

CHAPTER 231

WAREHOUSES

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

231.01 DEFINITIONS.

Subdivision 1. **Department.** The word "department," as used in this chapter, means the Minnesota state department of agriculture.

Subd. 2. **Commissioner.** The term "commissioner," as used in this chapter, means the commissioner of agriculture.

Subd. 3. **Person.** The term "person," as used in this chapter, includes any individual, firm, or copartnership.

Subd. 4. **Corporation.** The term "corporation," as used in this chapter, includes any corporation, company, association, joint stock company or association.

Subd. 5. **Warehouse operator.** The term "warehouse operator," as used in this chapter, means and includes every corporation, company, association, joint stock company or association, firm, partnership, or individual, their trustees, assignees, or receivers appointed by any court, controlling, operating, or managing within this state directly or indirectly, any building or structure, or any part thereof, or any buildings or structures, or any other property, and using the same for the storage or warehousing of goods, wares, or merchandise for compensation, or who shall hold itself out as being in the storage or warehouse business, or as offering storage or warehouse facilities, or advertise for, solicit or accept goods, wares, or merchandise for storage for compensation, but shall not include persons, corporations, or other parties operating open air storage facilities containing minerals, ores, steel, or rock products such as, but not limited to, aggregates, clays, railroad ballast, iron ore, copper ore, nickel ore, limestone, coal, and salt or operating grain or cold storage warehouses, or storing on a seasonal basis boats, boating accessories, recreational vehicles or recreational equipment or facilities in which the party storing goods rents and occupies space as a tenant and the entire risk of loss is with the tenant pursuant to written contract between the landlord and tenant.

Subd. 6. **Service.** The term "service," as used in this chapter, is used in its broadest sense and includes not only the use and occupancy of space for storage purposes, but also any labor expended, and the use of any equipment, apparatus, and appliances or any drayage or other facilities, employed, furnished, or used in connection with the storage of goods, wares, and merchandise, subject to the provisions of this chapter.

Subd. 7. **Rate.** The term "rate," as used in this chapter, includes every individual or joint rate, charge, or other compensation of every warehouse operator, either for storage or for any

other service furnished in connection therewith, or any two or more such individual or joint rates, charges, or other compensations of any warehouse operator, or any schedule or tariff thereof, and any rule, regulation, charge, practice, or contract relating thereto.

Subd. 8. Compensation. The term "compensation," as used in this chapter, means any remuneration, recompense, indemnification, requital, or satisfaction assessed, collected, or received for the storage or warehousing of goods, wares, or merchandise of another by a warehouse operator.

Subd. 9. Household goods. "Household goods" means:

(a) personal effects and property used or to be used in a dwelling if it is part of the equipment or supply of the dwelling;

(b) furniture, fixtures, equipment, and the property of business places and institutions, public or private, when a part of the stock, equipment, supplies, or property of such establishments. It does not mean the storage of property of a business concern in the usual course of its business activities;

(c) articles which, because of their unusual nature or value, require specialized handling and equipment customarily employed in moving household goods.

History: (5173) 1915 c 210 s 2; 1941 c 139 s 2; 1947 c 497 s 1,2; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1975 c 313 s 20; 1979 c 178 s 1; 1979 c 332 art 1 s 70,71; 1980 c 442 s 4; 1986 c 444; 1993 c 212 s 1; 1996 c 377 s 8

231.02 SUPERVISION OVER WAREHOUSE OPERATORS.

The department shall have general supervision of all warehouse operators doing business and shall keep itself informed as to the manner and method in which their business is conducted. It shall examine such business and keep itself informed as to its general condition, capitalization, rates and other charges, its rules and regulations, and the manner in which the plants, equipment, and other property owned, leased, controlled, or operated, are constructed, managed, conducted, and operated, not only with reference to the adequacy, security, and accommodation afforded to the public by their service, but also in respect to the compliance with the provisions of this chapter or with the orders of the department.

History: (5172) 1915 c 210 s 1; 1925 c 199 s 1; 1941 c 139 s 1; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1975 c 313 s 21; 1986 c 444

231.03 DEPARTMENT; MAY INSPECT BOOKS, PROPERTY, AND EXAMINE AGENTS OF WAREHOUSE OPERATORS.

The department, each commissioner, and each officer and person employed by the department, has the right, at any and at all times, to inspect the papers, books, accounts and documents, plant, equipment, or other property of any warehouse operator; and the department, each commissioner, and any officer of the department authorized to administer oaths, shall have the power to examine, under oath, any officer, agent, or employee of such warehouse operator in relation to any matter within the jurisdiction of the department; provided, that any person, other than a commissioner, demanding such inspection shall produce, under the seal of the department, the authority to make such inspection; and, provided, that a written record of the testimony or statement so given, under oath, shall be made and filed with the department. Information so obtained shall be not admitted in evidence or used in any proceedings except in proceedings provided for in this chapter.

History: (5175) 1915 c 210 s 4; 1971 c 25 s 67; 1986 c 444

231.04 DEPARTMENT TO ENFORCE WAREHOUSE LAW.

It is hereby made a duty of the department to see that the provisions of the constitution and the statutes of this state affecting warehouse operators, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, that violations thereof are promptly prosecuted, and that penalties due the state therefor are recovered and collected; and, to this end, it may sue in the name of the state.

History: (5176) 1915 c 210 s 5; 1971 c 25 s 67; 1986 c 444

231.05 ACCOUNTS.

The department shall have the power to compel every warehouse operator to keep and maintain accurate, complete, and comprehensive accounts, including records of service furnished and commissions paid, as well as accounts of earnings and expenses, and it may examine and audit such accounts from time to time. Such accounts shall provide for forms showing all sources of income, the amounts due and received from each source, and the amounts expended and for each purpose, distinguishing clearly all payments for operating expenses from those for new construction, extensions, additions, repairs, or replacements, and for balance sheets showing assets and liabilities.

The department may require every warehouse operator engaged, directly or indirectly, in any business other than the warehouse business to keep separately, in like manner and form, the accounts of all such other business, and the department may provide for the examination and inspection of the books, accounts, papers, and records of such other business, insofar as may be necessary to enforce any provisions of this chapter. The department shall have the power to inquire as to, and prescribe the apportionment of capitalization, earnings, debts and expenses, fairly and justly to be awarded or borne by the ownership, operation, management or control of such warehouse as distinguished from such other business.

History: (5177) 1915 c 210 s 6; 1971 c 25 s 67; 1986 c 444

231.06 APPRECIATION AND DEPRECIATION ACCOUNTS.

The department shall have the power, after a hearing, to require all warehouse operators to keep such accounts as will adequately reflect appreciation, depreciation, or obsolescence. The department may, from time to time, ascertain and determine and, by order, fix the proper and adequate rate of appreciation or depreciation of the property of each warehouse operator, and each warehouse operator shall conform the appreciation and depreciation accounts to the rate so ascertained, determined, and fixed.

History: (5178) 1915 c 210 s 7; 1971 c 25 s 67; 1986 c 444

231.07 ACCOUNTS TO BE KEPT IN STATE.

Each warehouse operator shall have and maintain an office in the city in which it has its principal place of business and keep in this office all such books, accounts, papers, records, and memoranda as shall be ordered by the department to be kept within the state. The address of such office shall be filed with the department. No books, accounts, papers, records, or memoranda ordered to be kept within the state shall at any time be removed from the state except on such conditions as may be prescribed by the department.

History: (5179) 1915 c 210 s 8; 1971 c 25 s 67; 1986 c 444

231.08 WHAT IS REQUIRED OF WAREHOUSE OPERATORS.

Subdivision 1. To furnish information. Every warehouse operator shall furnish all information required by the department to carry into effect the provisions of this chapter and make specific answers to all questions submitted by the department, under oath; and if such warehouse operator is a corporation, it shall answer under the oath of one of its duly authorized officers.

Every warehouse operator shall obey and comply with each and every requirement of every order, decision, direction, or rule made or prescribed by the department in the matters specified in this chapter; and do everything necessary or proper to secure the compliance with and the observance of the same, by all its officers, agents, and employees.

Subd. 2. Rights not limited. Nothing in this chapter shall be construed as limiting the rights of any warehouse operator to lease or let for any storage purpose any floor of a building or any portion thereof. Any warehouse operator who so leases any portion or portions of a warehouse shall first file with the department a schedule showing the rates for such spaces and the monthly rental per square foot or per cubic foot.

History: (5174) 1915 c 210 s 3; 1971 c 25 s 67; 1985 c 248 s 70; 1986 c 444

231.09 OBLIGATION TO ISSUE UNIFORM RECEIPTS.

Every warehouse operator receiving goods in store shall issue for all such a receipt embodying the terms of such receipts as authorized by article 7 of the uniform commercial code.

History: (5182) 1915 c 210 s 11; 1965 c 812 s 6; 1986 c 444

231.10 GENERAL DUTIES OF WAREHOUSE OPERATORS.

All rates made, demanded, or received by any warehouse operator for any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable rate demanded or received for such service is hereby prohibited and declared unlawful.

Every warehouse operator licensed under this chapter shall receive, store and forward all property offered for storage by any person or corporation impartially and at as low a rate of charge and in a manner and on terms, and in quantities as favorable to the party offering such property as the warehouse operator at the same place receives, stores, and forwards, in the ordinary course of business, property of like description and in similar quantities offered by any other person or corporation.

History: (5183) 1915 c 210 s 12; 1986 c 444

231.11 SCHEDULE OF RATES; STORING HOUSEHOLD GOODS.

In order to insure nondiscriminatory rates and charges for all depositors of household goods, the commissioner shall establish a collective rate-making procedure which will insure the publication and maintenance of just and reasonable rates and charges under uniform, reasonably related rate structures. These procedures shall provide for the joint consideration, initiation, and establishment of rates and charges, and shall assure that the respective revenues and expenses of warehouse operators engaged in warehouse services for household goods are ascertained. Any participating warehouse operator party to a collectively mandated rate or charge has the right to petition the commissioner for the establishment of a rate or charge which deviates from the collectively set rate. Upon receiving the commissioner's approval, that warehouse operator may proceed to establish the requested rate or charge. All warehouse operators subject to rate regulation under this chapter must comply with the commissioner's rate-making procedures. No warehouse operator shall undertake to perform any service or store any household goods until a schedule of rates has been filed and published in accordance with this chapter. In case of emergency, however, a service or storage not specifically covered by the schedules filed, may be performed or furnished at a reasonable rate, which must then be promptly filed, and which is subject to review in accordance with this chapter.

History: (5184) 1915 c 210 s 13; 1971 c 25 s 67; 1983 c 300 s 24; 1986 c 444; 1993 c 212 s 2

231.12 CHANGE OF RATES; STORING HOUSEHOLD GOODS.

Unless the department otherwise orders, no warehouse operator storing household goods may change any rate except after ten days' notice to the department and to the public pursuant to this section. Notice shall be given by filing with the department and keeping open for public inspection new schedules or supplements stating plainly the changes to be made in the schedules then in force and the time when the changes will go into effect. The department for good cause shown, may, after hearing, allow changes without requiring the ten days' notice by an order specifying the changes to be made, the time when they shall take effect, and the manner in which they shall be filed and published.

History: (5185) 1915 c 210 s 14; 1971 c 25 s 67; 1983 c 300 s 25; 1986 c 444; 1993 c 212 s 3

231.13 CHARGING MORE OR LESS THAN THE PUBLISHED RATE; STORING HOUSEHOLD GOODS.

Except as specified in sections 231.11 and 231.12, no warehouse operator storing household goods shall have, demand, collect, or receive, a greater or less or different compensation for any service rendered or for storing any household goods than the rates applica-

ble to such service or storage, as specified in the schedules of rates on file with the commissioner and in effect at the time.

When a warehouse operator shall have had household goods in store for such a period that the storage charges thereon accumulated are more than such household goods would bring at a forced sale, the department, upon written application and proof thereof, may authorize such warehouse operator to compromise such charges for a sum not less than the amount which such household goods would bring at such forced sale.

History: (5186) 1915 c 210 s 15; 1971 c 25 s 67; 1986 c 444; 1993 c 212 s 4

231.14 DISCRIMINATION IN RATES; STORING HOUSEHOLD GOODS.

Except as herein otherwise specified, no warehouse operator storing household goods, or any officer, agent, or employee thereof, shall, directly or indirectly, by remittance, rebate, or any device, inducement, or other means, suffer or permit any corporation or person to obtain any service, or the storage of any household goods at less than the rates then established and in force as shown by the schedule of rates filed and in effect at the time. No person or corporation shall, directly or indirectly, by any device, inducement, or means, either with or without the consent or connivance of a warehouse operator storing household goods, or any of the officers, agents, or employees thereof, obtain, or seek to obtain, any service, or the storage of any household goods at less than the rates then established and in force therefor. Any warehouse operator storing household goods, or the officers, agents, or employees thereof, or any person acting for or employed by it, or transacting business with it, or any other person, who shall violate any provision of this section, shall be guilty of a gross misdemeanor; and, upon conviction, subject to imprisonment not exceeding one year or to a fine not exceeding \$3,000, or both.

History: (5187) 1915 c 210 s 16; 1965 c 412 s 1; 1984 c 628 art 3 s 11; 1986 c 444; 1993 c 212 s 5

231.15 DEPARTMENT TO FIX RATES AND RULES.

When the department after a hearing upon its own motion, or upon complaint finds that the rates demanded, observed, charged, or collected by any warehouse operator for any service or storage of goods, wares, or merchandise, or in connection with such service or storage, are unjust, unreasonable, discriminatory, preferential, or in any wise in violation of any provision of law the department shall determine the just and reasonable rates to be thereafter effective and in force in such warehouse and fix the same by an order, which shall determine when such rates shall go into effect. Before making any order under the provisions of this section, the warehouse operator shall have an opportunity to be heard upon reasonable notice to be determined by the department.

History: (5188) 1915 c 210 s 17; 1971 c 25 s 67; 1985 c 248 s 70; 1986 c 444

231.16 WAREHOUSE OPERATOR TO OBTAIN LICENSE.

Every person desiring to engage in the business of warehouse operator, before engaging therein, shall be licensed annually by, and shall be under the supervision and subject to the inspection of, the department. Written application in the form prescribed by the department shall be made to the department for license, specifying the city in which it is proposed to carry on the business of warehousing, the location, size, character, and equipment of the buildings or premises to be used by the warehouse operator, the kind of goods, wares, and merchandise intended to be stored therein, the name of the person or corporation operating the same, and of each member of the firm or officer of the corporation, and any other facts necessary to satisfy the department that the property proposed to be used is suitable for warehouse purposes and that the warehouse operator making the application is qualified to carry on the business of warehousing. Should the department decide that the building or other property proposed to be used as a warehouse is suitable for the proposed purpose and that the applicants are entitled to a license, notice of the decision shall be given the interested parties and, upon the applicants filing with the department the necessary bond, as provided for in this chapter, the department shall issue the license provided for, upon payment of the license fee, as in this section provided. A warehouse operator to whom a license is issued shall pay for the license a fee based on the storage capacity of the warehouse as follows:

Storage capacity in square feet

(1) 5,000 or less	\$ 80
(2) 5,001 to 10,000	\$155
(3) 10,001 to 20,000	\$250
(4) 20,001 to 100,000	\$315
(5) 100,001 to 200,000	\$410
(6) over 200,000	\$470

Fees collected under this chapter shall be paid into the grain buyers and storage fund established in section 232.22.

The license shall be renewed annually on or before July 1, and always upon payment of the full license fee, as provided for in this section for such renewal; and no license shall be issued for any portion of a year for less than the full amount of the license fee, as provided for in this section. Each license obtained under this chapter shall be publicly displayed in the main office of the place of business of the warehouse operator to whom it is issued. The license shall authorize the warehouse operator to carry on the business of warehousing only in the one city or town named in the application and in the buildings therein described. The department, without requiring an additional bond and license, may issue permits from time to time to any warehouse operator already duly licensed under the provisions of this chapter to operate an additional warehouse in the same city or town for which the original license was issued during the term thereof, upon the filing an application for a permit in the form prescribed by the department.

License may be refused for good cause shown and revoked by the department for violation of law or of any rule by it prescribed, upon notice and after hearing.

History: (5189) 1915 c 210 s 18; 1939 c 159; 1943 c 495 s 1; 1947 c 497 s 3; 1969 c 1148 s 37; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1975 c 313 s 22; 1977 c 364 s 7; 1981 c 356 s 331; 1982 c 508 s 7; 1983 c 300 s 26; 1985 c 248 s 70; 1986 c 444

231.17 BONDS OF WAREHOUSE OPERATORS.

Every warehouse operator applying for and receiving a license from the department, as provided for in this chapter, shall file with the department, acceptable to the department, a surety bond to the state of Minnesota. Such bonds shall be in an amount to be determined by the department as reasonable for the applicant but shall not be less than \$10,000.

The commissioner shall, after a study of the existing bonding structure and after consultation with the warehousing industry, adopt rules for bonding. The rules must be adopted by April 1, 1994.

The bond shall be conditioned for the faithful discharge of all duties as a warehouse operator operating under this chapter, and full compliance with the laws of the state and rules and orders of the department relative thereto. Failure to maintain the bond as required shall void the license.

The bond must be continuous until canceled. To cancel a bond, the surety must provide 90 days' written notice of the bond's termination date to the licensee and the department.

In lieu of the bond required by this section, the applicant may deposit with the state treasurer cash; a certified check; a cashier's check; a postal, bank, or express money order; assignable bonds or notes of the United States; or an assignment of bank savings account or investment certificate or an irrevocable bank letter of credit as defined in section 336.5-103, in the same amount as would be required for a bond.

History: (5190) 1915 c 210 s 19; 1927 c 360 s 1; 1971 c 25 s 67; 1971 c 75 s 1; 1985 c 248 s 70; 1986 c 444; 1993 c 212 s 6

231.18 CLAIMS AGAINST A BOND.

Subdivision 1. Filing a claim. A depositor claiming to be damaged by the breach of an agreement to store general merchandise and household goods must file a claim with the department within 180 days of the date of breach.

Subd. 2. Form of claim. All claims must be in writing, must state the facts upon which the claim is based, must include any supporting evidence, and must be signed by the claim-

ant. The supporting evidence may consist of, but is not limited to, a bill of lading, a warehouse receipt, a contract form, correspondence, or photographs.

Subd. 3. Where to file. All claims must be filed at the following address: Minnesota Department of Agriculture, Grain Licensing and Auditing Division, 316 Grain Exchange Building, Minneapolis, Minnesota 55415.

Subd. 4. Bond limitations. The bonds are not cumulative from one year to the next. A claim against the bond may only be made against the bond in effect at the time the agreement is breached. A bond is not liable for claims filed after 180 days from the date of the breach of the bond.

Subd. 5. Public notice of a claim. Upon determining that a depositor has filed a valid claim, the department shall publish notice of the claim in the official county newspaper of the county in which the licensee's place of business is located.

The notice must state that a claim against the bond of a licensee has been filed with the department, the name and address of the licensee, that any additional claims should be filed with the department, the bond disbursement date, and where the claims should be filed.

The public notice of the claim must appear for three consecutive days in newspapers with a daily circulation and for two consecutive publications in newspapers published less than daily.

Subd. 6. Bond disbursement. (a) Upon expiration of the claim filing period, the department shall promptly determine the validity of all claims filed and notify the claimants of the determination. An aggrieved party may appeal the department's determination by requesting, within 15 days, that the department initiate a contested case proceeding. In the absence of such a request, or following the issuance of a final order in a contested case, the surety company shall issue payment promptly to those claimants entitled to payment.

(b) If a warehouse operator has become liable to more than one depositor by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay the entire liability to all depositors entitled to the protection of the bond, the proceeds of the bond shall be apportioned among the bona fide claimants.

History: (5192) 1915 c 210 s 21; 1971 c 25 s 67; 1986 c 444; 1993 c 212 s 7

231.19 [Repealed, 1993 c 212 s 8]

231.20 [Repealed, 1993 c 212 s 8]

231.21 [Repealed, 1993 c 212 s 8]

231.22 [Repealed, 1993 c 212 s 8]

231.23 [Repealed, 1993 c 212 s 8]

231.24 COMPLAINT THAT RATE IS UNREASONABLE; DUTY OF DEPARTMENT.

Upon verified complaint of any person or of any corporation that any rates are unjust, unreasonable, discriminatory, preferential, or in any way in violation of law, the department shall proceed to investigate the matters alleged in such complaint; and, for the purposes of such investigation, they may require the attendance of witnesses and the production of books, papers, and documents. If, upon the hearing, such rates are found to be unjust, unreasonable, discriminatory, preferential, or in any way in violation of law, the department shall make an order, stating wherein the same are so unjust, unreasonable, discriminatory, preferential, or in any way in violation of law, and make rates which shall be substituted for those as to which complaint is made. Rates so made by the department shall be deemed prima facie reasonable in all courts, and shall be in full force during the pendency of any appeal or other proceedings to review the action of the department in establishing the same.

History: (5198) 1915 c 210 s 27; 1971 c 25 s 67

231.25 [Repealed, 1993 c 212 s 8]

231.26 [Repealed, 1993 c 212 s 8]

231.27 [Repealed, 1993 c 212 s 8]

231.28 FAILURE TO OBEY ORDER OR LAW.

When any warehouse operator shall fail to obey any law of this state, or any order of the department, the department may, upon verified petition alleging such failure, apply to the district court of the county in which the warehouse operator's principal place of business is located, for the enforcement of such law or order, or other appropriate relief. The court, upon such notice as it may direct, shall hear such matter as in case of an appeal from an order. On the hearing, the findings of fact upon which the order is based shall be prima facie evidence of the merits therein stated, and the court may grant any provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, and may impose a fine of not more than \$50 for each day's failure to obey any writ, process, or order of the court, in addition to all other penalties or forfeitures provided by law. A temporary mandatory or restraining order may be made in such proceedings, notwithstanding any undetermined issue of fact, upon such terms as to security as the court may direct.

History: (5202) 1915 c 210 s 31; 1971 c 25 s 67; 1986 c 444

231.29 [Repealed, 1993 c 212 s 8]

231.30 [Repealed, 1993 c 212 s 8]

231.31 [Repealed, 1993 c 212 s 8]

231.32 PROCEEDINGS IN THE NAME OF THE STATE.

All acts or proceedings instituted by the department under this chapter shall be brought in the name of the state and be prosecuted by the attorney general.

History: (5205) 1915 c 210 s 34; 1971 c 25 s 67

231.33 [Repealed, 1993 c 212 s 8]

231.34 ACTION ON BOND IN THE NAME OF THE STATE.

When any one licensed to do business as a public warehouse operator fails to perform a duty, or violates any of the provisions of this chapter, any person or corporation injured by such failure or violation may, with the consent of the department and the attorney general, bring an action in the name of the state, but to the person's or corporation's own use, in any court of competent jurisdiction on the bond of such warehouse operator. In such action the person or corporation in whose behalf the action is brought shall file with the court a satisfactory bond for costs, and the state shall not be liable for any costs.

History: (5206) 1915 c 210 s 35; 1971 c 25 s 67; 1986 c 444

231.35 TECHNICAL OMISSIONS NOT TO INVALIDATE ACTS OF DEPARTMENT.

A substantial compliance with the requirements of this chapter shall be sufficient to give effect to all the acts, orders, decisions, and rules of the department and they shall not be declared inoperative, illegal, or void for any omission of a technical nature in respect thereto.

History: (5209) 1915 c 210 s 38; 1971 c 25 s 67; 1985 c 248 s 70

231.36 FALSIFICATION OR DESTRUCTION OF ACCOUNTS.

Any person who shall willfully make any false entry in the account or in any record or memorandum kept by a warehouse operator, or who shall willfully destroy, mutilate, alter, or by any other means or device, falsify a record of any such account, record, or memorandum, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions appertaining to the business of the warehouse operator, or shall keep any accounts or records with the intent to evade the provisions of this chapter, shall be guilty of a gross misdemeanor; and, upon conviction, subject to imprisonment not exceeding one year or to a fine not exceeding \$3,000, or both.

History: (5180) 1915 c 210 s 9; 1965 c 412 s 2; 1984 c 628 art 3 s 11; 1986 c 444

231.37 PENALTY FOR DIVULGENCE OF INFORMATION.

Any officer or employee of the department who divulges to any person, other than a member of the department, any fact or information coming to the knowledge of the officer or

employee during the course of an inspection, examination, or investigation of any accounts, records, memoranda, books, or papers of a warehouse operator, except insofar as may be authorized by the department, or by a court of competent jurisdiction, or a judge thereof, shall be guilty of a gross misdemeanor; and, upon conviction, subject to imprisonment not exceeding one year or to a fine not exceeding \$3,000, or to both.

History: (5181) 1915 c 210 s 10; 1965 c 412 s 3; 1971 c 25 s 67; 1984 c 628 art 3 s 11; 1986 c 444

231.38 PENALTY FOR TRANSACTING BUSINESS WITHOUT A LICENSE.

Any person who shall transact the business of a warehouse operator, except for the purpose of winding up the same under the supervision of the department, without first procuring a license and giving a bond as provided for in this chapter and any licensed warehouse operator who shall operate any warehouse without obtaining the permit herein provided for or who shall continue to transact such business after such license has expired or such bond may have become void or found insufficient security for the penal sum in which it is executed by the department approving the same shall be guilty of a gross misdemeanor; and upon conviction fined in a sum not less than \$100 nor more than \$3,000 for each and every day such business is carried on before the license or permit, as the case may be, is issued or after the expiration of such license or permit or after receiving notice from the department that such bond has become void or has been found insufficient security; and the operation of such warehouse operator may be enjoined upon complaint of the department before a court of competent jurisdiction.

History: (5191) 1915 c 210 s 20; 1965 c 412 s 4; 1971 c 25 s 67; 1984 c 628 art 3 s 11; 1986 c 444

231.39 PERSONS VIOLATING ACT OR ORDER; PENALTY.

Any warehouse operator and each person who, either individually or acting as an officer, agent, or employee of a warehouse operator, violates or fails to comply with any provisions of this chapter, or fails to observe, obey, or comply with any order, decision, rule, direction, or requirement or any part or portion thereof of the department made or issued under authority of this chapter or who procures, aids, or abets any warehouse operator in the violation of this chapter or in the failure to observe, obey, or comply with this chapter or any such order, decision, rule, direction, or requirement or any part or portion thereof in a case in which a penalty is not otherwise provided for in this chapter is guilty of a gross misdemeanor; and upon conviction shall be punished by a fine not exceeding \$3,000 or by imprisonment not exceeding one year or by both such fine and imprisonment.

Each violation of the provisions of this chapter, or of any order, decision, rule, direction, or requirement of the department, or any part or portion thereof, by any warehouse operator is a separate and distinct offense.

In construing and enforcing the provisions of this chapter relating to penalties, the act, omission, or failure of any officer, agent, or employee of any warehouse operator, acting within the scope of official duties or employment, shall in each case be and be deemed to be the act, omission, or failure of such warehouse operator.

History: (5207) 1915 c 210 s 36; 1965 c 412 s 5; 1971 c 25 s 67; 1984 c 628 art 3 s 11; 1985 c 248 s 70; 1986 c 444