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Requirements for Grain Dealers

State of Montana

Penalties

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Requirements for Grain Dealers

STATE OF MONTANA

Current with legislation from the 2013 Regular Sess. and the 2012 general election

MCA 80-4-426 **80-4-426. Duty to prosecute**

A county attorney who has appropriate jurisdiction and to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecute without delay in a court of competent jurisdiction.

MCA 80-4-427 **80-4-427. Injunction**

If a person without a license is found to have engaged in any business for which a license is required under parts 5 and 6 of this chapter, the court shall enjoin that person from further business until the person has been licensed. It is not necessary that the department show that an individual has been injured by the actions complained of in order to issue the injunction. The procedure for injunctive relief is the same as any other action for an injunction under Title 27. The department may, in its discretion, file the action in the first judicial district court. The injunction provided by this section is an additional remedy to the criminal penalty provided for in 80-4-428.

MCA 80-4-428 **80-4-428. Penalty for operating without license--misrepresentation**

- (1) A person acting as a warehouse operator or a commodity dealer without a license or in any way representing by action or words that the person is a warehouse operator or a commodity dealer when not licensed violates the provisions of Title 80, chapter 4, parts 5 and 6, is guilty of a felony, and is punishable by imprisonment for not more than 10 years or by a fine of not more than \$10,000, or both.
- (2) A person who issues or aids in the issuance of a fraudulent receipt for any commodity is guilty of a felony and is punishable by imprisonment for not more than 10 years or by a fine of not more than \$10,000, or both.
- (3) A person who knowingly submits false information to or who knowingly withholds information from the department when that information is required to be submitted is guilty of a felony.

MCA 80-4-429
80-4-429. Penalty

- (1) Except as otherwise provided, a person who violates any provision of parts 4 through 7 of this chapter or rules promulgated under parts 4 through 7 or who impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the director or an authorized representative in the performance of a duty under parts 4 through 7 of this chapter is guilty of a misdemeanor.
- (2) A person who refuses to permit inspection of licensed premises, books, accounts, records, or other documents required by parts 4 through 7 of this chapter or who uses a scale weight ticket or purchase contract that fails to satisfy the requirements of parts 4 through 7 of this chapter is guilty of a misdemeanor.
- (3) A person acting as a commodity dealer or warehouse operator who knowingly sells warehouse-receipted agricultural commodities that the person is not authorized to sell or who fails to pay for purchased agricultural commodities is guilty of a felony.
- (4) A person exempted from licensure as a commodity dealer under the provisions of 80-4-402(5)(b)(vi) who fails to pay in full all amounts due to a producer for the sale of agricultural commodities is guilty of a felony and is also subject to any additional administrative penalty authorized by this chapter.
- (5) A person is guilty of a felony if that person knowingly delivers to a commodity dealer or warehouse operator or upon the exercise of reasonable diligence should have known of the delivery to that person of an agricultural commodity that contains:
 - (a) a nitrogen fertilizer added to harvested grain;
 - (b) a poisonous, deleterious, or other substance not registered or approved by federal or state statutes, regulations, or rules; or
 - (c) a registered or approved substance that has not been used or applied according to label directions or other government standards.

MCA 80-4-612
80-4-612. Commodity dealer defaults--remedies

- (1) If the department finds that a commodity dealer has failed to comply with the terms of a written contract or has failed to pay for a commodity purchase under an oral agreement in the manner and within the time provided in 80-4-608, the department may petition the district court of the first judicial district, Lewis and Clark County, for an order authorizing the department to seize and take possession of:
 - (a) any agricultural commodities in the facilities owned, operated, or controlled by the commodity dealer;
 - (b) all books, papers, and property used in connection with the operation of the commodity dealer business; and
 - (c) any material that pertains in any way to that business.
- (2) If during or after an audit or at any other time the department has evidence that the commodity dealer is insolvent or is unable to satisfy the claims of all commodity dealer creditors covered by the bond, the department may petition the district court of the first judicial district, Lewis and Clark County, for the appointment of the department to operate or liquidate the business of the commodity dealer.
- (3) All necessary expenses incurred by the department in carrying out the provisions of this part may

be recovered at the discretion of the department from:

(a) the bond;

(b) the assets of the licensee;

(c) the agricultural commodities delivered for purchase but not yet paid for; or

(d) in a separate civil action brought by the department in the first judicial district court.

(4) The department is authorized to include as part of the recoverable expenses the cost of adequate liability insurance necessary to protect the department, its officers, and others engaged in carrying out the provisions of this part.