

## CHAPTER 223

### COMMISSION MERCHANTS

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NOTE: For penalties for violation of the provisions of this chapter, see section 235.13.

#### 223.01 DEFINITION.

For the purpose of this chapter, a "commission merchant" is a person who may receive for sale, for account of the consignor, any grain, hay, or straw.

**History:** *RL s 2114; 1913 c 432 s 1; 1915 c 370 s 1; 1921 c 213 s 1; 1923 c 113 s 1 (6197)*

#### 223.02 LICENSE; BOND.

No person shall sell, or receive, or solicit shipments of such commodities for sale, without first obtaining a license from the department of agriculture to carry on the business of a commission merchant, and filing with the department a corporate surety bond to the state for the benefit of such consignors, approved by the department, and conditioned for the faithful discharge of his duties as such commission merchant and full compliance with all the laws of the state and rules of the department relative thereto. If the license authorizes the sale of grain the bond shall not be for a less sum than \$25,000 for each separate municipality in which the commission merchant maintains an office for the conduct of such business. If the license only authorizes the sale of hay and straw the bond shall be not less than \$8,000. In either case the department may at any time require such an additional amount of bond as it may deem necessary to protect the consignors.

**History:** *RL s 2114; 1913 c 432 s 1; 1915 c 370 s 1; 1921 c 213 s 1; 1923 c 113 s 1; 1971 c 25 s 67; 1979 c 332 art 1 s 67 (6197)*

#### 223.03 LICENSES, APPLICATION, BONDS, CONDITIONS.

The application for license shall be in writing, state the commodities for which license to sell is wanted, also the cities or other location in the state where applicant intends to do business, and give the business address of the applicant and the estimated volume of business to be done monthly. If he desires a license which shall authorize him to sell grain, hay, and straw the bonds shall be conditioned that he report to all persons consigning grain, hay, and straw to him, whether on commission or on an open account and pay to them the proceeds of its sale, less charges and actual disbursements; otherwise the bond shall be conditioned for the faithful performance of his duties as commission merchant. Separate licenses shall be required for each city or location at which consignments are received and disposed of by such commission merchant, and the licenses shall be kept posted in each office of licensee. All licenses shall expire May thirty-first of each year. The fee for each license shall be \$50. Such license may be revoked by the department for cause, upon notice and hearing. All moneys collected under this chapter shall be deposited in the state treasury.

**History:** *RL s 2115; 1913 c 432 s 2; 1915 c 370 s 2; 1921 c 213 s 2; 1951 c 368 s 1; 1969 c 9 s 55; 1969 c 1148 s 36; 1971 c 25 s 67 (6198)*

**223.04 CONFIDENTIAL STATEMENTS REQUIRED.**

For the purpose of fixing or changing the amount of a bond or for any other reason which the department shall deem proper, it shall require statements of his business from the licensee, and, if he fails to render such statement or to furnish any new bond required, it may revoke his license. All such statements shall be for the exclusive information of the department, unless they shall be required for use in court, in which case the department shall produce them.

**History:** *RL s 2116; 1915 c 370 s 3; 1921 c 213 s 3; 1971 c 25 s 67 (6199)*

**223.05 STATEMENT BY LICENSEE TO CONSIGNOR.**

When a licensee sells any grain he shall render a true statement in writing to the consignor within 24 hours of the amount sold, price received, name and address of purchaser, and the day, hour, and minute of sale, and forward vouchers for all charges and expenses. When consignments of hay and straw are sold, the licensee shall render a true statement in writing to the consignor within such reasonable time and in such manner and form as may be prescribed by the department. All licensees handling grain shall keep a separate record of all cars handled on commission in such manner as the department may prescribe. It is expressly forbidden for a licensee hereunder to carry any of the accounts of grain commission business in an open account.

**History:** *RL s 2117; 1913 c 432 s 3; 1915 c 370 s 4; 1921 c 213 s 4; 1971 c 25 s 67 (6200)*

**223.06 COMPLAINT; INVESTIGATION; REPORT.**

When a consignor of a commodity, other than grain, after demand therefor, shall have received no remittance or report of its sale, or be dissatisfied with the remittance, or report, he may complain in writing under oath, to the department who shall investigate the matter complained of. In making the investigation, the department may compel the licensee to produce all information, books, records, and memoranda concerning the matter, and it shall give the complainant a written report of the investigation. This report shall be prima facie evidence of the matters therein contained.

**History:** *RL s 2118; 1915 c 370 s 5; 1971 c 25 s 67 (6201)*

**223.07 SUIT ON BOND; AMOUNT TO BE APPORTIONED.**

If any licensee shall fail to account for any consignment of any of the commodities mentioned in this chapter, or to pay to the consignor moneys due on such consignment, the consignor, or his agent, may file with the department an affidavit setting forth the matters complained of. Thereafter, such consignor may bring an action upon the bond of the licensee, and recover the amount due him on account of such consignment. If such licensee has become liable to more than one consignor, and the amount of his bond be insufficient to pay the entire liability, the consignors shall be compensated in proportion to their several claims.

**History:** *RL s 2119; 1915 c 370 s 6; 1971 c 25 s 67 (6202)*

**223.08 REFUSAL TO PERMIT INSPECTION OF BOOKS; "COMMISSION MERCHANT," "COMMISSION COMPANY" PROHIBITED; MISDEMEANOR.**

Subdivision 1. **Misdemeanor.** Any person, firm, or corporation engaged in selling any property as herein specified who fails or neglects to comply with any of the provisions of this chapter or any of the rules of the department herein provided for shall be guilty of a misdemeanor; and on conviction thereof in any court having competent jurisdiction punished by a fine of not less than \$25 nor more than \$100 and the department is hereby authorized, either upon such con-

viction or upon its own findings after investigation, if the facts warrant, to cancel the license of any person, firm, or corporation guilty of any violation of law or conduct prejudicial to the interest of those making consignments for sale, to such person, firm, or corporation. Where a license has been canceled the department may refuse to issue any license to such person, firm, or corporation for a term of one year.

Subd. 2. **Investigations.** When requested to do so by an interested shipper the department shall have power to investigate any sale or transaction carried on by any person, firm, or corporation licensed under this chapter and for that purpose shall have the right to examine any and all books, records, and accounts of any licensed commission merchant. Any licensed commission merchant or any agent in charge of such books, records, or accounts who shall fail or refuse to submit such books, records, or accounts for the examination of the department shall be guilty of a misdemeanor.

Subd. 3. **Use of certain words forbidden.** It shall be unlawful to use the words "commission," "commission merchant," or "commission company" on any advertising matter, letter or billheads of any person not having a license from the department. Any person who shall hold himself out as or claim to be a licensed or bonded commission merchant either by written, printed, or verbal representation or by the use of any letterhead, statement, or advertisement without having a license from the department shall be guilty of a misdemeanor.

**History:** *RL s 2120; 1913 c 432 s 4; 1915 c 370 s 7; 1971 c 25 s 67 (6203)*

### **223.09 COMMISSION MERCHANTS PROHIBITED FROM BEING INTERESTED IN SALES.**

No person, firm, or corporation whether doing business in a chamber of commerce, board of trade, or elsewhere in this state engaged in selling grain, corn or other farm products or livestock as a commission merchant, or for others, for a compensation in any manner, who shall hereafter receive and accept for sale for account of the consignor or owner thereof, any such property, or who shall sell, or attempt to sell, or dispose of such property for the account of such consignor or owner, shall hereafter be interested, directly or indirectly, as purchaser or otherwise than solely as the agent of such consignor or owner and according to the contract of agency in the sale, purchase, or disposition of such property; and no such person, firm, or corporation engaged as aforesaid shall hereafter in any transaction involving such sale, purchase, or disposition of such property in any manner, directly or indirectly, represent or promote in any respect the interest of any other person, firm, or corporation than the consignor or owner of such property.

**History:** *1917 c 19 s 1 (6204)*

### **223.10 PENALTY FOR VIOLATION.**

Whoever shall violate any provision of section 223.09 shall upon conviction thereof be punished by imprisonment in the county jail not to exceed one year or by a fine not to exceed \$1,000 and any license issued to such party under section 223.03 shall thereupon become void and such party shall be disqualified from obtaining a new license under section 223.03 for a period of two years from and after such conviction.

**History:** *1917 c 19 s 2 (6205)*

### **223.11 INDEBTEDNESS A LIEN UPON MEMBERSHIP, WHICH MAY BE SOLD.**

The indebtedness of any member of any chamber of commerce or board of trade or other grain exchange for or on account of any grain purchased by such

member, or sold by him as agent or commission merchant, shall be and constitute a first lien upon the membership of such member prior and paramount to the lien of all other members of such chamber of commerce, board of trade or other grain exchange; notwithstanding any rule or bylaw of such grain exchange to the contrary.

The lien above mentioned shall not be exercised unless and in case the bond required of grain commission merchants by the state of Minnesota shall fail to completely satisfy the debts due to the sellers and consignors of such grain.

In the enforcement of the lien against the membership of the member of the grain exchange above mentioned, the membership shall be sold to the highest bidder in accordance with the provisions of the rules of the grain exchange governing the sale of memberships to satisfy liens, and the proceeds shall then be applied by the grain exchange in satisfaction of the debts of the member.

**History:** 1919 c 283 s 1 (6206)

### 223.12 PURCHASERS OF FLAX STRAW.

Subdivision 1. **License required; bond.** Any person, firm or corporation, other than a commission merchant, as defined in section 223.01, who shall purchase flax straw, flax tow or hay for the purpose of resale shall first procure a license therefor from the department, before transacting such business. Such license shall be renewed annually, and shall expire on June 30. The license fee for each such buyer shall be \$25. Before any such license shall be issued, the applicant therefor shall file with the department a bond to the state, with corporate surety approved by the department, in a penal sum to be prescribed by the department but not less than \$2,000 conditioned that the applicant will pay upon demand the purchase price of such flax straw, flax tow or hay.

Subd. 2. **Unlicensed purchasers guilty of misdemeanor.** Any such person, firm, or corporation purchasing flax straw, flax tow or hay for resale without first obtaining such license shall be deemed guilty of a misdemeanor. Each unlicensed purchase shall constitute a separate offense for which such person, firm or corporation shall forfeit to the state \$50 and in addition thereto, such unlicensed purchaser may be enjoined upon complaint of the department.

**History:** 1943 c 546 s 1,2; 1957 c 669 s 1; 1967 c 318 s 1; 1969 c 856 s 1; 1971 c 25 s 67