

CHAPTER 46.

[H. B. 92.]

PUBLIC WAREHOUSES.

AN ACT relating to public warehouses and warehousemen handling, storing, and shipping grain, hay and other commodities; providing for and fixing the liability of surety bonds; fixing fees; creating a special fund and providing for revenues therefor and disbursements therefrom; regulating the printing and issuance of negotiable warehouse receipts; defining the powers and duties of the director of agriculture; requiring certain reports from warehousemen; and amending Sections 5, 13, 18, 22 and 24 of, and adding Sections 22a and 22b to, Chapter 189 of the Laws of 1919, and making an appropriation.

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

SECTION 1. That section 5 of chapter 189 of the Laws of 1919 (section 6982 of Remington's Compiled Statutes) be amended to read as follows:

Section 5. All bonds provided for by this act shall be filed in the office of the secretary of state of Washington, and any person injured by official act or the neglect of duty of any such bonded employee or by reason of neglect or failure of such bonded employee or warehouseman to comply with the provisions of this act or of the rules and regulations of the director of agriculture shall have a right of action upon such bond for the recovery of all damages suffered thereby: *Provided*, That the liability of the surety upon the bond required to be given by warehousemen as provided in section 18 of this act shall be limited to the amount specified in the bond, and in case of recoveries had by two or more persons for violation of the conditions of such bond in excess of the amount of the bond, such recovery shall be prorated and the total recovery as against the surety shall not exceed the amount of the bond.

SEC. 2. That section 13 of chapter 189 of the Laws of 1919, as amended by section 1 of chapter

Amends
§ 5, ch. 189,
Laws 1919;
§ 6982 Rem.
Comp. Stat.

Bond, filing.

Action upon.

Liability
of surety.

Prorated.

Amends
§ 13, ch. 189,
Laws 1919;
§ 1, ch. 74,
Laws 1921;
§ 6991, Rem.
Comp. Stat.

74 of the Laws of 1921 (section 6991 of Remington's Compiled Statutes) be amended to read as follows:

Section 13. The director of agriculture shall fix the fees for inspection, grading and weighing of the commodities included in the provision of this act, which fees shall not exceed eight cents a ton for sack grain and six cents a ton for bulk grain. The fees for inspection, grading and weighing of such commodities shall be a lien upon such commodity so weighed, graded and/or inspected to be paid by the carrier transporting the same and treated by it as an advanced charge, except when the bill of lading contains the notation "Not for terminal weight and grade" and the commodity is not unloaded at a terminal warehouse. The director of agriculture shall so adjust the fees to be collected under this act as to meet the expenses necessary to carry out the provisions hereof, and may prescribe a different scale of fees for different localities. The director of agriculture may also prescribe a reasonable charge for service performed at places other than public terminal warehouses in addition to the regular fees when necessary to avoid rendering the service at a loss to the state. All moneys collected under the provisions of this act and all fines and penalties for violation thereof, shall be paid into the general fund in the state treasury to the credit of hay and grain inspection. The state auditor may anticipate the receipts and issue warrants to cover the same to any amount not exceeding fifteen thousand dollars (\$15,000.00).

Inspection
fees.

Lien.

Adjustment.

Additional
charge.

Collections
paid into
general
fund.

Warrants to
amount of
anticipated
receipts.

SEC. 3. That section 18 of chapter 189 of the Laws of 1919, as amended by section 1 of chapter 123 of the Laws of 1923, (section 6996 of Remington's Compiled Statutes) be amended to read as follows:

Amends
§ 18, ch. 189,
Laws 1919;
§ 1, ch. 123,
Laws 1923;
§ 6996 Rem.
Comp. Stat.

Section 18. Each person, firm, corporation or association of persons operating any public ware-

house subject to the provisions of this act shall, on or before the first day of July of each year, give a bond to the State of Washington, with surety to be approved by the director of agriculture in a sum equal to five cents per bushel of the grain capacity of any such warehouse, as may be determined by the director of agriculture, but in no case less than the sum of five thousand dollars (\$5,000), to be approved by the director of agriculture and the attorney general, conditioned upon the faithful performance of the duty to keep in such warehouse for the holder of any warehouse receipt the commodity described in such receipt, and to deliver such commodity to, or ship such commodity for, such holder only upon the surrender of such receipt, in case such person, firm, corporation or association of persons has applied for licenses to conduct two or more warehouses in the State of Washington, the assets applicable to all of which shall be subject to the liabilities of each and shall desire to give a single bond meeting the requirements of this act, such warehouses shall be deemed to be one warehouse for the purpose of the bond required under this act and the amount of said bond shall be fixed at the rate of ten cents per bushel of the maximum number of bushels that all of said warehouses will accommodate when stored in the manner customary to each of such warehouses for which such bond is required as determined by the director of agriculture of the State of Washington, but not less than five thousand dollars (\$5,000), nor more than fifty thousand dollars (\$50,000): *Provided, however,* That if a bond has been filed with and approved by the department of agriculture of the United States, as required by section 6 of the United States warehouse act, then such bond filed with and approved by the department of agriculture of the United States shall be considered as in lieu of the bond required by this section: *Pro-*

Annual bond.

Amount.

Conditions.

Operation of two or more warehouses.

Amount of bond.

U. S. warehouse bond in lieu.

vided, That satisfactory proof of said filing and approval of such bond be filed with the director of agriculture. Every such person, firm, corporation, or association of persons shall, on or before July 1st of each year, procure from the director of agriculture a license for each such warehouse so owned or operated for the ensuing year before transacting business at such public warehouse or warehouses: *Provided*, That no such licenses shall be issued before the bond hereinbefore required shall have been given and approved or said proof of the filing and approval of a bond as required by section 6 of the United States warehouse act shall be filed with the director of agriculture. Such license shall be posted in a conspicuous place in the office of each warehouse. The fee for such license shall be twelve and one half dollars (\$12.50) per warehouse per annum for all warehouses, except terminal warehouses; and fifty dollars (\$50.00) per warehouse per annum for all terminal warehouses; and the director of agriculture 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 (\$50.00), the same to be recovered on action brought in the superior court of the county in which the warehouse is situated, by the prosecuting attorney of such county, upon complaint of the director of agriculture, and further such operation may be enjoined upon complaint of the director of agriculture.

Annual
license.

Fee.

Revocation.

Penalty for
operation
without.

SEC. 4. That section 22 of chapter 189 of the Laws of 1919, as amended by section 4 of chapter 145 of the Laws of 1921, (section 7000 of Remington's Compiled Statutes) be amended to read as follows:

Amends
§ 22, ch. 189,
Laws 1919;
§ 4, ch. 145,
Laws 1921;
§ 7000 Rem.
Comp. Stat.

Section 22. Every public warehouseman shall receive for storage and shipment, so far as the ca-

Capacity storage required.

Warehouse receipts.

Negotiable warehouse receipt.

capacity of his warehouse will permit, all grain, hay and any commodity included in the provisions of this act, in a warehouse 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 law, consecutively numbered, shall be issued and delivered to the owner or his representative immediately upon receipt of each load or parcel of grain, hay or other commodity, as he may demand, giving the true and correct grade and weight thereof: *Provided*, That upon the request of the owner, grain, hay or other commodity shall be put in a special pile without grading, and if grain, hay or other commodity have been wet or damaged it shall be received and piled in a special pile 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 receipts as above and/or hereinafter required, shall be subject to a penalty, as hereinafter provided. Each negotiable warehouse receipt shall be in the following form, and substantially the following style:

Form.

ORIGINAL NEGOTIABLE WAREHOUSE RECEIPT NO.

(Name of individual, co-partnership, association or corporation operating the warehouse)

State No. _____ License No. _____
 _____, Wash. _____ 19_____
 (Location of the Warehouse) (Date of Issue)

THIS IS TO CERTIFY that we have received and hold in storage the following described commodity in ^{general} pile or _{special} bin for the account of _____ or order.
 (Name of Depositor)

Loss or damage by fire, the elements, or any other causes unavoidable and beyond our control at owner's risk.

If stored in general pile or bin we hold the right to co-mingle this commodity with other commodities of the same sub-class,

and the right to a monetary adjustment on the difference between the grade delivered and the grade shown on this receipt.

Sacks Bales Bulk	Variety Said To Be	Test	Gross Wt.	Advances
			Sack Tare	\$
Foul	Percent of Dockage	Smut	Net Weight	Int. from at % per annum
Condition of grain			Busbels	Condition of Sacks

Said specially piled or binned commodity, or said quantity of co-mingled commodity, to be delivered or shipped only upon payment of all charges against same and return of this receipt properly endorsed to the office of this company at....., Washington.

Commodity covered by this receipt subject to the following charges: Handling at the rate of \$..... per ton. Storage at the rate of.....cents per ton per month or fractional part thereof. Bulking sacked grain from warehouse to car.....cents per ton. Storage charges to begin within.....days following the date of this receipt. Storage and handling charges to be due and payable on the first day of July following date of this receipt. Sacks, twine and labor used for resacking specially piled commodity must be furnished by, or at the expense of, the owner. Ten cents per ton in addition to handling and storage charges will be charged for weighing commodities from special piles or bins. Partial deliveries of specially stored commodities will be made by weight without regard to number of sacks or bales. Outturn weights and grades to govern deliveries of specially stored commodities. Grades herein for specially stored wet or damaged commodities for memorandum purposes only.

The rate of storage herein mentioned is a special rate based upon release of all claims for loss, damage or injury not due to warehouseman's negligence. Warehouseman will for an additional charge accept responsibility for loss or damage by fire, but no such responsibility attaches to this contract unless endorsed hereon by warehouseman. The warehouse where this grain is stored is located upon lands leased from the railway company. The lease contains a provision that the railway company shall in no event be liable for loss or damage to the contents of said warehouse by fire or otherwise, even though caused by negligence or misconduct of railway employees or by defective appliances. Such provision is by the acceptance of this receipt expressly ratified and assented to by the depositor, and all claims against the railway company upon whose land the warehouse is situated, or by which company side track facilities

are furnished, for loss or damage are by the acceptance of this receipt specifically waived by the depositor.

(Name of individual, co-partnership, association or corporation operating the warehouse)

By.....

Provided, That it shall be lawful for any warehouseman operating under the federal warehouse act to use warehouse receipts authorized to be used by such act, and in the use of such receipts shall be bound by the provisions of said act and receipts issued thereunder.

Federal warehouse receipts, use authorized.

It shall be the duty of the director of agriculture, on or before the first day of June in each year, and at such other times as may be necessary, to cause to be printed, bound and delivered to each person, firm, association of persons, or corporation operating a public warehouse for the handling, storage and shipment of grain, hay and other commodities in this state, a sufficient number of blank forms of negotiable warehouse receipts in the form above prescribed, required to carry on the business of such warehouse for the ensuing license year, beginning July 1st of such year. All such receipts required by all such warehouses in the state shall bear a serial number in one series, beginning with number "one" for each license year.

Blank forms for negotiable warehouse receipts, furnished.

Numbered.

Every person, firm, association of persons, or corporation intending to operate a public warehouse, or warehouses, for the handling, storage and shipment of grain, hay and other commodities during the ensuing license year, beginning the first day of July shall, on or before the first day of May of such year, file with the director of agriculture upon a form to be furnished by the director for that purpose, a requisition for such number of blank forms of negotiable warehouse receipts as may be required for the operation of such warehouse or warehouses during the ensuing license year, specifying: (a) the name of the person, firm, association of persons, or

Requisition for.

Contents.

corporation intending to operate such warehouse or warehouses; (b) the state number of the warehouse, or the respective state numbers of the warehouses, intended to be operated; (c) the respective quantities of blank forms of receipts required for each warehouse; (d) the place where each warehouse, respectively, is located; (e) the location of the principal place of business of the person, firm, association of persons, or corporation operating such warehouse or warehouses; (f) the rate of handling and storage charges at such warehouse, or each of such warehouses respectively; (g) whether such blank form of receipts shall be printed and bound in duplicate, triplicate, or quadruplicate; (h) whether it is desired to have printed with and attached to, with or without perforations, load checks and the form thereof; and (i) the number of such blank forms of receipts which the applicant desires to have bound in each book; and such other information as may be required by the director of agriculture, specified in the blank form of requisition; and shall accompany such requisition with a United States post office money order, or certified bank check, payable to the state treasurer of Washington, for the amount of charges required for the filing of such requisition at the rates specified in the blank form of requisition. And every such warehouseman may file requisitions for additional blank warehouse receipts from time to time as he may require.

Charges for.

SEC. 5. That chapter 189 of the Laws of 1919 be amended by adding thereto a new section to be known as section 22b, to read as follows:

Adds § 22b
to ch. 189,
Laws 1919.

Section 22b. Whenever it shall appear to the satisfaction of the director of agriculture that any public warehouseman operating a warehouse for the handling, storage and shipment of grain, hay or other commodities, has not in his possession sufficient grain, hay or other commodity, to cover the out-

Negotiable
warehouse
receipts,
exceed com-
modities.

standing negotiable warehouse receipts issued by him, and/or that such warehouseman refuses to submit his books, papers, or concerns to lawful inspection, the director of agriculture may give notice to the warehouseman so offending or delinquent, to cover such shortage or give such additional bond as provided in section 18 of this Act as the director may require, and/or submit to such inspection, as the case may be, and if such warehouseman fails to comply with the terms of such notice within twenty-four hours from the date of its issuance, or within such further time as the director may allow, then the director shall take possession of all special piles or bins of grain, hay or other commodities in which there is an apparent shortage, and/or of all grades of co-mingled grain, hay or other commodities in which there is apparent shortage, and of all books, papers or concerns of such warehouseman subject to lawful inspection, and upon taking possession shall forthwith give notice in writing by mail, and by telegraph or telephone, to the surety on the bond required in section 18 of this Act conditioned upon the faithful performance of the duty of such warehouseman to deliver to, or ship for, the holder of any negotiable warehouse receipt issued in respect to any commodity deposited in such warehouse only upon the delivery of such receipt, and shall give notice to the holders of all warehouse receipts issued against such specially piled or binned or co-mingled commodities in respect to which there is an apparent shortage, to present their warehouse receipts for inspection or account for the same, and the director shall thereupon cause an audit to be made of the affairs of such warehouse with respect to the commodities in which there is an apparent shortage, determine the amount of such shortage and compute the shortage with respect to each warehouse receipt holder affected thereby, and notify the warehouse-

Shortages.

Inspection.

Surety on
bond
notified.

Holders of
warehouse
receipts
notified.

man and the surety on the bond of the amount of such shortage and notify each warehouse receipt-holder affected thereby of his respective interest in such shortage. The director of agriculture shall retain possession of such commodities in which there is a shortage found, and of the books, papers and concerns of the warehouseman, until such time as the warehouseman, or the surety on the bond shall have satisfied the claims of all holders of warehouse receipts on account of such shortage, or in case the shortage exceeds the amount of the bond, the surety on the bond shall have satisfied such claims prorata, or until such time as he is ordered to surrender possession by order of the court, as in this act provided.

Possession
by director
of agricul-
ture.

Shortage
exceeds
bond.

At any time within ten days after the director shall have taken possession of any commodity in, and/or the books, papers and concerns of, any public warehouse, the warehouseman may, serve a notice upon the director to appear in the superior court of the county in which such warehouse is located, at a time to be fixed by said court, which shall not be less than five nor more than fifteen days, from the date of the service of such notice, and show cause why such commodities, books, papers and concerns should not be restored to his possession. Upon the return day of such notice, or at such time as the court may fix, the court shall summarily hear said cause and shall dismiss the same if it shall find that the possession was taken by the director in good faith and for sufficient cause; but if it shall find that no cause existed for taking such possession, it shall require the director to restore such possession and enjoin him from further interference therewith, without cause.

Director
cited in
court action.

Return day.

Possession
restored.

All expenses incurred by the director of agriculture in taking possession of any commodities in, and/or of books, papers and concerns of, any public warehouse, and issuing notices, determining shortages, and computing respective shortages as affect-

Expenses.

ing holders of outstanding warehouse receipts, and approving the settlement of claims for shortages, including the expenses of deputies, or other assistants, who may be employed by him in connection therewith, and the reasonable compensation to any special deputies placed in charge thereof, shall be a first charge upon the assets of such warehouseman, and may be recovered in a civil action brought in the superior court of the county in which such warehouse is situated, by the prosecuting attorney of such county, upon the complaint of the director of agriculture.

Collection.

Amends
§ 24, ch. 189,
Laws 1919;
§ 1, ch. 70,
Ex. Laws
1925;
§ 7002 Rem.
Comp. Stat.

SEC. 6. That section 24 of chapter 189 of the Laws of 1919, as amended by section 1 of chapter 70 of the Laws of the Extraordinary Session of 1925 (Section 7002 of Remington's Compiled Statutes) be amended to read as follows:

Annual
report of
licensee.

Section 24. On or before the fifteenth day of July of each year every warehouseman licensed under this act shall make a report, under oath, to the director of agriculture, on blanks or forms prepared by him, showing the total number of sacks and weight of each kind of grain and other commodities, and bales and weight of hay, received and shipped from each warehouse licensed under this act during the preceding license year; and also the amount of outstanding negotiable warehouse receipts on the thirtieth day of June preceding, and a statement of the amount of grain, hay and other commodities on hand on said date to cover the same. On or before the first day of August of each year every such warehouseman shall make a report, under oath, to the director of agriculture, on blanks or forms prepared by him, showing in detail the capital assets, capital liabilities, the operating revenues, and the operating expenses of his warehouse business for the preceding license year, and such other financial information as the director may require. The director of agriculture may also require special reports from

each such warehouseman at such times as the director may deem expedient. The director of agriculture shall cause every such warehouse and the business thereof and the mode of conducting the same to be inspected at least once in each six months' period of each license year, and as often as he may deem necessary, 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. The director of agriculture shall, upon the request of any holder of a negotiable warehouse receipt, issued by any such warehouseman, and the payment of the fee of one dollar (\$1.00) report to such holder whether the warehouse issuing such receipt had sufficient commodities of the kind mentioned in said receipt, on hand to cover all outstanding receipts as shown by the last previous inspection, and the director of agriculture shall, upon like request, and the payment of a fee of twenty-five dollars (\$25.00), cause a special inspection of such warehouse to be made within ten days after the receipt of such request and fee, and make a like report of the condition of such warehouse at the date of such special inspection. The director of agriculture shall have power and it shall be his duty, to exercise all the powers and perform all the duties, now vested in or required to be performed by the director of public works with respect to all public and terminal grain warehouses.

Report to holder of warehouse receipt.

Special inspection.

Powers and duties of director of public works transferred.

SEC. 7. For the purpose of carrying out the provisions of this act there is hereby appropriated from the general fund in the state treasury the sum of twenty-five thousand dollars (\$25,000) or so much thereof as may be necessary, not however to exceed receipts under the provisions of this act.

Appropriation.

Passed the House February 19, 1931.

Passed the Senate March 4, 1931.

Approved by the Governor March 18, 1931.