

AN ACT

To amend sections 926.01, 926.021, 926.05, 926.06, 926.10, 926.16, 926.18, 926.19, 926.29, 926.30, 926.32, 926.99, and 4513.32 and to enact sections 926.051, 926.36, and 5577.042 of the Revised Code to change the definition of an agricultural commodity handler, to increase the total net worth that an applicant for an agricultural commodity handler's license must maintain, to increase the penalty for engaging in agricultural commodity handling without a license, to make other revisions to the law governing agricultural commodity handling, to permit certain pickup trucks and straight trucks to tow at a speed not exceeding 25 miles per hour not more than two vehicles carrying agricultural produce from the farm to a local place of storage, and, except during the months of February and March, to allow farm and log trucks and farm machinery, under prescribed circumstances, to exceed by no more than five per cent the established motor vehicle weight limits on highways and bridges that are not part of the interstate system and are not subject to reduced weight limits.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 926.01, 926.021, 926.05, 926.06, 926.10, 926.16, 926.18, 926.19, 926.29, 926.30, 926.32, 926.99, and 4513.32 be amended and sections 926.051, 926.36, and 5577.042 of the Revised Code be enacted to read as follows:

Sec. 926.01. As used in this chapter:

(A) "Agricultural commodity" means barley, corn, oats, rye, grain sorghum, soybeans, wheat, sunflower, speltz, ~~and~~ or any other agricultural

crop which the director of agriculture may designate by rule. "Agricultural commodity" does not mean any grain that is purchased for sale as seed.

(B) "Agricultural commodity handling" or "handling" means:

(1) Engaging in or participating in the business of purchasing an agricultural commodity for sale, resale, processing, or for any other use in the following volumes exceeding ten:

(a) In the case of purchases made from producers, more than THIRTY thousand bushels annually;

(b) In the case of purchases made from agricultural commodity handlers, more than one hundred thousand bushels annually;

(c) In the case of total purchases made from producers combined with total purchases made from handlers, more than one hundred thousand bushels annually.

(2) Operating a warehouse as a bailee for the receiving, storing, shipping, or conditioning of an agricultural commodity;

(3) Receiving into a warehouse an agricultural commodity purchased under a delayed price agreement;

(4) Providing marketing functions, including storage, delayed price marketing, deferred payment, feed agreements, or any other marketing transaction whereby control is exerted over the monetary proceeds of a producer's agricultural commodities by a person other than the producer.

(C) "Agricultural commodity handler" or "handler" means any person who is engaged in the business of agricultural commodity handling. ~~Any "Agricultural commodity handler" or "handler" does not include a person whose purchases of all agricultural commodities do not exceed ten thousand bushels annually and~~ and who does not handle agricultural commodities as a bailee is not an and who purchases agricultural commodities in the following volumes:

(1) Thirty thousand or fewer bushels annually from producers;

(2) One hundred thousand or fewer bushels annually from agricultural commodities handler commodity handlers.

A person who does not handle agricultural commodities as a bailee and who annually purchases thirty thousand or fewer bushels of agricultural commodities from producers and one hundred thousand or fewer bushels of agricultural commodities from agricultural commodity handlers shall be considered to be an agricultural commodity handler if the combined annual volume of purchases from the producers and the agricultural commodity handlers exceeds one hundred thousand bushels.

(D) "Depositor" means:

(1) Any person who delivers an agricultural commodity to a licensed

handler for storage, conditioning, shipment, or sale;

(2) Any owner or legal holder of a ticket or receipt issued for an agricultural commodity who is a creditor of the licensed handler for the value of the agricultural commodity;

(3) Any licensed handler storing an agricultural commodity that ~~he~~ the licensed handler owns solely, jointly, or in common with others in a warehouse owned or controlled by ~~him~~ the licensed handler or any other licensed handler.

(E) "Receipt" means a warehouse receipt issued by a licensed handler.

(F) "Nonnegotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered to the depositor or to the order of any other person named in the receipt.

(G) "Negotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered to the bearer or to the order of any person named in the receipt.

(H) "Ticket" means a scale weight ticket, a load slip, or any evidence, other than a receipt, given to a depositor by a licensed handler upon delivery of an agricultural commodity to the handler.

(I) "Warehouse" means any building, bin, protected enclosure, or similar premises under the control of a licensed or unlicensed handler used for receiving, storing, shipping, or handling an agricultural commodity.

(J) "Storage" means the deposit of an agricultural commodity into a warehouse either for the account of the licensed handler operating the warehouse or for the account of a depositor.

(K) "Producer" means any person who grows an agricultural commodity on land that ~~he~~ the person owns or leases.

(L) "Agent" means any person, other than a producer, who delivers an agricultural commodity to a licensed handler, either for sale or for storage, for the account of the producer.

(M) "Agricultural commodity tester" or "tester" means a person who operates a moisture meter and other quality testing devices to determine the quality of an agricultural commodity.

(N) "Federally licensed grain inspector" means a person who is licensed by the United States department of agriculture under the "United States Grain Standards Act," 39 Stat. 482 (1916), 7 U.S.C. 71, as amended, to test and grade grain, as "grain" is defined in that act.

(O) "Bailee" means a person to whom an agricultural commodity is delivered in trust for storage in a warehouse with title remaining in the name of the depositor.

(P) "Bailor" means a person who delivers an agricultural commodity to

a bailee in trust for storage in a warehouse with title remaining in the name of the depositor.

(Q) "Bailment agreement" means a bailor-bailee agreement between a depositor and a licensed handler as stated in the terms of a receipt that is issued for an agricultural commodity in storage and subject to the requirements of this chapter governing the use of a receipt.

(R) "Delayed price agreement" means a written executory contract executed by and between a licensed handler and a depositor that covers the sale and transfer of title of an agricultural commodity and states in its written terms the service charges and the method for pricing the commodity at a later date.

(S) "Delayed price marketing" means the sale and transfer of title of an agricultural commodity with the price to be established at a later date according to the terms of a delayed price agreement.

(T) "Deferred payment" means the deferral of payment to a depositor by a licensed handler for an agricultural commodity to which the licensed handler has taken title, for the purpose of deferring income of the depositor from one tax year to another.

(U) "Feed agreement" means a written contract executed by and between a licensed handler and a producer or depositor who delivers an agricultural commodity to the licensed handler for storage whereby each of the following applies:

(1) The producer or depositor transfers title to the agricultural commodity to the licensed handler in exchange for a nominal sum;

(2) The producer, upon delivery of the agricultural commodity to the licensed handler, becomes a creditor of the licensed handler due to the lien that arises under section 926.021 of the Revised Code;

(3) All or part of the agricultural commodity is returned to the producer at a later date and used for feed purposes.

(V) Notwithstanding section 1.02 of the Revised Code, "and" shall not be read "or" and "or" shall not be read "and."

Sec. 926.021. (A) As used in this section:

(1) "Claimant" means a person ~~who is unable to secure satisfaction of financial obligations due from~~ to whom an agricultural commodity handler owes a financial obligation for agricultural commodities or the actual monetary proceeds from agricultural commodities that have been delivered to the handler.

(2) "Failure" means any of the following involving an agricultural commodity handler:

(a) An inability to ~~financially~~ satisfy claimants financially;

- (b) A public declaration of insolvency;
 - (c) A revocation, suspension, or conditional suspension of license with outstanding indebtedness to claimants;
 - (d) Nonpayment in the ordinary course of business where a good faith dispute does not exist;
 - (e) No application for license renewal;
 - (f) Denial of license renewal;
 - (g) Voluntarily surrendering a license.
- (3) "Agricultural commodity assets" involving a ~~failed~~ an agricultural commodity handler ~~mean~~ means any of the following:
- (a) All agricultural commodities owned or stored, including agricultural commodities in transit shipped by the ~~failed~~ handler but not yet paid for;
 - (b) Redeposited agricultural commodities;
 - (c) Proceeds from the sale of agricultural commodities due or to become due;
 - (d) The equity less any secured financing directly associated therewith in assets in hedging or speculative margin accounts held by commodity or security exchanges or dealers representing the exchanges, and any moneys due or to become due less any secured financing directly associated therewith from any transactions on the exchanges;
 - (e) Any other unencumbered funds, property, or equity in funds or property, wherever located, that can be directly traced to the sale of agricultural commodities by the ~~failed~~ handler, provided both that the funds, property, or equity in funds or property shall not be considered to be encumbered unless the encumbrance results from good and valuable considerations advanced by any secured party on a good faith basis and that the encumbrance is not the result of the taking of funds, property, or equity in funds or property as additional collateral for an antecedent debt;
 - (f) Any other unencumbered funds, property, or equity in assets.
- (B) A lien shall exist on all agricultural commodity assets of a ~~failed~~ an agricultural commodity handler in favor of any of the following:
- (1) Claimants, including lenders, who possess receipts covering grain owned or stored by the handler;
 - (2) Claimants who possess written evidence of ownership other than a receipt disclosing a storage obligation of the handler, including tickets;
 - (3) Claimants who surrendered receipts as part of an agricultural commodity sales transaction but were not ~~fully~~ paid fully for the agricultural commodity and the handler failed within ~~twenty~~ twenty-one days after the surrender;
 - (4) Claimants who possess any other written evidence of the sale of

agricultural commodities to the ~~failed~~ handler for which they were not ~~fully~~ paid fully, including the sale of agricultural commodities for a nominal sum under a feed agreement.

(C) The lien ~~which that~~ shall secure all claims described in division (D) of this section, shall arise, attach to the agricultural commodity assets of an agricultural commodity handler, and become effective at the time of the delivery of the agricultural commodity for sale or for storage under a bailment agreement, commencement of the storage obligation, or when funds are advanced by the lender, and shall terminate when the liability of the agricultural commodity handler to the claimant is discharged, provided that the priority of each lien among the respective claimants shall not relate to the date the claim arises but shall be governed by the priorities established in division (D) of this section. ~~The~~ In the event of a failure, the lien claims of all claimants shall be considered to be assigned by operation of this section to the department of agriculture, and in the event of a failure and subsequent liquidation, the lien shall transfer over to assets or proceeds of assets either received or liquidated by the department ~~of agriculture.~~

(D) ~~In~~ Except as provided in division (E) of this section, in the event of a failure, the director of agriculture shall possess exclusive authority to enforce the lien claims and allocate the proceeds as follows:

(1) First priority against all agricultural commodity assets shall be the following:

(a) Claimants, including lenders, who possess receipts covering grain owned or stored by the agricultural commodity handler;

(b) Claimants who possess written evidence of ownership other than receipts disclosing a storage obligation of the handler, including tickets;

(c) Claimants who surrendered receipts as part of an agricultural commodity transaction, but were not ~~fully~~ paid FULLY for the agricultural commodity and the handler failed within twenty-one days after the surrender.

(2) Second priority against all agricultural commodity assets shall be to claimants who possess written evidence of the sale of an agricultural commodity, including, but not limited to, tickets, delayed price agreements, or similar agricultural commodity delivery contracts who completed delivery and pricing within thirty days immediately prior to the failure of the handler.

(3) To the extent not necessary to satisfy first and second priority claimants, all other claimants who possess written evidence of the sale of agricultural commodities to the ~~failed~~ handler shall participate in the pro rata distribution of the remainder of the agricultural commodity assets in an

amount not to exceed the value of ~~their~~ each claim.

(E) In the event that any adversary proceeding is commenced to recover agricultural commodity assets upon which the lien imposed in this section is imposed and the department of agriculture declines to enter the proceeding, the director of ~~agriculture~~, upon application to ~~him~~ the director by any claimant, shall assign to the claimant the applicable lien to permit the claimant to pursue ~~his~~ the claimant's lien in the adversary proceeding to the extent the action will not delay the resolution of the proceeding, the prompt liquidation of the assets, or the ultimate distribution of the assets ~~of~~ to all claimants.

Sec. 926.05. (A) Each person desiring to obtain or renew a handler's license shall file an application annually with the director of agriculture at such times, on such forms, and containing such information as ~~he~~ the director prescribes, including, if applicable, the appointment of a statutory agent under section 926.051 Of the Revised Code.

(B) Each application for a license or license renewal shall be accompanied by an application fee of two hundred dollars for the first facility operated by the applicant plus one hundred dollars for each additional facility operated by the same applicant and by an examination fee, established by rule of the director pursuant to section 926.02 of the Revised Code, for each facility operated by the applicant. "Facility" means all warehouse storage located on one premises, including any additional warehouse storage located within one thousand yards of that premises. The director may charge fees for examinations in an amount not to exceed those fees charged by the United States department of agriculture for comparable examinations.

The director shall deposit all fees collected under this section in the commodity handler regulatory program fund created in section 926.19 of the Revised Code.

(C) The director shall approve or reject each application for a license within fifteen days after receipt thereof, provided that such application is in proper form and contains the information required under division (A) of this section. A rejection of an application shall be accompanied by a statement from the director of the additional requirements necessary for a license. The applicant may resubmit ~~his~~ the application without payment of any additional fee.

(D) A handler's license shall expire on the date prescribed by rule of the director. Whenever the director considers it advisable to cancel the unexpired portion of an outstanding license in order to renew it according to a new or existing system of expiration dates, ~~he~~ the director shall refund to

the handler the unexpired portion of the fees paid under division (B) of this section. Whenever the director issues an initial license on a date that does not conform to the existing system, ~~he~~ the director shall issue the license for ~~whatever~~ a period of time, not less than six nor more than eighteen months, that makes ~~it~~ the date conform to the existing system. The application fee for that initial license shall be proportionate to the fee for a one-year license.

(E) An application for renewal of a handler's license shall be filed with the director not later than thirty days before the current license expires. An applicant who fails to file a renewal application in time shall pay a late fee of one dollar for each day the application is late or fifteen dollars, whichever is greater. A renewal license shall not be issued until a late fee that is due has been paid.

(F) The director, with the approval of the commodity advisory commission, may revoke or refuse to issue or renew a handler's license if any of the following occurred within five years before the application for the license or renewal was filed:

(1) The applicant, or the spouse, parent, sibling, or child of the applicant, or a manager employed by the applicant, or any other individual materially involved in the agricultural commodity handling business of the applicant was a principal in a receivership or insolvency that resulted in losses to creditors or to the agricultural commodity depositors fund established in section 926.16 of the Revised Code;

(2) The applicant pled guilty to or was convicted of any felony or charge of embezzlement under the laws of this state, any other state, or of the United States;

(3) The applicant made a delivery of commodities not authorized under this chapter;

(4) The applicant's license under the "United States Warehouse Act," 39 Stat. 486 (1916), 7 U.S.C. 241, as amended, was revoked or canceled due to a violation of that act.

Sec. 926.051. (A) An applicant for a handler's license or renewal issued under section 926.05 of the Revised Code who does not conduct business at an address in this state at which the applicant usually can be contacted shall include with the application a written appointment of an agent, sometimes referred to as a "statutory agent," upon whom any process, notice, or demand may be served. The appointment shall be accompanied by a written acceptance of the appointment signed by the agent. The agent may be a natural person who is a resident of this state or a corporation whose principal place of business is located in this state. The appointment shall be on such forms and contain such information as the Director of Agriculture

prescribes. Failure to comply with this division is grounds for rejection of the application under division (C) of section 926.05 of the Revised Code.

(B)(1) If an agent removes from the state or resigns, or if the applicant revokes the agent's appointment, the applicant immediately shall notify the Director in writing not later than thirty days prior to the removal, resignation, or revocation. If an agent dies, the applicant immediately shall notify the Director in writing, prior to the removal, resignation, or revocation and Not later than thirty days after the death, the applicant shall appoint another agent and file with the Director a written appointment of the agent, along with a written acceptance of the appointment signed by the agent.

(2) If the agent's address changes from that appearing on the application, the applicant, not later than thirty days prior to the address change, shall file with the Director a written statement setting forth the new address, along with any other information the Director requests.

(C) Failure to comply with division (B) of this section is grounds for suspension or conditional suspension of a handler's license, without prior hearing, under section 926.10 of the Revised Code.

Sec. 926.06. (A) The director of agriculture may issue a handler's license, or renewal thereof, upon the payment of the prescribed application fee, if the director is satisfied that the applicant meets the standards of financial responsibility required under this section and has complied with this chapter and the rules adopted under it.

(B) ~~Each~~ (1) On the effective date of this amendment, each applicant for a handler's license, or renewal thereof, shall have and maintain current assets equal to or greater than current liabilities and a total net worth ~~of~~ equal to at least ten cents per bushel for the total number of bushels of agricultural commodities that ~~he~~ the applicant handled during the immediately preceding twelve-month period to cover any indebtedness arising from ~~his~~ the applicant's operations as a licensed handler. ~~If~~ One year after the effective date of this amendment, the total net worth requirement shall increase to eleven cents per bushel. For the next four years, the requirement shall continue to increase by one cent per bushel each year on the anniversary of the effective date of this amendment, so that five years after the effective date of this amendment, an applicant's total net worth shall be equal to at least fifteen cents per bushel for the total number of bushels of agricultural commodities that the applicant handled during the immediately preceding twelve-month period.

(2) On the effective date of this amendment, if an applicant is applying for a handler's license for the first time and did not handle any agricultural

commodities during the immediately preceding twelve-month period, ~~he~~ the applicant shall have an allowable total net worth of at least twenty-five thousand dollars ~~for that purpose.~~ To cover any indebtedness arising from the applicant's operations as a licensed handler. One year after the effective date of this amendment, this allowable total net worth requirement shall increase to thirty thousand dollars. For the next four years, The requirement shall continue to increase by five thousand dollars each year on the anniversary of the effective date of this amendment, so that five years after the effective date of this amendment, an applicant's total net worth shall be at least fifty thousand dollars.

(3) On the effective date of this Amendment, no person shall be licensed as a handler unless ~~he~~ the person has an allowable total net worth of at least twenty-five thousand dollars. Any One year after the effective date of this Amendment, this allowable total net worth requirement shall increase to thirty thousand dollars. For the next four years, the requirement shall continue to increase by five thousand dollars each year on the anniversary of the effective date of this amendment, so that five years after the effective date of this amendment, the person's total net worth shall be at least fifty thousand dollars.

(4) On the effective date of this amendment, any deficiency in required total net worth may be compensated for by an indemnity agreement executed by a person pledging personal assets for the benefit of commodity creditors should the licensed handler default in ~~his~~ the licensed handler's obligations to the creditors; a bond issued by a corporate surety company that is authorized to do business under the laws of this state; or, at the director's discretion, an irrevocable letter of credit issued by a bank or other lending institution that is authorized by this state or the United States to issue such letters of credit and is subject to service of process in this state for any suit on the bond or letter of credit. An indemnity agreement executed by a person pledging personal assets shall be accompanied by financial statements that reflect the person's financial position as an individual and comply with the requirements of division (C) of this section. A bond shall be made to the treasurer of ~~the state of Ohio~~ to be deposited in the agricultural commodity depositors fund created under section 926.16 of the Revised Code for the benefit of any person who may be injured by the handler's failure to meet obligations arising under this chapter. A letter of credit shall be issued for the benefit of the department of agriculture and the agricultural commodity depositors fund.

~~It~~ (5) The Director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the assets for which credit may be given in

determining an applicant's total net worth, ~~credit may be given for fixed assets such as buildings, machinery, and equipment, in the amount of the insured value of such assets under a policy of insurance against loss or damage or, at the discretion of the director, in the amount of their current market value as determined by an accredited rural appraiser or an appraiser certified by the American appraisal institute. The appraiser shall be completely independent of any relationship with the handler. Capital stock shall not be considered a liability for the purpose of determining total net worth. Regardless,~~

(6) On the effective date of this amendment, regardless of the total number of bushels of agricultural commodities that he an applicant handled during the immediately preceding twelve-month period, an the applicant's total net worth need not exceed a maximum of three hundred thousand dollars. One year after the effective date of this Amendment, this maximum total net worth need not exceed three hundred thirty thousand dollars. for the next four years, this maximum total net worth shall continue to increase by thirty thousand dollars each year on the anniversary of the effective date of this amendment, so that five years after the effective date of this amendment, an applicant's total net worth need not exceed four hundred fifty thousand dollars.

(C) In order for the director to determine if an applicant meets the standards of financial responsibility required under division (B) of this section, the applicant for a handler's license, or renewal of a handler's license, shall submit ~~a current financial statement~~ statements that have been prepared in accordance with generally accepted accounting principles and that have been audited or reviewed by a qualified person who is not directly associated with the applicant's business an independent certified public accountant. The financial ~~statement~~ statements shall consist of ~~a the applicant's balance sheet showing the current and deferred assets and liabilities of the applicant, a, income statement of income, a statement of retained earnings or statement of stockholder's equity, a and statement of changes in financial position cash flows, and whatever notes are sufficient to explain the details contained in the financial statement together with any explanatory footnotes or supplementary information accompanying these statements and with the independent accountant's report on the statements.~~

The financial ~~statement~~ statements accompanying an applicant's original application shall ~~show a statement closing date that is be for a year ending within six months of before the date of application. Thereafter, the applicant applying for renewal shall submit an annual statement such statements not later than ninety days after the elose end of his business the year covered by~~

the statements.

The director may require an applicant for a handler's license, or renewal of a handler's license, to submit a financial ~~statement prepared~~ statements audited by a an independent certified public accountant ~~licensed under the laws of this state, and may require the attachment to the statement of the accountant's opinion of the applicant's financial status based on his examination of the records conducted in accordance with generally accepted auditing standards~~ if the director determines that the ~~first financial statement statements initially~~ submitted under this division ~~is~~ are incomplete or otherwise unsatisfactory.

(D) The director may prepare and publish statistical abstracts of information obtained under this section without disclosing details that would identify a particular applicant with particular statistics. Such information ~~otherwise~~ is otherwise confidential for purposes of section 102.03 of the Revised Code, and records of the department of agriculture containing such information are not otherwise public records under section 149.43 of the Revised Code.

Sec. 926.10. The director of agriculture ~~may,~~ by order, may refuse to grant or may suspend or conditionally suspend a handler's license, without prior hearing, when ~~he~~ the director determines that there is reasonable cause to believe that the applicant or licensee:

(A) Has failed to maintain the insurance coverage required under section 926.07 of the Revised Code;

(B) Has failed to maintain accurate and complete records and accounts as required under section 926.11 of the Revised Code;

(C) Has failed to charge, collect, or remit the fee required under division (B) of section 926.16 of the Revised Code;

(D) Has refused to allow the director or ~~his~~ the director's authorized representative to examine, at a reasonable time, ~~his~~ the applicant's or licensee's accounting records, accounts, agricultural commodity inventories, or warehouse;

(E) Does not ~~have in his possession~~ possess sufficient agricultural commodities to cover the outstanding receipts or tickets issued or assumed by ~~him~~ the applicant or licensee under bailment agreements;

(F) Has issued a receipt in violation of this chapter or any rules adopted under it;

(G) Does not have the net assets specified in division (B) of section 926.06 of the Revised Code or has failed to obtain a bond or other protection for any deficiency in required net assets as provided in that division;

(H) Does not have ~~his~~ the obligations for agricultural commodities

purchased under delayed price agreements secured or represented as required under division (B) or (C) of section 926.29 of the Revised Code;

(I) Does not submit financial statements that comply with the requirements of division (C) of section 926.06 of the Revised Code within the applicable time period specified in that division;

(J) Does not notify the director of a statutory agent's change of address or of the death, removal, resignation, or revocation of the appointment of a statutory agent or does not appoint another agent in accordance with section 926.051 of the Revised Code.

The applicant or licensee to whom a denial ~~or~~, suspension, or conditional suspension order is issued shall be afforded a hearing in accordance with Chapter 119. of the Revised Code, after which the director shall issue or deny the license applied for in the pending application or reinstate or revoke the suspended or conditionally suspended license. The director may suspend ~~or~~, conditionally suspend, or revoke a license after a hearing held in accordance with Chapter 119. of the Revised Code for any other violations of this chapter or any rules adopted under it.

The director shall cause a notice to be posted on the property of a person whose license has been suspended, conditionally suspended, or revoked stating the limitations or restrictions imposed on the person in the handling of agricultural commodities as a result of the suspension, conditional suspension, or revocation. The notice shall not be removed from the property without written authorization from the director.

Sec. 926.16. (A) There is hereby created in the state treasury the agricultural commodity depositors fund. The state shall not be held liable for any claims presented against the fund under section 926.18 of the Revised Code. The fund shall consist of a per-bushel fee remitted by licensed handlers under this section, any sums that the director of agriculture may collect by any legal action on behalf of the fund, and any property or securities acquired through the use of moneys in the fund. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors as provided in section 926.18 of the Revised Code and for no other purpose.

(B) All licensed handlers shall remit ~~such the fee as is~~ such the fee as is determined by the director in accordance with section 926.17 of the Revised Code on:

(1) All agricultural commodities delivered to them for storage under a bailment agreement or for sale, exchange, or negotiation or solicitation of sale by depositors who produced them or caused them to be produced;

(2) All agricultural commodities delivered to them for storage under a bailment agreement, regardless of who produced the commodities, if a

ceipt is to be issued for the commodities;

(3) All agricultural commodities that are being stored by licensed handlers who own them solely, jointly, or in common with others and who are issuing a receipt for them in accordance with section 926.25 of the Revised Code. The maximum number of bushels on which a licensed handler shall be required to pay the fee under division (B)(3) of this section between the first day of July and the thirtieth day of June of any marketing year shall be the greatest number of bushels of all commodities for which receipts are outstanding at any one time during that period.

(4) All agricultural commodities that are not involved in a transaction described in division (B)(1), (2), or (3) of this section and the monetary proceeds of which are controlled by a handler who is not involved in the production of the commodities and who serves as an intermediary between the producer and a handler receiving the commodities. In such a situation, the handler responsible for paying the producer shall remit the fee.

(C) All licensed handlers shall account for and remit moneys under division (B) of this section to the director in such manner and using such forms as the director shall prescribe by rule.

(D) All disbursements from the fund shall be paid by the treasurer of state pursuant to vouchers authorized by the director.

(E) All interest earned by the fees collected under this section shall be credited to the fund and, at the request of the director of agriculture and to the extent necessary to pay the examination and administrative costs of this chapter as provided in section 926.19 of the Revised Code, may be transferred by the director of budget and management to the commodity handler regulatory program fund created in that section.

Sec. 926.18. (A) When a depositor has made a demand for settlement of an obligation concerning an agricultural commodity on which a fee was required to be remitted under section 926.16 of the Revised Code and the licensed handler has failed to honor the demand, the depositor, after providing the director of agriculture or ~~his~~ the director's authorized representative with evidence of ~~his~~ the depositor's demand and the dishonoring of ~~his~~ that demand, may file a claim with the director not later than six months after dishonor of the demand for indemnification of ~~his~~ the depositor's damages, from the agricultural commodity depositors fund, to be measured as follows:

(1) The commodity advisory commission created in section 926.32 of the Revised Code shall establish the dollar value of the loss incurred by a depositor holding a receipt or a ticket for agricultural commodities on which a fee was required and that ~~he~~ the depositor delivered to the handler under a

delayed price agreement or under a bailment agreement, or feed agreement, or that the depositor delivered to the handler before delivery was due under a contract or other agreement between the depositor and handler. The value shall be based on the fair market price being paid to producers by handlers for the commodities on the date on which the director received notice that the receipt or ticket was dishonored by the handler. All depositors filing claims under this division shall be bound by the value determined by the commission.

(2) The dollar value of the loss incurred by a depositor who has sold or delivered for sale, exchange, or solicitation or negotiation for sale agricultural commodities on which a fee was required and who is a creditor of the handler for all or a part of the value of the commodities shall be based on the amount stated on the obligation on the date of the sale.

(B) The agricultural commodity depositors fund shall be liable to a depositor for any moneys that are not recovered through other legal and equitable remedies as follows:

(1) For commodities stored with a licensed handler under a bailment agreement for one hundred per cent of ~~his~~ the depositor's loss as determined under division (A)(1) of this section;

(2) For commodities ~~stored~~ deposited with a licensed handler under an agreement other than a bailment agreement for one hundred per cent of the first ten thousand dollars of ~~his~~ the depositor's loss and eighty per cent of the remaining dollar value of ~~his~~ that loss as determined under divisions (A)(1) and (2) of this section. The aggregate amount recovered by a depositor under all remedies shall not exceed one hundred per cent of the value of ~~his~~ the depositor's loss. If the moneys recovered by a depositor under all remedies exceed one hundred per cent of the value of ~~his~~ the depositor's loss, the depositor shall reimburse the fund in the amount that exceeds the value of ~~his~~ that loss.

(C) The director, with the approval of the commodity advisory commission, shall determine the validity of all claims presented against the fund. A claim filed under this section for losses on agricultural commodities other than commodities stored under a bailment agreement shall not be valid unless the depositor has made a demand for settlement of the obligation within twelve months after the commodities are priced ~~or delivered for sale, whichever occurs later.~~ Any depositor whose claim has been refused by the director and the commission may appeal the refusal ~~to~~ either to the court of common pleas of Franklin county or the court of common pleas of the county in which the depositor resides.

The director shall provide for payment from the fund to any depositor

whose claim has been found to be valid.

(D) If at any time the fund does not contain sufficient assets to pay valid claims, the director shall hold those claims for payment until the fund again contains sufficient assets. Claims against the fund shall be paid in the order in which they are presented and found to be valid.

(E) If a depositor files an action for legal or equitable remedies in a state or federal court having jurisdiction in those matters that includes a claim against agricultural commodities upon which the depositor may file a claim against the fund at a later date, ~~he~~ the depositor also shall ~~also~~ file with the director a copy of the action filed with the court.

In the event of payment of a loss under this section, the director shall be subrogated to the extent of the amount of any payments to all rights, powers, privileges, and remedies of the depositor against any person regarding the loss.

The depositor shall render all necessary assistance to aid the director in securing the rights granted in this section. No action or claim initiated by the depositor and pending at the time of payment from the fund may be compromised or settled without the consent of the director.

(F) If, prior to ~~the effective date of this amendment~~ June 20, 1994, a lawsuit, adversary proceeding, or other legal proceeding is brought against a depositor to recover money or payments from funds to which a depositor has a right of indemnification under this section, and the depositor retains legal counsel resulting in a cost or expense to the depositor, upon the rendering of a judgment or other resolution of the lawsuit, adversary proceeding, or other legal proceeding, the director, in ~~his~~ the director's discretion and with the approval of the commodity advisory commission, may authorize indemnification from the fund for attorney's fees paid by the depositor. Any claim made by a depositor for the payment of attorney's fees under this division shall be made in the same manner as a claim under division (A) of this section.

Attorney's fees payable under this division shall be limited to the actual hourly fee charged or one hundred dollars per hour, whichever is less, and to a total maximum amount of three hundred dollars.

Sec. 926.19. (A) There is hereby created in the state treasury the commodity handler regulatory program fund. The moneys in the fund shall be used to pay the examination and administrative costs of this chapter and shall consist of:

(1) All revenues collected by the director of agriculture from distribution of the receipt forms under division (B) of section 926.20 of the Revised Code and such other forms and registration books as the director

may require by rule for the administration of this chapter;

(2) The application and examination fees collected under division (B) of section 926.05 of the Revised Code;

(3) The agricultural commodity tester certificate fees collected under division (B) of section 926.30 of the Revised Code;

(4) Interest income transferred from the agricultural commodity depositors fund under section 926.16 of the Revised Code;

(5) All fines, penalties, and costs, except court costs, that are collected under section 926.99 Of the Revised Code in consequence of a violation of this chapter;

(6) All sums collected by the director of agriculture under a contract described in section 926.36 Of the Revised Code.

(B) The examination and administrative costs of this chapter shall be computed by the director not later than the thirty-first day of December of each even-numbered year to cover the biennium that begins on the following first day of July. The commodity advisory commission created in section 926.32 of the Revised Code shall approve, and may amend, the examination and administrative costs. The commission's decision shall be binding on the director. The commission ~~may~~ also at any time may approve for presentation to the controlling board a request to increase or decrease the appropriation authority for the biennial examination and administrative costs if it determines that an increase or decrease in the cost is necessary to carry out the purpose of this chapter.

(C) If at any time the moneys deposited in the fund, including interest income transferred from the agricultural commodity depositors fund under section 926.16 of the Revised Code, are not sufficient to pay the examination and administrative costs of this chapter, the director shall request an appropriation from the general revenue fund to pay those costs.

Sec. 926.29. (A) A delayed price agreement is an executory contract ~~which that~~ shall be in such a form and contain such terms as the director of agriculture shall adopt by rule under Chapter 119. of the Revised Code. The agreement shall be executed by and between the licensed handler and the depositor or by their authorized representatives not later than fifteen days after the first delivery of an agricultural commodity is received for delayed pricing under the agreement. The handler shall maintain a file of executed agreements that are available for inspection at any reasonable time by the director or ~~his~~ the director's designated representative. The handler also shall ~~also~~ keep records and ledgers the director considers necessary to document the handler's obligation to the depositor under a delayed price agreement. ~~He~~ The handler also shall ~~also~~ provide reports, forms, and other evidence the

director shall adopt by rule to document the storage and marketing of commodities under the delayed price agreement.

(B) ~~Except~~ Subject to the lien that attaches under section 926.021 Of the Revised Code and except as otherwise provided in division (C) of this section, a licensed handler who purchases any agricultural commodity under a delayed price agreement at all times shall ~~at all times~~ maintain the commodity, rights in the commodity, proceeds from the sale of the commodity, or a combination of the commodity, rights, and proceeds equal to at least ninety per cent of the value of ~~his~~ the handler's obligation for all commodities that ~~he~~ the handler has purchased that are not priced under delayed price agreements. The obligation shall be secured or represented by one or more of the following:

(1) Maintenance of the commodity in storage in the handler's warehouse;

(2) Rights in commodities as evidenced by a receipt or ticket for storage of the commodities under a bailment agreement in another warehouse approved by the director;

(3) Proceeds from the sale of commodities as evidenced or represented by one or more of the following:

(a) Cash on hand or held on account in a state or federally licensed financial institution or a lending agency of the farm credit administration;

(b) Short-term investments held in time accounts with state or federally licensed financial institutions or a lending agency of the farm credit administration;

(c) Balances in commodity margin accounts;

(d) Commodities sold and shipped by the handler under delayed price agreements that have not been priced less any payments or advances that have been received by the handler;

(e) Such other evidence of unencumbered assets as may be acceptable to the director, including an irrevocable letter of credit.

(C) ~~A~~ In addition to the lien that attaches under section 926.021 Of the Revised Code, a depositor who sells an agricultural commodity to a licensed handler under a delayed price agreement ~~may~~, upon giving notice to the handler either at or prior to the time of delivery, may demand as security for payment for the commodity an amount that, at the time of delivery, is equal to one hundred per cent of the national loan rate value of the commodity under the United States department of agriculture price support program, or seventy-five per cent of the average price being paid for the commodity in the state on the date of demand as published by the market news service of the department of agriculture, whichever is less. The handler shall satisfy a

demand for security on a commodity sold under a delayed price agreement at the handler's option by one of the following:

(1) Payment to the depositor by cash or bank draft on the account of the handler;

(2) Causing an irrevocable letter of credit to be issued to the depositor by a bank designated by the handler securing payment in the specified amount. The letter of credit shall be subject to Chapter 1305. of the Revised Code and rules adopted by the director pursuant to Chapter 119. of the Revised Code.

Sec. 926.30. (A) No licensed handler or employee of a licensed handler who receives an agricultural commodity from a producer, either for sale or for storage under a bailment agreement, shall perform a quality test on the commodity for the purpose of applying a premium, discount, or conditioning charge unless the person making the test has ~~completed a training course or on-the-job training as an agricultural commodity tester~~ passed an examination on the subject that is approved by the director of agriculture. Upon application by a person who has passed the examination, the director shall issue to the person an agricultural commodity tester certificate that shall be valid for a period of three years. Except as otherwise provided in this division, an agricultural commodity tester shall pass an examination on agricultural commodity testing approved by the director prior to each renewal of a certificate. The director may exempt from the examination requirement for certificate renewal an agricultural commodity tester who, during the year prior to expiration of the certificate, successfully completes training on agricultural commodity testing that has been approved by the director. The director of agriculture shall establish by rule the curriculum for the training course or on-the-job standards that such training that shall must meet in order to be approved by the director. The rules shall require the training to include instructions in the use of the official grain standards of the United States as a basis for determining the quality of the commodities tested by an agricultural commodity tester. An agricultural commodity tester certificate issued prior to the effective date of this amendment shall be considered to be valid until the date on which, at the time of issuance, it was scheduled to expire. Upon expiration of the certificate, the examination requirement for renewal shall apply.

~~(B) Upon successful completion of the training required under division (A) of this section and upon application by the trainee, the director shall issue to an agricultural commodity tester a certificate that shall be valid for a period of two years. The director may determine that retraining or review is necessary for the tester as a result of changes in or amendments to the~~

official grain standards of the United States, or if the director has reason to believe that retraining is necessary as a result of complaints relating to the tester's inability to accurately test commodities according to the official grain standards. A fee to cover the cost of issuing certificates and administering the educational program shall be established by rule of the director adopted under Chapter 119. of the Revised Code and shall be deposited into the commodity handler regulatory program fund created in section 926.19 of the Revised Code.

(C) The director may suspend or revoke the certificate of an agricultural commodity tester in accordance with Chapter 119. of the Revised Code for failure or inability of the tester to apply the official grain standards of the United States in testing the quality of an agricultural commodity.

Sec. 926.32. (A) There is hereby created the commodity advisory commission consisting of seven members to be appointed by the director of agriculture. Not later than January 1, 1983, the director shall make appointments to the commission. Of the initial appointments, three shall be for terms ending January 1, 1984, two shall be for terms ending January 1, 1985, and two shall be for terms ending January 1, 1986. Thereafter, terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(B) The commission shall at all times be composed of three farmers who are ~~primarily~~ engaged primarily in the production of agricultural commodities, one licensed handler who is the manager of a farmers cooperative, one licensed handler who is the owner and operator of a warehouse located in a rural area, one licensed handler representing a warehouse located at a major agricultural commodity transportation center, and one banker who is an officer of a rural bank. The director shall ~~annually~~ designate annually one member of the commission to serve as its ~~chairman~~ chairperson and ~~may~~, after notice and public hearing, may remove any member only for neglect of duty or malfeasance in office.

(C) A vacancy on the commission shall not impair the right of the other members to exercise all of the commission's powers. Two farmer members and two handler members shall constitute a quorum for the conduct of

business of the commission.

(D) The commission shall meet ~~in Columbus~~ at least three times annually at times that the commission shall set by rule and may meet at other times that the ~~chairman~~ chairperson or a majority of the commission members considers appropriate; provided, that no meeting shall be held on the call of the ~~chairman~~ chairperson unless at least seven days' written notice is first given to all members of the commission.

(E) Each member shall be reimbursed for ~~his~~ the member's actual and necessary expenses incurred in the discharge of ~~his~~ duties as a commission member.

(F) The commission may adopt, amend, or rescind rules or procedures governing the conduct of its internal affairs.

(G) The commission may request from the director, and the director shall provide, meeting space, assistance, services, and data to enable it to carry out its functions.

(H) All costs of the commission, including all of the expenses of its members and consultants authorized in this section, shall be paid from the commodity handler regulatory program fund created in section 926.19 of the Revised Code pursuant to itemized vouchers approved by the ~~chairman~~ chairperson of the commission and the director.

(I) The director shall designate an official or employee of the department of agriculture to act as the executive secretary of the commission. The director also may ~~also~~ request the attendance at meetings of the commission consultants with expertise in agricultural law, marketing, statistics, or any other subject to advise and consult with the commission on matters on the agenda of any regular or special meeting of the commission. The expenses incurred by consultants attending those meetings shall be reimbursed according to division (H) of this section. The executive secretary shall keep or cause to be kept a permanent journal of all meetings, proceedings, findings, determinations, and recommendations of the commission, including an itemized statement of the expenses allowed to each member of the commission and consultants under this section. The journal shall be a public record.

(J) In addition to the authority granted in division (F) of section 926.05, division (B) of section 926.17, divisions (A) and (C) of section 926.18, and division (B) of section 926.19 of the Revised Code, the commission shall advise and counsel the director on all matters relating to:

(1) The administration of this chapter;

(2) The development of rules authorized by section 926.02 of the Revised Code;

(3) Any other matters that the commission and the director consider appropriate in carrying out this chapter.

Sec. 926.36. The Director of Agriculture may enter into a contract with a marketing association that is involved in a program designed to improve or expand the market for an agricultural commodity and funded by an assessment that is levied on producers of the agricultural commodity and calculated on the basis of the volume of agricultural commodities produced by the producer. Under the contract, the marketing association may agree to pay the Director a mutually acceptable sum and in exchange the Director may agree to furnish the marketing association with information that the Director obtains under section 926.11 of the Revised Code regarding the volume of commodities produced by producers who participate in the marketing program, and related financial information.

The marketing association may use the information to determine whether a producer has truthfully disclosed the volume of agricultural commodities produced by the producer and whether the marketing association has received the correct amount in assessments.

Any sum paid to the Director under a contract entered into under this section shall be deposited in the commodity handler regulatory program fund created in section 926.19 of the Revised Code.

Sec. 926.99. (A) ~~Whoever~~ (1) Except as provided in division (A)(2) of this section, whoever violates section 926.04 of the Revised Code is guilty of a ~~minor~~ misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(2) A person who violates section 926.04 of the Revised Code and who is insolvent and financially unable to satisfy a claimant as defined in section 926.021 of the Revised Code is guilty of a felony of the fifth degree if the financial obligation owed by the offender to the claimant is five hundred dollars or more and is less than five thousand dollars. If the financial obligation is five thousand dollars or more and is less than one hundred thousand dollars, the offender is guilty of a felony of the fourth degree. If the financial obligation is one hundred thousand dollars or more, the offender is guilty of a felony of the third degree.

(B) Whoever violates division (E) or (F) of section 926.20 or division (A) of section 926.22 of the Revised Code is guilty of a minor misdemeanor on a first offense and a misdemeanor of the second degree on each subsequent offense.

(C) Whoever violates division (G) of section 926.20 or section 926.34 or 926.35 of the Revised Code is guilty of a felony of the fourth degree.

(D) Whoever violates division (A) of section 926.28; or division (B) of

section 926.29, of the Revised Code is guilty of a felony of the fifth degree.

(E) Whoever violates section 926.31 of the Revised Code is guilty of a misdemeanor of the fourth degree.

Sec. 4513.32. When one vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all the weight towed thereby, and the drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery, or other objects of structural nature which cannot readily be dismembered.

When one vehicle is towing another and the connection consists only of a chain, rope, or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.

In addition to such drawbar or other connection, each trailer and each semitrailer which is not connected to a commercial tractor by means of a fifth wheel shall be coupled with stay chains or cables to the vehicle by which it is being drawn. The chains or cables shall be of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle in case the drawbar or other connection should break or become disengaged. In case of a loaded pole trailer, the connecting pole to the drawing vehicle shall be coupled to the drawing vehicle with stay chains or cables of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle.

Every trailer or semitrailer, except pole and cable trailers and pole and cable dollies operated by a public utility as defined in section 5727.01 of the Revised Code, shall be equipped with a coupling device, which shall be so designed and constructed that the trailer will follow substantially in the path of the vehicle drawing it, without whipping or swerving from side to side. Vehicles used to transport agricultural produce or agricultural production materials between a local place of storage and supply and the farm, when drawn or towed on a street or highway at a speed of twenty-five miles per hour or less, and vehicles designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less, shall have a drawbar or other connection, including the hitch mounted on the towing vehicle, which shall be of sufficient strength to pull all the weight towed thereby. Only one such vehicle used to transport agricultural produce or agricultural production materials as provided in this section may be towed or drawn at one time ~~unless the towing vehicle is an agricultural tractor, except~~ as follows:

(A) An agricultural tractor may tow or draw more than one such vehicle;

(B) A pickup truck or straight truck designed by the manufacturer to carry a load of not less than one-half ton and not more than two tons may tow or draw not more than two such vehicles that are being used to transport agricultural produce from the farm to a local place of storage. No vehicle being so towed by such a pickup truck or straight truck shall be considered to be a motor vehicle.

Sec. 5577.042. (A) As used in this section:

(1) "Farm machinery" has the same meaning as in section 4501.01 of the Revised Code.

(2) "Farm commodities" includes livestock, bulk milk, corn, soybeans, tobacco, and wheat.

(3) "Farm truck" means a truck used in the transportation from a farm of farm commodities when the truck is operated in accordance with this section.

(4) "Log truck" means a truck used in the transportation of timber from the site of its cutting when the truck is operated in accordance with this section.

(B) Notwithstanding sections 5577.02 and 5577.04 of the Revised Code, a farm truck or farm machinery transporting farm commodities, or a log truck transporting timber, from the place of production to the first point of delivery where the commodities are weighed and title to the commodities or timber is transferred, may exceed by no more than five per cent the weight provisions of sections 5577.01 to 5577.09 of the Revised Code and no penalty prescribed in section 5577.99 of the Revised Code shall be imposed. If a farm truck or farm machinery so transporting farm commodities, or a timber truck so transporting timber, exceeds by more than five per cent the weight provisions of those sections, both of the following apply without regard to the five per cent allowance provided by this division:

(1) The applicable penalty prescribed in section 5577.99 Of the Revised Code;

(2) The civil liability imposed by section 5577.12 Of the Revised Code.

(C)(1) Division (B) of this section does not apply to the operation of a farm truck, log truck, or farm machinery transporting farm commodities during the months of February and March.

(2) Regardless of when the operation occurs, division (B) of this section does not apply to the operation of a farm truck, log truck, or farm machinery transporting farm commodities on either of the following:

(a) A highway that is part of the interstate system;

(b) A highway, road, or bridge that is subject to reduced maximum weights under section 4513.33, 5577.07, 5577.071, 5577.08, 5577.09, or 5591.42 of the Revised Code.

SECTION 2. That existing sections 926.01, 926.021, 926.05, 926.06, 926.10, 926.16, 926.18, 926.19, 926.29, 926.30, 926.32, 926.99, and 4513.32 of the Revised Code are hereby repealed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____