

## CHAPTER 17B

## GRAIN INSPECTION; WEIGHING, SAMPLING, AND ANALYSIS ACT

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**17B.01 CITATION.**

Sections 17B.01 to 17B.29 may be cited as the Minnesota grain inspection, weighing, sampling, and analysis act.

**History:** 1974 c 548 s 1

**17B.02 DEFINITIONS.**

Subdivision 1. 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 his authorized representative.

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

**History:** 1974 c 548 s 2

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

Subdivision 1. The commissioner of agriculture shall exercise general supervision over the inspection, grading, weighing, sampling, and analysis of grain within the state of Minnesota 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.

Subd. 2. 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. The commissioner may establish a procedure to be used in evaluating grain testing laboratories and their laboratory procedures and methodology to the end that such laboratory procedures and methodology may be uniform with state procedures and methodology.

**History:** 1974 c 548 s 3; 1978 c 610 s 1

**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 by him 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 he 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.

**History:** 1974 c 548 s 4; 1978 c 610 s 2

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

If any dispute or disagreement arises between the person receiving and the person delivering grain in this state as to the proper grade or dockage, or both, of such grain, an average sample of at least three quarts of said grain in dispute may be taken by either or both of the parties interested. Said sample or samples shall be certified to by both the owner and receiver as being true samples of the grain in dispute on the day upon which the grain is delivered. Such samples shall be forwarded prepaid in a suitable air-tight container, with the names and address of both parties, to the head of the grain inspection program of the Minnesota department of agriculture who shall, upon request, examine said grain, and adjudge what grade or dockage, or both, said samples of grain are entitled to under the inspection rules. Before the results of the inspection are released to the person requesting the inspection, said person shall make payment of the required fee. The fee charged shall be the same as that required for similar services rendered by the grain inspection program.

**History:** 1974 c 548 s 5

**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 of his 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.

**History:** 1974 c 548 s 6

**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 annually on or before June 15, 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 before the next annual meeting 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 and regulations, 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. Dockage shall be considered as being of two classes; first, that having value and second, that having no value. At the annual meeting the board shall ascertain and determine what dockage contained in grain is of value and publish a list thereof in connection with the publication of the Minnesota grades. Any foreign content of the grain shall not be considered in establishing the grade. Whenever grain containing dockage of value is sold to any public local warehouse or mill, terminal warehouse, or to any flour mill located in St. Paul, Minneapolis, or Duluth, or any other point within the state, which is now or may hereafter be designated as a terminal point, such sale shall not be considered to include such dockage of value, but such dockage shall be paid for at its market value or shall be returned to the vendor of said grain at the option of the vendee.

**History:** 1974 c 548 s 7

**17B.08** [ Repealed, 1979 c 68 s 6 ]

**17B.09** [ Repealed, 1979 c 68 s 6 ]

#### **17B.10 STANDARD SAMPLES.**

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

**History:** 1974 c 548 s 10

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

**History:** 1974 c 548 s 11

#### **17B.12 APPEALS; PROCEDURE.**

Any owner, consignee, or shipper of grain, or any warehouseman, who is dissatisfied with the inspection of grain may appeal to the board of grain standards by filing notice of such appeal with the commissioner and paying a fee, to be fixed by the commissioner, which shall be refunded if the appeal is sustained. The commissioner shall forthwith transmit the notice to said board of grain standards. The decision of said board, fixing the grade of such grains shall be final.

**History:** 1974 c 548 s 12

#### **17B.13 WEIGHERS, RESTRICTIONS, BONDING.**

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

Subd. 2. 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.

**History:** 1974 c 548 s 13; 1978 c 610 s 3; 1979 c 68 s 1

#### 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 certificate under his hand, 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 his 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.

**History:** 1974 c 548 s 14

#### 17B.15 FEES FOR INSPECTION AND WEIGHING.

Subdivision 1. The fees for inspection and weighing shall be fixed by the commissioner and be a lien upon the grain. If the grain is in transit, such fees shall be paid by the carrier and treated as advance charges, and, if received for storage, such fees shall be paid by the warehouseman, and added to the storage charges.

All moneys so collected and all fines and penalties for violation of any provision of this chapter shall be paid into the state treasury.

Subd. 2. The commissioner is directed to review the fee schedule each April and October. If income for the two-year period ending December and June prior to each review period is not equal to 100 percent, or is greater than 110 percent, of expenditures for salaries, overtime and expenses which shall include without limitation, an amount for state retirement and social security contributions, the commissioner shall adjust fees accordingly. Such adjustments shall be effective the first of January and July following the review. The department shall have a two-year initial period to reach 100 percent of expenditures.

Subd. 3. 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

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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.

**History:** 1974 c 548 s 15; 1975 c 204 s 70; 1977 c 296 s 1

**17B.16 QUALIFICATIONS.**

No inspector, sampler, nor weigher shall during his term of service be in any way interested in the handling, storing, shipping, purchasing, or selling of grain or any of its products, nor in the employment of any person engaged therein, nor shall he be a member of any board of trade or organization of like character.

**History:** 1974 c 548 s 16

**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.

**History:** 1974 c 548 s 17

**17B.18 OBSTRUCTING WEIGHER.**

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

**History:** 1974 c 548 s 18

**17B.19 [ Repealed, 1975 c 227 s 10 ]****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 his 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 by him, 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.

**History:** 1974 c 548 s 20

**17B.21 BONDS, SUITS THEREON.**

All bonds required by this chapter shall be filed with the secretary of state, and suit may be brought thereon by any person injured by the misconduct of the principal.

**History:** 1974 c 548 s 21

**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 his official duty shall be guilty of a gross misdemeanor.

Subd. 3. [ Repealed, 1977 c 347 s 9 ]

**History:** 1974 c 548 s 22

**17B.23 ALFALFA, SWEET CLOVER, RED CLOVER, AND GRASS SEEDS.**

Alfalfa seed, sweet clover seed, red clover seed, and all grass seeds now or hereafter grown in commercial quantities in this state are hereby made subject to and brought within the provisions of the laws of this state which authorize, provide for, and regulate the establishment of "Minnesota grades" and the grading thereunder of wheat and similar grains, including sections 17B.08 to 17B.21, and all other applicable provisions of the statutes. The commissioner shall have plenary power, so far as the same may be constitutionally delegated, to supplement the provisions of the statutes and adopt the same to the purpose of sections 17B.23 to 17B.26; and, to that end, the commissioner may make, promulgate, and enforce all rules, regulations, directions, and orders appropriate or convenient for the aforesaid.

**History:** 1974 c 548 s 23

**17B.24 GRADING AND INSPECTION.**

The commissioner may determine from time to time with or without public hearing whether alfalfa seed, sweet clover seed, red clover seed, and grass seeds, or any one or more of them, are being produced in this state in quantities and under conditions respecting the sale or use thereof which permit of practical grading and inspection under the provisions of sections 17B.23 to 17B.26; and may defer, suspend, or discontinue such grading and inspection whenever for as long as the same is found by the commissioner to be impractical or without substantial public benefit. Appropriate findings and orders covering such matters shall be made by the commissioner and may be appealed from or reviewed in the same manner as other orders of the commissioner.

**History:** 1974 c 548 s 24

**17B.25 FEES.**

Fees for grading and inspection under sections 17B.23 to 17B.26 may be assessed and collected by the commissioner in the same manner as in the case of grain grading and inspection; but such fees may be modified or varied in amount from time to time so as to cover the full cost of all grading and inspection hereunder.

**History:** 1974 c 548 s 25

#### **17B.26 SALARIES AND EXPENSES.**

The commissioner hereby is authorized to employ such additional help as is reasonably necessary in carrying out the provisions and purposes of sections 17B.23 to 17B.29.

**History:** 1974 c 548 s 26

#### **17B.27 FUMIGATING GRAIN TO CHANGE COLOR; PENALTY.**

Any person who shall sell or offer for sale or for shipment and sale any barley or other grain, which shall have been subjected to fumigation, or other treatment by sulphur or other material, or to any other chemical process, affecting the color thereof, shall be punished by a fine of not more than \$500 or by imprisonment in the Minnesota correctional facility-Stillwater for not more than one year or by both such fine and imprisonment, and be liable to any person injured in treble damages. Barley and oats may be purified by fumigation, or treatment with sulphur, under such restrictions, rules, and regulations as the commissioner shall prescribe for such purpose and when so purified may be sold and marketed as "purified barley" or "purified oats", and not otherwise.

**History:** 1974 c 548 s 27; 1979 c 102 s 13

#### **17B.28 POWERS AND DUTIES OF THE COMMISSIONER.**

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 and regulations as he deems necessary or desirable to carry out the provisions of sections 17B.01 to 17B.29. Until such regulations are promulgated, the rules and regulations of the public service commission, Chapter Five, PSC 150 to 169, as amended, promulgated pursuant to Minnesota Statutes, Section 15.0412, 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.

**History:** 1974 c 548 s 28

#### **17B.29 PENALTIES.**

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

**History:** 1974 c 548 s 29