



2022 South Dakota Legislature
Senate Bill 38
ENROLLED

AN ACT

ENTITLED An Act to prohibit a grain broker from engaging in certain transactions or activities and to provide a penalty therefor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 49-45-1 be AMENDED:

49-45-1. Before transacting the business of a grain buyer in this state, a person shall obtain a grain buyer license from the commission.

A violation of this section is a Class 5 felony if the person holds himself or herself out to be a grain broker and a Class 1 misdemeanor in all other cases. Each purchase of grain without a license is a separate offense.

A grain buyer transacting business without a license may be enjoined upon complaint of the commission.

The commission may assess a civil fine against an unlicensed grain buyer in the amount of five thousand dollars for each purchase of grain, up to a maximum fine of fifty thousand dollars per licensing period, as set forth in § 49-45-3.

For purposes of this section, the term, purchase of grain, means a transaction evidenced by the issuance of a uniform scale ticket or receipt, as described in § 49-45-10.1.

Section 2. That § 49-45-1.1 be AMENDED:

49-45-1.1. Terms used in this chapter mean:

- (1) "Commission," the Public Utilities Commission;
- (2) "Grain," grain, grain sorghums, beans, pulse crops, and oil seeds. The term does not include grain that has been cleaned, processed, and specifically identified for an intended use of planting for reproduction, grain received for consignment that will be processed by the consignee for an intended use of planting for reproduction, or grain purchased to feed livestock;

- (3) "Grain broker," a person who is involved in the negotiation of a grain transaction in this state and:
 - (a) Is compensated for that involvement by at least one party to the transaction; and
 - (b) Does not take title to the grain that is subject to the transaction;
- (4) "Grain buyer," any person who purchases grain for the purpose of reselling the unprocessed grain or who purchases three hundred thousand dollars' worth or more of grain directly from producers in a calendar year. Nothing in this chapter applies to the isolated resale of grain by a producer who does not hold himself or herself out as engaging in the business of reselling grain;
- (5) "Holds himself or herself out," the creation of an assumption or the use of any kind of title, sign, symbol, document, or term indicating or conveying the idea that the person whose name is so connected is competent, qualified, authorized, or entitled to engage in certain activities;
- (6) "Person," any natural person, firm, corporation, company, limited liability company, partnership, association, or joint stock company, or the lessee, trustee, or receiver appointed by any court for any one of the foregoing;
- (7) "Producer," a person engaged in the business of grain production; and
- (8) "Voluntary credit sale," a sale of grain or seeds pursuant to which the sale price is to be paid more than thirty days after the delivery or release of the grain for sale, including those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts, and price-later contracts

Section 3. That chapter 49-45 be amended with a NEW SECTION:

It is a Class 5 felony for a grain broker to:

- (1) Negotiate or attempt to negotiate a grain transaction with a grain buyer, who is not licensed in accordance with this chapter; or
- (2) Take title or attempt to take title to grain that is subject to a transaction being negotiated by the grain broker.

The commission may assess a civil fine against a grain broker in the amount of five thousand dollars for each violation of this section, up to a maximum fine of fifty-thousand dollars, annually.

An Act to prohibit a grain broker from engaging in certain transactions or activities and to provide a penalty therefor.

I certify that the attached Act originated in
the:
Senate as Bill No. 38

Received at this Executive Office
this ____ day of _____,
2022 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby
approved this _____ day of
_____, A.D., 2022

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2022
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 38
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State