



HOUSE BILL No. 4333

February 7, 1995, Introduced by Reps. Randall, Gnodtke, Alley, Gernaat, Geiger, Horton, McBryde and DeMars 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 corporation or a national bank for cooperatives subject to the
2 farm credit 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.