

SENATE BILL NO. 387

INTRODUCED BY THAYER

IN THE SENATE

FEBRUARY 10, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.  FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.  TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.  FIRST READING.
MARCH 11, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 14, 1989	SECOND READING, CONCURRED IN.
MARCH 15, 1989	THIRD READING, CONCURRED IN. AYES, 90; NOES, 0.  RETURNED TO SENATE.

IN THE SENATE

MARCH 16, 1989	RECEIVED FROM HOUSE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Sen. Bill No. 387  
 2 INTRODUCED BY Sen. Bill No. 387  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 5 LAW RELATING TO STORED AGRICULTURAL GOODS; ENTITLING A  
 6 HOLDER OF A WAREHOUSE RECEIPT TO A CLASS A OFFICIAL  
 7 INSPECTION AND CLASS III WEIGHTS; ALLOWING FOR A WRITTEN  
 8 AGREEMENT MODIFYING OR SUPPLEMENTING A WAREHOUSE RECEIPT;  
 9 PROVIDING THAT THE FEES FOR INSPECTION, TESTING, AND  
 10 WEIGHING OF GRAIN BE DIVIDED EQUALLY BETWEEN THE  
 11 WAREHOUSEMAN AND THE HOLDER OF A WAREHOUSE RECEIPT; AND  
 12 AMENDING SECTIONS 80-4-531 AND 80-4-721, MCA."

13  
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 80-4-531, MCA, is amended to read:

16 "80-4-531. Duty to deliver stored agricultural  
 17 commodities -- weights and inspections -- modifying  
 18 agreements -- damages. (1) The duty of the warehouseman to  
 19 deliver agricultural commodities stored is governed by this  
 20 part. Upon the return of a properly endorsed warehouse  
 21 receipt to the warehouseman and upon payment or tender of  
 22 all advances and legal charges, agricultural commodities of  
 23 the grade and quantity named therein must be delivered to  
 24 the holder of the warehouse receipt.

25 (2) The holder of the warehouse receipt is entitled to

1 a class A official inspection, as specified by the federal  
 2 grain inspection service in the regulations implementing the  
 3 United States Grain Standards Act. Inspections less than  
 4 class A must be agreed to in writing by the warehouseman and  
 5 the holder of the warehouse receipt.

6 (3) (a) The holder of a warehouse receipt is entitled  
 7 to class III weights or better, as specified by the federal  
 8 grain inspection service in the regulations implementing the  
 9 United States Grain Standards Act.

10 (b) In the event an approved class III weight is  
 11 unavailable at the warehouse of origin, the following  
 12 weights take precedence in this order:

13 (i) destination official or certified class III or  
 14 better; or

15 (ii) railroad track scale weights.

16 (4) The parties to a storage agreement are bound by an  
 17 agreement made under this section and intended to supplement  
 18 or modify the optional sections of the warehouse receipt if  
 19 the agreement offer is made in writing and the receiving  
 20 party fails to reject the offer in writing within 10 days of  
 21 receipt of the written offer. In order to be valid, the  
 22 agreement offer must state in boldface type that the  
 23 receiving party has 10 days to reject the offer.

24 (2)(5) A warehouseman's duty to deliver any  
 25 agricultural commodity is fulfilled if delivery is made

1 pursuant to the contract with the depositor as rapidly as it  
2 can be done by ordinary diligence. When delivery is made  
3 within 48 hours from date of demand or as agreed upon in  
4 writing by all parties concerned, the delivery complies with  
5 the provisions of this section. An extension of the delivery  
6 period may be granted by the department upon written  
7 request.

8 ~~(3)~~(6) All redeliveries must be made at the warehouse  
9 or station where the agricultural commodity was received  
10 unless otherwise agreed.

11 ~~(4)~~(7) At the option of the depositor, the warehouseman  
12 shall deliver the agricultural commodity at a terminal or,  
13 if mutually agreed, shall pay to the depositor the  
14 equivalent market value of the agricultural commodity on  
15 that date, less any freight and storage charges to the  
16 terminal and less other charges which may be allowed by the  
17 department.

18 ~~(5)~~(8) In addition to other penalties provided, a  
19 warehouseman failing to deliver agricultural commodities  
20 within the time provided in this section is subject to suit  
21 by the person entitled to delivery of the agricultural  
22 commodities and may be ordered by a court of competent  
23 jurisdiction to pay actual damages or liquidated damages of  
24 1/2 of 1% of the value for each day's delay."

25 **Section 2.** Section 80-4-721, MCA, is amended to read:

1 **"80-4-721. Fees for inspection, testing, and weighing**  
2 **grain -- disposition -- investment.** (1) The department shall  
3 by rule fix the fees for inspection, testing, and weighing  
4 of grain.

5 (2) Payment of the fees referred to in subsection (1)  
6 must be divided equally between the warehouseman and the  
7 holder of the warehouse receipt.

8 (3) Those fees or proceeds are a lien upon the grain  
9 until paid.

10 ~~(3)~~(4) All fees and other charges fixed by rule,  
11 including fees for the inspection, grading, weighing, and  
12 protein testing of grain, shall reflect as nearly as  
13 possible the actual cost of the services.

14 ~~(4)~~(5) All those fees and charges must be paid to the  
15 department and deposited with the state treasurer. The state  
16 treasurer shall place all money in the state special revenue  
17 fund. Fees deposited in the state special revenue fund may  
18 be used to pay approved claims for expenses incurred in  
19 inspecting, grading, weighing, and protein testing of grain.

20 ~~(5)~~(6) The department may direct the board of  
21 investments to invest funds from the state special revenue  
22 fund pursuant to the provisions of the unified investment  
23 program for state funds. The income from such investments  
24 must be credited to the proper department account in the  
25 state special revenue fund."

LC 1666/01

1        NEW SECTION.   **Section 3.**   Extension of authority.   Any  
2   existing authority to make rules on the subject of the  
3   provisions of [this act] is extended to the provisions of  
4   [this act].

-End-

APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION

SENATE BILL NO. 387

INTRODUCED BY THAYER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW RELATING TO STORED AGRICULTURAL GOODS; ENTITLING A HOLDER OF A WAREHOUSE RECEIPT TO ~~A--CLASS--A~~ AN OFFICIAL INSPECTION AND CLASS ~~\$\$\$~~ X OR Y WEIGHTS; ALLOWING FOR A WRITTEN AGREEMENT MODIFYING OR SUPPLEMENTING A WAREHOUSE RECEIPT; PROVIDING THAT THE FEES FOR INSPECTION, TESTING, AND WEIGHING OF GRAIN BE DIVIDED EQUALLY BETWEEN THE WAREHOUSEMAN AND THE HOLDER OF A WAREHOUSE RECEIPT; AND AMENDING SECTIONS 80-4-531 AND 80-4-721, MCA."

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

**Section 1.** Section 80-4-531, MCA, is amended to read:

"80-4-531. Duty to deliver stored agricultural commodities -- weights and inspections -- modifying agreements -- damages. (1) The duty of the warehouseman to deliver agricultural commodities stored is governed by this part. Upon the return of a properly endorsed warehouse receipt to the warehouseman and upon payment or tender of all advances and legal charges, agricultural commodities of the grade and quantity named therein must be delivered to the holder of the warehouse receipt.

(2) The holder of the warehouse receipt is entitled to

~~a--class--A~~ AN official inspection, as specified by the federal grain inspection service in the regulations implementing the United States Grain Standards Act. Inspections ~~less~~ OTHER than ~~class-A~~ OFFICIAL must be agreed to in writing by the warehouseman and the holder of the warehouse receipt.

(3) (a) The holder of a warehouse receipt is entitled to class ~~\$\$\$~~ X OR Y weights or better, as specified by the federal grain inspection service in the regulations implementing the United States Grain Standards Act.

(b) In the event an approved class ~~\$\$\$~~ X OR Y weight is unavailable at the warehouse of origin, the following weights take precedence in this order:

(i) destination official or certified class ~~\$\$\$~~ X OR Y or better; or

(ii) railroad track scale weights.

(4) The parties to a storage agreement are bound by an agreement made under this section and intended to supplement or modify the optional sections of the warehouse receipt if the agreement offer is made in writing and the receiving party fails to reject the offer in writing within 10 days of receipt of the written offer. In order to be valid, the agreement offer must state in boldface type that the receiving party has 10 days to reject the offer.

~~†2†~~(5) A warehouseman's duty to deliver any

1 agricultural commodity is fulfilled if delivery is made  
 2 pursuant to the contract with the depositor as rapidly as it  
 3 can be done by ordinary diligence. When delivery is made  
 4 within 48 hours from date of demand or as agreed upon in  
 5 writing by all parties concerned, the delivery complies with  
 6 the provisions of this section. An extension of the delivery  
 7 period may be granted by the department upon written  
 8 request.

9 ~~{3}~~{6} All redeliveries must be made at the warehouse  
 10 or station where the agricultural commodity was received  
 11 unless otherwise agreed.

12 ~~{4}~~{7} At the option of the depositor, the  
 13 warehouseman shall deliver the agricultural commodity at a  
 14 terminal or, if mutually agreed, shall pay to the depositor  
 15 the equivalent market value of the agricultural commodity on  
 16 that date, less any freight and storage charges to the  
 17 terminal and less other charges which may be allowed by the  
 18 department.

19 ~~{5}~~{8} In addition to other penalties provided, a  
 20 warehouseman failing to deliver agricultural commodities  
 21 within the time provided in this section is subject to suit  
 22 by the person entitled to delivery of the agricultural  
 23 commodities and may be ordered by a court of competent  
 24 jurisdiction to pay actual damages or liquidated damages of  
 25 1/2 of 1% of the value for each day's delay."

1 **Section 2.** Section 80-4-721, MCA, is amended to read:  
 2 "80-4-721. Fees for inspection, testing, and weighing  
 3 grain -- disposition -- investment. (1) The department shall  
 4 by rule fix the fees for inspection, testing, and weighing  
 5 of grain.

6 (2) Payment of the fees referred to in subsection (1)  
 7 must be divided equally between the warehouseman and the  
 8 holder of the warehouse receipt.

9 (3) Those fees or proceeds are a lien upon the grain  
 10 until paid.

11 ~~{3}~~{4} All fees and other charges fixed by rule,  
 12 including fees for the inspection, grading, weighing, and  
 13 protein testing of grain, shall reflect as nearly as  
 14 possible the actual cost of the services.

15 ~~{4}~~{5} All those fees and charges must be paid to the  
 16 department and deposited with the state treasurer. The state  
 17 treasurer shall place all money in the state special revenue  
 18 fund. Fees deposited in the state special revenue fund may  
 19 be used to pay approved claims for expenses incurred in  
 20 inspecting, grading, weighing, and protein testing of grain.

21 ~~{5}~~{6} The department may direct the board of  
 22 investments to invest funds from the state special revenue  
 23 fund pursuant to the provisions of the unified investment  
 24 program for state funds. The income from such investments  
 25 must be credited to the proper department account in the

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1 state special revenue fund."

2 NEW SECTION. **Section 3.** Extension of authority. Any  
3 existing authority to make rules on the subject of the  
4 provisions of [this act] is extended to the provisions of  
5 [this act].

-End-

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(2) The holder of the warehouse receipt is entitled to

~~a--class--A~~ AN official inspection, as specified by the federal grain inspection service in the regulations implementing the United States Grain Standards Act. Inspections ~~less~~ OTHER than ~~class-A~~ OFFICIAL must be agreed to in writing by the warehouseman and the holder of the warehouse receipt.

(3) (a) The holder of a warehouse receipt is entitled to class ~~\$\$\$~~ X OR Y weights or better, as specified by the federal grain inspection service in the regulations implementing the United States Grain Standards Act.

(b) In the event an approved class ~~\$\$\$~~ X OR Y weight is unavailable at the warehouse of origin, the following weights take precedence in this order:

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(4) The parties to a storage agreement are bound by an agreement made under this section and intended to supplement or modify the optional sections of the warehouse receipt if the agreement offer is made in writing and the receiving party fails to reject the offer in writing within 10 days of receipt of the written offer. In order to be valid, the agreement offer must state in boldface type that the receiving party has 10 days to reject the offer.

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-End-

STANDING COMMITTEE REPORT

March 11, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that SENATE BILL 387 (first reading copy -- white) be concurred in .

Signed: \_\_\_\_\_

*Bob Bachini*

Bob Bachini, Chairman

[REP. HAYNE WILL CARRY THIS BILL ON THE HOUSE FLOOR]

HOUSE

SB 387

SENATE BILL NO. 387

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