

HOUSE BILL REPORT

SSB 5713

*As Passed House
April 10, 1991*

Title: An act relating to the administration of licenses by the department of agriculture.

Brief Description: Making changes to license administration by the department of agriculture.

Sponsor(s): Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr and Hansen; by request of Department of Agriculture).

Brief History:

Reported by House Committee on:

Agriculture & Rural Development, March 28, 1991, DPA;
Passed House, April 10, 1991, 93-0.

**HOUSE COMMITTEE ON
AGRICULTURE & RURAL DEVELOPMENT**

Majority Report: *Do pass as amended.* Signed by 10 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Chandler; Grant; R. Johnson; Lisk; McLean; and Rasmussen.

Staff: Kenneth Hirst (786-7105).

Background: Persons who act as commission merchants for or deal in agricultural commodities owned by others must, with certain exceptions, be bonded and licensed under the state's commission merchant laws.

Commodities may be sold by commission merchants on the basis of sales for individual producers or through arrangements under which the commodities of a number of producers are pooled. The records which must be provided to an individual consignor differ from those which must be provided to members of pools.

Grain warehouses and grain dealers are licensed and regulated under the state's agricultural warehouse laws. Persons who operate commercial feed lots must also be licensed by the department.

The licenses for these persons and operations as well as those for a wide variety of others, licensed under the laws administered by the Department of Agriculture, expire on dates set by statute.

Summary of Bill: COMMISSION MERCHANT LAWS. Contracts & Records. Before a commission merchant may handle an agricultural product in a pooling arrangement or accounting, the consignor must have agreed in writing to allow the pooling. Except for contracts for such pooling, the contracts of a commission merchant may not require that a consignor give up all involvement in determining the time the consignor's products will be sold.

A commission merchant must transmit a copy of a handling, sale, or storage record to the consignor on the same day that final remittance is made to the consignor for individual consignments. For consignors who participate in pooling arrangements, the remittance and accounting must be accompanied by a summary of the records which, under current law, are available for inspection by members of the pool.

If requested by the consignor, a commission merchant must promptly (rather than, under current law, by the end of the next business day) make sales records regarding the consignor's products available. This requirement now applies to all records of the ongoing sales of the consignor's products. The records that a dealer or cash buyer must maintain for three years regarding a sale no longer must include a copy of the dealer's or buyer's itemized list of service charges which were in effect on the date the terms of a sale were agreed upon.

Licenses & Bonds. The minimum bond required for a commission merchant handling products other than livestock, hay, straw, turf, forage, or vegetable seed is now \$10,000 (rather than \$7,000). The minimum bond for a dealer handling the same type of products is now \$10,000 (rather than \$3,000). The minimum bond supporting a federal license under the Packers and Stockyards Act (PSA) which permits the federal license to be used in lieu of a state license is now also \$10,000 (rather than \$7,500). A dealer licensed under state law who also acts as an order buyer for other persons licensed under the state's commission merchant laws or under the federal PSA may subtract the amount of such business from the dealers gross volume of purchases when computing the amount of bond coverage required under the commission merchant laws.

The various licenses issued under the commission merchant laws no longer expire annually on January 1st. They now expire annually on a date set by the director. The penalty

for a late renewal of such a license is now set at 25 percent of the annual license fee (rather than, as under current law, at \$10).

GRAIN WAREHOUSES & DEALERS. Rate Changes. A licensed warehouse may change its schedule of rates for handling, conditioning, or storing commodities without securing the approval of the Department of Agriculture. The operator may change the rates after providing 30 days' written notice to the director and properly posting the rates on the licensee's premises.

License Renewals. The annual licenses of grain warehouses and grain dealers no longer expire on June 30th. They expire annually on a date set by the director.

CERTIFIED FEED LOTS. Fees & Brand Inspections. An operator of a certified feed lot must report to the nearest brand inspector any discrepancy between cattle entering or reentering the lot and the brand inspection certificate accompanying the cattle. A discrepancy may require an inspection of all the cattle entering or reentering the lot except as provided by rule. A provision of law is repealed which states that such cattle are not subject to brand inspection if the director is given written assurance by the lot operator that the cattle have not been commingled with uninspected cattle. The fee that an operator must pay the director for each head of cattle handled is to be paid monthly (rather than, under current law, within 15 days of billing).

License Renewal. The annual license for operating a certified feed lot no longer expires on June 30th. It expires annually on a date set by the director.

LICENSE RENEWAL DATES FOR OTHER LICENSES. Licenses for the following expire annually on a date set by the director rather than expiring annually on June 30th: milk vendors, milk plants, custom farm slaughtering, custom meat facilities, weighmasters, and weighers. Licenses for dairy technicians expire biennially on a date set by the director rather than biennially on January 1st.

Pesticide licenses or certifications for the following expire annually on a date set by the director rather than expiring annually on December 31st: commercial pesticide applicators, operators, private applicators, and public operators. A pest control consultant's license expires annually on a date set by the director rather than annually on the last day of February.

Pesticide licenses for the following expire every five years on a date set by the director by rule rather than on December 31st every five years: private-commercial applicators, demonstration and research applicators, and dealer managers.

In all cases, license fees may be prorated to accommodate the staggering of expiration dates.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (1) Too many renewals of the licenses administered by the Department of Agriculture become due at the same time under current law. Under this bill, the department will stagger the renewal dates to provide a better flow of work and will cooperate with industries to identify renewal dates which best suit their needs as well. (2) Certified feed lot operators have asked for a monthly reporting of fees, as established in the bill, to keep their books more current. (3) The most persistent complaint received by the department involves pooling arrangements for commission merchant sales. Complainants are not certain they have agreed to participate in the pools. This bill requires pooling arrangements to be made in writing.

Testimony Against: None.

Witnesses: Mike Schwisow, Department of Agriculture (in favor).