
RAILROAD COMMISSION.

CHAPTER 130.

AN ACT To Regulate Grain Warehouses and the Inspection, Weighing and Handling of Grain and Defining the Duties of the Railroad and Warehouse Commission in Relation Thereto.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. POWERS.] That the duties imposed by the provisions of this act and the powers conferred herein, shall devolve upon the Railroad Commissioners, created by chapter 126, of the General Laws of the Sixteenth Legislative Assembly.

§ 2. TO SUPERVISE THE HANDLING, INSPECTION, WEIGHING, GRADING AND STORAGE OF GRAIN.] That it shall be the duty of the Railroad Commissioners, of the Territory of Dakota, to supervise the handling, inspection, weighing, grading and storage of grain and seeds; to establish all necessary rules and regulations for the weighing and inspection of grain, and for the management of the public warehouses of the Territory, as far as such rules and regulations may be necessary, to enforce the provisions of this act or any law of this Territory in regard to the same; to investigate all complaints of fraud or oppressions in the grain trade of this Territory and to correct the same, as far as it may be in their power.

§ 3. RULES AND REGULATIONS TO BE PRINTED.] That the rules and regulations so established shall be printed and published by said Railroad Commissioners, in such manner as to give the greatest publicity thereto, and the same shall be in force and effect until they shall be changed or abrogated by said Commissioners in a like public manner.

§ 4. PUBLIC WAREHOUSE DEFINED.] That all elevators or warehouses in this Territory, in which grain is stored for a compensation are hereby declared to be public warehouses.

§ 5. PUBLIC WAREHOUSES TO OBTAIN LICENSE—POOLING IN PURCHASE AND STORAGE OF GRAIN PROHIBITED—PENALTY.] That it shall not be lawful for the proprietor, lessee or manager of any warehouse or elevator mentioned in section four of this act to transact any business until a license has been procured from the Railroad Commissioners permitting such proprietor, lessee or manager to transact business as a public warehouseman under the laws of this Territory, which license shall be issued by the Rail-

road Commissioners upon a written application, which shall set forth the location, and name, and capacity of such elevator or warehouse, and the individual name of each person interested, as owner or principal, in the management of the same; or, if the elevator or warehouse be owned or managed by a corporation the names of the president, secretary and treasurer of such corporation shall be stated, and the said license shall give authority to carry on and conduct the business of a public warehouse, in accordance with the laws of this Territory; *Provided*, That it shall be unlawful for any warehouseman, company or corporation, engaged in purchase and storage of grain, subject to the provisions of this act, to enter into any contract, agreement or combination with any other such warehouseman, company or corporation, for pooling in the purchase and storage of grain by different and competing warehousemen, companies or corporations, to divide between them the aggregate or net proceeds of margins or profits resulting from their said business as warehousemen or any portion thereof, and in any case of such contract, agreement or combination for such pooling of their said business as warehousemen each day of its continuance shall be deemed a separate offense. Any violation of this section shall on conviction be subject to a fine of not less than two hundred dollars for each offense.

§ 6. BOND—FEE FOR LICENSE.] That the person, association or corporation receiving license as herein provided, shall file with the Commissioners granting the same a bond to the Territory of Dakota, with good and sufficient sureties, in the penal sum of not less than two thousand dollars nor more than fifty thousand dollars for each and every elevator operated, proportioned to the capacity of the elevators or warehouses in the discretion of said commissioners, for each license so granted, conditioned for the faithful performance of duty as a public warehouseman, and a full and unreserved compliance with all the laws of this Territory in relation thereto. A fee of \$1 shall be paid for each license by the person, association or corporation applying for the same.

§ 7. PENALTY ON FAILURE TO PROCURE LICENSE—WHEN LICENSE SHALL EXPIRE.] That any person, association or corporation who shall transact the business of public warehouseman, without first procuring a license as herein provided, shall, on conviction be fined a sum not less than one hundred dollars for each and every day such business is carried on. Every such license shall expire on the first day of August, next following the issuance thereof.

§ 8. WAREHOUSE RECEIPTS TO BE GIVEN.] All owners of such elevators and warehouses so licensed, shall upon the request of any person delivering grain at such warehouse, give a warehouse receipt therefor, subject to the owner or consignee, which receipt shall bear date corresponding with the receipt of the grain and shall state upon its face, the quantity and grade fixed upon the same. All warehouse receipts issued for grain received, shall be

consecutively numbered, and no two receipts bearing the same number and series shall be issued during the same year. No warehouse receipt shall be issued, except upon actual delivery of grain into such warehouse. No such warehouseman shall insert into any warehouse receipt issued by him, any language in anywise limiting or modifying his liability, as imposed by the laws of this Territory.

§ 9. DUTY OF WAREHOUSEMAN UPON RETURN OF WAREHOUSE RECEIPT.] On the return of any warehouse receipt properly indorsed, and the tender of all proper charges upon the property represented by it, such grain or any equal quality of the same grade, shall be immediately delivered to the holder of such receipt as rapidly as due diligence, care and prudence will justify. Nothing in this section shall be construed to mean the delivery of the identical grain specified in the receipt so presented, but an equal amount of the same grade, and if the grain so delivered has not been cleaned by said warehouseman, there shall be added to the amount so delivered, the amount originally deducted from the grain stored, for dirt, which amount shall also be delivered; and when such grain is to be shipped to some terminal point, where such elevator company or warehouseman is then doing business, such elevator company or warehouseman shall guarantee both weight and grade.

§ 10. WAREHOUSEMEN TO FURNISH STATEMENTS TO COMMISSION.] That every owner or manager of such warehouse, at such times as the Commissioners shall require, shall furnish to the Commissioners in writing, under oath, a statement of the condition and management of his business, as such warehouseman. Such report shall show the total number of bushels of each kind and grade of grain in store, and the number delivered out, and the number remaining in store at the date of the report. But no warehouseman shall be required to weigh the grain on hand more than once in each year, and the warehouseman shall, in addition to the statements herein, be required to furnish to the Commissioners any other information regarding the business of his warehouse which the Commissioners may require.

§ 11. COMMISSIONERS TO INSPECT WAREHOUSES.] The Commissioners shall cause every warehouse, and the business thereof, and the mode of conducting the same, to be inspected at such times as the Commission may order, by one or more members of the Commissioners, who shall report in writing to the Commissioners the result of such examination; and the property, books, records, accounts, paper and proceedings kept at each warehouse, so far as they relate to their condition, operation or management, shall at all times during business hours be subject to the examination and inspection of such Commissioners.

§ 12. COMMISSION TO ESTABLISH GRADES—SAME TO BE PUBLISHED.] The Railroad Commissioners shall, before the first day of September in each year, establish a grade for all kinds of

grain bought or handled by any elevator or warehouse in this Territory, which shall be known as "Dakota Grades," but which shall not differ from grades in the State of Minnesota, and the grades so established shall be printed and published in the manner required by section five of this act; *Provided*, That no such publication shall be necessary, except when changes are made in such grades, and when the changes so made, only shall be published.

§ 13. MONIES TO BE PAID INTO TERRITORIAL TREASURY.] All monies collected by the Railroad Commissioners, as herein provided for, shall be paid in [into] the Territorial Treasury.

§ 14. DUTY OF TERRITORIAL TREASURER IN RELATION THERETO.] It shall be the duty of the Treasurer of the Territory of Dakota to receive all monies aforesaid, and all fines and penalties collected by virtue of this act, and to keep a separate account of the same, and pay the same on the order of the Railroad Commissioners, and not otherwise.

§ 15. SAMPLE OF GRADES TO BE KEPT BY WAREHOUSEMEN.] Each warehouseman shall procure from the Commissioners and shall at all times keep in a conspicuous place in his warehouse a sample of each of the existing grades of grain, established by the Commissioners, which are handled or stored in such warehouse. No warehouseman or other person shall fraudulently change such samples or grades.

§ 16. HOW RECEIPTS MAY BE CANCELLED.] Upon the delivery of grain from store upon any receipt, such receipt shall be plainly marked across its face, the word "cancelled," and shall thereafter be void, and shall not again be put in circulation, nor shall grain be delivered twice upon the same receipt. No warehouse receipt shall be issued except upon actual delivery of grain into store in the warehouse from which it purports to be issued, and which is to be represented by the receipts; nor shall any receipt be issued, for a greater quantity of grain than was contained in the lot or parcel stated to have been received; nor shall more than one receipt be issued, for the same lot of grain, except in cases where receipt for part of a lot is desired, and then the aggregate receipts for a particular lot shall cover that lot and no more. In cases where a part of the grain represented by the receipt is delivered out of store, and the remainder is left, a new receipt may be issued for such remainder, but the new receipt shall bear the same date as the original, and shall state on the face that it is balance of receipt of the original number, and the receipt upon which a part has been delivered shall be cancelled in the same manner as if it had all been delivered. In case to [it] be desirable, to divide one receipt into two or more, or in case it be desirable to consolidate two or more receipts into one, and the warehouseman consents thereto, the original receipt shall be cancelled, the same as if the grain had been delivered from store, and the new receipts shall express on their face that they are a

part of another receipt, or a consolidation of other receipts, as the case may be; and the numbers of the original receipts shall also appear upon the new ones issued, as explanatory of the change; but no consolidation of receipts of dates differing more than ten (10) days shall be permitted and all new receipts issued for old ones cancelled, as herein provided, shall bear the same date as those originally issued, as near as may be.

§ 17. WAREHOUSEMAN TO PUBLISH SCHEDULE OF RATES—SAME TO BE APPROVED BY COMMISSION.] Every warehouseman of public warehouses shall be required, during the first week in September of each year, to publish in one of the newspapers (daily, if there be such,) published in the city or village in which said warehouse is situated, a table or schedule of rates for the storage of grain in his warehouse, during the ensuing year, which rates shall not be increased during the year, and he shall cause the same to be plainly printed on the warehouse receipts or tickets, and such published rates or any published reduction of them, shall apply to all grain received into such warehouse from any person or source. The charges for storage and handling shall in all cases be equal and just, and shall be approved by the Board of Railroad Commissioners before going into effect, and shall not exceed the usual charges heretofore existing.

§ 18. ATTORNEY GENERAL EX-OFFICIO ATTORNEY FOR THE COMMISSIONERS.] The Attorney General of the Territory shall be ex-officio attorney for the Railroad Commissioners, and shall give them such counsel and advice as the may from time to time require, and he shall institute and prosecute any and all suits which said Railroad Commissioners may deem expedient and proper to institute, and he shall render to such Railroad Commissioners all counsel advice and assistance necessary to carry out the provisions of this act, or any law of this Territory, which said commissioners are required to enforce, according to the true intent and meaning thereof. In all criminal prosecutions against a warehouseman for the violation of any of the provisions of this act, it shall be the duty of the district attorney of the county in which such prosecution is brought, to prosecute the same to a final issue.

§ 19. BONDS TO BE FILED WITH TERRITORIAL AUDITOR.] All official bonds required to be given by any person, company or corporation, pursuant to the provisions of this act, shall be filed in the office of the Auditor of the Territory of Dakota, and suit may be brought thereon in any court having jurisdiction thereof, for the use of any person or persons complaining of having sustained any injury, by reason of the violation of the conditions thereof.

§ 20. UNLAWFUL COMBINATION PROHIBITED.] It shall be unlawful for any proprietor, lessee, or manager of any public warehouse, to enter into any contract, agreement, understanding or combination with any railroad company or other corporation, or

with any individual or individuals, by which the property of any person is to be delivered to any public warehouse for storage or for any other purpose, contrary to the direction of the owner, his agent or consignee. Each warehouseman shall also keep posted at all times in a conspicuous place in his warehouse a printed copy of the schedule of grades established by the Commissioners, and a printed copy of this act and of the rules and regulations for the management of warehouses, established by the Commissioners, to be furnished by the Railroad Commissioners.

§ 21. PENALTY FOR VIOLATION OF THIS ACT.] That any person, association or corporation or any representative thereof, who shall knowingly cheat or falsely weigh, any wheat or other agricultural products, or who shall violate the provisions of any section of this act, or who shall do or perform any act, or thing therein forbidden, or who shall fail to do and keep the requirements as herein provided, shall on conviction thereof be subject to a fine of not less than one hundred dollars nor more than one thousand dollars and be liable in addition thereto, to imprisonment, for not more than one year in the Territorial prison, at the discretion of the court.

§ 22. This act shall take effect and be in force from and after July 1, 1887.

Approved, March 11, 1887.

CHAPTER 131.

APPROPRIATION FOR EXPENSES OF RAILROAD COMMISSIONERS.

AN ACT Making an Appropriation for Expenses of Railroad Commissioners for the Two Years Ending April 1, 1889.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. APPROPRIATION FOR TRAVELING EXPENSES, ETC.] There is hereby appropriated out of any moneys in the Territorial Treasury not otherwise appropriated, the sum of three thousand (3,000) dollars, or so much thereof as may be necessary for the purpose of paying the traveling and other expenses of the Board of Railroad Commissioners for the two years ending April 1, 1889, to be paid only upon accounts duly audited by the Territorial Auditor.

§ 2. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.