

where the property is situated, and shall thereafter be the lawful plat and substitute for all former plats: *Provided, however,* That should the said townsite, city plat or plats, addition or additions, or parts thereof, be vacated and not otherwise altered or replatted, it shall only be necessary to file with the county auditor the order, resolution or ordinance vacating the same, and the auditor shall thereupon note upon the original plat the part thereof so vacated. Vacations.

Passed by the Senate February 19, 1909.

Passed by the House March 10, 1909.

Approved March 15, 1909.

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## CHAPTER 137.

[S. B. 239.]

### RELATING TO THE POWERS OF THE RAILROAD COMMISSION.

AN ACT for the regulation of public warehouses, relating to the shipping, grading, inspection and weighing of grain and hay, defining the duties of railroads, warehousemen and millers in relation thereto, providing penalties for the violation of this act, and repealing Chapter CIX of the Session Laws of 1895.

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

SECTION 1. The Railroad Commission of the State of Washington shall exercise general supervision over the handling, weighing, inspection and storage of grain and hay, and the management of public warehouses. Such commission shall investigate all complaints of fraud or injustice in the grain and hay trade, fix the charges of public 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. Public  
warehouses.

SEC. 2. The Railroad 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. He shall, before entering upon the duties Grain  
inspector.  
  
Qualifica-  
tions.

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 Railroad 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 shall reside at Tacoma.

Deputy  
inspectors.

SEC. 3. The chief inspector with the approval of the Railroad Commission shall appoint such number of inspectors and weighers as may be necessary to properly and thoroughly inspect the grain and hay as received and to carry out the provisions of this act. The duties of the inspectors and weighers may be interchangeable. One of such inspectors in each of the cities of Seattle, Tacoma, Spokane, and such other cities as may be designated by the Railroad Commission, shall be styled chief deputy inspector. Such chief deputy inspectors shall be expert grain men with at least three years' experience in handling grain 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 Railroad 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. All other inspectors 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 Railroad Commission and the Attorney General, conditioned upon the faithful discharge of their duties, and the salaries of such other inspectors and weighers shall not exceed one hundred dollars per month. The chief deputy inspectors, inspectors and weighers shall be required to take an oath to faithfully perform their duties.

Chief  
deputies.

Bond.

Salary.

Bonds filed.

SEC. 4. The bonds given by the chief inspector, his deputies and weighers, and all warehouses, shall be filed in the office of the Secretary of State of the State of Washington, and any person injured by any official act or the

neglect of duty of any such inspector or weigher, or by reason of neglect or failure of such inspector, weigher or warehouseman, to comply with the provisions of this act or of the rules and regulations of the Railroad Commission shall have a right of action upon such official bond for the recovery of all damages suffered thereby.

SEC. 5. No chief inspector, deputy inspector 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.

Not to have pecuniary interest.

SEC. 6. Any weigher or inspector of grain or hay, who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect 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 or weigher of grain or hay, or any person, persons, corporation or agent who shall improperly influence or attempt to improperly influence any inspector or weigher of grain or hay in the performance of his duties as such inspector 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, in the discretion of the court.

Malffeasance.

Penalties.

SEC. 7. The cities of Seattle, Tacoma, Spokane, and such other cities as the Railroad Commission may from time to time designate, are hereby provided with state inspection and weighing under this act: *Provided*, That the expenditures for inspection and weighing at such other places designated shall not exceed the receipt of fees at such place or places, so as to make this department self-sustaining.

Certain cities to have inspection.

SEC. 8. The chief inspector, his deputies and weighers, shall be employes of the Railroad Commission and may be removed at any time by the commission. They shall be paid in the same manner as other employes of said commission. The appropriation available for the office of the State Grain Inspector for the biennial period beginning

Under control of Railroad Commission.

April 1, 1909, or so much thereof as may remain at the time of the taking effect of this act, shall be credited to the Railroad Commission and used by it to carry out the provisions thereof.

Storage rates  
fixed by  
commission.

SEC. 9. All charges made by any public warehouseman subject to the provisions of this act for the handling or storage of grain or hay shall be just, fair and reasonable; and the Railroad 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.

General rules  
applicable to  
procedure.

SEC. 10. All provisions of law relating to the method of procedure by the Railroad 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 warehouses, and the review and enforcement of the acts and orders of the commission under the provisions of this act.

Standards of  
grain.

SEC. 11. The Railroad Commission shall, on or before the 20th day of September of each year fix the standard grades of all grain and hay bought or handled by public warehouses in this state, which shall be known as Washington grades. For the purpose of determining the grades to be established the Railroad Commission shall hold a public hearing and subpoena such witnesses as it may deem advisable, one of whom shall be from eastern Washington and prominently identified with grain raising. The persons subpoenaed shall receive five dollars per diem for the

time they are actually employed, and necessary traveling expenses.

SEC. 12. It shall be the duty of the chief inspector immediately after the establishment of the grades as herein provided to supply all public warehousemen with a placard copy of such grades and such rules and regulations as may be established by the Railroad Commission, and it shall be the duty of every public warehouseman to keep such placard posted in a conspicuous place in his office. Notice of standards.

SEC. 13. The Railroad Commission shall fix the fees for inspection and weighing of grain and hay, such fees to be a lien upon said grain and hay and to be paid by the carrier and treated as advance charges. Fees. The Railroad 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 weighing and inspection shall in no case exceed seventy-five cents per car for sacked grain, one dollar per car for bulk grain and hay: *Provided further*, That the Railroad Commission may fix an additional fee of not to exceed twenty-five cents per car for the inspection of sacked grain, where such car contains more than one grade. All moneys collected under the provisions of this act and all fines and penalties for violation thereof shall be paid into the state treasury.

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 may be subject to inspection 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. Action of inspector conclusive. They shall keep suitable books of record in which shall be kept a faithful and true record of every car of grain or hay inspected or weighed by them, showing the number and initial or other designation of such car, its weight, the kind of grain or hay and its grade, and if graded below No. 1 grade the reason for such grade, the amount of fees and forfeitures and disposition of same; and for Records.

each carload 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 number of sacks if sacked grain, with the grade or grades and weight of same, or the number of bales of hay with the grade or grades and weight of the same if requested to do so by consignor or consignee. They shall also furnish the agent of the railroad company over which such grain or hay was shipped 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.

Re-inspection. SEC. 15. In case any owner, consignee, or shipper of grain or hay, or his agent or broker, or any public warehouseman shall be aggrieved at the original grading of his grain or hay, such aggrieved person may before or after unloading said grain call upon the chief inspector or his chief deputy for a re-inspection. It shall thereupon be the duty of such inspector to inspect carefully the same, and if in his opinion the grades should be changed he shall at once make the change, but any such re-inspection shall be called for within thirty-six hours after the first inspection, not counting Sundays and legal holidays. A charge of one dollar a car in addition to the regular charge for inspection shall be paid to the chief inspector or deputy by the person calling for the re-inspection under this section before the case is taken up, which shall be returned to the person paying it if the decision is in his favor; otherwise it shall be paid into the state treasury. Should any owner, consignee, shipper, or warehouseman in charge if such grain or hay mingle it with other grain before such inspection and thereby lose its identity the person so mingling such grain or hay shall accept and account for it as No. 1 in grade: *Provided*, Notice has been given him that such grain or hay is to be held for re-inspection.

SEC. 16. Appeal may be taken to the chief inspector from the decision of any of his deputies as to the grade of grain or hay, and in case of such appeal the decision of the chief inspector shall be final and binding on all parties concerned.

Appeals to  
chief  
inspector.

SEC. 17. Every railroad or common carrier 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 Railroad 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 or common carrier 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 or common carrier shall provide at such place or places as the Railroad 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 weighers. It shall be the duty of the chief inspector or his deputies to examine, test and 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 or common carrier as above provided, it shall be the duty of the state weigher to use such scales in weighing all grain or hay received over the line of such railway: *Provided*, That if [in] any mill or terminal warehouse in inspection cities there are provided 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 at any public warehouse in this state, 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 of such warehouse a certificate authorizing the use of such

Tracks for  
inspection.

Examine  
scales.

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 the sum of one dollar for each scale, which sum shall be paid into the state treasury.

All ware-  
houses  
included.

SEC. 18. Any elevator or warehouse in which grain or hay is received from the public for storage, shipment or handling situate on the right-of-way of any railroad company, or adjacent thereto, to be used in connection with the line of railway of such company, at any station or siding in this state, shall be a public warehouse within the provisions of this act, and any person, firm, company, corporation or association of persons owning or operating any such elevator or warehouse shall be a public warehouseman within the provisions of this act.

License.

SEC. 19. Any person, firm, company, corporation or association of persons owning or operating any public warehouse or warehouses in this state, shall on or before June 30 of each year, procure from the Railroad Commission a license for each such warehouse so owned or operated for the ensuing year before transacting business at such public warehouse. Such license shall be posted in a conspicuous place in the office of such warehouse. The fee for such license shall be one dollar for each public warehouse, and the Railroad Commission may revoke any such license for cause upon notice and hearing. Any person, corporation or association operating any public 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 Railroad Commission.



SEC. 20. If any public warehouseman subject to the provisions of this act shall, directly or indirectly, by any special charge, rebate, drawback or other 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 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 forfeit and pay to the State of Washington a sum of not less than one hundred dollars nor more than five hundred dollars for each offense, to be recovered in a civil action in the name of the State of Washington, such action to be instituted by the Attorney General.

Discrimination.

Penalty.

SEC. 21. Every public warehouseman shall receive for storage and shipment, so far as the capacity of his warehouse will permit, all grain (or 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 or bin without grading, and if grain or hay has been wet or damaged it shall be received and piled in a special pile marked with the distinguishing mark, which shall be shown on the receipt for the same and given for the number of sacks or bales only. The failure to issue said receipt as directed, or the issuance of slips, memoranda or other form of receipt, shall be deemed a misdemeanor.

Duty of warehouseman.

Delivery. SEC. 22. On the return and surrender of any receipt and payment of lawful charges, the hay or grain represented therein shall be immediately delivered to the owner or his order, and shall not be subject to any further charge for storage after the demand for delivery shall have been made, and facilities for receiving or shipping the same have been provided by such owner.

Annual report of warehouseman. SEC. 23. On June 30th of each year every public warehouseman shall make report under oath to the Railroad Commission on blanks or forms prepared by it showing the total number of sacks of each kind of grain or bales 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 or hay on hand to cover the same. Each person, firm, corporation or association of persons operating any public warehouse subject to the provisions of this act shall on or before the first day of August of each year give a bond with good and sufficient surety to the State of Washington, in such sum as the Railroad 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.

Sidetracks for loading. SEC. 24. Whenever required by the Railroad Commission every railroad company shall construct and maintain at each station and siding in this state suitable facilities for the purpose of loading bulk grain direct from wagons into cars for shipment. The Railroad Commission may require an increase in such facilities or additional facilities whenever it deems it necessary for the purpose of such loading.

Fees for tonnage inspection. SEC. 25. In case grain or hay is sold for delivery on Washington grade to be shipped from places provided with state inspection under this act, or from any other place, 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 cer-

tificate showing the grade of such grain. The person or persons calling for such inspection shall pay for such inspection fees as follows: On lots from ten to fifty tons, five cents per ton; from fifty to three hundred tons, three cents per ton; from three hundred to one thousand tons, two cents per ton; for every ton in addition to one thousand tons, one cent per ton: *Provided*, That the above scale of charges must be for a continuous delivery of the lot until completed. The chief inspector or his deputies may in their discretion make the charge for such inspection fifty cents per hour without reference to the quantity of grain inspected.

SEC. 26. The Railroad Commission shall be allowed, at its office in Olympia, one additional clerk for the purposes of this act at a salary of not to exceed one hundred dollars per month, to be paid in the same manner and out of the same funds as other employes under this act. The chief inspector and deputies shall be allowed necessary traveling expenses when engaged in the discharge of their duties.

Additional  
clerk.

SEC. 27. The chief inspector shall furnish standard samples of grain No. 1 Washington grade to any public warehouseman in this state or adjoining states upon request and payment of the cost thereof.

Samples of  
grain.

SEC. 28. Any grain or hay originally consigned to a destination outside of the state shall not be subject to state inspection or weighing nor to the fees provided for in this act, unless it passes through some mill or warehouse, at an inspection point, in which case it shall pass the regular weighing and inspection and pay the regular fees.

Shipments  
beyond  
state.

SEC. 29. The chief inspector or any deputy or weigher serving under him before opening the doors of any cars 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

Loaded cars  
inspected.

cases, giving seal and plug numbers. After such examination shall 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.

Police  
protection.

SEC. 30. All railroad companies, warehousemen and millers operating in the cities provided for inspection by this act shall furnish ample and sufficient police protection at all of their several terminal yards and terminal tracks 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 samplers, sweepers, or under any other pretext whatever, from entering or loitering in or about their railroad yards or tracks and from entering any car of grain or hay under their control, or removing grain or hay 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.

Penalties.

SEC. 31. Any railroad company or common carrier, and every officer, agent or employe of any railroad company or common carrier, and every person, persons, corporation or association who shall violate any of the provisions of this act for which penalties are not specifically provided in the various sections thereof shall, upon conviction, be fined and pay a sum not less than one hundred dollars nor more than five hundred dollars for each offense.

Ch. 109, p.  
253. L. '95,  
§§ 2868-2909  
Bal. §§ 5393-  
5434 Pierce  
repealed.

SEC. 32. Chapter CIX of the Session Laws of 1895, providing for inspection and weighing of grain, is hereby repealed, together with all other acts or parts of acts in conflict with this act.

Passed by the Senate February 26, 1909.

Passed by the House March 5, 1909.

Approved March 15, 1909.