

Grain—Agriculture—Warehousemen—Bonds—Storage.

Grain, as defined, means those cereals producing seeds used for food.

Warehousemen storing alfalfa seed are not required to give a bond and take out a license.

A. H. Bowman, Esq.,
Commissioner of Agriculture,
Helena, Montana.

Nov. 4, 1926.

My dear Mr. Bowman:

You have requested my opinion whether the term "grain" can be construed to mean alfalfa seed, clover seed, timothy seed, peas, beans and corn.

Section 3580 R. C. M. 1921 requires the commissioner of agriculture to "fix and establish standard grades to apply to all grain bought or handled by public warehouses in this state," and requires him to "adopt as state grade standards all grades for grain now or hereafter established by the United States department of agriculture."

The statute with reference to public warehousemen uses the word "grain," and defines the term "grain dealer," but nowhere does it define the term "grain."

Section 1 of chapter 41, session laws of 1923, defines a "grain dealer" as "every person, firm, association and corporation owning, controlling or operating a warehouse, other than a public warehouse, and engaged in the business of buying grain for shipment or milling in carload lots," and this same language is used with reference to track buyers as defined by this same section.

"Grain" is defined by 28 C. J. 757 as follows:

"A generic term; a kernel, especially of those plants, like wheat, whose seeds are used for food; specifically, a seed of one of the cereal plants collectively; a single seed or hard seed of a plant, particularly of those kinds whose seeds are used for food of man or beast; * * * the gathered seed of cereal plants in mass * * *. Sometimes the term is used to designate a crop in a field, or cereals in the straw. In accordance with the context or the connection in which it is employed the term may include barley; bran; broom corn; corn, in general; corn and millet hay; flax; hay or stalk; maize; millet; millet hay; oats; peas; rye; sugar cane seed; wheat."

Alfalfa seed is not mentioned in any definition of "grain," and it is my opinion that the statute did not intend the term to cover all seeds, but only those ordinarily stored in warehouses and used for food purposes.

It is, therefore, my opinion that the commissioner of agriculture has no right to require a bond of a warehouseman who deals in alfalfa seed, and that the statute does not contemplate the bonding of seed houses by the department of agriculture. However, I can see no objection to a warehouseman who deals in seeds giving a bond to protect the party who has stored seed in such warehouse.

Very truly yours,
L. A. FOOT,
Attorney General.