



# HOUSE BILL No. 5748

September 14, 1994 Introduced by Reps Randall and Bender and referred to the Committee on Agriculture and Forestry

A bill to amend sections 2 and 5 of Act No 141 of the Public Acts of 1939, entitled as amended "Grain dealers act, section 2 as amended by Act No 238 of the Public Acts of 1992 and section 5 as amended by Act No 33 of the Public Acts of 1982, being sections 285 62 and 285 65 of the Michigan Compiled Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 2 and 5 of Act No 141 of the Public  
2 Acts of 1939, section 2 as amended by Act No 238 of the Public  
3 Acts of 1992 and section 5 as amended by Act No 33 of the Public  
4 Acts of 1982, being sections 285 62 and 285 65 of the Michigan  
5 Compiled Laws, are amended to read as follows

6 Sec 2 As used in this act

1 (a) Farm produce means individually and collectively dry  
 2 edible beans soy beans small grains cereal grains corn grass  
 3 seeds, hay, and legume seeds in a raw or natural state, produced  
 4 or grown for storage or purchase by a person

5 (b) Person means a person, partnership, firm, corporation,  
 6 association, cooperative organization, or other legal entity  
 7 operating within this state that buys, exchanges or sells farm  
 8 produce grown, stored, handled, or shipped either into or out of  
 9 this state

10 (c) "Grain dealer means a person engaged in the business of  
 11 receiving, buying, exchanging, selling, or storing farm produce,  
 12 but does not include

13 (i) A grower or producer selling farm produce that the  
 14 grower or producer actually produces

15 (ii) A person who buys farm produce on a cash basis as a  
 16 feeder of the person s own livestock or poultry

17 (iii) A retailer who sells farm produce if the sales are an  
 18 incidental portion of the retailer s business

19 (iv) A person who ~~purchases~~ DOES ALL OF THE FOLLOWING

20 (A) PURCHASES farm produce from a nongrower ~~---purchases---~~

21 (B) PURCHASES farm produce on a cash basis ~~---does---~~

22 (C) DOES not take possession of the farm produce ~~---and is---~~

23 (D) IS not required to offer warehouse receipts, price later  
 24 agreements, or ~~scale tickets~~ ACKNOWLEDGMENT FORMS

25 (d) 'Director means the director of the state department of  
 26 agriculture and the director s authorized agents and  
 27 representatives

1 (e) Price later agreement means a written agreement by  
2 which a grain dealer takes title to farm produce for a sale price  
3 which is not fixed at the time of delivery

4 (f) "Acknowledgment form" means a written receipt issued by  
5 a grain dealer or his or her authorized representative to a farm  
6 produce owner which identifies the farm produce being transferred  
7 from the physical jurisdiction of the owner to the grain dealer  
8 'Scale ticket' is synonymous with acknowledgment form if used to  
9 describe weighed quantities of farm produce

10 (g) "Cash sale" means farm produce whose title is trans-  
11 ferred only after a price is decided upon not later than the time  
12 of delivery

13 (H) "CASH BASIS MEANS A METHOD OF OPERATION WHERE A PERSON  
14 RECEIVES, BUYS, EXCHANGES, OR SELLS FARM PRODUCE FROM A PRODUCER  
15 OR GROWER UNDER CIRCUMSTANCES IN WHICH FULL PAYMENT AT A PRICE  
16 CERTAIN IS MADE BY THE PERSON NOT LATER THAN THE TIME OF DELIVERY  
17 AND TITLE TO THE FARM PRODUCE PASSES FROM THE PRODUCER OR GROWER  
18 TO THE PERSON OR ANOTHER LEGAL ENTITY

19 (I) ~~(h)~~ "Grain bank" or "feed bank" means the storage of  
20 farm produce on a warehouse receipt intended to be, periodically,  
21 partially withdrawn by the owner

22 (J) ~~(i)~~ 'Warehouse receipt' means a written acknowledgment  
23 issued by the grain dealer to a farm produce owner upon accep-  
24 tance of the farm produce for storage in the grain dealer's  
25 facility

26 (K) ~~(j)~~ "Financial institution means a commercial bank  
27 whose deposits are insured by the federal deposit insurance

1 or a national bank for cooperatives subject to the farm credit  
2 act of 1971, Public Law 92-181, 85 Stat 583

3       Sec 5   (1) A ~~grain dealer~~ PERSON shall ~~secure~~ NOT ACT  
4 OR OFFER TO ACT AS A GRAIN DEALER WITHOUT annually SECURING A  
5 LICENSE from the director ~~a license to engage in the business~~  
6 ~~of receiving, buying, exchanging, selling, or storing farm~~  
7 ~~produce~~ A grain dealer engaging in the business without a  
8 ~~license shall be guilty of a misdemeanor, and each day of opera-~~  
9 ~~tion as a grain dealer without a license shall be a separate and~~  
10 ~~distinct misdemeanor~~ A grain dealer shall not be issued a  
11 license by the director ~~if~~ UNLESS the grain dealer ~~is without~~  
12 HAS allowable net assets of not less than \$20,000 00

13       (2) A PERSON MAY ACT OR OFFER TO ACT AS A GRAIN DEALER WITH-  
14 OUT BEING LICENSED UNDER THIS ACT IF THE PERSON MEETS BOTH OF THE  
15 FOLLOWING CRITERIA

16       (A) OPERATES ON A CASH BASIS

17       (B) IS NOT REQUIRED TO OFFER WAREHOUSE RECEIPTS   PRICE LATER  
18 AGREEMENTS, OR SCALE TICKETS

19       (3) A PERSON ACTING OR OFFERING TO ACT AS A GRAIN DEALER  
20 WITHOUT BEING LICENSED UNDER THIS ACT OR WITHOUT BEING EXEMPT  
21 FROM LICENSURE UNDER THIS ACT IS GUILTY OF A MISDEMEANOR   EACH  
22 DAY OF OPERATION AS A GRAIN DEALER IN VIOLATION OF THIS ACT IS A  
23 SEPARATE AND DISTINCT MISDEMEANOR