

SENATE BILL 48

Introduced by Nathe, et al.

1/03	Introduced
1/03	Referred to Business & Industry
1/07	First Reading
1/14	Hearing
1/22	Committee Report--Bill Passed as Amended
1/23	2nd Reading Passed
1/24	3rd Reading Passed
	Transmitted to House
1/25	First Reading
1/25	Referred to Business & Economic Development
1/30	Hearing
1/30	Tabled in Committee

1 SENATE BILL NO. 48

2 INTRODUCED BY NATHE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REDEFINING COMMODITY
5 DEALER BY DELETING THE EXEMPTION OF A PERSON PURCHASING
6 AGRICULTURAL COMMODITIES FROM A LICENSED COMMODITY DEALER;
7 AND AMENDING SECTION 80-4-402, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 80-4-402, MCA, is amended to read:

11 "80-4-402. Definitions. As used in parts 4 through 7 of
12 this chapter, the following definitions apply:

13 (1) "Agent" means any person who contracts for or
14 solicits any agricultural commodities from a producer or
15 warehouseman or negotiates the consignment or purchase of
16 any agricultural commodity on behalf of any commodity
17 dealer.

18 (2) "Agricultural commodity" means any grain, beans,
19 safflower, sunflower seeds, tame mustards, rapeseed,
20 flaxseed, leguminous seed, or other small seed, and other
21 agricultural commodities designated by rule of the
22 department.

23 (3) "Bond" means the bond required to be filed by part
24 5 or 6 of this chapter and includes any equivalent
25 established by department rule, as provided in 80-4-504 and

1 80-4-604.

2 (4) "Commodity dealer" means any person who engages in
3 a business involving or, as part of his business,
4 participates in buying, exchanging, negotiating, or
5 soliciting the sale, resale, exchange, or transfer of any
6 agricultural commodity in the state of Montana. The term
7 does not include:

8 (a) a person engaged solely in storing, shipping, or
9 handling agricultural commodities for hire;

10 (b) a person who ~~buys agricultural commodities from a~~
11 ~~licensed commodity dealer or who~~ does not purchase more than
12 \$30,000 worth of agricultural commodities from producers
13 during a licensing year;

14 (c) a person who is the producer of agricultural
15 commodities that he actually plants, nurtures, and harvests;
16 or

17 (d) a person whose trading in agricultural commodities
18 is limited to trading in commodity futures on a recognized
19 futures exchange.

20 (5) "Credit sale contract" means a contract for the
21 sale of an agricultural commodity when the sale price is to
22 be paid at a date after delivery of the agricultural
23 commodity to the buyer and includes but is not limited to
24 those contracts commonly referred to as deferred payment
25 contracts, deferred pricing contracts, or price-later

1 contracts.

2 (6) "Department" means the department of agriculture
3 provided for in 2-15-3001.

4 (7) "Depositor" means any person who deposits an
5 agricultural commodity in a warehouse for storage,
6 processing, handling, or shipment or who is the owner or
7 legal holder of an outstanding warehouse receipt or who is
8 lawfully entitled to possession of the agricultural
9 commodity.

10 (8) "Director" means the director of the department of
11 agriculture.

12 (9) "Grain" means all grains for which standards have
13 been established under the United States Grain Standards Act
14 (7 U.S.C. 71 through 87) and all other agricultural
15 commodities, such as mustard, oil seed crops, or other crops
16 which may be designated by rule of the department.

17 (10) "Grain Standards Act" means the United States Grain
18 Standards Act (7 U.S.C. 71 through 87) as that act reads on
19 July 1, 1983.

20 (11) "Inspector" means any person so designated by the
21 director to assist in the administration of parts 4 through
22 6 of this chapter. The term includes warehouse auditors or
23 examiners.

24 (12) "Official grain inspectors" means any official
25 personnel who perform or supervise the performance of

1 official inspection services and certify the results
2 thereof, including the grade of the grain.

3 (13) "Official grain samplers" or "samplers" means any
4 official personnel who perform or supervise the performance
5 of official sampling services and certify the results
6 thereof.

7 (14) "Official grain standards" means the standards of
8 quality and condition of grain that establish the grades
9 defined by the Grain Standards Act.

10 (15) "Official grain weighers" means any official
11 personnel who perform or supervise the performance of class
12 X or class Y weighing services and certify the results
13 thereof, including the weight of the grain.

14 (16) "Person" means any individual, firm, association,
15 corporation, partnership, or any other form of business
16 enterprise.

17 (17) "Producer" means the owner, tenant, or operator of
18 land in this state who has an interest in and receives all
19 or part of the proceeds from the sale of agricultural
20 commodities produced on that land.

21 (18) "Public warehouse" or "warehouse" means any
22 elevator, mill, warehouse, subterminal grain warehouse,
23 public warehouse, or other structure or facility in which,
24 for compensation, agricultural commodities are received for
25 storage, handling, processing, or shipment. The term

1 includes facilities which commingle commodities belonging to
2 different lots of agricultural commodities.

3 (19) "Receipt" means a warehouse receipt.

4 (20) "Scale weight ticket" means a load slip or other
5 evidence of delivery, other than a receipt, given to a
6 depositor by a warehouseman licensed under the provisions of
7 part 5 of this chapter upon initial delivery of the
8 agricultural commodity to the warehouse.

9 (21) "Station" means a warehouse located more than 3
10 miles from the central office of the warehouse.

11 (22) "Subterminal warehouse" means any warehouse at
12 which an intermediate function is performed in which
13 agricultural commodities are customarily received from
14 dealers or producers and where the commodities are
15 accumulated prior to shipment.

16 (23) "Terminal grain warehouse" means any warehouse
17 authorized by a grain exchange to receive or disburse grain
18 on consignment as presented by the rules and regulations of
19 a grain exchange.

20 (24) "Warehouseman" means a person operating or
21 controlling a public warehouse.

22 (25) "Warehouse receipt" means every receipt, whether
23 negotiable or nonnegotiable, issued under part 5 of this
24 chapter by a warehouseman, except scale weight tickets."

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 48

INTRODUCED BY NATHE, AKLESTAD

A BILL FOR AN ACT ENTITLED: "AN ACT REDEFINING COMMODITY
DEALER BY DELETING THE EXEMPTION OF A PERSON PURCHASING
AGRICULTURAL COMMODITIES FROM A LICENSED COMMODITY DEALER;
REVISING BONDING REQUIREMENTS; AND AMENDING SECTION SECTIONS
80-4-402 AND 80-4-604, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 80-4-402, MCA, is amended to read:

***80-4-402. Definitions.** As used in parts 4 through 7 of
this chapter, the following definitions apply:

(1) "Agent" means any person who contracts for or
solicits any agricultural commodities from a producer or
warehouseman or negotiates the consignment or purchase of
any agricultural commodity on behalf of any commodity
dealer.

(2) "Agricultural commodity" means any grain, beans,
safflower, sunflower seeds, tame mustards, rapeseed,
flaxseed, leguminous seed, or other small seed, and other
agricultural commodities designated by rule of the
department.

(3) "Bond" means the bond required to be filed by part
5 or 6 of this chapter and includes any equivalent

established by department rule, as provided in 80-4-504 and
80-4-604.

(4) "Commodity dealer" means any person who engages in
a business involving or, as part of his business,
participates in buying, exchanging, negotiating, or
soliciting the sale, resale, exchange, or transfer of any
agricultural commodity in the state of Montana. The term
does not include:

(a) a person engaged solely in storing, shipping, or
handling agricultural commodities for hire;

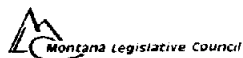
(b) a person who ~~buys agricultural commodities--from--a~~
~~licensed-commodity-dealer-or-who~~ does not purchase more than
\$30,000 worth of agricultural commodities from producers
during a licensing year;

(c) a person who is the producer of agricultural
commodities that he actually plants, nurtures, and harvests;
or

(d) a person whose trading in agricultural commodities
is limited to trading in commodity futures on a recognized
futures exchange.

(5) "Credit sale contract" means a contract for the
sale of an agricultural commodity when the sale price is to
be paid at a date after delivery of the agricultural
commodity to the buyer and includes but is not limited to
those contracts commonly referred to as deferred payment

SECOND READING



1 contracts, deferred pricing contracts, or price-later
2 contracts.

3 (6) "Department" means the department of agriculture
4 provided for in 2-15-3001.

5 (7) "Depositor" means any person who deposits an
6 agricultural commodity in a warehouse for storage,
7 processing, handling, or shipment or who is the owner or
8 legal holder of an outstanding warehouse receipt or who is
9 lawfully entitled to possession of the agricultural
10 commodity.

11 (8) "Director" means the director of the department of
12 agriculture.

13 (9) "Grain" means all grains for which standards have
14 been established under the United States Grain Standards Act
15 (7 U.S.C. 71 through 87) and all other agricultural
16 commodities, such as mustard, oil seed crops, or other crops
17 which may be designated by rule of the department.

18 (10) "Grain Standards Act" means the United States Grain
19 Standards Act (7 U.S.C. 71 through 87) as that act reads on
20 July 1, 1983.

21 (11) "Inspector" means any person so designated by the
22 director to assist in the administration of parts 4 through
23 6 of this chapter. The term includes warehouse auditors or
24 examiners.

25 (12) "Official grain inspectors" means any official

1 personnel who perform or supervise the performance of
2 official inspection services and certify the results
3 thereof, including the grade of the grain.

4 (13) "Official grain samplers" or "samplers" means any
5 official personnel who perform or supervise the performance
6 of official sampling services and certify the results
7 thereof.

8 (14) "Official grain standards" means the standards of
9 quality and condition of grain that establish the grades
10 defined by the Grain Standards Act.

11 (15) "Official grain weighers" means any official
12 personnel who perform or supervise the performance of class
13 X or class Y weighing services and certify the results
14 thereof, including the weight of the grain.

15 (16) "Person" means any individual, firm, association,
16 corporation, partnership, or any other form of business
17 enterprise.

18 (17) "Producer" means the owner, tenant, or operator of
19 land in this state who has an interest in and receives all
20 or part of the proceeds from the sale of agricultural
21 commodities produced on that land.

22 (18) "Public warehouse" or "warehouse" means any
23 elevator, mill, warehouse, subterminal grain warehouse,
24 public warehouse, or other structure or facility in which,
25 for compensation, agricultural commodities are received for

1 storage, handling, processing, or shipment. The term
2 includes facilities which commingle commodities belonging to
3 different lots of agricultural commodities.

4 (19) "Receipt" means a warehouse receipt.

5 (20) "Scale weight ticket" means a load slip or other
6 evidence of delivery, other than a receipt, given to a
7 depositor by a warehouseman licensed under the provisions of
8 part 5 of this chapter upon initial delivery of the
9 agricultural commodity to the warehouse.

10 (21) "Station" means a warehouse located more than 3
11 miles from the central office of the warehouse.

12 (22) "Subterminal warehouse" means any warehouse at
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17 (23) "Terminal grain warehouse" means any warehouse
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20 a grain exchange.

21 (24) "Warehouseman" means a person operating or
22 controlling a public warehouse.

23 (25) "Warehouse receipt" means every receipt, whether
24 negotiable or nonnegotiable, issued under part 5 of this
25 chapter by a warehouseman, except scale weight tickets."

1 **SECTION 2. SECTION 80-4-604, MCA, IS AMENDED TO READ:**

2 **"80-4-604. Bonding requirement amounts -- cancellation.**

3 (1) An applicant for a license to operate as a commodity
4 dealer shall, before a license may be issued, file with the
5 department a surety bond or its equivalent, as established
6 by department rule, payable to the state. The aggregate
7 annual liability of the surety may not exceed the sum of the
8 bond.

9 (2) Unless set by department rule, the bond for a
10 commodity dealer may not exceed 2% of the value of the
11 agricultural commodities purchased by the commodity dealer
12 ~~from the producer~~ during the previous 12-month period. The
13 bond for all new applicants is 2% of the estimated value of
14 all agricultural commodities to be purchased during the
15 coming 12-month period. The department may by rule require a
16 greater percentage in each instance. The minimum amount of
17 bond required by any commodity dealer is \$20,000, and the
18 maximum is prescribed in 80-4-405.

19 (3) A surety shall notify the commodity dealer and the
20 department by certified mail at least 60 days prior to the
21 cancellation of the bond. The liability of the surety covers
22 purchases made by the commodity dealer during the time the
23 bond is in force. A commodity dealer's bond filed with the
24 department is continuous until canceled by the surety upon
25 60 days' notice; however, such cancellation does not

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- 1 terminate any liability of the surety incurred prior to the
- 2 date of cancellation."

-End-

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23 bond is in force. A commodity dealer's bond filed with the
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25 60 days' notice; however, such cancellation does not

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2 date of cancellation."

-End-