

SECOND REGULAR SESSION

SENATE BILL NO. 631

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PARSON.

Read 1st time January 9, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5053S.011

AN ACT

To repeal section 276.401, RSMo, and to enact in lieu thereof one new section relating to grain purchases.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 276.401, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 276.401, to read as follows:

276.401. 1. Sections 276.401 to 276.582 shall be known as the "Missouri
2 Grain Dealer Law".

3 2. The provisions of the Missouri grain dealer law shall apply to grain
4 purchases where title to the grain transfers from the seller to the buyer within
5 the state of Missouri.

6 3. Unless otherwise specified by contractual agreement, title shall be
7 deemed to pass to the buyer as follows:

8 (1) On freight on board (FOB) origin or freight on board (FOB) basing
9 point contracts, title transfers at time and place of shipment;

10 (2) On delivered contracts, when and where constructively placed, or
11 otherwise made available at buyer's original destination;

12 (3) On contracts involving in-store commodities, at the storing warehouse
13 and at the time of contracting or transfer, and/or mailing of documents, if
14 required, by certified mail, unless and to the extent warehouse tariff, warehouse
15 receipt and/or storage contract assumes the risk of loss and/or damage.

16 4. As used in sections 276.401 to 276.582, unless the context otherwise
17 requires, the following terms mean:

18 (1) "Auditor", a person appointed under sections 276.401 to 276.582 by the
19 director to assist in the administration of sections 276.401 to 276.582, and whose
20 duties include making inspections, audits and investigations authorized under

21 sections 276.401 to 276.582;

22 (2) "Authorized agent", any person who has the legal authority to act on
23 behalf of, or for the benefit of, another person;

24 (3) "Buyer", any person who buys or contracts to buy grain;

25 (4) "Certified public accountant", any person licensed as such under
26 chapter 326;

27 (5) "Claimant", any person who requests payment for grain sold by him
28 to a dealer, but who does not receive payment because the purchasing dealer fails
29 or refuses to make payment;

30 (6) "Credit sales contracts", a conditional grain sales contract wherein
31 payment and/or pricing of the grain is deferred to a later date. Credit sales
32 contracts include, but are not limited to, all contracts meeting the definition of
33 deferred payment contracts, and/or delayed price contracts;

34 (7) "Current assets", resources that are reasonably expected to be realized
35 in cash, sold, or consumed (prepaid items) within one year of the balance sheet
36 date;

37 (8) "Current liabilities", obligations reasonably expected to be liquidated
38 within one year and the liquidation of which is expected to require the use of
39 existing resources, properly classified as current assets, or the creation of
40 additional liabilities. Current liabilities include obligations that, by their terms,
41 are payable on demand unless the creditor has waived, in writing, the right to
42 demand payment within one year of the balance sheet date;

43 (9) "Deferred payment agreement", a conditional grain sales transaction
44 establishing an agreed upon price for the grain and delaying payment to an
45 agreed upon later date or time period. Ownership of the grain, and the right to
46 sell it, transfers from seller to buyer so long as the conditions specified in section
47 276.461 and section 411.325 are met;

48 (10) "Deferred pricing agreement", a conditional grain sales transaction
49 wherein no price has been established on the grain, the seller retains the right
50 to price the grain later at a mutually agreed upon method of price
51 determination. Deferred pricing agreements include, but are not limited to,
52 contracts commonly known as no price established contracts, price later contracts,
53 and basis contracts on which the purchase price is not established at or before
54 delivery of the grain. Ownership of the grain, and the right to sell it, transfers
55 from seller to buyer so long as the conditions specified in section 276.461 and
56 section 411.325 are met;

57 (11) "Delivery date" shall mean the date upon which the seller transfers
58 physical possession, or the right of physical possession, of the last unit of grain
59 in any given transaction;

60 (12) "Department", the Missouri department of agriculture;

61 (13) "Designated representative", an employee or official of the
62 department designated by the director to assist in the administration of sections
63 276.401 to 276.582;

64 (14) "Director", the director of the Missouri department of agriculture or
65 his designated representative;

66 (15) "Generally accepted accounting principles", the conventions, rules and
67 procedures necessary to define accepted accounting practice, which include broad
68 guidelines of general application as well as detailed practices and procedures
69 generally accepted by the accounting profession, and which have substantial
70 authoritative support from the American Institute of Certified Public
71 Accountants;

72 (16) "Grain", all grains for which the United States Department of
73 Agriculture has established standards under the United States Grain Standards
74 Act, Sections 71 to 87, Title 7, United States Code, and any other agricultural
75 commodity or seed prescribed by the director by regulation;

76 (17) "Grain dealer" or "dealer", any person engaged in the business of, or
77 as a part of his business participates in, buying grain where title to the grain
78 transfers from the seller to the buyer within the state of Missouri. "Grain dealer"
79 or "dealer" shall not be construed to mean or include:

80 (a) Any person or entity who is a member of a recognized board of trade
81 or futures exchange and whose trading in grain is limited solely to trading with
82 other members of a recognized board of trade or futures exchange; provided, that
83 grain purchases from a licensed warehouseman, farmer/producer or any other
84 individual or entity in a manner other than through the purchase of a grain
85 futures contract on a recognized board of trade or futures exchange shall be
86 subject to sections 276.401 to 276.582. Exempted herein are all futures
87 transactions;

88 (b) A producer or feeder of grain for livestock or poultry buying grain for
89 his own farming or feeding purposes who purchases grain exclusively from
90 licensed grain dealers or whose total grain purchases from producers during his
91 or her fiscal year do not exceed fifty thousand bushels;

92 (c) Any person or entity whose grain purchases in the state of Missouri

93 are made exclusively from licensed grain dealers **or whose total grain**
94 **purchases from producers during his or her fiscal year do not exceed**
95 **fifty thousand bushels;**

96 (d) A manufacturer or processor of registered or unregistered feed whose
97 total grain purchases from producers during his or her fiscal year does not exceed
98 one hundred thousand dollars and who pays for all grain purchases from
99 producers at the time of physical transfer of the grain from the seller or his or her
100 agent to the buyer or his or her agent and whose resale of such grain is solely in
101 the form of manufactured or processed feed or feed by-products or whole feed
102 grains to be used by the purchaser thereof as feed;

103 (18) "Grain transport vehicle", a truck, tractor-trailer unit, wagon, pup,
104 or any other vehicle or trailer used by a dealer, whether owned or leased by him,
105 to transport grain which he has purchased; except that, bulk or bagged feed
106 delivery trucks which are used principally for the purpose of hauling feed and any
107 trucks for which the licensed gross weight does not exceed twenty-four thousand
108 pounds shall not be construed to be a grain transport vehicle;

109 (19) "Insolvent" or "insolvency", (a) an excess of liabilities over assets or
110 (b) the inability of a person to meet his financial obligations as they come due, or
111 both (a) and (b);

112 (20) "Interested person", any person having a contractual or other
113 financial interest in grain sold to a dealer, licensed, or required to be licensed;

114 (21) "Location", any site other than the principal office where the grain
115 dealer engages in the business of purchasing grain;

116 (22) "Minimum price contract", a conditional grain sales transaction
117 establishing an agreed upon minimum price where the seller may participate in
118 subsequent price gain, if any. Ownership of the grain, and the right to sell it,
119 transfers from the seller to the buyer so long as the conditions specified in section
120 276.461 and section 411.325 are met;

121 (23) "Person", any individual, partnership, corporation, cooperative,
122 society, association, trustee, receiver, public body, political subdivision or any
123 other legal or commercial entity of any kind whatsoever, and any member, officer
124 or employee thereof;

125 (24) "Producer", any owner, tenant or operator of land who has an interest
126 in and receives all or any part of the proceeds from the sale of grain or livestock
127 produced thereon;

128 (25) "Purchase", to buy or contract to buy grain;

129 (26) "Sale", the passing of title from the seller to the buyer in
130 consideration of the payment or promise of payment of a certain price in money,
131 or its equivalent;

132 (27) "Value", any consideration sufficient to support a simple contract.

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Unofficial

Bill

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