

THE LAWS

AGRICULTURAL PRODUCTS

CHAPTER 1

H. B. No. 177—(Olson of Bowman.)

EMBARGO ON AGRICULTURAL PRODUCTS

An Act authorizing the Governor to declare and maintain an embargo on the shipment out of this state of any agricultural product produced within the state, when the market price thereof reaches a point where the returns are confiscatory, and declaring that agricultural products taken from the soil constitute a drain on the natural resources of this state, and that the disposition thereof at confiscatory prices becomes a matter of public concern warranting an executive order to prevent the same; and repealing all acts or parts of acts in conflict herewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AGRICULTURAL PRODUCTS DEFINED.] Agricultural products, produced in this state, are hereby declared to be a drain on the natural resources of the state; and the disposition of the same at confiscatory prices becomes a matter of public concern.

§ 2. EMBARGO WHEN PROCLAIMED AND HOW ENFORCED.] Whenever the price of agricultural products, produced from the soil in this state reaches a point where the sale and returns thereon become confiscatory, leaving to the producers, after the deduction of freight, commissions, and expenses, an amount which practically confiscates the commodity or brings a price unconscionable with the cost of production and becomes an unwarranted drain upon the natural resources of the State, the Governor may, by executive order, issue an embargo or proclamation, commanding that none of such commodities shall be shipped, trucked, or driven out of the state for the purpose of sale, and that said order shall continue until revoked. For the purpose of making such order effective, the same shall be published at least once in the daily newspapers published in this state, and served upon every common carrier authorized to do business within the state. To further enforce the said executive order, the Governor may use the military forces of the state to enforce the same.

§ 3. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 3, 1933.

CHAPTER 2**H. B. No. 103—(Flannigan, by request.)****OVERRUN IN MANUFACTURE OF BUTTER**

An Act defining overrun and percentage of overrun in the manufacture of butter, limiting the percentage of overrun permissible in such manufacture, providing penalties and prescribing rules of evidence in prosecuting thereunder.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. For the purpose of this Act "overrun" is the difference between the weight of any given amount of pure butterfat and the weight of the butter manufactured therefrom, and this difference, ascertained in any case, divided by the given amount of pure butterfat in such case and multiplied by 100, is the "percentage of overrun," in the manufacture of butter.

§ 2. It shall be and hereby is declared to be unlawful for any person to have or permit a percentage of overrun in excess of 25 per cent in butter manufactured by him.

§ 3. Any person violating any provisions of this Act shall be deemed guilty of a misdemeanor, the minimum punishment for which shall be a fine of \$25 or imprisonment for 20 days.

§ 4. The reports required by law to be made and which are made to the commissioners of dairy by persons engaged in the manufacture of butter shall be competent evidence in any prosecution under this Act against the person making the same, and whenever such reports, received in evidence upon the trial, show that during a period of one month or more the person on trial and charged with a violation of this Act, alleged to have been committed on a certain date within said period, has had or permitted an average percentage of overrun in excess of 25 per cent in the butter manufactured by him during said period, such showing shall be prima facie evidence of a violation of this Act by the person so charged, committed as of the date alleged.

§ 5. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage.

Approved March 9, 1933.

CHAPTER 3**H. B. No. 81—(Crockett.)****UNFAIR DISCRIMINATION PURCHASE CERTAIN
FARM PRODUCTS**

An Act defining unfair discrimination in the purchase of certain farm products, prohibiting such discrimination and providing a penalty therefor, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. The following words, terms, and phrases shall, for the purpose of this Act, be given the meanings hereinafter subjoined to them.

§ 2. (a) The term "person" means an individual, firm, co-partnership, corporation, or association.

(b) The term "farm products" as used in this Act shall mean and include butter, milk, cream, butterfat, cheese, and other dairy products, honey, eggs, and poultry.

§ 3. Any person engaged in the business of buying any such farm products for manufacture or sale thereof, who shall discriminate between different sections, localities, communities, cities, or villages of this state by purchasing any such farm products at a higher price or rate in one locality than is paid for such farm products of the same kind, quality, and grade by such person in another section, locality, community, city, or village, after making due allowance for the difference, if any, in the actual cost of transportation from the locality of purchase to the locality of manufacture or sale, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. It shall not be unfair discrimination for any person to pay, in any section, locality, community, city, or village, a price equal to that actually paid on the same day by any bona fide competitor in such section or locality for farm products of the same kind and grade, provided such price is paid in a good faith effort to meet such competition, and the burden of proving such facts shall be upon the defendant.

§ 4. Proof that any person has paid a higher price for any such farm products in one section, locality, community, village, or city than in another, after due allowance for the cost of transportation has been made, shall be prima facie evidence of a violation of this Act.

§ 5. The Commissioner of Agriculture and Labor, and the Dairy Commissioner, their deputies, assistants, inspectors, agents, and employees, shall enforce the provisions of this Act and in so doing shall have all the powers conferred upon them and each of them by the provisions of law.

§ 6. If complaint shall be made to the Commissioner of Agriculture and Labor or to the Dairy Commissioner that any person is guilty of unfair discrimination defined by this Act, either of them shall investigate such complaint and the Commissioner of Agriculture and Labor and Dairy Commissioner may also upon his own initiative investigate whether or not this statute has been violated, and in either event for that purpose either of them may subpoena witnesses, administer oaths, take testimony, and if in his opinion sufficient ground exists therefor he may prosecute an action in the name of the state, in the proper court, to annul the act of incorporation or the existence of a corporation engaged in such business practice. If any corporation is adjudged by any court guilty of unfair discrimination, as defined by this Act, such court may vacate the charter or revoke the authority of such corporation to do business in this state and may permanently enjoin it from transacting business in this state.

§ 7. Any person violating the provisions of Section 3 of this Act, shall, upon conviction thereof, be fined not less than \$50.00 nor more than \$500.00 for each offence, or in default of the payment of such fine, by imprisonment in the county jail for not less than three months nor more than one year.

§ 8. The authority hereby extended to the Commissioner of Agriculture and Labor and the Dairy Commissioner shall be considered as duties only and shall not be construed to preclude any prosecuting officer or any party interested from instituting proceedings, civil or criminal, for the enforcement of any of the provisions of this Act.

§ 9. Nothing in this Act shall be construed as repealing any other Act or part of any other Act, but the remedies herein provided shall be cumulative to all other remedies provided by law.

§10. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approval March 9, 1933.

CHAPTER 4

H. B. No. 291—(Solberg and Lavik.)

GRAIN INSPECTION

An Act to amend and re-enact Sections 9, 10, 24, Chapter 155, Session Laws of North Dakota for the year 1927.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Chapter 155, S. L. 1927 be amended and re-enacted to read as follows:

§ 9. TRACK BUYERS, LICENSE AND BOND.] Any person, firm or corporation, excepting a warehouseman, desiring to purchase grain from producers for the purpose of loading the same in cars on the track of any railroad company in this State for shipment, shall be known as Track Buyers, and shall procure a license from the Commission before transacting any business. Such license to be granted by the Commission at its discretion after applicant has submitted, in the manner the Commissioners may prescribe, proof of convenience of, or, local demand for, such Track Buyer. The fee for such license shall be ten dollars per annum for each station. Any such Track Buyer must pay cash for grain so purchased and such Track Buyer shall be subject to the same laws, rules and regulations, as may govern public warehouses, insofar as they may apply, for the protection of sellers of grain, provided that nothing herein shall be construed to classify as a Track Buyer any producer of grain, who may purchase grain from other producers in order to complete a carload in which a portion of said carload is grain grown by said producer.

§ 10. BONDS TO BE FILED.] Before any license is issued to any public warehouseman or Track Buyer, applicant for such license shall file with the Commission a bond in such sum as it shall prescribe, which sum shall not be less than five thousand dollars for any one warehouse. Such bonds shall cover the period of the license and shall run to the State of North Dakota for the benefit of all persons storing or selling grain in such warehouses. They shall be conditioned upon the faithful performance of his duties as a public warehouseman and all of the provisions of law relating to the storage and purchase of grain by such warehouseman and the rules and regulations of the Commission relating thereto. The Commission is authorized to require such increases in the amount of bonds from time to time as it may deem necessary for the protection of the holders of storage receipts and cash tickets or checks. The surety on such bonds must be a corporate surety company and approved by the Commission, authorized to do such business within the State of North Dakota. Provided, however, that the commission may accept a bond executed by personal sureties, in lieu of a surety bond, when, in its judgment, such personal surety bond will properly protect the holders of storage receipts and cash tickets or checks. One bond only need be given for any line of elevators, mills, or warehouses, owned, controlled, or operated by one individual, firm or corporation, and such bond shall be construed to cover such elevators, mills, or warehouses, as a whole and not a specific amount to each of such elevators. Every such bond shall specify the location of each public warehouse intended to be covered thereby, and shall, at all times, be in a sufficient sum to protect the holders of outstanding storage receipts and cash tickets or checks.

§ 24. DISCRIMINATION PROHIBITED.] No public warehouse-

man shall discriminate in the buying, selling, receiving and handling of grain or in the charges made or the service rendered to owners of stored grain, nor shall such warehouseman discriminate in the receiving of grain offered for sale or storage, nor in regard to the persons offering such grain for sale or storage, nor between points or stations except as the marketing factors or transportation costs or grain quality premiums may warrant; provided, that no public warehouseman shall be required to receive for storage any grain which is heating or otherwise out of condition. Storing grain free of charge is hereby prohibited except as prescribed by law. Warehouseman shall post grain prices paid in a conspicuous place in the office or driveway of his place of business.

Approved March 9, 1933.

CHAPTER 5

H. B. No. 297—(Solberg and Lavik.)

TERMINATION PUBLIC GRAIN WAREHOUSE STORAGE CONTRACTS

An Act to amend and re-enact Sections 1, 2, and 3 of Chapter 228, Session Laws of North Dakota for the year 1931.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

That Sections 1, 2 and 3 of Chapter 228 of the Session Laws of North Dakota for the year of 1931 be amended and re-enacted to read as follows:

Paragraph 1, Section 1, Chapter 228, S. L. 1931,—All storage contracts on grain in store at public grain warehouses shall terminate on June 30th of each year. Storage on any or all such grain may be terminated by the owner at any time before the date mentioned herein by the payment of all legal charges and the surrender of the storage receipt, together with a demand for delivery of such grain, or notice to the warehouseman to sell the same. In the absence of a demand for delivery, an order to sell, or a request for the renewal of the storage contract, entered into prior to the expiration of the storage contract, the warehouseman shall, upon the expiration of the storage contract, sell, at the local market price on the close of business on that day, sufficient of said stored grain to satisfy all accrued storage charges thereon and warehouseman's advances upon such storage contract, and shall issue a new storage receipt for the balance of said grain to the owner thereof upon the surrender of the old storage receipt, properly cancelled.

Paragraph 2.—On or before June 1st of each year the warehouseman shall notify by mail the person in whose name the grain was stored, of his intention to make such sale, and for this purpose at the time of the issuance of each storage receipt, the postoffice

address of such person to whom such receipt was issued, shall be inserted therein.

§ 2. Upon payment of all legal accrued charges and surrender to warehouseman of receipt, and receipt holder elects to continue the storage contract, warehouseman shall forthwith issue a new storage receipt to the owner and cancel the former receipt by endorsing thereon the words: "Cancelled by the issuance of Storage Receipt No.....," inserting the number of the re-issue storage receipt thereafter, and holder's name shall be signed thereto by himself or his authorized agent. Re-issue storage receipt shall be so designated by stamping thereon: "Re-issue of Storage Receipt No....."

§ 3. There shall be printed upon all warehouse receipts the following words: "All storage contracts on grain in store at public grain warehouses shall terminate on June 30th of each year. If storage charges and warehouseman's advances remain unpaid at the time of such termination, the warehouseman shall sell sufficient of said grain to pay such charges and advances. Holder hereof shall surrender this receipt to issuing warehouseman for settlement."

Approved March 7, 1933.

ANIMALS

CHAPTER 6

S. B. No. 4—(Matthaei.)

REGISTRATION OF DOGS—REPEAL

An Act to repeal Chapter 3 of the Session Laws of the State of North Dakota for year 1931, relating to registration of dogs, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. REPEAL.] Chapter 3 of the Session Laws of the State of North Dakota for the year 1931, be and the same is hereby repealed.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure, and shall be in force and effect from and after its passage and approval.

Approved February 27, 1933.