

LEGISLATIVE BILL 1007

Approved by the Governor April 17, 1986

Introduced by Agriculture & Environment Committee,
R. Johnson, 34, Chairperson, Barrett, 39,
Sieck, 24, Pirsch, 10, Eret, 32,
Vickers, 38, Remmers, 1, Chizek, 31;
DeCamp, 40

AN ACT relating to grain; to amend section 75-905, Revised Statutes Supplement, 1985; to define terms; to provide for inspections; to provide for fees; to provide powers; to create a fund; to appropriate funds; to change a provision relating to recourse to the grain dealer's security; and to repeal the original section.
Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of sections 1 and 2 of this act, unless the context otherwise requires:

(1) Grain shall mean wheat, corn, soybeans, and sorghum grains;

(2) Quality factors shall mean:

(a) Heat-damaged kernels which include kernels that have been discolored or damaged by high heat from respiring grain;

(b) Total-damaged kernels which represent the percentage, by weight, of kernels damaged by weather, disease, insects, molds, and moisture and includes heat damage;

(c) Foreign material which is all matter other than the grain being examined which remains in a sample after removal of dockage and shrunken and broken kernels;

(d) Shrunken and broken kernels which are kernels, kernel pieces, and other matter that pass through a sixty-four thousandths by three-eighths inch oblong-hole sieve;

(e) Total defects which are the sum of heat-damaged kernels, shrunken and broken kernels, and foreign material;

(f) Wheat of other classes which is any class that is mixed with the predominant class;

(g) Dockage, though not a grading factor, which appears on the certificate if it exceeds forty-nine hundredths of one per cent. Dockage shall be rounded down to the nearest one half per cent. Dockage

shall include chaff, dust, and items removed from a sample by an initial screening with a dockage tester; and

(h) Grade which is determined by analyzing the physical and biological factors present in the sample. Limits for the grading factors shall be established for each numerical grade. Numerical grades shall range from number 1, highest, to sample grade, lowest. Factors that exceed the established limits shall lower the numerical grade. Higher test weights shall be acceptable; and

(3) Department shall mean the Department of Agriculture.

Sec. 2. (1) In order to assist Nebraska grain producers and the state's grain industry in competing for a larger share of the international grain trade against the more stringent grain standards of other exporting nations, the department shall, upon request, provide inspection of grain shipments assembled by farmers and grain dealers who are arranging or attempting to arrange grain sales with foreign buyers. As a means of expediting such sales and to insure the quality of grain shipments for export originating in Nebraska, the department shall provide grain inspections. Such inspections shall include a certificate stating the quality factors present in the grain shipments destined for export points. A special certificate shall be designed by the department for shipments that substantially exceed grade and quality factors required under current United States grain standards. Such special certificate shall be designated as Nebraska Origin and Premium Quality Grain and shall be issued only on grain shipments containing levels of grade and quality factors totaling not more than fifty per cent of the maximum allowable limits of total defects and other quality factors as required by current United States Grade Number One.

(2) The department shall assess and collect a fee for the inspections made. The fee shall be in an amount equal to the costs of the inspections.

(3) The department may:

(a) Contract for services which are necessary to carry out its duties under sections 1 and 2 of this act;

(b) Accept funds or fees from any source, including, but not limited to, federal, state, public, and private, to be used in carrying out sections 1 and 2 of this act;

(c) Expend funds for purposes of carrying out

sections 1 and 2 of this act; and

(d) Enter upon public or private land for the purpose of inspecting such grain.

(4) The department may adopt and promulgate rules and regulations to aid in implementing sections 1 and 2 of this act. The rules and regulations may include, but shall not be limited to, provisions governing: (a) Assignment of responsibilities; (b) the charges and fees to be assessed; (c) setting the grades; and (d) methods for determining quality factors.

(5) There is hereby created a cash fund to be known as the Nebraska Origin and Premium Quality Grain Cash Fund. The fund shall consist of money appropriated by the Legislature which is received as gifts or grants or collected as fees from any source, including, but not limited to, federal, state, public, and private. The fund shall be utilized for the purpose of carrying out sections 1 and 2 of this act. Any money in such fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 3. There is hereby appropriated (1) \$67,625 from the Nebraska Origin and Premium Quality Grain Cash Fund for the period July 1, 1986, to June 30, 1987, and (2) \$67,625 from the Nebraska Origin and Premium Quality Grain Cash Fund for the period July 1, 1987, to June 30, 1988, to the Department of Agriculture, for Program 333, to aid in carrying out the provisions of this act.

Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall exceed neither \$5,235 for the period July 1, 1986, to June 30, 1987, nor \$5,235 for the period July 1, 1987, to June 30, 1988.

Sec. 4. That section 75-905, Revised Statutes Supplement, 1985, be amended to read as follows:

75-905. (1) Except as provided in subsection (2) of this section, no seller shall have recourse to the grain dealer's security unless the seller:

(a) Demands that payment from the grain dealer be made within ten days of the date the grain dealer takes possession of the seller's grain;

(b) Negotiates any negotiable instrument issued as payment for grain by the grain dealer within ten days of its issuance; and

(c) Notifies the commission within ten days of any apparent loss to be covered under the terms of the grain dealer's security.

(2) When grain is delivered to a grain dealer

in multiple shipments comprising one contract, the seller shall not have recourse to the grain dealer's security unless the seller notifies the commission within forty-five days of the date of the first shipment of any apparent loss to be covered under the terms of the grain dealer's security.

Sec. 5. That original section 75-905, Revised Statutes Supplement, 1985, is repealed.