



AN ACT PROVIDING THAT THE DEPARTMENT OF AGRICULTURE MAY STATE A PARTIAL LIST OF FEES FOR INSPECTION, TESTING, AND WEIGHING OF AGRICULTURAL COMMODITIES ON THE PLACARD POSTED BY WAREHOUSE OPERATORS AND COMMODITY DEALERS; AMENDING SECTION 80-4-711, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 80-4-711, MCA, is amended to read:

"80-4-711. Agricultural commodity sampling -- appeal procedure. (1) At the time of delivery of an agricultural commodity to a warehouse operator or commodity dealer for storage or sale, each warehouse operator or commodity dealer shall take a representative sample from each load of agricultural commodity delivered and preserve the sample in a moistureproof container with the owner's name marked on the container. A written agreement must be given to the depositor authorizing the depositor to state a preference of grading facility. The options provided for grading facilities in the agreement must include but may not be limited to the state grain laboratory. The written agreement must specify the time period to which the agreement applies. If the state grain lab is chosen as the grading facility, a composite sample consisting of a minimum of 1 1/2 quarts or 1,050 grams of the representative sample must be submitted directly to the state grain laboratory for analysis as to grade, dockage, protein, and other factors that the laboratory is able to analyze that affect the purchase price. The warehouse operator or commodity dealer shall retain a minimum of 1 1/2 quarts or 1,050 grams of the remaining sample for 60 days.

(2) All fees and other charges associated with the grain sample analysis must reflect as nearly as possible the actual cost of the services.

(3) If a request for a state grain laboratory analysis is not made pursuant to subsection (1) and the depositor, warehouse operator, or commodity dealer is dissatisfied with the results of a private analysis, the depositor, warehouse operator, or commodity dealer may appeal to the state grain laboratory. When an appeal is made, the warehouse operator or commodity dealer shall submit 1 1/2 quarts or 1,050 grams of the

representative sample to the state grain laboratory for appeal analysis.

(4) If the depositor, warehouse operator, or commodity dealer is dissatisfied with the results of a state grain laboratory analysis, as provided in subsection (1) or (3), the depositor, warehouse operator, or commodity dealer may appeal to the FGIS, United States department of agriculture. A FGIS appeal must be made within 10 working days of the state grain laboratory's analysis. The sample for FGIS appeal must be a portion of that agricultural commodity retained by the state grain laboratory when it conducted its analysis. The results on the state grain laboratory appeal sample are final and binding. In the absence of an appeal to FGIS or in the case of an agricultural commodity for which there are no FGIS standards, the state grain laboratory's analysis is final and binding.

(5) Each warehouse operator or commodity dealer shall post in a conspicuous place a placard, issued by the department, stating the procedures provided for in this section and a partial list of the fees established in 80-4-721. The department shall provide space on the placard on which the warehouse operator or commodity dealer is required to list anticipated shipping and handling fees.

(6) All samples submitted for analysis are the property of the state grain laboratory and subject to its disposition.

(7) An agricultural commodity purchased for resale as seed is exempt from the requirements of this section.

(8) A producer of malting barley may by contract waive the right to submit a sample to the state grain laboratory provided in this section."

Section 2. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0368, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 368

INTRODUCED BY FLEMING, LARSEN, FUREY

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