 4493; G.S. 1923 s. 5081; M.S. 1927 s. 5081.

235.07 DELIVERY FOR STORAGE A BAILMENT.

HISTORY. 1876 c. 86 s. 1; G.S. 1878 c. 124 s. 13; G.S. 1894 s. 7645; R.L. 1905 s. 2092; G.S. 1913 s. 4490; G.S. 1923 s. 5078; M.S. 1927 s. 5078.

Where a party delivers or deposits grain with another with an agreement, express or implied, that the latter may use and dispose of it and fulfil his obligations to the former by returning an equal amount of other grain of the same quality, the transaction, in the absence of a statute changing the rule, constitutes a sale and not a bailment. This section applies only to cases where there has been delivery of grain by an actual depositor and not to a case where the warehouseman issues to his bank an instrument in the form of a warehouse receipt for the purpose of pledging his own property in his own possession to secure his own debt. *Fishback v VanDusen*, 33 M 111, 22 NW 244.

While possession by the pledgee is necessary to the exercise and continuance of a pledge, yet this need not be actual physical possession. The delivery of a recognized symbol of title, such as puts the pledgee in control and constructive possession of the property, is sufficient, and the owner of goods, if a warehouseman, can pledge the same by issuing and delivering his own warehouse receipt to the pledgee. *National Exchange Bank v Wilder*, 34 M 149, 24 NW 699.

This case distinguished from that of *Fishback v Van Dusen*, 33 M 111, 22 NW 244, by the facts that the pledgor was a "warehouseman" and that specific property was "appropriated" to the contract of pledge. Under this statute where a warehouseman pledges his own property in store in his own warehouse, the transaction constitutes a bailment and not a sale notwithstanding that the grain might be mingled with the grain of other persons and might be shipped or removed from the warehouse. *National Exchange Bank v Wilder*, 34 M 149, 24 NW 699; *Eggers v National Bank of Commerce*, 40 M 182, 41 NW 971; *Swedish-American Bank v First National*, 89 M 98, 94 NW 218.

Where a warehouseman has become insolvent, the holder of a wheat ticket is a creditor. The statutory remedies directed toward regulating the storage of grain are not exclusive but are in addition to such as previously existed at common law or by statute in case of the conversion of personal property by a bailee. *Daniels v Palmer*, 41 M 116, 42 NW 855.

A deposit of grain for storage is a bailment, the title remaining in the depositor although the identical grain he deposited has been removed and other grain of like kind and quality substituted in its stead; and the holders of receipts are tenants in common; the interest of each being limited to the amount called for by

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his receipt. Where the warehouseman deposits his own grain or purchases from a depositor his interest in the mass, he is limited to the excess above what is necessary to meet his outstanding receipts. *Hall v Pillsbury*, 43 M 33, 44 NW 673.

Where a writing embraces both a grain warehouse receipt and a contract, the contract cannot be varied by parol. *Tarbel v Farmers' Mutual*, 44 M 471, 47 NW 152.

The finding of the trial court that the delivery of grain constituted a sale is not justified by the evidence. In the opinion of the appellate court the transaction created a bailment. *Weiland v Krejnick*, 63 M 314, 65 NW 631.

A receipt for grain, which in all other respects constituted a bailment, contained this clause, "which amount, and same quality by grade, will be delivered to the owner of this receipt or his order," and the receipt also provided that the grain was insured for the benefit of the owner and that the owner would pay for storage at a certain rate. This receipt constituted a contract of bailment and not one of sale, and the instant defendant is guilty of grand larceny. *State v Barry*, 77 M 128, 79 NW 656.

A provision in a grain storage receipt allowing the stored property to be mingled with other property of the same kind or transferred to other warehouses creates a contract of bailment and does not confer authority on the warehouseman to sell the property. *State v Cowdery*, 79 M 94, 81 NW 750.

Where money has been borrowed, evidenced by notes and secured by pléde of grain warehouse receipts, the receipts as contracts of pledge are to be construed in respect to their validity independently of the promissory notes. *Swedish-American Bank v First National*, 89 M 98, 94 NW 218.

The place of performance or enforcement of a pledge of personal property is the state where the pledged property is actually situated, and its validity must be determined by the laws of that state; so that the receipts in question by statute are valid as to grain covered thereby having an actual situs in this state but invalid as to grain situated in the states of Iowa, Nebraska, and South Dakota, who are governed by the common-law rule as to pledges of personal property. *Swedish-American Bank v First National*, 89 M 98, 94 NW 218.

Where the state attempted to collect personal property tax on wheat stored in an elevator, the decision was against the state and the court held that the evidence was not sufficient to sustain a finding that the elevator company either owned the wheat or so treated it that it is estopped, for the purpose of taxation, from denying that it owned it. *State v Northwestern Elevator Co.* 101 M 192, 112 NW 68.

A thresher's lien is not lost by depositing the grain in an elevator. *Gordon v Freeman*, 112 M 482, 128 NW 834, 1118.

While a rightful demand of possession of personal property and a wrongful refusal establish a conversion, if there is an actual conversion, a demand is not essential to the maintenance of an action. *Torgerson v Quinn-Shepherdson*, 161 M 380, 201 NW 615.

Under the statute the storage of grain is a bailment and not a sale; and the elevator cannot pass good title even to a bona fide purchaser, to grain in the elevator when it is less in amount than the stored grain. *Torgerson v Quinn-Shepherdson*, 161 M 380, 201 NW 615.

Conversion of fungible goods; right of the holder of warehouse grain receipt against a purchaser from the warehouseman. 9 MLR 690.

235.08 WAREHOUSE RECEIPTS; NUMBERING.

HISTORY. 1885 c. 144 s. 6; G.S. 1878 Vol. 2 (1888 Supp.) c. 14 s. 20; 1893 c. 28 s. 4; G.S. 1894 ss. 7664, 7717; 1895 c. 148 s. 4; R.L. 1905 s. 2105; G.S. 1913 s. 4502; G.S. 1923 s. 5092; M.S. 1927 s. 5092.

235.09 UNLICENSED WAREHOUSES.

HISTORY. 1893 c. 28 s. 2; G.S. 1894 s. 7715; R.L. 1905 s. 2096; G.S. 1913 s. 4494; G.S. 1923 s. 5082; M.S. 1927 s. 5082.

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235.10 UNLAWFUL DISCRIMINATION IN SALE, OR PURCHASE OF GRAIN PROHIBITED.

HISTORY. 1917 c. 377 s. 1; G.S. 1923 s. 5096; M.S. 1927 s. 5096.

235.11 BREAKING OF SEALS; WHO MAY.

HISTORY. 1919 c. 398 s. 2; G.S. 1923 s. 5090; M.S. 1927 s. 5090.

235.12 BREAKING SEALS; MISDEMEANOR.

HISTORY. 1893 c. 29 s. 4; G.S. 1894 s. 7710; R. L. 1905 s. 2102; G.S. 1913 s. 4499; G.S. 1923 s. 5086; M.S. 1927 s. 5086.

235.13 VIOLATIONS; PENALTIES.

HISTORY. 1893 c. 28 s. 10; G.S. 1894 s. 7723; R.L. 1905 s. 2103; G.S. 1913 s. 4500; G.S. 1923 s. 5087; M.S. 1927 s. 5087.

235.14 CERTIFICATES; INSPECTION; WEIGHING.

HISTORY. 1909 c. 344 s. 1; G.S. 1913 s. 4503; G.S. 1923 s. 5093; M.S. 1927 s. 5093.

235.15 DUPLICATE TO BE DELIVERED TO BUYER.

HISTORY. 1909 c. 344 s. 2; G.S. 1913 s. 4504; G.S. 1923 s. 5094; M.S. 1927 s. 5094.

235.16 FAILURE TO DELIVER; PENALTY.

HISTORY. 1909 c. 344 s. 3; G.S. 1913 s. 4505; G.S. 1923 s. 5095; M.S. 1927 s. 5095.

235.17 SAMPLES TO BE FURNISHED; FEES.

HISTORY. 1919 c. 398 ss. 1, 3; G.S. 1923 ss. 5089, 5091; M.S. 1927 ss. 5089, 5091.

235.18 ENFORCEMENT.

HISTORY. 1917 c. 377 s. 2; G.S. 1923 s. 5097; M.S. 1927 s. 5097.

235.19 FUMIGATING GRAIN TO CHANGE COLOR; PENALTY.

HISTORY. 1879 c. 73 ss. 1 to 3; G.S. 1878 Vol. 2 (1888 Supp.) c. 101 ss. 3c to 3e; G.S. 1894 ss. 7640, 7642; R.L. 1905 s. 5189; 1907 c. 213 s. 1; G.S. 1913 s. 9023; G.S. 1923 s. 10527; M.S. 1927 s. 10527.