

CHAPTER 240**(HB 389)**

AN ACT relating to local board involvement in grain storage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:

- 251.040 Local boards -- Purpose.
- 251.050 Local boards -- Appointment -- Qualifications.
- 251.060 Term of members -- Filling of vacancies.
- 251.070 Compensation of local board.
- 251.080 Officers of local board.
- 251.090 Bond of secretary-treasurer.
- 251.100 License, name and number of local board.
- 251.110 Refund to owners by local board.
- 251.120 Sealers -- Appointment and powers.
- 251.130 Bond and oath of sealer.
- 251.140 Compensation of sealer.
- 251.150 Functions of sealer.
- 251.160 Application for storage -- Consent to inspection.
- 251.170 Sealing fees -- Payment of expenses.
- 251.180 Fastenings -- Tampering with prohibited.
- 251.190 Sealer to deliver receipts -- Receipts subject to Uniform Commercial Code.
- 251.200 Form of warehouse receipts.
- 251.210 Sealer to issue certificates of reinspection -- Ascertain outstanding receipts and make periodic inspections.
- 251.220 Issuance of fraudulent receipt prohibited.
- 251.230 Sealer to file duplicate receipts with board.
- 251.240 Issuance of duplicate warehouse receipt.
- 251.250 Duplicate to be recorded before negotiation.
- 251.260 County clerk to index duplicate -- Recording is notice.
- 251.270 Assignment of recorded receipt -- Clerk's fee.
- 251.280 Cancellation of warehouse receipt.
- 251.290 Delivery of grain when receipt outstanding prohibited.
- 251.300 Owner not to sell or encumber grain, after receipt issued.
- 251.310 Appeal to state board -- Hearing.

251.320 Orders of state board -- Suspension of license of local board.

251.330 Costs of hearing.

Section 2. KRS 251.990 is amended to read as follows:

- ~~(1) Any person who violates subsection (2) of KRS 251.180 shall be guilty of a Class A misdemeanor.~~
- ~~(2) Any person who violates KRS 251.220 or 251.290 shall be guilty of a Class A misdemeanor.~~
- ~~(3) Any person who violates KRS 251.240 shall be guilty of a Class D felony.~~
- ~~(4) Any person who violates KRS 251.300 shall be guilty of a Class A misdemeanor.~~
- ~~(5)~~ Any person who violates the provisions of KRS 251.430 to 251.720 shall be guilty of a violation. He shall be guilty of a Class A misdemeanor for each subsequent offense. Each day of operation in violation of the provisions of KRS 251.430 to 251.720 shall constitute a separate offense.
- ~~(2)~~~~(6)~~ Any person who operates without a license as required by KRS 251.430 or 251.720 shall be fined not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) for each violation, or imprisoned for at least one (1) but not more than five (5) years, or both.
- ~~(3)~~~~(7)~~ Any person who intentionally refuses or fails to pay moneys collected for assessment of grain under the Kentucky Grain Insurance Fund Program as set forth in KRS 251.640 shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned for not more than six (6) months, or both.
- ~~(4)~~~~(8)~~ Any person who fails or refuses to maintain at all times grain in storage, rights in grain, proceeds from the sale of grain, or a combination of the grain, rights, and proceeds equal to eighty percent (80%) of the value of a licensed grain storage establishment's unpaid obligations to producers for grain delivered under a forward pricing (delayed pricing) contract as required by KRS 251.485 or 251.675 shall be fined not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) for each violation, or imprisoned for at least one (1) year but not more than five (5) years, or both.
- ~~(5)~~~~(9)~~ Any person who knowingly makes any false statement, representation, or certification, or who knowingly fails to make any statement, representation, or certification in any record, report, or other document filed or required to be maintained by the Commissioner in violation of KRS 251.485(2) shall upon conviction be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each violation, or imprisoned for at least one (1) year but not more than five (5) years, or both.
- ~~(6)~~~~(10)~~ Any person who transfers or disburses grain, property, or assets from the licensed grain establishment's handler account in violation of KRS 251.485(2) shall upon conviction be fined not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) for each violation, or be imprisoned for at least one (1) year but not more than five (5) years, or both.
- ~~(7)~~~~(11)~~ Except as permitted by law, any person who willfully and knowingly resists, prevents, impedes, or interferes with the Commissioner or other agents or employees of the department in performance of the duties assigned by KRS 251.485 or 251.675, shall upon

conviction be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each violation, or imprisoned for not more than one (1) year, or both.

~~(8)~~~~(12)~~ If a corporate grain establishment license holder violates any provision of KRS 251.485 or 251.675 or administrative regulations issued pursuant thereto, or if it fails or refuses to comply with any lawful order issued by the Commissioner, any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failed, or refused to comply with any lawful order issued by the Commissioner shall be subject to the same penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

Section 3. KRS 246.210 is amended to read as follows:

- (1) The department or its agents shall have free access within reasonable hours to any farm, orchard, garden, elevator, warehouse, building, cellar, freight or express office or car, freight yard, vehicle, vessel, boat, container, or any other place which, for probable cause, it may be necessary or desirable for the agents to enter in order to enforce a quarantine against the European corn borer (*Pyrausta nubilalis*).
- (2) The board or any of its members or representatives may after reasonable notice enter any premises for the purpose of inspecting or testing livestock to determine the existence of, or to combat in any way, communicable diseases. The owner of the livestock to be tested or inspected shall, after reasonable notice, confine and present the livestock to the representatives of the board. When the board or any of its representatives determines through inspection or testing that any livestock is infected with a communicable disease, they may enter any premises after reasonable notice and remove the diseased livestock, and have the livestock destroyed or slaughtered and the owner indemnified as provided in KRS 257.120 to 257.150. When necessary the board or any of its members or representatives may call upon peace officers for assistance. The officers shall render assistance when ordered to do so by the board or any of its members, representatives, agents, or employees.
- ~~(3)~~ ~~A sealer of agricultural warehouses appointed under KRS 251.120 may at all times enter upon any premises to inspect grain in storage or the granary, crib, bin, or other receptacle in which it has been stored.~~
- ~~(4)~~ The state entomologist or his authorized agent shall, upon previous application, have free access within reasonable hours to any premises or containers for purposes of trapping, inspecting for, investigating, or treating the premises for the control of Japanese beetles (*Popillia japonica*). In the capacity of state inspector of apiaries, he may, personally or by deputy, at his discretion, visit private premises during reasonable business hours and inspect any apiary to ascertain the existence of, or to treat or destroy any disease in the egg, larval, pupal, or adult stages among bees or brood.
- ~~(4)~~~~(5)~~ The director of the agricultural experiment station and his agents shall have free access at all reasonable hours to any premises, vehicle, elevator, or steamship company, in the discharge of his duties under KRS 250.081.

Approved April 8, 2002