

CHAPTER 17B

GRAIN INSPECTION

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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 **Scope** 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 the commissioner’s authorized representative

Subd 3a **Discount** ‘Discount’ means an offer or purchase price for grain that is lower than the base or standard price offered by a buyer at a certain time and at a specified location A discount price represents the lower than normal value of the grain because of inferior quality as determined by measurement of grade, dockage, test weight, or other factors

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

Subd 5 **Premium** ‘Premium’ means an offer or a purchase price for corn, soybeans, or wheat that exceeds the base or standard price offered by a buyer at a certain time and at a specified location A premium price represents the higher than normal value of the grain because of superior quality as determined by measurement of grade, dockage, test weight, or other factors

Subd 6 **Test equipment** ‘Test equipment’ means the mechanical and electronic devices commonly used in measurement of grain qualities including protein content, moisture content, and test weight

Subd 7 **Test equipment operator** ‘Test equipment operator’ means a person assigned by the management of an elevator or grain storage facility who is chiefly responsible for the preparation and analysis of grain samples for protein content, test weight, moisture content, and other qualities upon which price is determined

History 1974 c 548 s 2, 1986 c 444, 1988 c 688 art 6 s 1

17B 03 GRAIN WEIGHING, SAMPLING, ANALYSIS, LABORATORY EVALUATION

Subdivision 1 **Commissioner’s powers** 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 Samples 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 Laboratories 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 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 the shipper 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, 1986 c 444

17B 041 COMMISSIONER TO REVIEW ACCURACY OF TEST EQUIPMENT AND TEST EQUIPMENT OPERATORS

Subdivision 1 Periodic review, equipment and operators The commissioner shall implement, by rule, a program for the periodic review of protein analysis, test weight, dockage testing devices, moisture testing equipment, and other equipment used to determine qualities upon which price is determined, and the operators of the equipment. If a review is performed by department personnel at the site of the test equipment, the review must consist of the performance of routine tests and analysis on one or more samples of grain by the principal operator of the test equipment

Subd 2 Tagging of out of compliance test equipment Personnel of the department who perform an on site review of test equipment and operators shall prohibit the further use of test equipment that fails to meet and maintain acceptable tolerance levels established by rule

Subd 3 Follow up review upon request The commissioner shall arrange for a follow up review within seven business days of a periodic review if a follow up review is requested by the test equipment operator

Subd 4 Request for commissioner to schedule a review A purchaser or seller of grain may request the commissioner to perform a review of the test equipment and test equipment operator that is used to test the grain. A signed request must be submitted to the commissioner and upon receipt of a request, the commissioner shall schedule a review at a reasonable time considering other duties and responsibilities of the department personnel

Subd 5 State not liable The state is not liable to a seller or purchaser of grain for losses resulting from erroneous tests or analysis by test equipment or test equipment operators, whether reviewed by the department or not, if the commissioner and the

department have exercised due care in the scheduling and conduct of reviews under subdivisions 1 and 3

History 1988 c 688 art 6 s 2, 1995 c 233 art 2 s 56

17B 0451 GRAIN QUALITY, PREMIUMS, DISCOUNTS

Subdivision 1 **Corn, weight** A purchaser of corn who provides a discount for corn that falls below the standard test weight for corn must offer an equal or greater premium for corn that has a test weight higher than the standard test weight

Subd 2 **Soybeans, weight** A purchaser of soybeans who provides a discount for soybeans that fall below the standard test weight for soybeans must offer an equal or greater premium for soybeans that have a test weight higher than the standard test weight

Subd 3 **Wheat, weight** A purchaser of wheat who provides a discount for wheat that falls below the standard test weight for wheat must offer an equal or greater premium for wheat that has a test weight higher than the standard test weight

Subd 4 **Corn, foreign material** A purchaser of corn who provides a discount for corn that falls below the standard for foreign material for corn must offer an equal or greater premium for corn that has less foreign material than the standard For corn, foreign material includes broken corn and foreign material

Subd 5 **Soybeans, foreign material** A purchaser of soybeans who provides a discount for soybeans that fall below the standard for foreign material for soybean must offer an equal or greater premium for soybeans that have less foreign material than the standard

Subd 6 **Wheat, foreign material** A purchaser of wheat who provides a discount for wheat that falls below the standard for foreign material for wheat must offer an equal or greater premium for wheat that has less foreign material than the standard

Subd 7 **Corn, damage** A purchaser of corn who provides a discount for corn that falls below the standard for total damaged kernels for corn must offer an equal or greater premium for corn that has less total damaged kernels than the standard

Subd 8 **Soybeans, damage** A purchaser of soybeans who provides a discount for soybeans that fall below the standard for total damaged kernels for soybeans must offer an equal or greater premium for soybeans that have less total damaged kernels than the standard

Subd 9 **Wheat, damage** A purchaser of wheat who provides a discount for wheat that falls below the standard for total damaged kernels for wheat must offer an equal or greater premium for wheat that has less total damaged kernels than the standard

Subd 10 **Effective date** Subdivision 1, 2, 3, 4, 5, 6, 7, 8, or 9 is effective 30 days after at least three states representing 30 percent or more of the national production of that grain according to the current United States Department of Agriculture crop production summary requires that a premium be paid for the grain based on the factors provided in the section Subdivision 1, 2, 3, 4, 5, 6, 7, 8, or 9 applies to purchasers of grain in this state 30 days after the commissioner publishes notice in the State Register that the subdivision is effective The commissioner must notify affected licensed purchasers of grain that subdivision 1, 2, 3, 4, 5, 6, 7, 8, or 9 is effective by ten days after notice is published in the State Register

History 1988 c 688 art 6 s 3 11,14

17B 048 LOADS MAY BE AVERAGED

Subdivision 1 **Loads averaged by mutual agreement** A purchaser and a seller of grain may, by mutual agreement, average the measurements from multiple loads of acceptable quality grain with respect to those factors used to determine price

Subd 2 **Notice to be posted** A business licensed to buy or receive grain must post the following notice in a conspicuous place The notice must be at least 8 1/2 by 11 inches in size with letters at least one half inch in size stating "UNDER MINNESOTA

STATUTES, SECTION 17B 048, A PURCHASER AND A SELLER OF GRAIN MAY BY MUTUAL AGREEMENT AVERAGE THE MEASUREMENTS FROM MULTIPLE LOADS OF ACCEPTABLE QUALITY GRAIN WITH RESPECT TO THOSE FACTORS USED TO DETERMINE PRICE' The commissioner shall provide copies of the notice to each business licensed to buy or receive grain

History 1988 c 688 art 6 s 12, 1989 c 310 s 1

17B 05 DISPUTES ON GRADES, DOCKAGE, STATE ARBITRATION

(a) If a disagreement arises between a person receiving and a person delivering grain in this state as to the proper grade, dockage, moisture content, protein content, or other factors used in establishing the market price of the grain, an average sample of the grain in dispute may be taken by either or both of the parties interested. The commissioner shall prescribe a procedure for taking samples and having the samples certified by both the person receiving and the person delivering the grain as being true samples of the grain in dispute on the day the grain is delivered and sampled. Samples must be forwarded prepaid in suitable air tight containers, with the names and addresses of the person receiving and the person delivering the grain, to the head of the grain inspection division of the department. The head of the grain inspection division shall examine samples submitted and determine the proper grade, dockage, moisture content, protein content, and other factors used in establishing the market price of the samples of grain in accordance with the inspection rules and the standards established by the United States Department of Agriculture and the state of Minnesota. The test results must be based on the arithmetic mean of the samples submitted. If a person requesting the inspection asks for determination of some but not all of the factors that affect market price, the department shall perform only the requested tests on the samples. A person requesting the inspection must pay the required fee before the results of the inspection are released. The fee charged must be the same as that required for similar services rendered by the grain inspection division. Payment for the grain involved in a disagreement must be made on the basis of grade, dockage, moisture content, protein content, and other market pricing factors certified by the department on samples submitted. An appeal of the determination made by the department may be made as provided under the United States Grain Standards Act, United States Code, title 7, section 79, subsection (c), and the Code of Federal Regulations, title 7, sections 800.125 to 800.140. A person receiving or delivering grain that is subject to this section is liable for damages resulting from not abiding by the determination made by the department. A person who violates this section is subject to penalties prescribed in section 17B 29.

(b) A licensed business that uses test equipment as defined in section 17B 02 to perform tests or analysis on grain to be purchased or placed in storage must post at the place of business a notice informing persons selling or delivering grain of their right to have a representative sample of the grain forwarded to the grain inspection division for analysis. The commissioner shall provide copies of the notice to each business licensed to buy or receive grain. The business must display the notice in a conspicuous location as prescribed by the commissioner.

History 1974 c 548 s 5, 1987 c 199 s 1, 1988 c 688 art 6 s 13

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 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, 1986 c 444

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 as needed 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 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, 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.

History 1974 c 548 s 7, 1985 c 248 s 70, 2000 c 477 s 5

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 warehouse operator in the state, upon request and payment of the actual cost thereof.

History 1974 c 548 s 10, 1986 c 444

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, warehouse operator, or carrier or otherwise. The commissioner shall provide inspection service for interhouse transfers or when grain is "run for grade" within a house if requested by the warehouse operator. 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, 1986 c 444

17B 12 APPEALS, PROCEDURE

Any owner, consignee, or shipper of grain, or any warehouse operator, who is dissatisfied with the inspection of grain may appeal to the board of grain standards by filing a notice of appeal with the commissioner and paying a fee to be fixed by the commissioner. The commissioner shall promptly transmit the notice to the board of grain standards. The decision of the board fixing the grade of the grain is final.

History 1974 c 548 s 12, 1986 c 444, 2000 c 477 s 6

17B 13 WEIGHERS, RESTRICTIONS, BONDING

Subdivision 1 Export and other terminal points 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 Licensed persons 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 signed certificate, 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 the buyer's 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, 1986 c 444

17B 15 FEES FOR INSPECTION AND WEIGHING, DEDICATED ACCOUNT

Subdivision 1 **Administration, appropriation** The fees for inspection and weighing shall be fixed by the commissioner and be a lien upon the grain. The commissioner shall set fees for all inspection and weighing in an amount adequate to pay the expenses of carrying out and enforcing the purposes of sections 17B 01 to 17B 23, including the portion of general support costs and statewide indirect costs of the agency attributable to that function with a reserve sufficient for up to six months. The commissioner shall review the fee schedule twice each year. Fee adjustments are not subject to chapter 14. Payment shall be required for services rendered.

All fees collected and all fines and penalties for violation of any provision of this chapter shall be deposited in the grain inspection and weighing account, which is created in the agricultural fund for carrying out the purpose of sections 17B 01 to 17B 23. The money in the account, including interest earned on the account, is annually appropriated to the commissioner of agriculture to administer the provisions of sections 17B 01 to 17B 23. When money from any other account is used to administer sections 17B 01 to 17B 23, the commissioner shall notify the chairs of the agriculture, environment and natural resources finance, and ways and means committees of the house of representatives, the agriculture and rural development and finance committees of the senate, and the finance division of the environment and natural resources committee of the senate.

Subd 2 [Repealed, 1983 c 300 s 28]

Subd 3 **Minimum charge** 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 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, 1981 c 356 s 258, 1983 c 300 s 2, 1986 c 444, 1987 c 396 art 11 s 1, 1994 c 632 art 2 s 12, 1996 c 407 s 14, 1999 c 231 s 37, 2000 c 477 s 7

17B 16 QUALIFICATIONS

No inspector, sampler, nor weigher shall during that person's 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 the inspector, sampler, or weigher be a member of any board of trade or organization of like character

History 1974 c 548 s 16, 1986 c 444

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 the weigher's official duties, by preventing proper access to the scales used in weighing grain or otherwise, is guilty of a misdemeanor

History 1974 c 548 s 18, 1986 c 444

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 the owner's 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, 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, 1986 c 444

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 an official duty shall be guilty of a gross misdemeanor

Subd 3 [Repealed, 1977 c 347 s 9]

History 1974 c 548 s 22, 1986 c 444

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 10 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, directions, and orders appropriate or convenient for the aforesaid

History 1974 c 548 s 23, 1Sp1981 c 4 art 1 s 37, 1985 c 248 s 70

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 \$3,000 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 and rules 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, 1984 c 628 art 3 s 11, 1985 c 248 s 70

17B 28 ENFORCEMENT, RULES

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 as the commissioner deems necessary or desirable to carry out the provisions of sections 17B 01 to 17B 29 Until such rules are promulgated, the rules of the public service commission, Chapter Five, PSC 150 to 169, as amended, promulgated pursuant to Minnesota Statutes, sections 14 05 to 14 28, 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, 1982 c 424 s 130, 1985 c 248 s 70, 1986 c 444, 1995 c 233 art 2 s 56

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