

CHAPTER 91.

[H. B. 228.]

FOR PREVENTION OF FRAUD IN GRAIN AND HAY TRADE.

[This act
repeals
§§5980 to
6010, inc.,
Rem.-Bal.]

AN ACT for the prevention of fraud in the grain and hay trade, for the establishment and preservation of standards for grain and hay regulating warehousemen, millers, shippers and buyers of hay and grain, defining the duty of railroads, making an appropriation, providing penalties for the violation thereof and repealing chapter 137 of the Session Laws of 1909.

Be it enacted by the Legislature of the State of Washington:

Defining
terms.

SECTION 1. *Definition.* The term public warehouse when used in this act, includes any elevator, mill, warehouse or structure in which grain or hay is received from the public for storage, shipment or handling, whenever such grain or hay is carried or intended to be carried to or from such warehouse, elevator, mill or structure by a common carrier.

The term terminal warehouse, when used in this act includes any public warehouse situate in Seattle, Tacoma, Spokane or other cities in the state which may be hereafter designated as inspection points.

The term warehouseman when used in this act includes any firm, person, company, corporation or association of persons owning, operating or controlling any public warehouse.

The term "Commission" when used in this act means the railroad commission of Washington.

Investigate
complaints.

SEC. 2. The commission shall exercise general supervision over the handling, weighing, inspecting and storage of grain and hay, and the management of public and terminal warehouses. Such commission shall investigate all complaints of fraud or injustice in the grain and hay trade, fix the charges of public and terminal warehouses, and make all necessary rules and regulations for carrying out and enforcing the provisions of this act, and of all laws of the state relating to this subject.

SEC. 3. The commission, with the approval of the governor, shall appoint a chief inspector, who shall be thoroughly familiar with the grains of Washington, and shall have had at least five years experience in handling said grains and hay. He shall, before entering upon the duties of his office, give a surety bond (the cost of said bond to be paid by the state) to the State of Washington in the sum of ten thousand dollars, to be approved by the commission and the attorney general, and conditioned upon the faithful discharge of his duties, and take the usual oath required of state officers. He shall receive a salary of two thousand dollars per annum, and necessary traveling expenses, and shall reside at Tacoma.

Chief
inspector.

SEC. 4. The chief inspector, with the approval of the commission, shall appoint such number of deputies, inspectors, samplers and weighers as may be necessary to properly and thoroughly inspect and weigh grain and hay received and exported and to carry out the provisions of this act. One of such inspectors in each of the cities of Seattle, Tacoma, Spokane and such other cities as may be designated by the commission, shall be styled chief deputy inspector. Such chief deputy inspectors shall be expert grain and hay men with at least three years' experience in handling grain and hay in Washington. The chief deputy inspectors shall each give a surety bond (the cost of said bonds to be paid by the state) to the State of Washington in the sum of five thousand dollars, to be approved by the commission and the attorney general, conditioned upon the faithful discharge of their duties. Such chief deputies shall receive a salary of fifteen hundred dollars per annum, and necessary traveling expenses. All other inspectors, samplers and weighers shall give bond (the cost of said bonds to be paid by the state) to the State of Washington in the sum of three thousand dollars, to be approved by the commission and the attorney general, conditioned upon the faithful discharge of his duties; the salaries of such inspectors, samplers and weighers shall not exceed one hundred dollars per month. The chief deputy inspector, in-

Deputies
appointed.

Bonds given.

spectors, samplers and weighers shall be required to take an oath to faithfully perform their duties; the duties of inspectors, samplers and weighers may be interchangeable.

Bonds filed,
where.

SEC. 5. The bonds of the chief inspector, his deputies, samplers and weighers, and all warehousemen, shall be filed in the office of the secretary of state of Washington, and any person injured by any official act or the neglect of duty of any such inspector, sampler or weigher, or by reason of neglect or failure of such inspector, sampler, weigher or warehousemen to comply with the provisions of this act or of the rules and regulations of the commission shall have a right of action upon such official bond for the recovery of all damages suffered thereby.

SEC. 6. No chief inspector, deputy inspector, sampler or weigher, shall during his term of office, be interested directly or indirectly in the handling, storing, shipping, purchasing or selling of grain or hay.

Neglect
of duty.

SEC. 7. Any inspector, sampler or weigher of grain or hay who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect, sample or weigh any grain or hay improperly, or who shall directly or indirectly accept any money or other consideration for any neglect of duty or any improper performance of duty as such inspector, sampler or weigher of grain or hay, or any person, persons, corporation or agent who shall improperly influence or attempt to improperly influence any inspector, sampler or weigher of grain or hay, in the performance of his duties as such inspector, sampler or weigher, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned in the county jail not less than six months, nor more than one year, or by both such fine and imprisonment, in the discretion of the court.

Penalty.

SEC. 8. The cities of Seattle, Tacoma and Spokane shall be provided with state inspection and weighing under this act. Such other cities and towns where grain and hay is received in car load lots or by water craft, and the shipments are such as would reasonably justify and render

Inspection
points.

necessary the inspection of grain or hay, may be designated by the commission as inspection points and be provided with state inspection and weighing: *Provided*, That the expenditure for the inspection and weighing at the points designated by the commission shall not exceed the receipts of fees at such place or places.

SEC. 9. The chief inspector, his deputies, samplers and weighers, shall be employees of the commission and may be removed at any time by the commission. They shall be paid in the same manner as other employees of said commission.

Employees of
commission.

SEC. 10. All charges made by any public warehouseman subject to the provisions of this act for the handling or storage of grain and hay shall be just, fair and reasonable; and the commission is hereby vested with power and authority upon the complaint of any person interested or by inquiry upon its own motion, after a full hearing, to declare any existing charge for the handling or storage of grain or hay, or any regulation whatsoever affecting such charge, or the receipt, handling or storage, to be unreasonable or unjust, and to declare and order what shall be a just and reasonable charge or regulation to be imposed or enforced in place of that found to be unreasonable or unjust.

Regulating
charges.

SEC. 11. All provisions of law relating to the method of procedure by the commission in fixing the rates to be charged by railroad companies for the transportation of freight and passengers, or the promulgation or issuance of rules and regulations, and the review of the acts or orders of such commission with reference thereto, and the enforcement of such orders, shall, so far as the same are applicable, govern the procedure of such commission in regulating public or terminal warehouses, and the review and enforcement of the acts and orders of the commission under the provisions of this act.

Commis-
sioners'
authority.

SEC. 12. The commission shall, on or before the first day of July, 1911, fix standard grades to apply to all grain

Commission
fix grades.

and hay thereafter bought or handled by public or terminal warehouses in this state. Such grades shall be known as Washington grades and shall continue until changed by the commission after notice as provided for the establishment of such grades. Such grades shall be fixed only after a public hearing, notice thereof to be given by two weeks' publication in three principal daily newspapers of the state, one of which, at least, shall be in eastern Washington. All persons desiring to be heard shall have a right to be heard and give such testimony as they may desire to offer. Such witness may be subpoenaed as the commission may deem necessary. The persons subpoenaed by the commission as witnesses shall receive \$5.00 per diem for the time they are actually employed and necessary traveling expenses. The commission shall at such time, after such hearing, make and issue reasonable rules and regulations governing the dockage which shall be made on inferior grades of grain or hay and in all executory contracts thereafter entered into for the sale of grain or hay where the price or amount to be paid therefor depends upon terminal weight or grade, such rules and regulations shall control the dockage insofar as the same affects the price to be paid, and such rules and regulations shall become part of the contract of sale unless expressly agreed to the contrary in such executory contract.

Witnesses'
salary.

Duty of
chief in-
specter.

It shall be the duty of the chief grain inspector immediately after the establishment of such grades and the promulgation of rules and regulations fixing dockage as herein provided, to supply all public and terminal warehousemen which the records in his office show are then or thereafter engaged in operating such warehouses, with a placard copy of such grades, rules and regulations. It shall be the duty of every public or terminal warehouseman to keep such placard posted in a conspicuous place in such warehouse, and if an office is conducted in connection with such warehouse, a copy shall be posted in a conspicuous place in such office.

Placard
posted.

SEC. 13. The commission shall fix the fees for inspection and weighing of grain and hay, such fees to be a lien

upon such grain and hay and to be paid by the carrier transporting the same and treated by it as advanced charges, except when the bill of lading contains the notation "Not for terminal weight and grade" and the grain or hay is not unloaded at a terminal warehouse. The commission shall so adjust the fees to be collected under this act as to meet the expenses necessary to carry out the provisions thereof, provided that the fees fixed for inspection and weighing shall in no case exceed five cents per ton for sacked grain; three cents per ton for bulk grain, and eight cents per ton for hay. All moneys collected under the provisions of this act and all fines and penalties for violation thereof shall be paid into the state treasury.

Commission
adjust fees.

SEC. 14. The chief inspector, his deputies and weighers, shall at the places provided for state inspection under this act have exclusive control of the weighing and grading of grain and hay which shall be inspected under the provisions of this act and the action and certificate of such inspectors and weighers in the discharge of their duties shall be conclusive upon all parties interested: *Provided, however,* An appeal may be taken to the commission whose decision shall be final. Suitable books and records shall be kept in which shall be entered a faithful and true record of every car or cargo or part of cargo of grain or hay inspected or weighed by them, showing the number or initial or other designation of such car or cargo or part of cargo, its weight, the kind of grain, or hay and its grade, and if graded below standard No. 1 grade, the reason for such grade, if of inferior grade the amount of such dockage, the amount of fees and forfeitures and disposition of same, and for each car, or cargo or part of cargo of grain or hay inspected they shall give a certificate of inspection showing the kind and grade of the same and the reason for all grades below No. 1, the amount to be allowed for dockage, if any, the number of sacks if sacked grain, or bales of hay, with the grade or grades and weight of same, if requested to do so by consignor or consignee. They shall also furnish the agent of the railroad company or other

Record of
cargoes and
grades.

Certificate
given.

carrier over which grain was shipped or carried, a certificate showing the weight of the grain or hay, if requested to do so. They shall also keep a true record of all appeals, decisions and a complete record of every official act, which books and records shall be open to inspection by any party in interest.

Misconduct.

SEC. 15. Upon written complaint filed with the commission charging any inspector, sampler or weigher with official misconduct, inefficiency, incompetency or neglect of duty, the commission shall investigate such charge, and if it be found sustained, shall remove such officer.

Appeal from grading.

SEC. 16. In case any owner, consignee or shipper of grain, or his agent or broker, or any public or terminal warehouseman shall be aggrieved at the grading of his grain or hay, such aggrieved person may appeal to the commission from such decision within thirty days from the date of certificate, and paying a fee to be fixed by the commission, which shall be refunded if the decision appealed is sustained. Such notice of appeal may be taken by a letter or notice to the commission that it appeals from the decision of the inspector. It shall be the duty of the commission upon receiving such notice to immediately notify the parties interested of the time and place designated by it for a hearing and at such time and place, which shall be within twenty days from the date of receiving such notice hold a hearing and inquire into the reasonableness and correctness of such original grading and such evidence shall be received as the parties thereto may desire to offer. After such hearing the commission shall make such order affirming or modifying the grade so established by the inspector as the facts and evidence may justify.

Fee fixed by commission.

SEC. 17. All grain and hay received at terminal warehouses shall be inspected and weighed by a state inspector and when exported shall if requested be reinspected and graded in like manner and a certificate of grade issued, a reasonable fee to be charged for such reinspection, said fee to be fixed by the commission. All other grain and hay received in car load lots or, when shipped by water in lots

containing more than thirty tons of grain or twelve tons of hay at inspection points, not unloaded at a terminal warehouse, shall be weighed, inspected and graded, unless the bill of lading contains a notation "not subject to inspection or terminal weight or grade."

SEC. 18. Any person, firm, company, corporation or association of persons owning or operating any public or terminal warehouse or warehouses in this state, shall on or before June 30th of each year, procure from the commission, a license for each such warehouse so owned or operated for the ensuing year before transacting business at such public warehouse or warehouses. Such license shall be posted in a conspicuous place in the office of each warehouse. The fee for such license shall be one dollar for each public warehouse, and the commission may revoke any such license for cause, upon notice and hearing. Any person, corporation or association operating any public or terminal warehouse in this state without a license shall forfeit to the state for each day's operation fifty dollars, and such operation may be enjoined upon complaint of the commission.

Procure
license.

SEC. 19. Every such warehouseman shall annually, during the first week in July, publish by posting in a conspicuous place in his warehouse, a schedule of storage rates for the ensuing year, which schedule shall be kept posted in a conspicuous place in said warehouse, and said rates shall not be increased during such year, and no discrimination in rates shall be made by any such warehouseman.

Post
schedule.

SEC. 20. Every person having an interest in any grain or hay stored in any such warehouse, and every state grain inspector, shall have the right to examine at all times during ordinary business hours any grain or hay so stored, and all parts of such warehouse; and every warehouseman, his agents and servants shall furnish proper facilities for such examination.

Privilege of
examining.

SEC. 21. If any public or terminal warehouseman subject to the provisions of this act shall, directly or indirectly, by any special charge, rebate, draw back or other

Rebate.

device demand, collect or receive from any person or persons a greater or lesser compensation for any service rendered or to be rendered in the handling or storage of grain or hay than he demands, collects or receives from any other person or persons for doing for him or for them a like and contemporaneous service in the handling or storage of grain or hay under substantially similar circumstances or conditions, or if any such public or terminal warehouseman shall make or give any undue or unreasonable preference or advantage to any person, company, firm or corporation in any respect whatsoever, or shall subject any particular person, company, firm or corporation to any undue or unreasonable prejudice or disadvantage in any respect whatsoever, such warehouseman shall be subject to a penalty as hereinafter provided.

SEC. 22. Every public warehouseman shall receive for storage and shipment, so far as the capacity of his warehouse will permit, all grain and hay in a warehouse used for this purpose, in suitable condition for storage, tendered him in the usual course of business, without discrimination of any kind. A warehouse receipt in form prescribed by the commission, consecutively numbered, shall be issued and delivered to the owner or his representative immediately upon receipt of each load or parcel of grain or hay, or as he may demand, giving the true and correct grade and weight thereof: *Provided*, That upon request of the owner, grain or hay may be put in a special pile without grading, and if grain or hay has been wet or damaged it shall be received and piled in a special pile, marked with a distinguishing mark, which shall be shown on the receipt for the same and given for the number of sacks only, or bales. The failure to issue, when requested, said receipt, or some slip, memoranda or other form of receipt shall be subject to a penalty as hereinafter provided.

Receipt
issued.

Failure
to issue.

SEC. 23. Upon the return of the receipt to the proper warehouseman, properly indorsed, and upon payment or tender of all advances and legal charges, grain or hay of the grade and quantity named therein shall be delivered to

the holder of such receipt, within forty-eight hours after the facilities for receiving the same have been provided. If such warehouseman shall fail so to deliver it, he shall be liable to the owner in damages at the rate of one cent a bushel for each day's delay, unless he shall deliver the property to the several owners in the order of demand as rapidly as it can be done by ordinary diligence. If upon such demand and tender the warehouseman shall fail so to deliver such grain or hay, the person entitled thereto may recover the same by action; and such warehouseman or person or agent in charge thereof shall be subject to a penalty as hereinafter provided.

Deliver
on payment
of charges.

SEC. 24. On June 30th of each year every warehouseman shall make report under oath to the commission on blanks or forms prepared by it showing the total number of sacks and weight of each kind of grain and bales and weight of hay, received and shipped from each warehouse licensed under this act, and also the amount of outstanding storage receipts on said date, and a statement of the amount of grain and hay on hand to cover the same. The commission may also require special reports from such warehouseman at such times as the commission may deem expedient. The commission may cause every such warehouse and business thereof and the mode of conducting the same to be inspected by one or more of its members or by its authorized agent whenever deemed proper, and the property, books, records, accounts, papers and proceedings of every such warehouseman shall at all times during business hours be subject to such inspection. Each person, firm, corporation or association of persons operating any public warehouse or warehouses subject to the provisions of this act shall, on or before the first day of July of each year, give a bond in good and sufficient surety to the State of Washington, in such sum as the commission may require, to be approved by such commission and the attorney general, conditioned upon the faithful performance of the acts and duties enjoined upon them by law.

Annual
report.

Warehouse
inspection.

SEC. 25. Whenever required by the commission every railroad company shall construct and maintain at each sta-

Railroad
facilities.

tion and siding in this state suitable facilities for the purpose of loading bulk grain direct from wagons into cars for shipment. The commission may require an increase in such facilities or additional facilities whenever it deems it necessary for the purpose of loading.

Inspected
on call.

SEC. 26. In case grain or hay is sold for delivery on Washington grade to be shipped from places not provided with state inspection under this act, the buyer, seller or persons making the delivery may have it inspected out by notifying the chief inspector or a chief deputy, whose duty it shall be to have such grain inspected, and after it is inspected to issue to the buyer, seller or person delivering it on request, an inspector's certificate showing the grade of such grain. The person or persons calling for such inspection shall pay for such inspection a reasonable fee to be fixed by the commission.

Samples.

SEC. 27. It shall be the duty of the chief inspector to transmit samples of grain showing the standards thereof adopted, to such foreign chambers of commerce, boards of trade, exporters and persons, firms, corporations or associations handling and dealing in Washington grain, as the commission may designate, and upon request he shall furnish such samples to similar parties in this state or the United States under such reasonable rules and regulations as the commission may prescribe.

Examine
cars.

SEC. 28. The chief inspector or any deputy inspector, sampler or weigher serving under him before opening the doors of any car containing grain or hay upon arrival at any of the places designated herein for inspection shall first ascertain the condition of such cars and determine whether any leakages have occurred while said cars were in transit, whether or not the doors were properly secured and sealed at point of shipment, and shall make a record of such facts in all cases, giving seal and plug numbers. After such examinations have been made and recorded, and the inspection of such grain or hay has been made, the said officials shall securely close and reseal such doors as have been opened by them, using the special seal of the said state

grain inspection department for the purpose. A record of all original seals broken by said officials, and the date when broken, and also a record of all state seals substituted therefor, and the date and number of said seals shall be made by said officials. The chief inspector, his deputies, weighers or samplers shall break the seal, weigh and superintend the unloading of all cars of grain or hay subject to inspection, and any other person or persons breaking the seal or weighing such cars of grain or hay shall be guilty of a misdemeanor.

Use special seal.

SEC. 29. Any railroad delivering grain or hay in cars at any of the places provided with state inspection under this act shall provide convenient and suitable sidetracks at such places as the commission may designate, on which all cars of grain or hay delivered by them shall, upon arrival, be set and arranged convenient for inspection, and after inspection such railroad company shall promptly distribute all such cars of grain and hay and set them at the proper place or places to be unloaded as designated by the consignor or consignee. Such railroad company shall provide at such place or places as the commission may designate suitable track scales for weighing cars of grain or hay. Such scales shall be under the control of the chief inspector and his deputies. It shall be the duty of the chief inspector or his deputies to require the railroad company to correct all scales so provided as often as may be necessary to insure the correct weighing of grain or hay. Whenever scales have been installed by any railroad company as above provided, it shall be the duty of the chief inspector or his deputies to use such scales in weighing all grain or hay received over the line of such railway: *Provided*, That if any terminal warehouse in inspection cities are provided with proper scales and weighing facilities, the chief inspector or his deputies may weigh the grain upon the scales so provided. The chief inspector or one of his deputies shall, at least once each year, examine, test and require to be corrected all scales used in weighing grain or hay in any of the cities designated as inspection points in this act,

Provide sidetracks.

Distribute cars.

Annual scale test.

or such places as may be hereafter designated, and after such scale is tested, if found to be correct and in good condition, to seal the weights with a seal provided for that purpose and issue to the owner or proprietor a certificate authorizing the use of such scales for weighing grain or hay for the ensuing year, unless sooner revoked by the chief inspector or his deputy. If such scales be found to be inaccurate or unfit for use, the chief inspector or his deputy shall notify the party operating or using them, and the party thus notified shall, at his own expense, thoroughly repair the same before attempting to use them, and until thus repaired to the satisfaction of the inspector or his deputy, the certificate of such party shall be suspended or revoked, in the discretion of the inspector or his deputy. The party receiving such certificate shall pay to the chief inspector or his deputy a reasonable fee for such inspection and certificate to be fixed by the commission, which sum shall be paid into the state treasury. It shall be the duty of the said commission to see that the provisions of this section are strictly enforced.

Fee for
inspection.

Fee to
state
treasury.

Police
protection.

SEC. 30. All railroad companies and warehousemen operating in the cities provided for inspection by this act, shall furnish ample and sufficient police protection at all their several terminal yards and terminal tracts to securely protect all cars containing grain or hay, while the same are in their possession. They shall prohibit and restrain all unauthorized persons, whether under the guise of sweepers, or under any other pretext whatever, from entering or loitering in or about their railroad yards or track and from entering any car of grain or hay under their control, or removing hay or grain therefrom, and shall employ and detail such number of watchmen as may be necessary for the purpose of carrying out the provisions of this section.

SEC. 31. Any railroad company or common carrier, or other corporation, and any warehouseman, which shall violate or fail to comply with any provision of this act; or which fails, omits or neglects to obey, observe or comply with any order, rule, or any direction, demand or require-

Violation
and penalty.

ment of the commission made under the provisions of this act, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense, and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance thereof shall be and be deemed to be a separate and distinct offense.

Every officer, agent or employee of any railroad company or common carrier, or other corporation, or any warehouseman, which shall violate or fail to comply with, or who procures, aids or abets any violation by any such railroad company or common carrier, or other corporation or warehouseman, of any provision of this act, or who shall fail to obey, observe or comply with any order of the commission, or any provision of any order of the commission; or who procures, aids or abets any such railroad company or common carrier, or other corporation, or any warehouseman, in its failure to obey, observe and comply with any such order or provision, shall be guilty of a gross misdemeanor.

Relating to violation.

Gross misdemeanor.

Every person either individually or acting as an official or agent of any corporation other than a railroad company, common carrier or warehouseman, who shall violate any provision of this act, or fail to observe or comply with any order made by the commission under this act, so long as the same shall be or remain in force; or shall procure, aid or abet any such corporation in its violation of this act, or in its failure to obey, observe or comply with any such order, shall be guilty of a gross misdemeanor.

SEC. 32. If any section or part of a section of this act shall be for any cause held to be unconstitutional, such fact shall not affect the remainder of this act.

Constitutionality.

SEC. 33. There is hereby appropriated for the purpose of carrying out the provisions of this act for the biennial period beginning April 1, 1911: For salary of chief inspector, four thousand dollars; for salary of clerk, two thousand four hundred dollars; for salaries of deputy inspectors, samplers, weighers, and for office rent,

Appropriating for salaries and incidentals.

traveling expenses, postage and office supplies (or so much thereof as may be necessary, but in no event to exceed the receipts provided for herein), one hundred thousand dollars: *Provided*, That the state auditor may, at the beginning of any biennial period anticipate the receipts and issue warrants to cover the same to any amount not exceeding ten thousand dollars.

Repeal.
[See note
to title.]

SEC. 34. That chapter 137 of the Laws of 1909 be and the same is hereby repealed.

Passed by the House February 17, 1911.

Passed by the Senate March 1, 1911.

Approved by the Governor March 14, 1911.

CHAPTER 92.

[H. B. 426.]

AUTHORIZING ESTABLISHMENT OF PORT DISTRICTS.

AN ACT authorizing the establishment of port districts; providing for the acquirement, construction, maintenance, operation, development and regulation of a system of harbor improvements and rail and water transfer and terminal facilities within such districts, and providing the method of payment therefor.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. *Port Districts Authorized.*

Port
districts.

Port districts for the acquirement, construction, maintenance, operation, development and regulation of a system of harbor improvements and rail and water transfer and terminal facilities within such districts, are hereby authorized to be established in the various counties of this state, as in this act provided.

SEC. 2. *Formation of District.*

Petition of
10 per cent.

At any general election or at any special election which may be called for that purpose, the board of county commissioners of any county in this state may, or on petition of ten per cent. of the qualified electors of such county based on the total vote cast in the last general county