

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1477

96TH GENERAL ASSEMBLY

5432H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 276.401, RSMo, and to enact in lieu thereof one new section relating to the Missouri grain dealer law.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 276.401, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 276.401, to read as follows:

276.401. 1. Sections 276.401 to 276.582 shall be known as the "Missouri Grain Dealer Law".

2. The provisions of the Missouri grain dealer law shall apply to grain purchases where title to the grain transfers from the seller to the buyer within the state of Missouri.

3. Unless otherwise specified by contractual agreement, title shall be deemed to pass to the buyer as follows:

(1) On freight on board (FOB) origin or freight on board (FOB) basing point contracts, title transfers at time and place of shipment;

(2) On delivered contracts, when and where constructively placed, or otherwise made available at buyer's original destination;

(3) On contracts involving in-store commodities, at the storing warehouse and at the time of contracting or transfer, and/or mailing of documents, if required, by certified mail, unless and to the extent warehouse tariff, warehouse receipt and/or storage contract assumes the risk of loss and/or damage.

4. As used in sections 276.401 to 276.582, unless the context otherwise requires, the following terms mean:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (1) "Auditor", a person appointed under sections 276.401 to 276.582 by the director to
18 assist in the administration of sections 276.401 to 276.582, and whose duties include making
19 inspections, audits and investigations authorized under sections 276.401 to 276.582;
- 20 (2) "Authorized agent", any person who has the legal authority to act on behalf of, or for
21 the benefit of, another person;
- 22 (3) "Buyer", any person who buys or contracts to buy grain;
- 23 (4) "Certified public accountant", any person licensed as such under chapter 326;
- 24 (5) "Claimant", any person who requests payment for grain sold by him to a dealer, but
25 who does not receive payment because the purchasing dealer fails or refuses to make payment;
- 26 (6) "Credit sales contracts", a conditional grain sales contract wherein payment and/or
27 pricing of the grain is deferred to a later date. Credit sales contracts include, but are not limited
28 to, all contracts meeting the definition of deferred payment contracts, and/or delayed price
29 contracts;
- 30 (7) "Current assets", resources that are reasonably expected to be realized in cash, sold,
31 or consumed (prepaid items) within one year of the balance sheet date;
- 32 (8) "Current liabilities", obligations reasonably expected to be liquidated within one year
33 and the liquidation of which is expected to require the use of existing resources, properly
34 classified as current assets, or the creation of additional liabilities. Current liabilities include
35 obligations that, by their terms, are payable on demand unless the creditor has waived, in writing,
36 the right to demand payment within one year of the balance sheet date;
- 37 (9) "Deferred payment agreement", a conditional grain sales transaction establishing an
38 agreed upon price for the grain and delaying payment to an agreed upon later date or time period.
39 Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the
40 conditions specified in section 276.461 and section 411.325 are met;
- 41 (10) "Deferred pricing agreement", a conditional grain sales transaction wherein no price
42 has been established on the grain, the seller retains the right to price the grain later at a mutually
43 agreed upon method of price determination. Deferred pricing agreements include, but are not
44 limited to, contracts commonly known as no price established contracts, price later contracts, and
45 basis contracts on which the purchase price is not established at or before delivery of the grain.
46 Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the
47 conditions specified in section 276.461 and section 411.325 are met;
- 48 (11) "Delivery date" shall mean the date upon which the seller transfers physical
49 possession, or the right of physical possession, of the last unit of grain in any given transaction;
- 50 (12) "Department", the Missouri department of agriculture;
- 51 (13) "Designated representative", an employee or official of the department designated
52 by the director to assist in the administration of sections 276.401 to 276.582;

53 (14) "Director", the director of the Missouri department of agriculture or his designated
54 representative;

55 (15) "Generally accepted accounting principles", the conventions, rules and procedures
56 necessary to define accepted accounting practice, which include broad guidelines of general
57 application as well as detailed practices and procedures generally accepted by the accounting
58 profession, and which have substantial authoritative support from the American Institute of
59 Certified Public Accountants;

60 (16) "Grain", all grains for which the United States Department of Agriculture has
61 established standards under the United States Grain Standards Act, Sections 71 to 87, Title 7,
62 United States Code, and any other agricultural commodity or seed prescribed by the director by
63 regulation;

64 (17) "Grain dealer" or "dealer", any person engaged in the business of, or as a part of his
65 business participates in, buying grain where title to the grain transfers from the seller to the buyer
66 within the state of Missouri. "Grain dealer" or "dealer" shall not be construed to mean or
67 include:

68 (a) Any person or entity who is a member of a recognized board of trade or futures
69 exchange and whose trading in grain is limited solely to trading with other members of a
70 recognized board of trade or futures exchange; provided, that grain purchases from a licensed
71 warehouseman, farmer/producer or any other individual or entity in a manner other than through
72 the purchase of a grain futures contract on a recognized board of trade or futures exchange shall
73 be subject to sections 276.401 to 276.582. Exempted herein are all futures transactions;

74 (b) A producer or feeder of grain for livestock or poultry buying grain for his own
75 farming or feeding purposes who purchases grain exclusively from licensed grain dealers or
76 whose total grain purchases from producers during his or her fiscal year do not exceed fifty
77 thousand bushels;

78 (c) Any person or entity whose grain purchases in the state of Missouri are made
79 exclusively from licensed grain dealers;

80 (d) A manufacturer or processor of registered or unregistered feed whose total grain
81 purchases from producers during his or her fiscal year does not exceed [one hundred thousand
82 dollars] **fifty thousand bushels** and who pays for all grain purchases from producers at the time
83 of physical transfer of the grain from the seller or his or her agent to the buyer or his or her agent
84 and whose resale of such grain is solely in the form of manufactured or processed feed or feed
85 by-products or whole feed grains to be used by the purchaser thereof as feed;

86 (18) "Grain transport vehicle", a truck, tractor-trailer unit, wagon, pup, or any other
87 vehicle or trailer used by a dealer, whether owned or leased by him, to transport grain which he
88 has purchased; except that, bulk or bagged feed delivery trucks which are used principally for

89 the purpose of hauling feed and any trucks for which the licensed gross weight does not exceed
90 twenty-four thousand pounds shall not be construed to be a grain transport vehicle;

91 (19) "Insolvent" or "insolvency", (a) an excess of liabilities over assets or (b) the inability
92 of a person to meet his financial obligations as they come due, or both (a) and (b);

93 (20) "Interested person", any person having a contractual or other financial interest in
94 grain sold to a dealer, licensed, or required to be licensed;

95 (21) "Location", any site other than the principal office where the grain dealer engages
96 in the business of purchasing grain;

97 (22) "Minimum price contract", a conditional grain sales transaction establishing an
98 agreed upon minimum price where the seller may participate in subsequent price gain, if any.
99 Ownership of the grain, and the right to sell it, transfers from the seller to the buyer so long as
100 the conditions specified in section 276.461 and section 411.325 are met;

101 (23) "Person", any individual, partnership, corporation, cooperative, society, association,
102 trustee, receiver, public body, political subdivision or any other legal or commercial entity of any
103 kind whatsoever, and any member, officer or employee thereof;

104 (24) "Producer", any owner, tenant or operator of land who has an interest in and
105 receives all or any part of the proceeds from the sale of grain or livestock produced thereon;

106 (25) "Purchase", to buy or contract to buy grain;

107 (26) "Sale", the passing of title from the seller to the buyer in consideration of the
108 payment or promise of payment of a certain price in money, or its equivalent;

109 (27) "Value", any consideration sufficient to support a simple contract.

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