

MAR 8 1973

HOUSE FILE 383

Place On Calendar

BY COMMITTEE ON AGRICULTURE

House File 383
West, Chairman
Logue
Doyle

*S - Agriculture 4/8
Pass per amendment 4/25*

Passed House, Date 4-12-73 (847) Passed Senate, Date 6-22-73 (2026)

Vote: Ayes 80 Nays 16 Vote: Ayes 35 Nays 11

Approved 7-12-73
Passed Senate

A BILL FOR

1 An Act relating to the licensing and regulating of grain
2 dealers and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. DEFINITIONS. As used in this
2 Act, unless the context otherwise requires:

3 1. "Commission" means the Iowa state commerce commission.

4 2. "Person" means person as defined in section four point
5 one (4.1) of the Code.

6 3. "Grain" means any grain for which the United States
7 department of agriculture has established standards including,
8 but not limited to, corn, wheat, oats, soybeans, rye, barley,
9 grain sorghum, flaxseeds, sunflower seed, speltz, and field
10 peas.

11 4. "Grain dealer" shall mean any person who is engaged
12 in the business of buying grain for resale, either as whole
13 grain, seed, milled feed or who transports grain into this
14 state for resale. This shall not be construed to mean a per-
15 son engaged in buying or selling grain on the board of trade.

16 Sec. 2. NEW SECTION. DUTIES AND POWERS OF THE COMMISSION.

17 The commission may exercise general supervision over the busi-
18 ness operations of grain dealers. The supervisory and regula-
19 tory powers authorized by this Act shall be the responsibility
20 of the warehouse division of the commission. The commission
21 may inspect or cause to be inspected any grain dealer operat-
22 ing in this state and may require the filing of reports per-
23 taining to the operation of his business. The commission
24 shall adopt rules and regulations to provide for the efficient
25 administration and regulation of the provisions of this chap-
26 ter, and may designate an employee of the commission to act
27 for the commission in any details connected with such adminis-
28 tration, including the issuance of licenses and approval of
29 grain dealers' bonds in the name of the commission.

30 Sec. 3. NEW SECTION. LICENSE REQUIRED. No person shall
31 engage in the business of a grain dealer in this state without
32 having obtained a license issued by the commission. Each
33 application for a license to engage in business as a grain
34 dealer shall be filed with the commission and shall be in
35 a form prescribed by the commission. The application shall

1 include the name of the applicant, its principal officers
2 if the applicant is a corporation or the active members of
3 a partnership if the applicant is a partnership and the
4 location of the principal office or place of business of the
5 applicant. A separate license shall be required for each
6 location at which the records are normally kept for
7 transactions of the grain dealer. The application shall also
8 list the number of trucks or tractor trailer units that will
9 be used in the transportation of grain purchased for resale
10 or grain transported into this state for resale. The
11 application shall be accompanied by a complete financial
12 statement of the applicant setting forth the assets,
13 liabilities and the net worth of the applicant. In order
14 to receive a license the net worth of an applicant must exceed
15 five thousand dollars. The commission may require additional
16 information or verification with respect to the financial
17 resources of the applicant and the applicant's ability to
18 pay producers for grain purchased from them.

19 Sec. 4. NEW SECTION. BOND REQUIRED. Any person apply-
20 ing for a license to operate as a grain dealer in accordance
21 with this Act shall, as a condition to the granting of the
22 license, file with the commission a bond payable to the state
23 of Iowa with a corporate surety approved by the commission
24 in a penal sum of fifteen thousand dollars per license condi-
25 tioned that the applicant will pay the purchase price of any
26 grain to the seller, and that the grain dealer owns, free
27 of liens, any grain which he offers for sale; provided that
28 the aggregate liability of the surety to such persons shall
29 in no event exceed the sum of such bond. One bond, cumulative
30 as to minimum requirements, shall be required where a person
31 has multiple licenses but in no event shall the total amount
32 of bond exceed one hundred thousand dollars. No bond shall
33 be canceled by a surety before at least thirty-days' notice
34 by certified mail to the commission and the grain dealer.
35 The liability of the surety shall cover all purchases and

1 transactions made by the grain dealer during the time the
2 bond is in force. A grain dealer's bond filed with this com-
3 mission shall be in continuous force until canceled by the
4 surety. The liability of the surety on any bond required
5 by the provisions of this Act shall not accumulate for each
6 successive license period during which the bond is in force.

7 Sec. 5. NEW SECTION. LICENSE. Upon the filing of the
8 application and compliance with the terms and conditions of
9 this Act and rules of the commission, the commission shall
10 issue a license to the applicant. The license shall terminate
11 on the thirtieth of June of each year. A grain dealer's
12 license may be renewed annually by the filing of a renewal
13 application on a form prescribed by the commission accompanied
14 by a current financial statement and the renewal fee. An
15 application for renewal shall be received by the commission
16 before the thirtieth of June.

17 Sec. 6. NEW SECTION. FEES. The commission shall col-
18 lect fees as follows:

19 1. For the issuance of a license, twenty-five dollars
20 per year or fraction of a year.

21 2. For renewal of license, twenty-five dollars per year.

22 3. A registration fee, to be determined by the commission,
23 of not less than five dollars nor more than ten dollars for
24 each vehicle used by the license holder in the transporting
25 of grain.

26 4. A fee of one dollar will be charged for each duplicate
27 identification to be used on any vehicle.

28 5. All fees collected by the commission under this Act
29 shall be deposited in the general fund of the state.

30 Sec. 7. NEW SECTION. POSTING OF LICENSE AND REGISTRATION.

31 The grain dealer's license shall be posted in a conspicuous
32 place in the place of business. Each vehicle used by a license
33 holder shall be equipped with a special decal or other regis-
34 tration identification as prescribed by the commission so
35 that the decal will be readily visible. A grain dealer's

1 license is not transferable. The registration shall not be
2 transferred from one vehicle to another, except in case of
3 destruction or other disposition of the vehicle previously
4 bearing the identification. All transfers must first be
5 approved by the commission. If a registration for a vehicle
6 becomes defaced or destroyed, a duplicate shall be obtained
7 from the commission upon request and payment of the fee.

8 Sec. 8. NEW SECTION. PAYMENT. A person licensed as a
9 grain dealer shall make payment of the purchase price to the
10 owner or his agent for grain upon delivery or demand of the
11 owner or his agent. A person who holds a bonded warehouse
12 license may issue deferred payment contracts in accordance
13 with the provisions of section five hundred forty-three point
14 seventeen (543.17) of the Code and payment shall be made in
15 accordance with the terms of the contract.

16 Sec. 9. NEW SECTION. INSPECTION OF PREMISES, BOOKS AND
17 RECORDS. The commission may inspect the premises used by
18 any grain dealer in the conduct of his business at any time
19 and the books, accounts, records and papers of every such
20 grain dealer shall, during ordinary business hours, be subject
21 to inspection by the commission. The transporter of grain
22 in transit shall have in his possession bills of lading or
23 other documents covering such grain in transit and such docu-
24 ments shall be available for inspection by the commission
25 upon request. Any grain dealer licensed in this state who
26 does not have a place of business within the state shall make
27 available and furnish to the commission upon request all such
28 books, accounts, records and papers of grain transactions
29 within this state at any reasonable time and place that the
30 commission may set for inspection thereof.

31 Sec. 10. NEW SECTION. SUSPENSION OR REVOCATION OF LICENSE.
32 The commission may after hearing and upon information being
33 filed with the commission by the head of the warehouse division
34 of the commission or upon complaint filed by any person,
35 suspend or revoke the license of any person licensed under

1 this Act for the violation of or failure to comply with the
2 provisions of this Act or any rule or regulation adopted under
3 this Act. An information or a verified complaint stating
4 the grounds for suspension or revocation shall be filed with
5 the commission in triplicate. The commission shall notify
6 the licensee of the complaint and furnish him with a copy
7 of the information or the complaint and a copy of the order
8 of the commission fixing the time for a hearing, which time
9 shall be at least five days from the date of notification.
10 If the commission determines that the public good requires
11 immediate action, the commission may, upon the filing of the
12 information or the complaint and without hearing, temporarily
13 suspend a license pending the determination by it of the
14 complaint. Any licensee aggrieved by the decision of the
15 commission may appeal the decision of the commission to the
16 district court by service of notice of appeal upon the
17 commission within ten days following the filing of the decision
18 of the commission in the office of the commission. The
19 commission shall, upon service of notice of appeal, certify
20 the complete record of the proceedings before it to the clerk
21 of the district court.

22 The commission may revoke a grain dealer's license upon
23 information without hearing if a grain dealer fails to have
24 sufficient bond on file with the commission, or if a grain
25 dealer fails to submit to inspection.

26 Sec. 11. NEW SECTION. PENALTIES--MISDEMEANOR. Any person
27 who engages in business as a grain dealer without obtaining
28 a license or any person in violation of any other provision
29 of this Act, or any grain dealer who refuses to permit
30 inspection of his premises, books, accounts or records as
31 provided in this Act, shall be guilty of a misdemeanor and,
32 upon conviction, be punished by a fine of not less than one
33 hundred dollars nor more than five hundred dollars, or by
34 imprisonment in the county jail for not more than six months,
35 or by both such fine and imprisonment for each offense. Each

1 day that any violation continues shall constitute a separate
2 offense. Any person violating the provisions of this Act
3 may be restrained by an injunction.

4

EXPLANATION

5 The bill requires a bond for the protection of the grain
6 seller and the grain buyer in grain transactions. There have
7 been losses suffered by producers from both truckers and grain
8 warehousemen of grain transactions. The present Iowa bonded
9 warehouse law only provides bond coverage for stored grain.
10 This bill will give the additional protection needed to pro-
11 ducers throughout the state when selling their grain as well
12 as purchasers of grain from truckers.

13 Also, at the present time, truckers who buy grain in Iowa
14 are having difficulty selling the grain to a grain merchan-
15 diser or grain processor in another state. Most dealers,
16 especially in Nebraska, Iowa and Minnesota, will not buy from
17 a trucker unless he is a licensed grain dealer. A similar
18 situation exists for grain which is moved down the inland
19 waterways. This bill requires that purchasers of grain be
20 licensed and bonded.

FISCAL NOTE
HOUSE FILE 383

Date prepared March 29, 1973

Requested by Representative Bittle.

Prepared in regard to H.F. 383 - An Act relating to the
licensing and regulating of grain dealers and providing
penalties. Following is the fiscal effect in dollars of the
legislative proposal as required by House Rule 48.

It is estimated that the revenue and related expense
generated under this bill would be as follows:

	Revenue	Expense
1st Fiscal Year	\$87,500 - \$110,000	\$115,710
2nd Fiscal Year	87,500 - 110,000	95,272

Source: Warehouse Division
Commerce Commission

Filed
March 30, 1973

GERRY D. RANKIN
Legislative Fiscal Director

H-205

1 Amend House File 383 as follows:
 2 1. Page 2, by striking lines 4 and 5. - A *adopted 4/2*
 3 2. Page 3, by striking lines 11, 12 and 13
 4 and inserting in lieu thereof the following:
 5 "application shall be accompanied by a complete
 6 financial statement of the applicant, dated not
 7 more than thirty days prior to the date the
 8 application is filed, setting forth the assets,
 9 liabilities and net worth of the applicant,
 10 certified by a certified public accountant or
 11 an independent public accountant. In order".
 12 3. Page 4, line 14, insert after the word
 13 "statement" the following:
 14 "certified by a certified public accountant
 15 or an independent public accountant,".
 16 4. Page 6, line 14, by striking the word } e *w.d.*
 17 "licensee" and insert in lieu thereof the word } *4/12*
 18 "person".
 19 5. Page 6, lines 32 and 33, by striking } o - *Last*
 20 the words "less than one hundred dollars nor". } *4/12*

H-205 Filed
March 26, 1973

By HILL of Polk

H-284

1 Amend House File 383 as follows:
 2 1. Page 2, lines 12, 13, and 14, by striking the
 3 words "either as whole grain, seed, milled feed or who
 4 transports grain into this state for resale".
 5 2. Page 3, line 33, by striking the word "thirty-
 6 days'" and inserting in lieu thereof the word "sixty-
 7 days".
 8 3. Page 4, line 22, by striking the word "A" and
 9 inserting in lieu thereof the words "An annual".
 10 4. Page 6, line 14, by striking the word "licensee"
 11 and inserting in lieu thereof the word "person".
 12 5. Page 6, line 17, by striking the word "ten" and
 13 inserting in lieu thereof the word "thirty".
 14 6. Page 6, by inserting after line 25, the follow-
 15 ing new paragraph:
 16 "Upon revocation of a license, any claim of a cred-
 17 itor shall be filed against the former licensee within
 18 one hundred twenty days after the date of revocation."
 19 7. Page 6, lines 32 and 33, by striking the words
 20 "one hundred" and inserting in lieu thereof the word
 21 "fifty".
 22 8. Page 7, by inserting after line 3 the follow-
 23 ing section: "The effective date of this Act shall be
 24 September 1, 1973."

H-284 Filed. *adopted 4/12*
April 11, 1973

By HENNESSEY of Delaware
HUTCHINS of Guthrie
EWING of Mahaska

H-251

1 Amend House File 383 as follows:

2 1. Page 2, line 8, by inserting after the word
3 "soybeans," the words "soybeans for seed,".

4 2. Page 2, lines 12, 13, and 14, by striking the
5 words "either as whole grain, seed, milled feed or who
6 transports grain into this state for resale" and insert-
7 ing in lieu thereof the words "as whole grain".

8 3. Page 3, line 10, by striking the word "The".

9 4. Page 3, by striking lines 11 through 18,
10 inclusive.

11 5. Page 3, line 29, by inserting after the period
12 the following: "In lieu of a bond, the applicant may
13 file an annual financial statement certified by a
14 certified public accountant or an independent public
15 accountant dated not more than ninety days prior to
16 the date the application is filed, setting forth the
17 assets, liabilities and net worth of the applicant.
18 The statement shall show the applicant's current net
19 worth to be not less than two times the amount of the
20 bond otherwise required by this section. If upon
21 examination of any financial statement the commission
22 considers the applicant has furnished insufficient
23 proof of financial responsibility, a written order may

24 be issued directing the applicant to provide the bond
25 required by this section. In determining the finan-
26 cial responsibility of an applicant, the commissioner
27 shall consider the sufficiency of his net assets
28 located within the state. Failure to comply with an
29 order shall be cause for revocation or suspension of
30 license. It shall be unlawful for any officer or
31 employee of the state of Iowa to divulge or to make
32 known in any manner whatever not provided by law to
33 any person the information contained in any financial
34 statement."

35 6. Page 3, line 33, by striking the word "thirty-
36 days'" and inserting in lieu thereof the word "sixty-
37 days'".

38 7. Page 4, by striking lines 22 through 25.

39 8. Page 4, line 26, by striking the word
40 "duplicate".

41 9. Page 6, line 14, by striking the word "licensee"
42 and inserting in lieu thereof the word "person".

43 10. Page 6, line 17, by striking the word "ten"
44 and inserting in lieu thereof the word "thirty".

45 11. Page 6, by striking lines 22 through 25.

46 12. By renumbering any subsections required by
47 this amendment.

H-251 Filed - *Withdrawn 4/13*
April 3, 1973

By HENNESSEY of Delaware
HUTCHINS of Guthrie
EWING of Mahaska

H-239

- 1 Amend House File 383 as follows:
2 1. Page 2, line 8, by inserting after the word
3 "soybeans," the words "soybeans for seed,".
4 2. Page 2, lines 12 and 13, by striking the words
5 "either as whole grain, seed, milled feed".
6 3. Page 3, line 13, by striking the words "In
7 order".
8 4. Page 3, by striking line 14.
9 5. Page 3, line 15, by striking the words "five
10 thousand dollars."
11 6. Page 3, line 33, by striking the word "thirty-
12 days'" and inserting in lieu thereof the word "sixty-
13 days'".
14 7. Page 4, by striking lines 22 through 25.
15 8. Page 4, line 26, by striking the word
16 "duplicate".
17 9. Page 6, line 14, by striking the word "licensee"
18 and inserting in lieu thereof the word "person".
19 10. Page 6, line 17, by striking the word "ten"
20 and inserting in lieu thereof the word "thirty".
21 11. Page 6, by striking lines 22 through 25.
22 12. By renumbering any subsections required by
23 this amendment.

H-239 Filed - *Withdrawn 4/12*
March 30, 1973

By HENNESSEY of Delaware
HUTCHINS of Guthrie
EWING of Mahaska

S-456

- 1 Amend House File 383 as amended and passed by the House
2 as follows:
3 1. Page 2, line 10, by inserting after the word "resale"
4 the following: ", but does not include the owner or
5 operator of a farm who does not hold himself out as so
6 engaged".
7 2. Page 2, line 12, by adding after the period the follow-
8 ing: "Those buying grain exclusively for cash or with
9 a cashier's check shall be excluded from this Act".

S-456 Filed - *H.D. 6/22*
April 25, 1973

By COMMITTEE ON AGRICULTURE

S-917

- 1 Amend House File 383, as amended and passed by the House,
2 as follows:
3 1. Page 2, by striking line 7 and inserting in lieu thereof
4 the following:
5 "grain sorghum, flax, sunflower, speltz, and field".
6 2. Page 2, line 10, by inserting after the word "resale"
7 the words "including seeds".

S-917 Filed - *H.D. 6/22*
June 15, 1973

By TIEDEN

S-995

1 Amend the Junkins amendment S-994 to House File 383, line
2 8, by striking the word "two" and inserting in lieu thereof
3 the word "five".

S-995 Filed and adopted
June 22, 1973

By SCHABEN

S-994

1 Amend House File 383 as amended and passed by the House as follows:
2 1. Page 3, line 29, by inserting after the period the following:
3 "In lieu of a bond, the applicant may file an annual financial
4 statement
5 certified by a certified public accountant or an independent public
6 accountant dated not more than ninety days prior to the date the
7 application
8 is filed, setting forth the assets, liabilities and net worth of the
9 applicant. The statement shall show the applicant's current net worth
10 to be not less than two times the amount of the bond otherwise required
11 by this section. If upon examination of any financial statement the
12 commission considers the applicant has furnished insufficient proof
13 of financial responsibility, a written order may be issued directing
14 the
15 applicant to provide the bond required by this section. In determining
16 the
17 financial responsibility of an applicant, the commissioner shall
18 consider
19 the sufficiency of his net assets located within the state. Failure
20 to
21 comply with an order shall be cause for revocation or suspension of
22 license. It shall be unlawful for any officer or employee of the state
23 of
24 Iowa to divulge or to make known in any manner whatever not provided by
25 law
26 to any person the information contained in any financial statement."

S-994 Filed - *Leach 6/22*
June 22, 1973

By JUNKINS