

HOUSE BILL NO. 653

INTRODUCED BY LAMBERT, LANGE, B. OLSON, PETERSON, WITT
BY REQUEST OF THE HOUSE AGRICULTURE STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE GRAIN DEPOSITOR TO STATE A PREFERENCE OF GRADING FACILITY THROUGH A WRITTEN AGREEMENT; PROVIDING THAT THE OPTIONS PROVIDED FOR GRADING FACILITIES IN THE WRITTEN AGREEMENT MUST INCLUDE BUT MAY NOT BE LIMITED TO THE STATE GRAIN LAB; PROVIDING THAT THE WRITTEN AGREEMENT MUST SPECIFY THE TIME PERIOD TO WHICH THE AGREEMENT APPLIES; PROVIDING THAT ALL FEES AND OTHER CHARGES ASSOCIATED WITH THE GRAIN SAMPLE, ~~EXCEPT SHIPPING AND HANDLING, ANALYSIS~~ MUST REFLECT AS NEARLY AS POSSIBLE THE ACTUAL COST OF THE SERVICES; REQUIRING A WAREHOUSE OPERATOR OR COMMODITY DEALER TO POST FEES, INCLUDING ANTICIPATED SHIPPING AND HANDLING FEES; AMENDING SECTIONS 80-4-711 AND 80-4-721, 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, ~~upon written request of the depositor,~~ 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, except shipping and handling, ANALYSIS

must reflect as nearly as possible the actual cost of the services.

~~(2)~~(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.

~~(3)~~(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 ~~(2)~~ (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.

~~(4)~~(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 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.

~~(5)~~(6) All samples submitted for analysis are the property of the state grain laboratory and subject to its disposition.

~~(6)~~(7) An agricultural commodity purchased for resale as seed is exempt from the requirements of this section.

~~(7)~~(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. Section 80-4-721, MCA, is amended to read:

"80-4-721. Fees for inspection, testing, and weighing agricultural commodities -- disposition -- investment. (1) The department shall by rule fix the fees for inspection, testing, and weighing of agricultural commodities.

(2) All fees and other charges fixed by rule, including fees for the inspection, grading, weighing, and protein testing of agricultural commodities, must reflect as nearly as possible the actual cost of the services.

(3) All ~~these~~ fees and charges must be paid to the department and deposited with the state treasurer. The state treasurer shall place all money in the state special revenue fund. Fees deposited in the state special revenue fund must be used to pay approved claims for expenses incurred in inspecting, grading, weighing, and protein testing of agricultural commodities.

(4) The department may direct the board of investments to invest funds from the state special revenue fund pursuant to the provisions of the unified investment program for state funds. The income from the investments must be credited to the proper department account in the state special revenue fund.

(5) All fees collected under this part must be expended for the purposes of this part as provided in Article XII, section 1, of the Montana constitution."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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