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Requirements for Grain Dealers

State of Tennessee

Licensing

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Requirements for Grain Dealers

STATE OF TENNESSEE

Current with legislation from the 2014 Second Regular Sess.

T. C. A. § 43-32-103

§ 43-32-103. Federally licensed warehouses; application of law; filing copies of licenses

Any commodity warehouse licensed under the United States Warehouse Act shall be subject to this chapter. However, any federally licensed commodity warehouse that meets the minimum requirements of the federal act shall be in compliance with the requirements of this part. All public commodity warehouses licensed under the United States Warehouse Act shall file with the commissioner a copy of their current license and a copy of all subsequent licenses or renewals so as to always have a copy of a current license on file with the commissioner.

T. C. A. § 43-32-105

§ 43-32-105. Licenses and permits; applications; fees; posting

- (a) No person shall engage in business as a commodity dealer or warehouseman in the state of Tennessee without a license therefor issued by the department.
- (b) Application for a license to engage in business as a commodity dealer or warehouseman shall be filed with the department and shall contain information and be in a form as prescribed by the department by lawfully promulgated rule.
- (c) The application for an initial license may be filed at any time prior to beginning business as a commodity dealer or warehouseman. However, the license shall terminate ninety (90) days after the close of the commodity dealer's or warehouseman's fiscal year.
- (d) The application for a renewal of a license shall be filed with the department annually within ninety (90) days after the close of the commodity dealer's or warehouseman's last completed fiscal year or within such further time, not exceeding sixty (60) days, as the department, upon application, may allow.
- (e) For all commodity dealer or warehouseman licenses, with the exception of incidental commodity dealers, nonsecured, the application shall be accompanied by a financial statement setting forth information as prescribed by the commissioner by lawfully promulgated rule.
- (f) The application for a license to operate as a commodity dealer or warehouseman, as defined in this chapter, or a renewal thereof, shall be accompanied by a filing fee of one hundred fifty dollars (\$150). The application for a license to operate as an incidental commodity dealer as defined in this chapter, or a renewal thereof, shall be accompanied by a filing fee of fifty dollars (\$50.00).
- (g) The license or renewal thereof issued by the department under this section shall be posted in the principal office of the licensee in this state. A certificate shall be posted in each location listed on a licensee's application where the licensee engages in the business of buying or storing commodities. In the case of a licensee operating a truck or tractor trailer unit, the licensee is required to have a

certificate that the license is in effect, and that a bond or certificate of deposit has been filed, carried in each truck or tractor trailer unit used in connection with the purchase of commodities from producers. Upon request of a licensee and payment of the fee therefor, the department shall issue to the licensee a certificate that a license has been issued or renewed and a bond filed as required by this chapter.

(h) The license issued to an incidental commodity dealer, nonsecured shall clearly state: "Producers are not eligible to receive indemnification from the Tennessee Grain Indemnity Fund if payment is not made for commodities delivered to this dealer." Additionally, this statement shall also be posted adjacent to the license issued to the dealer in the location required by this part. The notice shall be in print no smaller than two inches (2") in letter height. This statement shall also be placed on the receipt or scale ticket issued to the seller, with a place for the seller's signature provided on each receipt or scale ticket. The signature of the seller or the seller's representative shall be affixed to each receipt or scale ticket.

T. C. A. § 43-32-107

§ 43-32-107. Inspections and inspectors; suspension or revocation of licenses

(a) The department shall examine or inspect each licensed commodity dealer or warehouseman at least once each calendar year. The department may inspect the premises used by any commodity dealer or warehouseman in the conduct of business at any time, and the books, accounts, records and papers of every licensed commodity dealer or warehouseman shall at all times during business hours be subject to inspection by the department. Each commodity dealer or warehouseman may also be required to make such reports of activities, obligations, and transactions as deemed necessary by the department to protect the producer as set forth in the rules and regulations.

(b) If a commodity dealer or warehouseman violates any of the provisions of this chapter, that person's license and certificate of license may be removed from that person's premises by any department employee charged with the enforcement of this chapter and returned to the department. This removal shall constitute a suspension of the license, and the licensee may request a hearing before the commissioner within ten (10) days in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) If the department finds that a commodity dealer is licensed as a commodities warehouse under the United States Warehouse Act and does not satisfy the requirements of part 2 of this chapter, the commissioner shall suspend or revoke the dealer's license until such time as the commodities warehouse complies with the Tennessee Commodity Producer Indemnity Act, compiled in part 2 of this chapter.

(d) If any court of competent jurisdiction issues any order restraining, overturning or modifying any order of the department that suspends or revokes a commodity dealer's or warehouseman's license, the department, its officers, employees and agents shall be held harmless from any liabilities or financial obligations arising out of the operations of the commodity dealer or warehouseman while operating under the court order.

T. C. A. § 43-32-109

§ 43-32-109. Suspension or revocation of licenses; violations; penalties; injunctions

(a) With the exception of incidental commodity dealers, nonsecured, failure of a commodity dealer or warehouseman to file a bond or certificate of deposit and to keep the bond or certificate of deposit in force or to maintain assets adequate to assure payment to producers for commodities purchased from or stored for them shall be grounds for the suspension or revocation of a license issued under this chapter.

(b) Any person who engages in business as a commodity dealer or warehouseman without securing a license, or who does not have a valid license or is in violation of this chapter or the rules and regulations promulgated under this chapter, or who impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the commissioner or the commissioner's duly authorized agent in the performance of that officer's duty in connection with this chapter or its rules and regulations, or any commodity dealer or warehouseman, or any officer, agent or employee of a commodity dealer or warehouseman, who refuses to permit inspection of that person's premises, books, accounts, or records as provided in this chapter commits a Class A misdemeanor. In case of a continuing violation or violations, each day that each violation occurs constitutes a separate and distinct offense.

(c) Any commodity dealer or warehouseman, or officer, agent, or employee of a commodity dealer or warehouseman, who withholds records, keeps or files false records or who inaccurately alters records or presents to the department any materially false records commits a Class E felony.

(d) It is the duty of each district attorney general to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in the appropriate court without delay. Before the commissioner reports a violation for prosecution, the commissioner may give the commodity dealer or warehouseman, or the officer, agent or employee of the commodity dealer or warehouseman, an opportunity to present such person's views at a hearing.

(e) The commissioner may file a complaint and apply for, and the appropriate court may grant, a temporary restraining order or preliminary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rules and regulations promulgated under this chapter, notwithstanding the existence of other judicial remedies. Any such injunction may be entered without notice and without bond.

(f) The commissioner may prohibit a commodity dealer or warehouseman from disposing of any commodities owned, in whole or in part, or held or in that person's possession, whether owned in whole or in part, or may prohibit anyone from removing any commodities in which the commodity dealer or warehouseman or producers from which that person has purchased commodities have an interest; and shall have authority for the disposition of the commodities to carry out the intent of this chapter.