

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

SENATE BILL 555

5 By: Senators Caldwell, Maloch
6 By: Representatives M.J. Gray, D. Douglas, Hillman
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS GRAIN DEALERS ACT; TO
10 REGULATE GRAIN DEALERS; TO DECLARE AN EMERGENCY; AND
11 FOR OTHER PURPOSES.
12
13

Subtitle

15 TO CREATE THE ARKANSAS GRAIN DEALERS ACT;
16 TO REGULATE GRAIN DEALERS; AND TO DECLARE
17 AN EMERGENCY.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 2 is amended to add an additional
23 chapter to read as follows:

Chapter 24

Arkansas Grain Dealers Act

2-24-101. Title.

28 This chapter shall be known and may be cited as the "Arkansas Grain
29 Dealers Act".
30

2-24-102. Definitions.

As used in this chapter:

33 (1)(A) "Dealer" means a person that operates as a grain buyer.

34 (B) "Dealer" does not include a person licensed under the
35 following:

36 (i) The United States Warehouse Act, 7 U.S.C. § 241



1 et seq.; or

2 (ii) The Arkansas Public Grain Warehouse Law, § 2-
3 17-201 et seq.;

4 (2) "End user" means a person that is not a reseller of grain
5 and is the ultimate user of the grain;

6 (3) "Facility" means one (1) or more locations in the state that
7 are operated by a grain dealer;

8 (4) "Grain" means corn, wheat, oats, barley, rye, rice, sorghum,
9 soybeans, oil seeds, and other agricultural commodities approved by the State
10 Plant Board; and

11 (5) "Person" means an individual, partnership, corporation,
12 association, or other legal form of business.

13
14 2-24-103. Administration – Exemption.

15 (a) The State Plant Board shall:

16 (1) Administer this chapter; and

17 (2) Create a publicly accessible database of:

18 (A) Dealers licensed under this chapter;

19 (B) Persons licensed under the United States Warehouse
20 Act, 7 U.S.C. § 241 et seq.; and

21 (C) Persons licensed under the Arkansas Public Grain
22 Warehouse Law, § 2-17-201 et seq.

23 (b) An end user is exempt from the requirements of this chapter.

24
25 2-24-104. License required.

26 (a)(1) A dealer shall obtain a license from the State Plant Board
27 under this chapter before entering into a contract for or purchasing grain.

28 (2) A dealer that exists as of the effective date of this
29 chapter has sixty (60) days from the effective date of this chapter to obtain
30 a license.

31 (b)(1) A license is valid from July 1 of the year of application until
32 June 30 of the following year.

33 (2) However, an initial license received between January 1 and
34 June 30 is valid only until June 30 of the year in which the license was
35 obtained.

1 2-24-105. Applications for licenses – Renewal.

2 (a) The State Plant Board shall issue a license to a dealer that
3 satisfies the requirements of this chapter and the rules promulgated by the
4 board.

5 (b) A dealer seeking licensure under this chapter shall submit an
6 application to the board on the form prescribed by the board.

7 (c)(1) A dealer shall renew its license annually as long as the dealer
8 is operating in the state.

9 (2) A dealer shall apply for renewal of a license issued under
10 this chapter by submitting an application for renewal on the form prescribed
11 by the board.

12 (3) An application for renewal shall be received by the board on
13 or before June 30.

14 (4) The board shall renew the license of a dealer that satisfies
15 the requirements of this chapter and the rules promulgated by the board.

16 (d) The board may establish nominal application and renewal fees to
17 offset the costs of administering this chapter.

18 (e) If a dealer does not renew its license by the deadline stated in
19 subsection (c) of this section, then the dealer's license is terminated, and
20 it shall not be reinstated until the dealer submits an application for
21 renewal and meets all other requirements of this chapter and the rules
22 promulgated by the board.

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24 2-24-106. Bond requirement.

25 The State Plant Board may establish a surety bond requirement for
26 dealers based on the volume and size of the dealer's operation similar to the
27 bonding requirements stated in the Arkansas Public Grain Warehouse Law, § 2-
28 17-201 et seq.

29
30 2-24-107. Reporting – Audits and inspections.

31 (a) A dealer shall report to the State Plant Board annually on the
32 form prescribed by the board.

33 (b) The board may audit and inspect each dealer annually.
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35 2-24-108. Violations – Penalties.

36 (a) It is a violation of this chapter to:

1 (1) Operate as a dealer without a license issued under this
2 chapter;

3 (2) Knowingly violate this chapter; or

4 (3) Knowingly refuse to allow inspection of a dealer's premises,
5 books, accounts, or other records during an audit by the State Plant Board
6 under this chapter.

7 (b) A person that commits a violation under subsection (a) of this
8 section is guilty of a Class D felony.

9 (c) A person that negligently violates this chapter upon conviction is
10 guilty of a Class A misdemeanor.

11
12 2-24-109. Suspension of license.

13 (a)(1) The State Plant Board may temporarily suspend a dealer's
14 license without a hearing if the board determines that, based on the
15 information contained in the complaint submitted against a dealer, the public
16 health, safety, or welfare requires immediate action.

17 (2) If the board temporarily suspends a dealer's license under
18 subdivision (a)(1) of this section, the board shall notify the dealer
19 immediately by certified mail of the temporary suspension and the date, time,
20 and location of the hearing to be held under subdivision (a)(3) of this
21 section.

22 (3) If a dealer's license is temporarily suspended under
23 subdivision (a)(1) of this section, a hearing on the suspension of the
24 dealer's license shall be held within ten (10) days of the temporary
25 suspension of the dealer's license.

26 (b)(1) Based on the information contained in the complaint submitted
27 against a dealer, the board may suspend the license of the dealer without a
28 hearing five (5) days after sending written notice by certified mail,
29 nonrestricted delivery, to the dealer if the dealer:

30 (A) Does not have the required bond on file with the
31 board; or

32 (B) Refuses to submit to an audit or inspection by the
33 board under this chapter.

34 (2) A suspension of a dealer's license under subdivision (b)(1)
35 of this section shall not exceed sixty (60) days without a hearing.

36 (c) A hearing under this section and an appeal of the board's decision

1 to suspend a dealer's license under this section is governed by the Arkansas
2 Administrative Procedure Act, § 25-15-201 et seq.

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4 2-24-110. Receivership.

5 (a) Following the suspension of a dealer's license under this chapter,
6 the State Plant Board may file a verified petition in a court of competent
7 jurisdiction requesting the appointment of a receiver to take custody of the
8 assets of the dealer and provide for the disposition of the assets under the
9 supervision of the court.

10 (b) A petition for the appointment of a receiver shall be filed in the
11 county in which the dealer is located.

12 (c) Upon receiving a petition for the appointment of a receiver under
13 this section, a court may issue any temporary orders necessary to preserve or
14 protect the assets in receivership, the value of the assets in receivership,
15 and the rights of the dealer's creditors until a plan of disposition is
16 approved.

17 (d) The board may be appointed as receiver in an action brought under
18 this section.

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20 2-24-111. Cease and desist.

21 The State Plant Board may order a dealer to cease and desist any
22 activity that is in violation of this chapter.

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24 2-24-112. Slow-pay hotline.

25 (a) The State Plant Board shall establish a slow-pay hotline for a
26 person to notify the board that a dealer is more than thirty (30) days late
27 on the dealer's contractual obligation for payment of grain to the person.

28 (b) A dealer shall provide notice to each person from which the dealer
29 purchases grain on the availability of the slow-pay hotline established under
30 this section.

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32 2-24-113. Rules.

33 The State Plant Board shall promulgate rules to implement and
34 administer this chapter.

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36 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that agriculture is an essential
2 part of Arkansas's economy; that protecting Arkansas farmers is in the best
3 interests of the state; that grain dealers must be regulated to protect
4 Arkansas farmers and the state's economy from the devastating financial
5 impact that the failure of one (1) or more of these grain dealers could have
6 on the farmers' financial well-being and the state's economy; and that this
7 act is immediately necessary because failure to adequately regulate these
8 grain dealers could have immediate and far-reaching effects on Arkansas's
9 economy and the financial stability of the state's agriculture community.
10 Therefore, an emergency is declared to exist, and this act being immediately
11 necessary for the preservation of the public peace, health, and safety shall
12 become effective on:

- 13 (1) The date of its approval by the Governor;
- 14 (2) If the bill is neither approved nor vetoed by the Governor,
15 the expiration of the period of time during which the Governor may veto the
16 bill; or
- 17 (3) If the bill is vetoed by the Governor and the veto is
18 overridden, the date the last house overrides the veto.

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