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Requirements for Grain Dealers

State of Michigan

Penalties

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Requirements for Grain Dealers

STATE OF MICHIGAN

Current with legislation from the 2014 Reg.Sess..

M.C.L.A. 285.83

285.83. Offenses and penalties for violations of act generally; requirement of restitution

- (1) Unless otherwise provided in this act, a person who violates this act is guilty of a misdemeanor and is also liable for all damages sustained by a depositor for farm produce handled in violation of this act. In an enforcement action, a court may order restitution to a party injured by the handling of farm produce in violation of this act in addition to any other penalty provided by law.
- (2) A grain dealer who violates this act or a rule promulgated under this act is guilty of a misdemeanor and shall be fined not more than \$5,000.00 for each offense.
- (3) A grain dealer who intentionally violates this act or a rule promulgated under this act is guilty of a misdemeanor and shall be fined not more than \$10,000.00 for each offense. The court may allow the department to recover reasonable costs of investigation incurred in a prosecution resulting in a conviction for a violation described in this subsection.
- (4) A person who does any of the following is guilty of a felony punishable by a fine of not more than \$20,000.00 or by imprisonment for not more than 5 years, or both:
 - (a) Intentionally alters or destroys a warehouse receipt or price later agreement or a record of warehouse receipts or price later agreements required by this act.
 - (b) Intentionally falsifies a position sheet, or issues a warehouse receipt if the farm produce or commodities enumerated in the warehouse receipt is not in fact in the facility stated in the warehouse receipt.
 - (c) With intent to defraud, issues a second or other warehouse receipt or agreement for farm produce if a valid warehouse receipt or agreement is outstanding and in force for the farm produce.
 - (d) While a valid warehouse receipt is outstanding and in force and without the consent of the holder of the warehouse receipt, sells, pledges, mortgages, encumbers, or transfers farm produce in violation of this act or permits the sale, pledge, mortgage, encumbrance, or transfer of farm produce in violation of this act.
 - (e) Knowingly receives farm produce from a person in violation of subdivision (d).
 - (f) Intentionally files a false daily violation report.
 - (g) Intentionally maintains false or misleading records and accounts required under section 16.

M.C.L.A. 285.84

285.84. Administrative fines and warnings

- (1) In addition to any other penalty provided by law, a person who individually, or by the action of his or her agent or employee, or as the employee or agent of another, violates this act or a rule promulgated under this act is subject to 1 of the following administrative fines:
 - (a) For a first violation, a fine of not less than \$50.00 or more than \$1,000.00, plus actual costs of the investigation and the amount of any economic benefit associated with the violation.
 - (b) For a second violation within 2 years from the date of the first violation, a fine of not less than \$100.00 or more than \$5,000.00, plus actual costs of the investigation and the amount of any economic benefit associated with the violation.
 - (c) For a third violation within 2 years from the date of the first violation, a fine of not less than \$500.00 or more than \$10,000.00, plus actual costs of the investigation and the amount of any economic benefit associated with the violation.
- (2) Upon the request of a person to whom the director has assessed an administrative fine under subsection (1), the director shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
- (3) If the director finds that a violation of this act has occurred despite the exercise of due care, the director may issue a warning instead of imposing an administrative fine under subsection (1).
- (4) The director may advise the attorney general of the failure of a person to pay an administrative fine imposed under subsection (1), and the attorney general may bring an action in a court of competent jurisdiction to recover the fine.
- (5) The director may revoke the license of a licensee who does not pay an administrative fine imposed under subsection (1).
- (6) An administrative fine, costs, and the recovery of any economic benefit associated with a violation collected by the department under this section shall be retained by the department and used pursuant to legislative appropriation for the administration of this act.

M.C.L.A. 285.85

285.85. Injunctive relief; application of criminal penalties to public officials engaged in performance of official duties; effect of amendments upon existing civil or criminal liability; right to administrative hearing; preemption of local ordinances, regulations, or rulings; disclosure of identity of individual submitting information regarding alleged or threatened violation by grain dealer

- (1) The director may bring an action to enjoin the violation or threatened violation of this act or a rule promulgated under this act in a state court in the county in which the violation occurs or is threatened to occur or in Ingham county.
- (2) The penalties provided for a violation of this act do not apply to a public official of this state or the federal government engaged in the performance of his or her official duties in administering the laws, rules, or regulations of this state or the federal government.
- (3) Enactment of this amendatory act does not terminate or in any way modify any civil or criminal liability under this act in existence on or before the effective date of the amendatory act adding this section.¹
- (4) A person aggrieved by an order of the director issued under this act may request a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) Beginning on the effective date of the amendatory act that added this section, this act preempts and supersedes any local ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on grain dealers than those contained in this act. A local unit of government shall not adopt or enforce an ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on grain dealers than those contained in this act.

(6) The identity of an individual submitting information regarding an alleged violation or threatened violation of this act by a grain dealer is confidential and is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that the identity of the individual may be disclosed in any of the following circumstances:

- (a) With the written consent of the individual.
- (b) Pursuant to a court proceeding.
- (c) The disclosure is made to the director or an agent or employee of the department.
- (d) The disclosure is made to an agent or employee of a state or the federal government authorized by law to see the identity of the individual.