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Requirements for Grain Dealers:

Missouri



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A National Agricultural Law Center Research Publication
Requirements for Grain Dealers: Missouri

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- 1) Licensing: [Mo. Rev. Stat. §§ 276.406 to .423](#); [.451 to .456](#); [.491 to .496](#); [.506 to .511](#); [.531](#); [.571](#); [.582](#)
- 2) Bonding: [Mo. Rev. Stat. §§ 276.421](#); [.426 to .441](#); [.576 to .581](#)
- 3) Auditing: [Mo. Rev. Stat. §§ 276.421 to .423](#); [.471 to .476](#); [.481](#)
- 4) Indemnity Fund:
- 5) Failure/Liquidation: [Mo. Rev. Stat. § 276.501](#)
- 6) Prompt Payment: [Mo. Rev. Stat. § 276.461](#)
- 7) Penalties: [Mo. Rev. Stat. §§ 276.406](#); [.421](#); [.486](#); [.501](#); [.536](#); [.582](#)
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Mo. Rev. Stat. Ch. 276

Current through 2020 Second Regular Session of the 100th General Assembly.

276.010. Stockyard deemed public market and subject to law

Any stockyards in the state of Missouri, maintained for the purpose of receiving cattle, hogs or sheep to be bought, sold or exchanged, is hereby declared to be a public market, and any person, firm or corporation maintaining such public market, or any person, firm or corporation buying, selling or exchanging any cattle, hogs or sheep at such public market, shall, in maintaining, or in buying, selling or exchanging at such public market, be subject to the provisions of sections 276.010 to 276.080.

276.020. Associations to operate public market--rights of members

Persons, firms and corporations buying, selling or exchanging at such public market shall have the right to associate themselves together in an association or organization, and such association or organization may make and enforce reasonable rules and regulations for the government of the association or organization and for the government of its members, in relation to their buying, selling or exchanging at such public market, but it shall be unlawful for any such association or organization, or for any officer or officers thereof, to make any order, rule, regulation or bylaw limiting the right of any member of the association or organization to distribute, in whatever manner and at whatever times the member may desire, to the persons composing any partnership in which the member is financially interested or to the shareholders of any corporation or cooperative association in which such member is a shareholder, the profits of such member to the persons composing such partnership or to the shareholders of such corporation or cooperative association, in proportion to the quantity of cattle, hogs or sheep

shipped to or from such member by the persons composing such partnership or the shareholders of such corporation or cooperative association, and any such order, rule, regulation or bylaw now or hereafter made, promulgated or adopted shall be invalid and void.

276.030. Unlawful to refuse membership to any applicant--subject to criminal and civil laws

It is hereby declared unlawful for any such association or organization to refuse membership or to unreasonably delay the granting of membership in such association or organization to any applicant for membership because of the manner, times or method in which such applicant intends to or does distribute the profits of such applicant to the persons composing any partnership in which the applicant is financially interested or to the shareholders of any corporation or cooperative association in which the member is a shareholder, and any refusal on the part of such association or organization to admit to membership or any unreasonable delay in admitting to membership any applicant for membership who intends to or does distribute to the persons composing any partnership in which the applicant is financially interested or to the shareholders of any corporation or cooperative association in which such applicant is a shareholder, the profits of such applicant to the persons composing such partnership or to the shareholders of such corporation or cooperative association, in proportion to the quantity of cattle, hogs or sheep shipped to or from such member by the persons composing such partnership or the shareholders of such corporation or cooperative association, shall be prima facie evidence that such refusal or such unreasonable delay is because such applicant for membership intends to or does so distribute the profits of such applicant, and any such applicant for membership shall have the right to have the action of such association or organization, in refusing or unreasonably delaying the issuance of said membership, summarily reviewed by the circuit court by filing therein a petition praying the circuit court to cause such association or organization to show cause why it has refused or unreasonably delayed the issuance of said membership, and if, upon the trial, such association or organization fails to show some lawful and reasonable cause for refusing or unreasonably delaying the issuance of said membership to such applicant for membership, then the circuit court shall, by proper order, compel the issuance of said membership to such applicant; provided, that any limitation fixed by such association or organization, or by the members thereof, as to the number of members admitted to membership therein, shall not be a lawful or a reasonable cause for refusing or unreasonably delaying the issuance of membership to such applicant for membership; and provided further, that the review provided for in this section shall be merely cumulative and shall in no way relieve such association or organization, or any member thereof, from the criminal or civil proceedings provided for in sections 276.010 to 276.080.

276.040. Unlawful to discriminate

It is hereby declared unlawful for any person, firm or corporation maintaining any such public market to discriminate, in any manner whatever, against any person, firm or corporation buying, selling or exchanging cattle, hogs or sheep at such public market.

276.050. Agreement limiting distribution of profits by members prohibited

It is hereby declared unlawful for any two or more members of any association or organization organized or maintained by persons, firms or corporations buying, selling or exchanging cattle, hogs or sheep at such public market, to enter into any arrangement, understanding or agreement which shall limit, or have the effect of limiting, any member in the exercise of the right to distribute, in such manner and at such times as the member may desire, to the persons composing any partnership in which the member is financially interested or to the shareholders of any corporation or cooperative association in which such member is a shareholder, the profits of such member to the persons composing such partnership or to the shareholders of such corporation or cooperative association, in proportion to the quantity of cattle, hogs or sheep shipped to or from such member by the persons composing such partnership or the shareholders of such corporation or cooperative association, or which arrangement, understanding or agreement shall discriminate or have the effect of discriminating or which shall cause discrimination or tend to cause discrimination against such member because such member does so distribute the profits of such member; and the fact that any arrangement, understanding or agreement is made between two or more members of such association or organization which does or tends to discriminate against or which causes or tends to cause discrimination against any member who does so distribute the member's profits shall be prima facie evidence that such arrangement, understanding or agreement was made for the purpose of discriminating or causing discrimination against such member because such member does so distribute the profits of said member.

276.060. Attorney general to bring suit in cases of violation

It is hereby made the duty of the attorney general of the state of Missouri, upon being informed that any of the provisions of sections 276.010 to 276.080 have been violated, to bring suit in the proper court against any person, firm or corporation so violating sections 276.010 to 276.080, to procure the injunction provided for in section 276.070, and, upon proof that the defendant in said suit has violated any provision of sections 276.010 to 276.080, the court shall issue its permanent injunction against said defendant, in accordance with section 276.070.

276.070. Violation may be enjoined

If any person, firm or corporation maintaining such public market, or buying, selling or exchanging cattle, hogs or sheep at such public market, shall violate any provision of sections 276.010 to 276.080, such person, firm or corporation shall be permanently enjoined from maintaining, directly or indirectly, such public market, and from buying, selling or exchanging any cattle, hogs or sheep at such public market.

276.080. When deemed guilty of a misdemeanor--subject to fine

Any person, firm or corporation violating any provision of sections 276.010 to 276.080 shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined for each offense not less than one thousand dollars nor more than ten thousand dollars.

276.090. Grain exchange deemed public market and subject to law

Any regular place of business or trading room commonly known or designated as a board of trade or grain exchange maintained or operated by any organization, of whatever form or kind, for the members of such organization, in which said place of business or trading room members of such organization sell, buy or exchange grain or other farm products for themselves or others, is hereby declared to be a public market, and said public market, and the organization maintaining or operating the same, and the members of said organization, in buying, selling or exchanging in said market, shall be subject to the provisions of sections 276.090 to 276.150.

276.100. Organization may make and enforce bylaws and rules

Any such organization may make and enforce reasonable bylaws and rules for the conduct of its members but such organization shall not make any order, rule, regulation or bylaws limiting the right of any member of the organization to distribute, in whatever manner and at whatever times the member may desire, to the persons composing any partnership in which the member is financially interested or to the shareholders of any corporation or cooperative association in which such member is a shareholder the¹ profits of such member to the persons composing such partnership or to the shareholders of such corporation or cooperative association in proportion to the quantity of grain or other farm products shipped to such member by the persons composing such partnership or the shareholders of such corporation or cooperative association and any such order, rule, regulation or bylaw now nor hereafter, made, promulgated or adopted shall be invalid and void.

276.110. Unlawful to limit right to distribute profits--prima facie evidence of discrimination

It is hereby declared unlawful for any two or more members of such organization to enter into any arrangement, understanding or agreement which shall limit, or have the effect of limiting, any member in the exercise of the right to distribute, in such manner and at such times as the member may desire, to the persons composing any partnership in which the member is financially interested or to the shareholders of any corporation or cooperative association in which such member is a shareholder, the profits of such member to the persons composing such partnership or to the shareholders of such corporation or cooperative association in proportion to the quantity of grain or other farm products shipped to such member by the persons composing such partnership or the shareholders of such corporation or cooperative association, or which arrangement, understanding or agreement shall discriminate or have the effect of discriminating or which shall cause discrimination or tend to cause discrimination against such member because such member does so distribute the profits of such member; and the fact that any arrangement, understanding or agreement is made between two or more members of such organization which does or tends to discriminate against or which causes or tends to cause discrimination against any member who does so distribute the member's profits, shall be prima facie evidence that such arrangement, understanding or agreement was made for the purpose of discriminating or causing discrimination against such member because such member does so distribute the profits of said member.

276.120. Unlawful to refuse membership or delay granting same--circuit court may compel issuance of membership, when

It is hereby declared unlawful for any such organization to refuse membership or to unreasonably delay the granting of membership in such organization to any applicant for membership because of the manner, times or method in which such applicant intends to or does distribute the profits of such applicant to the persons composing any partnership in which the applicant is financially interested or to the shareholders of any corporation or cooperative association in which the member is a shareholder, and any refusal on the part of such organization to admit to membership or any unreasonable delay in admitting to membership any applicant for membership who intends to or does distribute to the persons composing any partnership in which such applicant is financially interested or to the shareholders of any corporation or cooperative association in which such applicant is a shareholder, the profits of such applicant to the persons composing such partnership or to the shareholders of such corporation or cooperative association in proportion to the quantity of grain or other farm products shipped to such member by the persons composing such partnership or the shareholders of such corporation or cooperative association, shall be prima facie evidence that such refusal or such unreasonable delay is because such applicant for membership intends to or does so distribute its profits, and any such applicant for membership shall have the right to have the action of such organization, in refusing or unreasonably delaying the issuance of said membership, summarily reviewed by the circuit court, by filing therein a petition praying the circuit court to cause such organization to show cause why it has refused or unreasonably delayed the issuance of said membership, and if, upon the trial, said organization fails to show some lawful and reasonable cause for refusing or unreasonably delaying the issuance of said membership to such applicant for membership, then the circuit court shall, by proper order, compel the issuance of said membership to such applicant; provided, that any limitation fixed by such organization, or by the members thereof, as to the number of members admitted to membership therein, shall not be a lawful or a reasonable cause for refusing or unreasonably delaying the issuance of membership to such applicant for membership; and provided further, that the review provided for in this section shall be merely cumulative and shall in no way relieve such organization, or any member thereof, from the criminal or civil proceedings provided for in sections 276.090 to 276.150.

276.130. Attorney general to bring suit--court may issue injunction

It is hereby made the duty of the attorney general of the state of Missouri, upon being informed that any of the provisions of sections 276.090 to 276.150 have been violated, to bring suit in the proper court against any such organization, person, firm or corporation to procure the injunction provided for in section 276.140, and upon proof that the defendant in such suit has violated any provision of sections 276.090 to 276.150, the court shall issue its permanent injunction against such defendant, in accordance with section 276.140.

276.140. Violation is cause for enjoining operation

If any organization of whatever form or kind, maintaining or operating a public market, as herein defined, shall violate any provision of sections 276.090 to 276.150, such organization shall be permanently enjoined from maintaining or operating, directly or indirectly, such public market,

and any person, firm, company or corporation violating any provision of sections 276.090 to 276.150 shall be permanently enjoined from buying, selling or trading, directly or indirectly, at such public market.

276.150. Violation a misdemeanor

Any person, firm, company or corporation violating any provision of sections 276.090 to 276.150 shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined for each offense not less than one thousand dollars nor more than ten thousand dollars.

276.160. Poultry and egg exchanges deemed public markets and subject to law

Any regular place of business or trading room commonly known or designated as a poultry and egg exchange, or egg and poultry exchange, or produce exchange, maintained or operated by any organization, of whatever form or kind, for the members of such organization, in which said place of business or trading room members of such organization sell, buy, exchange, or bargain for poultry and eggs or other farm products for themselves or others, is hereby declared to be a public market, and said public market, and the organization maintaining or operating the same, and the members of said organization, in buying, selling or exchanging in said market, shall be subject to the provisions of sections 276.160 to 276.230.

276.170. Organizations may make and enforce bylaws and rules

Any such organization may make and enforce reasonable bylaws and rules for the conduct of its members, but such organization shall not make any order, rule, regulation or bylaw limiting the right of any member of the organization to distribute in whatever manner and at whatever times the member may desire to the persons composing any partnership in which the member is financially interested or to the shareholders of any corporation or cooperative association in which such member is a shareholder, the¹ profits of such member to the persons composing such partnership or to the shareholders of such corporation or cooperative association, in proportion to the quantity of poultry and eggs or other farm products shipped to such member by the persons composing such partnership or the shareholders of such corporation or cooperative association, and any such order, rule, regulation or bylaw now or hereafter made, promulgated or adopted shall be invalid and void.

276.180. Unlawful to limit the right to distribute profits--prima facie evidence of discrimination

It is hereby declared unlawful for any two or more members of such organization to enter into any arrangement, understanding or agreement which shall limit, or have the effect of limiting, any member in the exercise of the right to distribute, in such manner and at such times as the member may desire, to the persons composing any partnership in which the member is financially interested or to the shareholders of any corporation or cooperative association in which such member is a shareholder, the profits of such member to the persons composing such partnership or to the shareholders of such corporation or cooperative association in

proportion to the quantity of poultry and eggs or other farm products shipped to such member by the persons composing such partnership or the shareholders of such corporation or cooperative association, or which arrangement, understanding or agreement shall discriminate or have the effect of discriminating or which shall cause discrimination or tend to cause discrimination against such member because such member does so distribute the profits of such member; and the fact that any arrangement, understanding or agreement is made between two or more members of such organization which does or tends to discriminate against or which causes or tends to cause discrimination against any member who does so distribute the member's profits, shall be prima facie evidence that such arrangement, understanding or agreement was made for the purpose of discriminating or causing discrimination against such member because such member does so distribute the profits of said member.

276.190. Unlawful to refuse membership or delay granting same--circuit court may compel issuance of membership--when

It is hereby declared unlawful for any such organization to refuse membership or to unreasonably delay the granting of membership in such organization to any applicant for membership because of the manner, times or method in which such applicant intends to or does distribute the profits of such applicant to the persons composing any partnership in which the applicant is financially interested or to the shareholders of any corporation or cooperative association in which the member is a shareholder, and any refusal on the part of such organization to admit to membership or any unreasonable delay in admitting to membership any applicant for membership who intends to or does distribute to the person composing any partnership in which such applicant is financially interested or to the shareholders of any corporation or cooperative association in which such applicant is a shareholder, the profits of such applicant to the persons composing such partnership or to the shareholders of such corporation or cooperative association in proportion to the quantity of poultry and eggs or other farm products shipped to such member by the persons composing such partnership or the shareholders of such corporation or cooperative association, shall be prima facie evidence that such refusal or such unreasonable delay is because such applicant for membership intends to or does so distribute its profits, and any such applicant for membership shall have the right to have the action of such organization, in refusing or unreasonably delaying the issuance of said membership, summarily reviewed by the circuit court, by filing therein a petition praying the circuit court to cause such organization to show cause why it has refused or unreasonably delayed the issuance of said membership, and if, upon the trial, said organization fails to show some lawful and reasonable cause for refusing or unreasonably delaying the issuance of said membership to such applicant for membership, then the circuit court shall, by proper order, compel the issuance of said membership to such applicant; provided, that any limitation fixed by such organization, or by the members thereof, as to the number of members admitted to membership therein, shall not be a lawful or a reasonable cause for refusing or unreasonably delaying the issuance of membership to such applicant for membership; and provided further, that the review provided for in this section shall be merely cumulative and shall in no way relieve such organization or any member thereof, from the criminal or civil proceedings provided for in sections 276.160 to 276.230.

276.200. Unlawful to discriminate

It is hereby declared unlawful for any person, firm or corporation maintaining any such public market to discriminate, in any manner whatever, against any person, firm or corporation buying, selling or exchanging poultry and eggs and other farm products at such public market.

276.210. Attorney general to bring suit--court may issue injunction

It is hereby made the duty of the attorney general of the state of Missouri, upon being informed that any of the provisions of sections 276.160 to 276.230 have been violated, to bring suit in the proper court against any such organization, person, firm or corporation to procure the injunction provided for in section 276.220, and upon proof that the defendant in such suit has violated any provision of sections 276.160 to 276.230, the court shall issue its permanent injunction against such defendant, in accordance with section 276.220.

276.220. Violation may be enjoined

If any organization of whatever form or kind, maintaining or operating a public market, as herein defined, shall violate any provision of sections 276.160 to 276.230, such organization shall be permanently enjoined from maintaining or operating directly or indirectly, such public market, and any person, firm, company or corporation violating any provision of sections 276.160 to 276.230 shall be permanently enjoined from buying, selling or trading, directly or indirectly at such public market.

276.230. Violation a misdemeanor

Any person, firm, company or corporation violating any provision of sections 276.160 to 276.230 shall be deemed guilty of a misdemeanor.

276.401. Title and scope of the law--definitions

1. Sections 276.401 to 276.582 shall be known as the "Missouri Grain Dealer Law".
2. The provisions of the Missouri grain dealer law shall apply to grain purchases where title to the grain transfers from the seller to the buyer within the state of Missouri.
3. Unless otherwise specified by contractual agreement, title shall be deemed to pass to the buyer as follows:

(1) On freight on board (FOB) origin or freight on board (FOB) basing point contracts, title transfers at time and place of shipment;

(2) On delivered contracts, when and where constructively placed, or otherwise made available at buyer's original destination;

(3) On contracts involving in-store commodities, at the storing warehouse and at the time of contracting or transfer, and/or mailing of documents, if required, by certified mail, unless and to the extent warehouse tariff, warehouse receipt and/or storage contract assumes the risk of loss and/or damage.

4. As used in sections 276.401 to 276.582, unless the context otherwise requires, the following terms mean:

(1) "**Auditor**", a person appointed under sections 276.401 to 276.582 by the director to assist in the administration of sections 276.401 to 276.582, and whose duties include making inspections, audits and investigations authorized under sections 276.401 to 276.582;

(2) "**Authorized agent**", any person who has the legal authority to act on behalf of, or for the benefit of, another person;

(3) "**Buyer**", any person who buys or contracts to buy grain;

(4) "**Certified public accountant**", any person licensed as such under chapter 326;

(5) "**Claimant**", any person who requests payment for grain sold by him to a dealer, but who does not receive payment because the purchasing dealer fails or refuses to make payment;

(6) "**Credit sales contracts**", a conditional grain sales contract wherein payment and/or pricing of the grain is deferred to a later date. Credit sales contracts include, but are not limited to, all contracts meeting the definition of deferred payment contracts, and/or delayed price contracts;

(7) "**Current assets**", resources that are reasonably expected to be realized in cash, sold, or consumed (prepaid items) within one year of the balance sheet date;

(8) "**Current liabilities**", obligations reasonably expected to be liquidated within one year and the liquidation of which is expected to require the use of existing resources, properly classified as current assets, or the creation of additional liabilities. Current liabilities include obligations

that, by their terms, are payable on demand unless the creditor has waived, in writing, the right to demand payment within one year of the balance sheet date;

(9) “**Deferred payment agreement**”, a conditional grain sales transaction establishing an agreed upon price for the grain and delaying payment to an agreed upon later date or time period. Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(10) “**Deferred pricing agreement**”, a conditional grain sales transaction wherein no price has been established on the grain, the seller retains the right to price the grain later at a mutually agreed upon method of price determination. Deferred pricing agreements include, but are not limited to, contracts commonly known as no price established contracts, price later contracts, and basis contracts on which the purchase price is not established at or before delivery of the grain. Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(11) “**Delivery date**” shall mean the date upon which the seller transfers physical possession, or the right of physical possession, of the last unit of grain in any given transaction;

(12) “**Department**”, the Missouri department of agriculture;

(13) “**Designated representative**”, an employee or official of the department designated by the director to assist in the administration of sections 276.401 to 276.582;

(14) “**Director**”, the director of the Missouri department of agriculture or his designated representative;

(15) “**Generally accepted accounting principles**”, the conventions, rules and procedures necessary to define accepted accounting practice, which include broad guidelines of general application as well as detailed practices and procedures generally accepted by the accounting profession, and which have substantial authoritative support from the American Institute of Certified Public Accountants;

(16) “**Grain**”, all grains for which the United States Department of Agriculture has established standards under the United States Grain Standards Act, Sections 71 to 87, Title 7, United States Code, and any other agricultural commodity or seed prescribed by the director by regulation;

(17) **“Grain dealer”** or **“dealer”**, any person engaged in the business of, or as a part of his business participates in, buying grain where title to the grain transfers from the seller to the buyer within the state of Missouri. “Grain dealer” or “dealer” shall not be construed to mean or include:

(a) Any person or entity who is a member of a recognized board of trade or futures exchange and whose trading in grain is limited solely to trading with other members of a recognized board of trade or futures exchange; provided, that grain purchases from a licensed warehouseman, farmer/producer or any other individual or entity in a manner other than through the purchase of a grain futures contract on a recognized board of trade or futures exchange shall be subject to sections 276.401 to 276.582. Exempted herein are all futures transactions;

(b) A producer or feeder of grain for livestock or poultry buying grain for his own farming or feeding purposes who purchases grain exclusively from licensed grain dealers or whose total grain purchases from producers during his or her fiscal year do not exceed fifty thousand bushels;

(c) Any person or entity whose grain purchases in the state of Missouri are made exclusively from licensed grain dealers;

(d) A manufacturer or processor of registered or unregistered feed whose total grain purchases from producers during his or her fiscal year do not exceed fifty thousand bushels and who pays for all grain purchases from producers at the time of physical transfer of the grain from the seller or his or her agent to the buyer or his or her agent and whose resale of such grain is solely in the form of manufactured or processed feed or feed by-products or whole feed grains to be used by the purchaser thereof as feed;

(18) **“Grain transport vehicle”**, a truck, tractor-trailer unit, wagon, pup, or any other vehicle or trailer used by a dealer, whether owned or leased by him, to transport grain which he has purchased; except that, bulk or bagged feed delivery trucks which are used principally for the purpose of hauling feed and any trucks for which the licensed gross weight does not exceed twenty-four thousand pounds shall not be construed to be a grain transport vehicle;

(19) **“Insolvent”** or **“insolvency”**, (a) an excess of liabilities over assets or (b) the inability of a person to meet his financial obligations as they come due, or both (a) and (b);

(20) **“Interested person”**, any person having a contractual or other financial interest in grain sold to a dealer, licensed, or required to be licensed;

(21) **“Location”**, any site other than the principal office where the grain dealer engages in the business of purchasing grain;

(22) **“Minimum price contract”**, a conditional grain sales transaction establishing an agreed upon minimum price where the seller may participate in subsequent price gain, if any. Ownership of the grain, and the right to sell it, transfers from the seller to the buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(23) **“Person”**, any individual, partnership, corporation, cooperative, society, association, trustee, receiver, public body, political subdivision or any other legal or commercial entity of any kind whatsoever, and any member, officer or employee thereof;

(24) **“Producer”**, any owner, tenant or operator of land who has an interest in and receives all or any part of the proceeds from the sale of grain or livestock produced thereon;

(25) **“Purchase”**, to buy or contract to buy grain;

(26) **“Sale”**, the passing of title from the seller to the buyer in consideration of the payment or promise of payment of a certain price in money, or its equivalent;

(27) **“Value”**, any consideration sufficient to support a simple contract.

276.403. Purpose and construction of law

Sections 276.401 to 276.581 constitute an exercise of state police and regulatory power for the purpose of protecting and enhancing grain production and marketing, and the agricultural economy of the state of Missouri. These sections are deemed necessary to protect and to preserve the public health, welfare, peace and safety of the general citizenry.

276.406. Director’s powers and duties--rules and regulations, authority, procedure--subpoenas--administrative hearings on liability of sureties, review

1. The director shall:

(1) Be responsible for the efficient administration of the supervisory and regulatory powers authorized by sections 276.401 to 276.581 and the regulations promulgated hereunder;

(2) Issue a license, in accordance with the provisions of sections 276.401 to 276.581, to any qualified applicant wishing to conduct business as a licensed grain dealer;

(3) Provide for the filing and approval of the surety bonds required by sections 276.401 to 276.581.

2. The director may:

(1) Promulgate and adopt such rules, regulations and standards in accordance with the provisions of chapter 536 as may be necessary for the efficient and effective enforcement of sections 276.401 to 276.581;

(2) Appoint one or more designated representatives to act for the director in any manner required to aid in the efficient administration of sections 276.401 to 276.581 and the regulations promulgated hereunder;

(3) Require records or reports pertaining to grain purchases or grain sales that the director deems necessary to ensure compliance with the provisions of sections 276.401 to 276.581 and the regulations promulgated hereunder;

(4) Prescribe procedures for hearings to be held in accordance with the provisions of sections 276.401 to 276.581 and the regulations promulgated hereunder;

(5) Issue subpoenas and bring before the department any person and take testimony either orally, by deposition, or by exhibit in the same manner as prescribed by law in judicial proceedings and civil cases in the circuit courts of this state;

(6) Issue subpoenas duces tecum on any records relating to a grain dealer's business;

(7) Bring actions, in the name of the state of Missouri in the circuit court of any county wherein a grain dealer resides or is found in order to enforce compliance with sections 276.401 to 276.581

and the regulations promulgated hereunder by restraining order or injunction, either temporary or permanent;

(8) Conduct, or appoint a designated representative to conduct, administrative hearings pursuant to the provisions of sections 276.401 to 276.581, and chapter 536. Hearings may be conducted for the purpose of determining the liability of sureties which have filed bonds with the department on behalf of grain dealers licensed, or required to be licensed, under said sections. Hearings may be conducted for the purpose of determining the validity of grain-related claims filed with the department against such grain dealers and sureties, as well as the subsequent disbursement of all available funds, pro rata or otherwise, to satisfy claims determined to be valid. An order issued by the director, or his designated representative, as a result of such hearings shall be final and legally binding on all parties unless appealed as provided in chapter 536.

3. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

276.411. License required--administrative hearing for violation, penalty--license application forms, renewal applications--penalty for late renewal

1. No person shall engage in business as a grain dealer in the state of Missouri without having obtained a license therefor issued by the director pursuant to sections 276.401 to 276.582. Following an administrative hearing, the director may require the dealer to pay a penalty of not more than five hundred dollars for each day the dealer is found to be operating without a license or bond. In determining whether to assess the penalty, the director shall ascertain whether the dealer has continued to operate without a license or bond after being informed by the department in writing by certified mail of the need for licensing or bonding. Any penalties collected by the director under this section shall be deposited in the general revenue fund to the credit of the grain regulatory services program. In the event that a person penalized under this section fails to pay the penalty, the director may apply to the circuit court of Cole County for, and the court is authorized to enter, an order enforcing the assessed penalty.

2. Each application for a license to engage in business as a grain dealer shall be filed with the director and shall be in a form prescribed by the director.

3. The application for an initial license may be filed at any time prior to beginning business as a grain dealer; however, such license shall terminate on the last day of the fifth month after the close of the grain dealer's fiscal year, except that the initial licensing period shall be for at least six months but not longer than eighteen months. The grain dealer shall set forth on the original application the closing date for his fiscal year.

4. At least sixty days prior to the expiration of each license issued by the director under this chapter, the director shall notify the dealer of the date of expiration and furnish the dealer with the renewal application. The dealer shall submit the renewal application to the director at least thirty days prior to the date of expiration of the license. The dealer shall be penalized ten dollars per day for each day the renewal application is submitted after the date the application for a renewal license is due. The date of submission of the renewal application shall be the date postmarked. Any person licensed under both the provisions of sections 276.401 to 276.582 and sections 411.010 to 411.800 who submits a combination warehouse-grain dealer renewal application shall not be assessed a penalty for late renewal in excess of ten dollars per day.

5. The original application shall be accompanied by a filing fee pursuant to section 276.506.

276.421. Financial statement to accompany application, how prepared--false statement, penalty--minimum net worth and assets required

1. All applications shall be accompanied by a true and accurate financial statement of the applicant, prepared within six months of the date of application, setting forth all the assets, liabilities and net worth of the applicant. In the event that the applicant has been engaged in business as a grain dealer for at least one year, the financial statement shall set forth the aggregate dollar amount paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the last completed fiscal period of the applicant. In the event the applicant has been engaged in business for less than one year or has not previously engaged in business as a grain dealer, the financial statement shall set forth the estimated aggregate dollar amount to be paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal period. All applications shall also be accompanied by a true and accurate statement of income and expenses for the applicant's most recently completed fiscal year. The financial statements required by this chapter shall be prepared in conformity with generally accepted accounting principles; except that the director may promulgate rules allowing for the valuation of assets by competent appraisal.

2. The financial statement required by subsection 1 of this section shall be audited or reviewed by a certified public accountant. The financial statement may not be audited or reviewed by the applicant, or an employee of the applicant, if an individual, or, if the applicant is a corporation or partnership, by an officer, shareholder, partner, or a direct employee of the applicant.

3. The director may require any additional information or verification with respect to the financial resources of the applicant as he deems necessary for the effective administration of this chapter. The director may promulgate rules setting forth minimum standards of acceptance for the various types of financial statements filed in accordance with the provisions of this chapter. The director may promulgate rules requiring a statement of retained earnings, a statement of changes in financial position, and notes and disclosures to the financial statements for all

licensed grain dealers or all grain dealers required to be licensed. The additional information or verification referred to herein may include, but is not limited to, requiring that the financial statement information be reviewed or audited in accordance with standards established by the American Institute of Certified Public Accountants.

4. All grain dealers shall provide the director with a copy of all financial statements and updates to financial statements utilized to secure the bonds required by sections 276.401 to 276.582.

5. All financial statements submitted to the director for the purposes of this chapter shall be accompanied by a certification by the applicant or the chief executive officer of the applicant, subject to the penalty provision set forth in subsection 4 of section 276.536, that to the best of his or her knowledge and belief the financial statement accurately reflects the financial condition of the applicant for the fiscal period covered in the statement.

6. Any person who knowingly prepares or assists in the preparation of an inaccurate or false financial statement which is submitted to the director for the purposes of this chapter, or who during the course of providing bookkeeping services or in reviewing or auditing a financial statement which is submitted to the director for the purposes of this chapter, becomes aware of false information in the financial statement and does not disclose in notes accompanying the financial statements that such false information exists, or does not disassociate himself from the financial statements prior to submission, is guilty of a class D felony. Additionally, such persons are liable for any damages incurred by sellers of grain selling to a grain dealer who is licensed or allowed to maintain his or her license based upon inaccuracies or falsifications contained in the financial statement.

7. Any licensed grain dealer or applicant for a grain dealer's license shall maintain a minimum net worth equal to five percent of annual grain purchases as set forth in the financial statements required by this chapter. If the dealer or applicant is deficient in meeting this net worth requirement, he or she must post additional bond as required in section 276.436.

8. (1) Any licensed grain dealer or applicant for a grain dealer's license shall have and maintain current assets at least equal to one hundred percent of current liabilities. The financial statement required by this chapter shall set forth positive working capital in the form of a current ratio of the total adjusted current assets to the total adjusted current liabilities of at least one to one.

(2) The director may allow applicants to offset negative working capital by increasing the grain dealer surety bond required by section 276.426 up to the total amount of negative working capital at the discretion of the director.

(3) Adjusted current assets shall be calculated by deducting from the stated current assets shown on the financial statement submitted by the applicant any current asset resulting from notes receivable from related persons, accounts receivable from related persons, stock subscriptions receivable, and any other related person receivables.

(4) A disallowed current asset shall be netted against any related liability and the net result, if an asset, shall be subtracted from the current assets.

276.423. Examination by department, when, fee--discrepancy reports, contents--director may modify, suspend or revoke license, when--subpoenas

1. The department shall make at least one complete examination of each state licensed class I, class II and class III grain dealer each year and may examine class IV, class V and class VI state licensed grain dealers. The annual grain dealer examination for grain dealers holding a federal warehouse license under the United States Warehouse Act may be waived if the director is satisfied as to the quality of the audit performed under the United States Warehouse Act and receives a full copy of such audit.

2. Any additional examinations deemed necessary by the department during any year shall be at the expense of the department. If upon any examination a discrepancy is found to exist, the director may collect a fee for that examination and for any subsequent examination deemed necessary to insure that the discrepancy is corrected. The fee for each such examination shall be computed in accordance with rates established by the director by rule. This subsection applies equally to all classes of grain dealers which may be examined by the department.

3. Any dealer may request additional examinations at the expense of the dealer. The director may collect a fee for each special or requested examination or for extra work beyond regular examination procedures in connection with regularly scheduled examinations, computed in accordance with the rates established in section 276.506.

4. Upon completion of any examination which reveals a failure to comply with the provisions of sections 276.401 to 276.582, and the regulations promulgated hereunder, the director or any department auditor, within a reasonable time, shall present a written discrepancy report to the dealer, his employee or agent. The report shall specify the areas of noncompliance and shall give a specific period of time, reasonable and practical under the circumstances, within which corrective action is to be taken. A report of that corrective action shall be sent to the director. If, after further examination, the discrepancy still exists, the director may modify, suspend or revoke the dealer's license, or the director may take whatever other action he deems necessary consistent with the provisions of sections 276.401 to 276.582 until the dealer has corrected the discrepancy.

5. The director is hereby authorized to issue subpoena duces tecum to any financial institutions, or to any other type of business entity, causing them to deliver any and all records of a licensee, or any and all records kept pertaining to a licensee or any person who in the opinion of the director may need to be licensed. Such financial institutions, or other business entities, are hereby authorized and required to deliver any and all such records to the director notwithstanding any law to the contrary. This section applies to persons or individual accounts or transactions as well as to corporate records where the licensee, or person, who in the opinion of the director, needs to be licensed, is conducting business in corporate form.

276.426. Surety bond required--conditions--lack of considered violation--cancellation procedure, effect--items covered by bond, not covered--distribution of bond proceeds by director, procedure, appeal--surety failure to pay, penalty--binders effective, conditions, cancellation

1. Every person licensed as a grain dealer shall have filed with the director a surety bond executed and signed by the grain dealer as principal and issued by a responsible corporate surety licensed to execute surety bonds in the state of Missouri. It is a violation of sections 276.401 to 276.582 for any person to engage in the business of being a grain dealer without a sufficient surety bond on file with the department, on a form prescribed and furnished by the director.

2. Such bond shall be in favor of the state of Missouri, except as authorized by section 276.581, with the director as trustee for the benefit of all persons selling grain to the grain dealer, and their legal representatives, attorneys or assigns, and shall be conditioned upon the following:

(1) The dealer as a buyer paying to the seller the agreed-upon purchase price of the grain purchased from the seller where title to said grain transferred from the seller to the buyer within the state of Missouri;

(2) The grain dealer's faithful performance of his duties as a licensed grain dealer and his compliance with sections 276.401 to 276.582 and regulations promulgated hereunder. This section applies to purchases made from the effective date of the bond until the bond is cancelled, except as otherwise provided in sections 276.401 to 276.582;

(3) The bond required by this section shall cover the agreed-upon minimum price of any valid minimum price contract;

(4) The bond required by this section shall not cover payment for any promissory note accepted by the seller of grain. To be considered a promissory note, the note must contain the signature

of both seller and buyer, date the note was executed, dollar amount of the note, payment terms and interest rate.

3. A surety bond required or allowed by sections 276.401 to 276.582 shall be effective on the date of issue, shall not be affected by the expiration of the license period, and shall continue in full force and effect until cancelled. The continuous nature of a bond, however, shall in no event be construed to allow the liability of the surety under a bond to accumulate for each successive license period during which the bond is in force, but shall be limited in the aggregate to the amount stated on the bond or as changed, from time to time, by appropriate endorsement or rider.

4. The required bond shall be kept in force at all times while the dealer is conducting business as a licensed grain dealer. Failure to keep such bond in force is cause for revocation of the license, and the dealer is subject to the penalties provided in this chapter. No dealer may cancel an approved bond without the prior written approval of the director and the director's approval of a substitute bond.

5. A grain dealer filing bonds required under sections 276.401 to 276.582, or regulations promulgated thereunder who is also licensed under chapter 411 shall utilize the same corporate surety for all bonds required to be licensed under chapter 411 and as a grain dealer.

6. Upon written demand of the director for payment, the surety shall either pay over to the director the sum demanded up to the full face amount of the bond, or shall deposit the sum demanded in an interest-bearing escrow account at the highest rate of interest available. When a surety pays the director upon demand, the director shall either interplead the sum in court or hold an administrative hearing for the determination of the liability of the surety, and the validity of claims against the bond, and upon the conclusion thereof, the director shall distribute the bond proceeds accordingly. The determination of the director shall be final, subject to the surety's or a claimant's right to appeal to the circuit court pursuant to the provisions of chapter 536. Refusal or failure of the surety to pay the sum demanded to the director within ten days of receipt of the director's demand letter or the refusal or failure to deposit the sum demanded in an interest-bearing escrow account at the highest rate of interest available, shall be grounds for withdrawal of the surety's license and authorization to conduct business in this state, and grounds for the court to penalize the surety, for refusal to pay or to deposit within the ten days of demand, in the amount of twenty-five percent of the full face amount of the bond, plus interest at the rate of nine percent, or at the rate that the director can establish he would have received had the money been paid or deposited by the surety, whichever rate of interest is higher. In the event that the surety pays as demanded and the director or court determines the surety is not liable, the director shall return to the surety the sum paid to the director plus all accumulated interest, or any pro rata part of the sum, plus interest, as applicable in the event of liability less than the sum demanded. In the event that the surety elects to deposit the demanded sum in an interest-bearing escrow account and the director holds an administrative hearing determining

the liability of the surety and the validity of claims, and upon the exhaustion of appeals, if any, the surety immediately shall pay to the director for distribution to claimants the amount for which the surety has been determined to be liable plus accumulated interest on that amount.

7. Every bond filed shall contain a provision that it may not be cancelled by the principal or surety company except upon ninety days' prior notice in writing, by certified mail, to the director at his Jefferson City office. In the case of a surety giving notice of cancellation, a copy of such notice shall be mailed, by certified mail, on the same day to the principal. The cancellation does not affect the liability accrued or which may accrue under such bond before the expiration of the ninety days. The notice shall contain the termination date. In the event such notice procedures are not followed, the bond shall remain in full force and effect until properly cancelled.

8. Whenever the director receives notice from a surety that it intends to cancel the bond of a dealer, the director shall automatically suspend the dealer's license if a new bond is not received by the director within thirty days of receipt of the notice of intent to cancel. If a new bond is not received within sixty days of receipt of the notice of intent to cancel, the director shall revoke the dealer's license. The director may cause an inspection of the grain dealer at the end of this sixty-day period. Such inspection may include an attempt to identify all possible grain sellers and related claimants of the dealer by advertising for same in local news media.

9. Verbal or written surety bond binders issued by a surety on behalf of a grain dealer for original or replacement bonds are hereby recognized as legally effective in the state of Missouri as if the bond were fully executed when such binders meet the following conditions:

(1) The dealer or principal has paid, or has promised to pay, the surety an agreed upon or tentatively agreed upon premium or other consideration;

(2) The surety provides the department, either in writing or verbally:

(a) A bond number;

(b) The amount of the bond;

(c) The effective date of the bond;

(d) Either verbal or written assurance that the person providing the preceding information has authority to commit the surety. Such binders may be cancelled only in the manner provided in subsection 8 of this section. The director may or may not accept such a binder depending on the particular circumstances involved and consistent with the orderly administration of this chapter.

276.431. Provisions and rules relating to bonds to apply to certificates of deposit--irrevocable letters of credit may be accepted, conditions, demand by director, procedure--failure by bank to pay, when, penalty--funds returned to bank, when

1. Sections 276.401 to 276.581 and all regulations promulgated hereunder that apply to surety bonds shall also apply to certificates of deposit. Any certificate of deposit submitted in lieu of a surety bond required under sections 276.401 to 276.581 shall be filed with the director as trustee for the benefit of all persons selling grain to the grain dealer. The certificate of deposit will be kept in the custody of the director.

2. A grain dealer may, in lieu of the bond required under this chapter, submit an irrevocable letter of credit, payable to the director for the benefit of claimants, and issued by a federally or state chartered bank. The director may refuse to accept a letter of credit in lieu of the bond required by this chapter if the director finds that the issuing bank is or may become insolvent, or for any other reason may be unable to honor the terms of the letter of credit. The director may require an issuing bank to submit evidence of its financial condition, and the director may seek the cooperation of the division of finance in evaluating the financial condition of an issuing bank. The director shall promulgate all necessary regulations pertaining to certificates of deposit, and irrevocable letters of credit.

3. Upon written demand of the director for payment, the bank shall either pay over to the director the sum demanded, up to the full face amount of the irrevocable letter of credit, or shall deposit the sum demanded in an escrow account at the highest rate of interest available. When a bank pays the director upon demand, the director shall either interplead the sum in court or hold an administrative hearing for the determination of the liability of the bank and the validity of the claims against the irrevocable letter of credit, and upon the conclusion thereof, the director shall distribute the irrevocable letter of credit proceeds accordingly. The determination of the director shall be final, subject to the licensee's or claimant's right to appeal to the circuit court pursuant to the provisions of chapter 536. Refusal or failure of the issuing bank to pay the sum demanded to the director within three days of the bank's receipt of such written demand shall result in a penalty assessment of ten percent of the amount demanded, up to the full face amount of the irrevocable letter of credit, per week until the amount demanded and the penalty are paid. When funds have been received, and the director or court determines that the bank is not liable for claims against the irrevocable letter of credit, the director shall return to the bank the sum paid to the director and all accumulated interest earned, minus any penalties due or paid. In the event that the liability is less than the sum demanded, the director shall return the appropriate pro rata portion of the funds received, and interest earned as applicable.

276.436. Amount of bond--director to establish by rule--formula--minimum and maximum--additional bond because of low net worth or other circumstances--failure to maintain, effect

1. The total amount of the surety bond required of a dealer licensed pursuant to sections 276.401 to 276.582 shall be established by the director by rule, but in no event shall such bond be less than fifty thousand dollars nor more than six hundred thousand dollars, except as authorized by other provisions of sections 276.401 to 276.582.

2. The formula for determining the amount of bond shall be established by the director by rule and shall be computed at a rate of no less than the principal amount to the nearest one thousand dollars, equal to two percent of the aggregate dollar amount paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the dealer's last completed fiscal year, or, in the case of a dealer who has been engaged in business as a grain dealer for less than one year or who has not previously engaged in such business, two percent of the estimated aggregate dollar amount to be paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal year.

3. Any licensed grain dealer or applicant who has, at any time, a net worth less than the amount required by subsection 7 of section 276.421 shall be required to obtain a surety bond in the amount of one thousand dollars for each one thousand dollars or fraction thereof of the net worth deficiency. Failure to post such additional bond is grounds for refusal to license or the suspension or revocation of a license issued under sections 276.401 to 276.582. This additional bond can be in addition to or greater than or both in addition to and greater than the maximum bond as set by this section.

4. The director may, when the question arises as to a grain dealer's ability to pay for grain purchased, require a grain dealer to post an additional bond in a dollar amount deemed appropriate by the director. Such additional bond can be in addition to or greater than or both in addition to and greater than the maximum bond as set by this section. The director must furnish to the dealer, by certified mail, a written statement of the reasons for requesting additional bond and the reasons for questioning the dealer's ability to pay. Failure to post such additional bond is a ground for modification, suspension or revocation by the director of a license issued under sections 276.401 to 276.582. The determination of insufficiency of a bond and of the amount of the additional bond shall be based upon evidence presented to the director that a dealer:

(1) Is or may be unable to meet his dollar or grain obligations as they become due;

(2) Has acted or is acting in a way which might lead to the impairment of his capital;

(3) As a result of his activity, inactivity, or purchasing and pricing practices and procedures, including, but not limited to, the dealer's deferred pricing or deferred payment practices and procedures, is or may be unable to honor his grain purchase obligations arising out of his dealer business. The amount of the additional bond required under this subsection shall not exceed the amount of the dealer's current loss position. Current loss position shall be the sum of the dealer's current liabilities less current assets or the amount by which he is currently unable to meet the grain purchase obligations arising out of his dealer business.

5. One bond, cumulative as to minimum requirements, may be given where a dealer has multiple licenses; except however, that in computing the amount of the single bond the grain dealer may add together the total purchases of grain of all locations to be covered thereby and use the aggregate total purchases for the fiscal year for the purpose of computing bond. However, this single cumulative bond must be at least equal to fifty thousand dollars per dealer license issued up to the six hundred thousand dollar maximum bond amount specified in subsection 1 of this section. When a grain dealer elects to provide a single bond for a number of licensed locations, the total assets of all the licensed locations shall be subject to liabilities of each individual licensed location.

6. Failure of a grain dealer to provide and file a bond and financial statement and to keep such bond in force shall be grounds for the suspension or revocation, by the director, of a license issued under sections 276.401 to 276.582.

7. A dealer shall be required to post additional surety bond when he surpasses the estimated aggregate dollar amount to be paid for grain purchased as set forth in subsection 2 of this section. Such additional bond shall be determined by the director so as to effectively protect sellers of grain dealing with such dealer.

276.441. Dealer may request use of minimum bond, procedure

1. Any grain dealer who is of the opinion that his net worth is sufficient to guarantee payment for grain purchased by him may make a formal, written request to the director that he be relieved of the obligation of filing a bond in excess of the minimum bond of fifty thousand dollars. Such request shall be accompanied by a financial statement of the applicant, prepared within four months of the date of such request and accompanied by such additional information concerning the applicant and his finances as the director may require which may include the request for submission of a financial statement audited by a public accountant.

2. If such financial statement discloses a net worth equal to at least five times the amount of the bond otherwise required by sections 276.401 to 276.582, and the director is otherwise satisfied as to the financial ability and resources of the applicant, the director may waive that portion of the required bond in excess of fifty thousand dollars for each license issued.

276.451. Examination of application, duties of director--issuance and renewal of licenses--nontransferable--separate license for each location--suspension or revocation, grounds, duties of director, appeal, bond

1. Upon receiving a dealer's original application for licensure, the director may make such examination and inquiries into the applicant's business, past business history, business reputation and may view all information available to the extent he deems necessary to determine that:

(1) The application is sufficient;

(2) The bond filed by the applicant is sufficient;

(3) The applicant is capable of performing the services proposed;

(4) The applicant has sufficient financial resources to guarantee payment for grain purchased;

(5) The applicant is willing and able to comply with the provisions of sections 276.401 to 276.581 and regulations promulgated hereunder;

(6) The applicant, or, if the applicant is a corporation or partnership, officer, majority shareholder, board member, or partner has not been involved in improper or illegal manipulation of grain inventories and grain purchases which involved or resulted in any losses to grain sellers within the ten-year period of time immediately preceding the date the director received the application.

2. If the director is not satisfied with the applicant's qualifications as stated in this section, the application may be denied. If the application is denied, notice shall be mailed to the applicant setting forth the reasons for the denial of the license. Within fifteen days of receipt of a notice of denial for license, the applicant may file a written application with the director for a hearing on the denial. The hearing shall be carried out in accordance with the provisions of this chapter, regulations promulgated hereunder, and chapter 536.

3. Licenses shall be renewed annually on the last day of the fifth month after the close of the dealer's fiscal year.

4. A dealer making original application for license, and fulfilling all requirements for licensing as stated in sections 276.401 to 276.581, shall be issued a license effective from the date of application and terminating on the last day of the fifth month after the close of the dealer's fiscal year.

5. A dealer's license may be renewed annually by the filing of an application on a form prescribed by the director and accompanied by a true and accurate financial statement prepared in accordance with the requirements for financial statements set forth in section 276.421.

6. A separate license shall be required for each location in which the records are normally kept and from which grain payments are made for transactions of the dealer.

7. A dealer's license is not transferable or assignable to any person, including successors in interest to the licensee.

8. The director shall not issue a license, renew a license, or allow a license to remain in effect if the dealer or applicant fails to:

(1) Comply with sections 276.401 to 276.581 and the regulations promulgated pursuant to sections 276.401 to 276.581; or

(2) Pay all required fees and assessed penalties.

9. If the holder of any grain dealer's license is convicted of any violation of sections 276.401 to 276.581, or if the director determines that any holder of such license has violated any of the provisions of such sections, or any of the rules and regulations adopted by the director under the provisions of such sections, the director may at his discretion modify, suspend, cancel, revoke, or refuse to renew the license of the holder.

10. Whenever the director shall modify, suspend, cancel, revoke or refuse to issue any license he shall prepare an order so providing which shall be signed by the director or some person designated by him, and the order shall state the reason or reasons for the modification, suspension, cancellation, revocation or refusal to issue the license. The order shall be sent by certified mail to the licensee or applicant at the address of the dealer licensed or applying for a license. Within thirty days after the mailing of the order, the licensee, if aggrieved by the order of the director, may appeal as provided in chapter 536. At the time of the filing of the appeal, the party appealing shall give a bond for costs conditioned on his prosecuting the appeal without

delay and paying all costs assessed against him. In addition, the licensee shall post a bond which shall remain in effect pending final disposition of all appeals, including review by the Missouri court of appeals or Missouri supreme court, or federal review, in an amount sufficient to cover all grain purchases and grain purchase obligations of the licensee as identified by the director. The posting of such bond is jurisdictional to the circuit court's authority to entertain the appeal.

276.456. License to be displayed--certificate of license to be in each grain transporting vehicle

1. Each dealer shall have and conspicuously display in each of his business locations, within full and unobstructed sight of the public:

(1) Either the original or a certified copy of the dealer license as issued by the director;

(2) Such other materials or information as may be required by the director.

2. Upon written request of a licensee and the payment of the proper fees the director shall issue to the licensee a certificate that a license has been issued or renewed as required by sections 276.401 to 276.582. The number of such certificates shall be based upon the dealer's request and need as shown by his application.

3. A certificate of license issued or renewed shall be posted in each location listed on a licensee's application where he engages in the business of a grain dealer but does not keep records pertaining to his business or transactions as a grain dealer. In the case of a licensee operating various grain transporting vehicles, the licensee is required to have a certificate that the license is in effect carried in each grain transporting vehicle used in connection with the purchase and transporting of grain.

4. The certificate of license shall be displayed upon demand and shall contain information as deemed necessary by the director.

5. All licenses, including, without limitation, certificates of license, shall be and remain the property of the director and shall be subject to revocation, cancellation or repossession, as provided by sections 276.401 to 276.582.

276.461. Dealer to pay for grain, when--failure to make payment on demand, director's duties, grounds for modification, suspension or revocation of license--demands, how made

1. In general, a person licensed as a grain dealer shall make payment of the agreed-upon purchase price to the seller of grain upon delivery or demand of said seller or his authorized agent, unless a written grain purchase contract or valid deferred payment contract shall provide otherwise. However, every person licensed as a grain dealer shall establish and properly document the agreed-upon purchase price of all grain he buys as prescribed by the director or as otherwise provided by law. When a dealer has failed to make payment upon demand of the seller and such failure has come to the attention of the director, the director may request the dealer to make payment. Such request may be made verbally or in writing. The director may require the dealer to make payment with a certified or cashier's check, or in cash. The license may be modified, suspended or revoked if the dealer fails to make timely payment as requested by the director.

2. A person licensed as a class I dealer shall properly document the agreed-upon, between buyer and seller, purchase price of grain, as prescribed by the director, and shall make payment upon demand. However, if no demand for payment is made, a class I dealer has the option of entering the account, as prescribed by the director, onto a formal settlement sheet or paying the seller the agreed upon price. Such entry onto a formal settlement sheet must occur within thirty days of delivery. When an account is so entered onto a formal settlement sheet, payment shall be made the earlier of demand or one hundred eighty days from delivery. If payment is not made at the conclusion of the one hundred eighty day period, a formal written contract as provided for in subsections 8 and 11 of this section shall be executed.

3. A person licensed as a class II dealer shall properly document the agreed-upon, between buyer and seller, purchase price of grain, as prescribed by the director, and shall make payment upon demand. However, if no demand for payment is made, a class II dealer has the option of entering the account, as prescribed by the director, onto a formal settlement sheet or paying the seller the agreed-upon price. Such entry onto a formal settlement sheet must occur within thirty days of delivery. When an account is so entered onto a formal settlement sheet, payment shall be made on demand or within one hundred eighty days from delivery, whichever occurs first. A class II dealer shall not enter into any type of credit sales contract.

4. A person licensed as a class III, IV, V or VI grain dealer shall make payment to the seller within thirty days of delivery or upon demand of the seller or his authorized agent, whichever occurs first. A class III, IV, V, or VI dealer shall not enter into any type of credit sales contract.

5. Nothing contained in sections 276.401 to 276.582 shall be construed to limit or prohibit the right of a seller of grain to make an oral demand for payment from a dealer, provided that the right to recover under the surety bond shall be based only upon written demand to the surety by the seller or by the department on behalf of the claimant.

6. Recovery by a claimant on the bond shall not be his sole or exclusive remedy and shall not bar a civil action based upon rights or obligations arising under the grain purchase contract.

7. Notwithstanding any provisions of this section, in the case of valid deferred price contracts the seller of grain shall have no right of recovery under the grain dealer's surety bond. Deferred price contracts shall be in writing, dated, and shall contain a statement informing the seller that the seller is relinquishing title and all rights of ownership in the grain, that the grain dealer is not required to carry bond on the grain for the benefit of the seller, and that the payment for the grain becomes a common claim against the grain dealer. Only a class I grain dealer may enter into deferred price contracts.

8. In the case of deferred payment contracts, a class I grain dealer and a seller of grain may agree that payment be deferred to a future date. The agreement shall be in writing, dated, and shall contain a statement informing the seller that the seller is transferring title to the buyer and that the seller is relinquishing all rights in the grain and that the class I dealer is required to carry bond on the grain for the benefit of the seller for twelve months from the date the contract was entered into, and that after twelve months, payment for the grain becomes a common claim against the dealer. No other class of dealer may enter into deferred payment contracts.

9. In the event the license of a grain dealer is revoked by the director for any reason, all deferred payment agreements executed within the twelve months prior to revocation shall be deemed priced unpaid obligations as of the effective date of the revocation and as such agreements are covered by the grain dealer's bond.

10. In the case of minimum price contracts, a class I grain dealer and a seller of grain may agree upon a minimum price for the grain sold but allow the seller to retain the ability to participate in subsequent price gains or futures market increases, if any. The agreement shall be in writing, dated, and shall contain a statement informing the seller that the seller is transferring title and all rights of ownership in the grain to the buyer, and shall contain entries stating the agreed upon minimum price and explaining how subsequent price gains will be calculated. This agreement shall also contain statements informing the seller that only the payment of the specified minimum price is covered under the dealer's bond for the benefit of the seller, for, and only for, twelve months from the date the contract was entered; and that payment for any subsequent price gains, if any, is not covered by bond. No other class of dealer may enter minimum price contracts.

11. For the purposes of this section, deferred price, deferred payment, and minimum price contracts are not deemed valid unless they contain all the required statements and are signed by both the buyer and seller or their authorized representatives. The director may require any additional information from a grain dealer that he deems necessary to protect the interests of

the seller of grain in such transactions. Class II, III, IV, V and VI grain dealers may not use or enter into such contracts with sellers of grain.

276.471. Records to be maintained by dealer--retention for inspection

1. The grain dealer shall maintain at his principal place of business current and complete records with respect to all grain received and withdrawn from, purchased, sold, and held by him for that business.

2. Each licensed grain dealer shall keep in a place of safety, complete and correct records and accounts of:

(1) The quantity of each kind and class of grain received in his facility and withdrawn therefrom;

(2) Duplicate copy of receipts, tickets and bills of lading issued by him;

(3) Original receipts and tickets returned to and cancelled by him;

(4) A register which records all grain transactions not evidenced by the dealer's own scale ticket, i.e., direct farm-to-market shipments. This register shall be updated daily showing, at a minimum, the name of the seller, quantity of grain, date of shipment, name of terminal or other business accepting the physical commodity, destination scale ticket number and whether the grain was delivered for sale, or other specified purpose.

3. In addition to the records required by subsections 1 and 2 of this section, the grain dealer shall maintain such adequate financial records as will clearly reflect his current financial position and will clearly support any financial information required to be submitted to the director for licensing, auditing, inspection and/or investigation purposes.

4. A grain dealer licensed or required to be licensed under this chapter shall keep available for examination all books, records and accounts required by this chapter and any other books, records and accounts relevant to his operating a grain dealer business for a period of not less than three years after the close of the period for which such books or records were required. An examination may be performed by the director or his representative, and may take place at any time during the normal business hours of the dealer or, if prior notice of the examination is given to the grain dealer, at such time as is prescribed in that notice.

276.476. Auditors may be appointed--highway patrol to cooperate

The director may appoint auditors familiar with the purchase, sale, and handling of grain and knowledgeable with respect to sections 276.401 to 276.581 and regulations promulgated hereunder to investigate, audit, and inspect persons as authorized by sections 276.401 to 276.581 and the regulations promulgated hereunder. It shall be the duty of employees of the Missouri highway patrol and weighing station employees to cooperate with the director in the enforcement of sections 276.401 to 276.581.

276.481. Inspection of premises and records--dealers may be required to report--transporters to have proper records--director to investigate

1. The director or any auditor appointed pursuant to the provisions of section 276.476 may inspect the premises used by any person licensed under sections 276.401 to 276.581, or persons who the director has reasonable cause to believe should be licensed under sections 276.401 to 276.581, in the conduct of his business at any time. The books, accounts, records and papers of every grain dealer shall at all times during business hours be subject to inspection as prescribed by the director.

2. The director may perform such inspections as are necessary for the orderly administration of the provisions of sections 276.401 to 276.581 based upon reports and other information available to him.

3. Every person licensed under sections 276.401 to 276.581 and such person's employees, agents, officers, partners, directors, and shareholders shall cooperate and hold themselves available to assist in the inspection, including allowing full and reasonable use of the weighing, sampling, and grading equipment, if any.

4. Any dealer who is licensed in this state and who does not have a place of business within the state shall make available and furnish to the director or an auditor, upon request, all books, accounts, papers, and records of grain transactions within this state at any time and place that the director may designate.

5. Each grain dealer may also be required to make such reports as deemed necessary by the director to protect the seller of grain as set forth in sections 276.401 to 276.581 and the regulations promulgated hereunder.

6. The transporter of grain in transit shall have in his possession bills of lading or other documents covering such grain in transit. Such documents shall be available for inspection by the director or his agent upon request.

7. The director shall, upon the verified complaint in writing of any person setting forth facts which if proved would be in violation of the provisions of sections 276.401 to 276.581, or regulations promulgated hereunder or would constitute grounds for refusal, suspension, or revocation of a license under sections 276.401 to 276.581, investigate the actions of any person applying for, holding, or claiming to hold a license; provided that the director is not required to investigate any complaint which does not appear to have a reasonable basis.

276.486. Injunctive relief may be sought--who to prosecute--director may conduct investigations and hearings--attendance of witnesses

1. The director may apply for a restraining order or a temporary or permanent injunction against the operation of a dealer which is in violation of sections 276.401 to 276.582 or regulations promulgated hereunder or in order to enforce sections 276.401 to 276.582 or such regulations, notwithstanding the existence of other remedies at law. The restraining order or injunction may be prosecuted by the attorney general or the prosecuting attorney of the proper county upon request of the director.

2. The director may apply for a restraining order or a temporary or permanent injunction enjoining a grain dealer from disposing of any grain owned, in whole or in part, or held or in his possession whether owned in whole or in part, or enjoining anyone from removing any grain in which the grain dealer or claimants from which he has purchased grain have an interest. The restraining order or injunction may be prosecuted by the attorney general or the prosecuting attorney of the proper county upon request of the director.

3. The director shall have power in the conduct of any investigation or hearing authorized or held by him to:

(1) Examine, or cause to be examined, under oath, any person;

(2) Examine, or cause to be examined, books and records of any dealer or warehouseman;

(3) Hear such testimony and take such evidence as will assist him in the discharge of his duties under this chapter;

(4) Administer or cause to be administered oaths;

(5) Issue subpoenas to require the attendance of witnesses and the production of books; and

(6) Serve, or cause to be served, any subpoena, petition, or order required for the administration of this chapter.

4. Any circuit court may, by order duly entered, require the attendance of witnesses and the production of relevant books and records subpoenaed by the director, and the court may compel obedience to its order by proceedings for contempt.

276.491. Modification, suspension or revocation of license--licensee to be notified of complaints--emergency temporary suspensions, length--hearing required--appeal procedure--time for filing claims, effect of failure to act within time

1. The director may, after a hearing or upon verified complaint filed by any person, modify, suspend or revoke the license of any person licensed under sections 276.401 to 276.582 for the violation of or failure to comply with the provisions of sections 276.401 to 276.582 or regulations promulgated pursuant to sections 276.401 to 276.582.

2. Any information of a verified complaint stating the grounds for modification, suspension or revocation shall be filed with the director. The director shall notify the licensee of the complaint and furnish him with a copy of the information or the complaint and a copy of the order of the director fixing the time for a hearing, which time shall be at least five days but not more than thirty days from the date of notification. Such written notification may be served by personal service on the licensee or by mailing the same by registered or certified mail to the place of business specified by the licensee in the last application or notification to the director.

3. If at any time the director determines that the public good requires immediate action, and that there is reasonable cause to believe that there exists a violation of sections 276.401 to 276.582 or regulations promulgated pursuant hereunder, and that the nature of the violation is such that there exists an immediate danger of loss to any claimant, the director may, upon the filing of the information or the complaint with the licensee, without hearing, temporarily suspend a license pending the determination of the complaint. Such temporary suspension shall be for not longer than ninety days. When a license is suspended without hearing, however, the director shall grant a hearing to be held in accordance with the provisions of sections 276.401 to 276.582 as soon thereafter as is possible, but not later than five days after such temporary suspension.

4. At the time and place fixed in the notice, the director shall proceed to hear the matter and any charges made, and both the licensee and complainant shall be accorded ample opportunity to present in person or by counsel such statement, testimony, evidence, and arguments as may be pertinent to the matter or charges or to any defense thereto. The director may continue such hearing from time to time.

5. Any person aggrieved by the decision of the director may appeal the decision as provided in chapter 536.

6. Upon revocation of a license, any claim shall be filed against the former licensee and the surety company within one hundred twenty days after the date of revocation. Failure to timely file such claim shall defeat the claim for the purposes of recovery under the grain dealer's bond.

276.496. Dealer to terminate all agreements upon expiration or revocation of license-- notices--director to prescribe procedure--business may operate during periods of suspension--dealer to pay costs

1. When a license is revoked or expires without having been renewed, the dealer shall terminate, in the manner prescribed by the director, all arrangements covering the purchase, holding or sale of grains held or controlled by the dealer. In terminating such arrangements, the dealer shall prepare a notice in a form approved by the director for all creditors, sellers, and purchasers, which notice shall set forth the fact of termination and indicate the method of resolving open engagements.

2. During the period of suspension of a license, including a temporary suspension, the dealer may, with the approval and under the supervision of the director or an auditor, continue to operate his dealer business. All necessary expenses incurred by the director or his designated agents in administering the provisions of this section may be recovered from the dealer in a separate civil action brought by the director in the circuit court. The director or his designated agents shall be entitled to a fee, computed in accordance with the provisions of subdivision (4) of subsection 1 of section 276.506, for each day or fraction thereof that he or his agents are required to perform services in discharging the duties imposed by this section. The cost of liability insurance necessary to protect the director and others engaged in carrying out the provisions of this section may also be assessed against the dealer by the court in said suit.

276.501. Insolvency, director may request ex parte order to be named trustee and be given immediate possession--procedure--order, contents--dealer may file response, when--hearing, when--notice, duties of director--director not to operate business, liability limited--recovery of expenses

1. If at any time the director has evidence that a dealer is insolvent or is unable to satisfy the claims of all sellers, the director may petition the circuit court in the county where the dealer's principal place of business is located, for an ex parte order authorizing the director or his authorized agent to seize, and take title and possession, as trustee, of any grain in the dealer's possession or under the dealer's control, and of all pertinent records and property as provided for in subsection 2 of this section.

2. Upon receipt of the director's verified petition setting forth the circumstances of the dealer's failure to comply with sections 276.401 to 276.582, and further stating reasons why immediate

possession by the director or his authorized agent is necessary for the protection of grain sellers or sureties, the court is authorized to issue an ex parte order authorizing the director or his authorized agent to take immediate possession for the purposes stated in this section. A copy of the petition and order shall be sent to the dealer. If appropriate, the court may order the director's taking possession of only grain-related assets and not the entire business of the dealer. Such order may include, but is not limited to, the following:

(1) The director locking down and securing, by padlocks or other appropriate means, the grain storage bins, scales, offices, equipment and rolling stock of the dealer;

(2) Removing and excluding the dealer, or any and all of the dealer's employees, from the facility;

(3) Prohibiting the dealer from engaging in any grain-related business transactions whatever during the director's possession of the grain-related assets of the dealer's business;

(4) Authorizing all financial institutions to place all business accounts of the dealer under the director's authority and to freeze all transactions involving such accounts except to honor outstanding checks written previous to the issuance of the court's order. If it appears that the dealer has conducted, in part, his grain dealer business through the use of personal accounts as opposed to business accounts, or intermingled two or more such accounts, the court may authorize the applicable financial institutions to place such personal accounts, as well as the business accounts, under the authority of the director in order to allow the director to accurately determine the extent of all grain-related obligations incurred by the dealer, the correct status of same and the dealer's resources to pay his grain-related obligations;

(5) Authorizing the director to redeliver or sell depositor or dealer-owned grain, as appropriate in the circumstances and setting forth the conditions for doing such;

(6) Authorizing the director to deposit all grain-related assets and proceeds therefrom in an interest-bearing escrow account to be disbursed only upon orders of the court;

(7) Directing the dealer to provide the director with all grain-related business documents which come into his possession subsequent to the director's possession of the grain-related assets, as well as any other grain-related documents which the dealer may have knowledge of and which are not at the dealer's facility.

3. At any time within ten days after the director or his authorized agent takes possession, the dealer may file with the court a response to the petition of the director stating reasons why the director or his authorized agent should not be allowed to retain possession. The court shall set the matter for hearing on a date not more than fifteen days from the date of the filing of the dealer's response. The order placing the director or his authorized agent in possession shall not be stayed nor set aside until such time as the court, after hearing, determines that possession should be restored to the dealer.

4. Upon taking possession, the director shall give written notice of his action to the surety on the bond of the dealer and may notify all known sellers as shown by the dealer's records.

5. The director or his authorized agent shall retain possession obtained under this section until such time as the dealer or the surety on the bond shall have satisfied the claims of all sellers, or until such time as the director or his authorized agent is ordered by the court to surrender possession. At no time while the director or his authorized agent is in possession of a dealer's business, as authorized by this section, shall the director, or his authorized agent be required to operate the dealer's business; nor shall the director or his authorized agent be liable for any claims which have arisen or could arise from the nonoperation of the dealer's business.

6. If at any time, the director, whether or not he or his authorized agent has possession as authorized by this section, has evidence that a dealer is insolvent or is unable to satisfy the claims of all sellers, the director may petition the circuit court for the appointment of a receiver to operate or liquidate the business of the dealer in accordance with law.

7. All necessary expenses incurred by the director, his authorized agents or any receiver appointed under this section, in carrying out the provisions of this section may be recovered from the dealer in a separate civil action brought by the director in the circuit court or as part of the seizure or receivership action filed under this section. If the director or any of his authorized agents seize and take possession of the grain, records or property at the dealer's facility, the dealer may be assessed and shall pay as part of the necessary expenses incurred a fee of one hundred dollars per person for each day or part thereof that each such person performs such activities. The cost of liability insurance necessary to protect the director, the receiver, and others engaged in carrying out the provisions of this section, may be recovered as part of the necessary expenses.

276.506. Fees

1. The director shall collect fees as follows:

(1) A filing fee of twenty-five dollars for each original application for license filed;

(2) A license fee of forty dollars for the issuance of an original or renewal license;

(3) A fee for each special or requested examination of a grain dealer for extra work beyond regular examination procedures in connection with regular scheduled examinations computed as follows:

(a) Necessary personal expenses in conformance with the rules and regulations promulgated by the commissioner of administration pursuant to section 33.090;

(b) A mileage allowance equal to the allowance established by the commissioner of administration pursuant to section 33.095;

(c) Twenty dollars for each man-hour required to complete the inspection.

2. All fees collected by the director under sections 276.401 to 276.582 shall be deposited in the general revenue fund of the state. No fees shall be prorated.

3. Nonpayment of fees shall be grounds for refusal to issue or renew a license or for suspension or revocation of a grain dealer's license.

4. Notwithstanding other provisions of sections 276.401 to 276.582, a grain dealer licensed under sections 276.401 to 276.582 who is also licensed by the state of Missouri under chapter 411 shall not be charged application filing fees or licensing fees authorized by sections 276.401 to 276.582.

276.511. Classification of dealers

1. For the purpose of regulation, all dealers shall be classified according to their type of business operation.

2. Dealers that meet the requirements set forth below may be classified as class I dealers:

(1) Each class I grain dealer must have and maintain a net worth equal to the greater of fifty thousand dollars or two percent of grain purchases;

(2) Each class I grain dealer shall be open for business every business day for a period of not less than six hours between the hours of 8:00 a.m. and 6:00 p.m., except as provided in subdivision (3) of this subsection. The dealer shall keep conspicuously posted on the door of the public entrance to his office a notice showing the hours during which the business will be kept open, except when such business is kept open continuously from 9:00 a.m. to 4:00 p.m.;

(3) In case the dealer's office is not to be kept open as required by subdivision (2) of this subsection, the notice posted as prescribed in that subdivision shall state the period during which the business is to be closed and the name of an accessible person, with the address where he is to be found, and the telephone number, if any, of whom shall be authorized to pay for grain sold to such dealer business.

3. Dealers also licensed as warehousemen under chapter 411 or under the United States Warehouse Act that do not meet the requirements of class I dealers are class II dealers.

(1) Each class II grain dealer shall be open for business every business day for a period of not less than six hours between the hours of 8:00 a.m. and 6:00 p.m., except as provided in subdivision (2) of this subsection. The dealer shall keep conspicuously posted on the door of the public entrance to his office a notice showing the hours during which the business will be kept open, except when such business is kept open continuously from 9:00 a.m. to 4:00 p.m.;

(2) In case the dealer's office is not to be kept open as required by subdivision (1) of this subsection, the notice posted as prescribed in that subdivision shall state the period during which the business is to be closed and the name of an accessible person, with the address where he is to be found, and the telephone number, if any, of whom shall be authorized to pay for grain sold to such dealer business.

4. Dealers using physical facilities, in which bulk grain may be stored or held, in the operation of their dealer business, maintaining¹ an office, and not licensed as a warehouseman under chapter 411, or the United States Warehouse Act, may be classified by the director as class III grain dealers.

(1) Each class III grain dealer shall be open for business every business day for a period of not less than six hours between the hours of 8:00 a.m. and 6:00 p.m., except as provided in subdivision (2) of this subsection. The dealer shall keep conspicuously posted on the door of the public entrance to his office a notice showing the hours during which the business will be kept open, except when such business is kept open continuously from 9:00 a.m. to 4:00 p.m.;

(2) In case the dealer's office is not to be kept open as required by subdivision (1) of this subsection, the notice posted as prescribed in that subdivision shall state the period during which the business is to be closed and the name of an accessible person, with the address where he is to be found, and the telephone number, if any, of whom shall be authorized to pay for grain sold to such dealer business.

5. Dealers primarily engaged in the trucking or transportation business, who incidental to or as a part of such business buy or sell grain, may be classified by the director as class IV dealers.

6. Notwithstanding subdivision (18) of subsection 4 of section 276.401 to the contrary, dealers whose grain transactions are only comprised of sales of grain from their own farming operations may apply for a class V grain dealers license.

7. All dealers who are not class I, II, III, IV or V dealers are class VI dealers.

8. The director may establish, by rule or regulation, additional requirements for the regulation of all classes of grain dealers. Such rules and regulations shall not be inconsistent with the provisions of sections 276.401 to 276.582.

276.516. Dealers to issue scale tickets--contents--how filed--evidence of holder's claim for payment

1. A scale ticket, or other document approved by the director, shall be made out and filed for each movement of grain in or out of any grain facility owned or operated by a dealer licensed or required to be licensed under the provisions of this chapter. All scale tickets shall be printed with the business name and location and consecutively numbered. They must be issued in consecutive order. A copy of all scale tickets shall be kept on file in numerical order in the grain dealer's office. All other source documents for movement of grain in or out of the facility shall be in a form approved by the director and kept and maintained in a manner approved by the director. Any scale ticket or other source document used in pricing grain for the purpose of sale to the grain dealer shall have the price shown on all copies of the ticket.

2. A scale ticket issued in accordance with the provisions of this chapter or regulations promulgated hereunder shall be considered a form of nonnegotiable receipt. This form of nonnegotiable receipt shall be deemed a document of title. The grain dealer's failure to complete all entries on a scale ticket as required by this chapter and the rules promulgated pursuant to this chapter shall constitute a violation on the part of the grain dealer, but shall not preclude or restrict a seller's right to receive payment for grain sold. The scale ticket or document issued in lieu of a scale ticket shall constitute prima facie evidence of the holder's claim for payment for the grain regardless of the degree of compliance with this chapter with respect to completion of the entries required by this chapter.

3. All scale tickets, or other approved documents, issued shall contain the following information:

(1) Customer name;

(2) Date issued;

(3) Type of grain;

(4) Quantity of grain;

(5) Notation to show whether the grain movement was IN or OUT;

(6) If movement was IN, whether the grain received was for purchase by the grain dealer, or for other specified purpose; and

(7) If received for purchase by the grain dealer, the price shall be stated on all copies or supporting documents.

276.521. Grain purchase contracts--form to be prescribed by director

1. All purchases of grain shall be evidenced by a grain purchase contract.

2. The scale ticket prepared and delivered in accordance with section 276.516 may constitute a written grain purchase contract in the case of grain purchased and priced at the time of delivery of the grain.

3. All types of grain purchase contracts shall be in a form as prescribed by the director.

276.531. Nonresident licensee to designate resident agent--agent to forward notices

1. Any person issued a license under sections 276.401 to 276.581 who is, or after the issuance of said license becomes, a nonresident of the state of Missouri shall designate in writing the secretary of state of the state of Missouri as his true and lawful attorney upon whom may be served all lawful processes in any action or proceeding brought by the director or other person

growing out of the licensee's violation of any of the terms of sections 276.401 to 276.581 or regulations promulgated hereunder; except, any such nonresident who has designated a resident agent upon whom process may be served as provided by law shall not be required to designate the secretary of state as his agent. The secretary of state shall be allowed such fees therefor as provided by law.

2. The acceptance of a dealer's license shall be signification of the licensee's agreement that any such process against him, which is so served, shall be of the same legal force and validity as if served upon him personally. Such appointment shall be irrevocable and binding upon his executor, administrator, or assigns. It shall be the duty of the licensee to keep his current address on file with the office of the secretary of state. The secretary of state shall forward the notice to the person by registered mail, return receipt requested, and when said return receipt is received the same shall be forwarded to the director. In case the notice sent by the secretary is refused or not claimed by the addressee, then the returned mail shall be forwarded to the director and, in either event, the service or attempt thereof shall be sufficient service upon the licensee.

276.536. Penalties--attorney general and prosecutors may prosecute upon complaint

Effective: January 1, 2017

1. Upon conviction, any person who does any of the following is guilty of a class B misdemeanor:

(1) Engaging in the business of being a grain dealer without securing a license prior to engaging in said business. If a grain dealer has been charged, and has paid, a penalty fee for operating without a license as set forth in section 276.411, the grain dealer may not be charged with a class B misdemeanor for operating without a license for the time period covered by the penalty fee;

(2) Violating any of the provisions of sections 276.401 to 276.581;

(3) Impeding, hindering, obstructing, or otherwise preventing or attempting to prevent the director, the director's designated representative, employees, or any auditor in the performance of his or her duty in connection with sections 276.401 to 276.581 or the regulations promulgated pursuant thereto;

(4) On the part of any person, refusing to permit inspection of his or her premises, books, accounts or records as provided in sections 276.401 to 276.581.

2. In case of a continuing violation, each day a violation occurs constitutes a separate and distinct offense.

3. It shall be the duty of the attorney general or each prosecuting attorney to whom any violation of sections 276.401 to 276.581 is reported to cause appropriate proceedings under this section to be instituted and prosecuted in a court of competent jurisdiction without delay. Before a violation is reported for prosecution, the director may give the grain dealer an opportunity to present his or her views at an informal hearing. In the event the director determines that a prosecutor to whom a violation has been reported has failed to institute appropriate proceedings, the director may make a written report of the failure to institute proceedings to the attorney general. The attorney general may investigate the circumstances which resulted in the report. If the attorney general determines additional proceedings are appropriate, he or she shall cause such proceedings to be instituted. When the attorney general causes such a proceeding to be instituted, he or she shall have all the powers and rights of the office of the prosecuting attorney to whom the violation was originally reported. Such powers and rights are restricted to the prosecution of the specific case reported.

4. A grain dealer licensed or required to be licensed under sections 276.401 to 276.581, or any officer, agent, or servant of such grain dealer who files false records, scale tickets, financial papers or accounts with the director, or who withholds records, scale tickets, financial papers or accounts from the director, or who alters records, scale tickets, financial papers or accounts in order to conceal amounts owed to sellers of grain or actual amounts of grain received and paid or not paid for or for the purpose of in any way misleading department auditors and officials is, upon conviction, guilty of a class D felony.

5. Any duly authorized officer or employee appointed under the provisions of sections 276.401 to 276.581 who neglects his or her duty, or who knowingly or carelessly inspects, grades, tests, or weighs any grain improperly, conducts an inspection improperly, intentionally falsifies any inspection report, or intentionally gives false information, or who accepts any money or other valuable consideration, directly or indirectly, for any neglect of duty as such duly authorized officer or employee in the performance of his or her duties as such officer or employee is deemed guilty of a class B misdemeanor.

276.541. Director not to be interested in grain buying

The director shall not, directly or indirectly, be interested in buying or selling grain, either on his own account or for others, or in handling grain as a grain dealer or on private account, during his term of office; except that, the director may sell, handle, buy or store grain in connection with his farming operation.

276.546. State not guarantor

Nothing in sections 276.401 to 276.581 shall be construed to imply any guarantee or obligation on the part of the state of Missouri, or any of its agencies, employees, or officials, either elective or appointive, in respect of any agreement or undertaking to which the provisions of sections 276.401 to 276.581 relate.

276.551. Information confidential, exceptions

1. Unless in accordance with a judicial order, and except in accordance with other provisions of sections 276.401 to 276.581, the director, the department, its counsel, auditors, or its other employees or agents shall not divulge any information disclosed by the applications or reports filed or inspections performed under the provisions of sections 276.401 to 276.581 and regulations promulgated hereunder, except to agents and employees of the department or to any other legal representatives of the state or federal government otherwise empowered to see or review such information; provided, the director may, upon written application of any person, disclose or direct any auditor or employee of the department to disclose any information which, in the opinion of the director, the person applying for the same is entitled to receive.

2. The director may disclose information contained in applications, reports, or inspections only in the form of an information summary or profile, or statistical study based upon data provided with respect to more than one grain dealer which does not identify the grain dealer to which the information applies.

3. The director may, at his discretion, disclose the fact of licensing and any other information which appears on the face of the grain dealer's license.

4. Subject to other provisions of sections 276.401 to 276.581 this section shall not prevent the taking of sworn testimony at a public hearing with respect to violations of sections 276.401 to 276.581 or regulations promulgated pursuant hereto.

5. Any duly authorized officer or employee, appointed under the provisions of sections 276.401 to 276.581 and regulations promulgated hereunder who violates the provisions of this section is, upon conviction, guilty of a class B misdemeanor.

276.556. Hearings, director to promulgate rules

All hearings provided for in sections 276.401 to 276.581 or in regulations promulgated hereunder shall be held in accordance with the provisions prescribed by the director.

276.561. Formal notices may be eliminated, when--parties may resolve differences

1. Upon the agreement of the director, and the known interested parties, a hearing may be held without formal notice at such time and place as all of the parties may agree.

2. In all disputes arising from rights or obligations under sections 276.401 to 276.581 and regulations promulgated hereunder in which all parties are private persons and in which the director is not involved as a party, the parties shall be afforded the opportunity to settle and resolve such dispute prior to a hearing held pursuant to sections 276.401 to 276.581.

276.566. Director may contract with other states regarding uniform procedures

The director is authorized and empowered to enter into contracts and agreements necessary to cooperate with any other state to make uniform the procedures followed in bonding, licensing and examining state licensed grain dealers and to make available to those states with whom Missouri has entered into such contracts and agreements the information acquired under such bonding, licensing and examining procedures.

276.571. Licenses may be revoked or suspended because of actions in other states, when, procedure

When the director receives notice from a state with which Missouri has a cooperative agreement under sections 276.401 to 276.581 of the imposition of a final judgment in a civil action, criminal conviction, or final administrative action for an act by a grain dealer licensed in this state, which, if committed in this state would constitute a violation of sections 276.401 to 276.581, he is authorized to initiate such proceedings as he may deem appropriate under sections 276.401 to 276.581, either administrative or judicial, to suspend or revoke the grain dealer's license or to enjoin such grain dealer from operating in this state.

276.576. Satisfaction of bonding requirements

The bonding requirements of sections 276.401 to 276.581 may be satisfied by:

(1) Filing with the director evidence of a bond on file with any other state with which Missouri has a cooperative agreement as provided for by sections 276.401 to 276.581; and

(2) Such bond shall be copayable to the state of Missouri for the benefit of sellers of grain in Missouri; and

(3) The bond shall be in an amount at least equal to the amounts required by sections 276.401 to 276.581.

276.581. Bonds may be copayable to another state

Any bond required by sections 276.401 to 276.581 may be made copayable to any state with whom Missouri has entered into contracts or agreements as authorized by section 276.566, for the benefit of sellers of grain in that state.

276.582. Signs to be posted stating licensing status of grain dealer, requirements, violation, penalties--attorney general may investigate violations, also for grain warehouses, when

1. Each grain dealer, as defined in section 276.401, shall prominently display, at the main entrance to the building of the grain dealer and on or about the scale of the grain dealer, if any, so that such sign may be easily viewed by a person using the scale, a sign containing letters of not less than one inch and not more than six inches in height, which shall read either:

(1) "NOTICE: THIS GRAIN DEALER IS NOT LICENSED AS REQUIRED BY LAW PURSUANT TO SECTION 276.411, RSMo"; or

(2) "NOTICE: THIS GRAIN DEALER IS LICENSED AS REQUIRED BY LAW PURSUANT TO SECTION 276.411, RSMo".

2. Any grain dealer, as defined in section 276.401, who does not display the sign as required by subsection 1 of this section, is guilty of a misdemeanor, and shall be subject to a fine of up to three hundred dollars for each day of the violation.

3. The director of the department of agriculture may refer violations of this section and section 411.778 to the attorney general if the local circuit or prosecuting attorney has not acted upon violations of this section and section 411.778 within ninety days of notice by the director of the department of agriculture of such violation. The attorney general may investigate, prosecute and appoint a special prosecuting attorney in any case which has been referred under this subsection.

276.600. Short title

Sections 276.600 to 276.661 shall be known, and may be cited, as the "Missouri Livestock Dealer Law".

276.606. Definitions

As used in sections 276.600 to 276.661, the following terms mean:

- (1) “**Agent**”, any person authorized to act for a livestock dealer;

- (2) “**Dealer transactions**”, any purchase, sale, or exchange of livestock by a dealer, or agent, representative, or consignee of a dealer or person in which any interest equitable or legal is acquired or divested whether directly or indirectly;

- (3) “**Director**”, the director of the Missouri department of agriculture or his designated representative;

- (4) “**Engaged in the business of buying, selling, or exchanging in commerce livestock**”, sales and purchases of greater frequency than the person would make in feeding operation under the normal operation of a farm, if the person is a farmer. If the person is not a farmer he is a dealer engaged in the business of buying, selling, or exchanging in commerce livestock;

- (5) “**Livestock**”, cattle, swine, sheep, goats, horses and poultry, llamas, alpaca, buffalo, bison, and other domesticated or semidomesticated or exotic animals;

- (6) “**Livestock dealer**”, any person engaged in the business of buying, selling, or exchanging in commerce of livestock;

- (7) “**Livestock transactions**”, any purchase, sale or exchange of livestock by a person, whether or not a livestock dealer, in which any interest equitable or legal is acquired or divested whether directly or indirectly;

- (8) “**Official ear tag**”, a metal or plastic ear tag prescribed by the director conforming to the nine character alpha-numeric national uniform ear-tagging system;

- (9) “**Person**”, any individual, partnership, corporation, association or other legal entity;

- (10) “**State veterinarian**”, the state veterinarian of the Missouri department of agriculture, or his appointed agent.

276.611. Dealers to register with director

Any person engaged in the business of buying, selling, or exchanging in commerce livestock shall be registered annually with the director. Registration shall be made on forms provided by the director.

276.615. Records to state veterinarian, when

1. If the state veterinarian has reasonable cause to believe any livestock in this state are diseased in such a manner as to constitute a health hazard to other livestock, wherever located, he may request in writing the livestock sales records of any livestock dealer in this state for the purpose of tracing or discovering the diseased livestock, the source of the disease and all other livestock which may be affected by the disease. A livestock dealer shall have twenty-four hours to comply with such a request.

2. The state veterinarian may inspect, acquire and use such records only for the detection and eradication of disease and for no other purpose.

276.617. Livestock dealer law enforcement and administration fund, created--use, investment of funds--fund not to lapse

1. All penalties assessed for violations of this chapter shall be paid to the state treasurer to be credited to the "Livestock Dealer Law Enforcement and Administration Fund", which is hereby created. All money credited to the livestock dealer law enforcement and administration fund shall be for the use and benefit of the animal health division of the department of agriculture and specified in the annual appropriations to the department.

2. The unexpended balance in the fund at the end of each fiscal year shall not be transferred to the general revenue fund of the state, and the provisions of section 33.080 relating to the transfer of funds to the general revenue fund of the state by the state treasurer shall not apply to this fund.

3. The state treasurer shall invest all sums in the livestock dealer law enforcement and administration fund not needed for current operating expenses in interest-bearing banking accounts or United States government obligations in the manner provided by law. All yield, increment, gain, interest or income derived from the investment of these sums shall accrue to the benefit of, and be deposited within, the state treasury to the credit of the livestock dealer law enforcement and administration fund.

276.621. Violations of chapter

Any of the following acts or omissions by any person who is a livestock dealer or agent thereof or other person engaged in livestock transactions shall constitute violations of this chapter:

(1) Failure by a livestock dealer to obtain any bond required by the Packers and Stockyard Act;

(2) Any movement of livestock by any person without accompanying proper health certificates, proper tests for disease or identification as may be required under the animal health statutes of Missouri or the United States, or any rules and regulations promulgated thereunder;

(3) Failure to maintain records as required by the director;

(4) Failure to register in accordance with section 276.611.

276.631. Director may investigate, purpose--hearing, procedures, subpoena power, appeal--penalty, limitation

1. The director may, upon his own motion or upon verified complaint in writing of any person, investigate the actions of any livestock dealer or other person engaging in livestock transactions. If such person is found to be in violation of any provision of sections 276.600 to 276.661, the director may summon same to a hearing which shall be set no later than twenty business days from the date of the summons. At any time after the summons is issued, the director may apply to the circuit court in the county in which the livestock dealer resides, or, if a nonresident, in Cole County, and the court shall be authorized to enter an order barring further purchases or sales of livestock. Such order shall remain in effect until the administrative hearing provided for in this section shall be had.

2. At the hearing, the livestock dealer or other person engaging in livestock transactions and the state shall have the opportunity to present in person or by counsel such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense. The director may subpoena any persons or documents incident to the hearing, may take testimony orally, by deposition or by exhibit, in the same manner and with the same fees and mileage as prescribed in judicial proceedings in civil cases. The director or his designated representative may also administer oaths to those giving evidence. Following the hearing, the director may:

(1) Assess a penalty upon such livestock dealer or other person engaging in livestock transactions in an amount not to exceed ten thousand dollars for each violation of sections 276.600 to 276.661; or

(2) Dismiss the case.

3. Any person aggrieved by a decision of the director after a hearing pursuant to this section may appeal to the circuit court.

276.641. Records, dealer to keep

Every livestock dealer and any agent of any livestock dealer shall maintain written records of sales and purchase transactions and other information relating thereto, as shall be established by rule or regulation promulgated under the provisions of sections 276.600 to 276.661.

276.646. Director granted subpoena power--venue, where

If any livestock dealer fails or refuses to comply with the provisions of sections 276.600 to 276.661, the director may subpoena such person and all livestock sales and purchase records. Upon refusal of any person to comply with any such subpoena, the director may petition the circuit court having venue for an order enforcing such subpoena. Upon failure of any person to obey a court order enforcing the director's subpoena, the court issuing such order shall find that person in contempt and punish him as provided by law. For purposes of this section venue shall be in the circuit court of any county in which the livestock dealer regularly purchases or sells any livestock.

276.661. Director may petition for injunctive relief, how

The director, on determining that any person may have violated any provision of sections 276.600 to 276.661, may petition for injunctive relief from further violation. Such petition shall be addressed to the circuit court in the county in which the offense occurred or in which the offender has his principal place of business or is doing business or resides. The court, on determining that there is probable cause that a violation of sections 276.600 to 276.661 exists, shall issue appropriate injunctive relief.