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CHAPTER 19.

WAREHOUSES AND WAREHOUSEMEN GENERALLY

ARTICLE 1.

GENERAL PROVISIONS

**SECTION 39‑19‑10.** Persons and corporations who may become public warehousemen.

All warehousemen engaged in the business of storing feed grains and oil seeds for persons other than themselves shall operate under the state or federal warehouse system.

**SECTION 39‑19‑20.** Warehousemen shall give bond.

Every person or corporation authorized to become a public warehouseman shall give bond in a surety company authorized to do business in this State in an amount equal to ten per cent of the estimated value of the goods for which such warehouseman will provide storage, such bond to be conditioned for the faithful performance of the duties of a public warehouseman and to be given to the Secretary of State, who shall cause a copy of it to be filed with the clerk of the court in each county in which such warehouseman proposes to maintain a warehouse. Any such bond may extend over a limited period not less than one year from its date and may provide for a continuation thereof upon payment and acceptance of the annual premium in advance. But any such limitation shall not affect liabilities under the bond incurred while it was in force.

**SECTION 39‑19‑30.** Right of action against warehouseman on bond.

Whenever any such warehouseman fails to perform his duty or violates any of the provisions of this chapter, any person injured by such failure or violation may bring an action in his name and to his own use, in any court of competent jurisdiction, on the bond of such warehouseman. And in case he shall fail in such action he shall be liable to the defendant for any costs which the defendant may recover in the action.

**SECTION 39‑19‑40.** Warehouseman shall insure property on request.

Every such warehouseman shall, when requested in writing by a person placing property with him on storage, cause such property to be insured for whom it may concern.

**SECTION 39‑19‑50.** Damages for use of cotton on storage without consent of owners.

Except as otherwise permitted or required under the provisions of Chapter 7 of Title 36, a person taking cotton on storage as a warehouseman, for hire or not, is prohibited from using any of such cotton or allowing anyone else to use or consume any of such cotton in manufacture or otherwise without the written consent of the owner. Any such person violating the provisions of this section shall answer to the owner thereof suing therefor in punitive damages not to exceed five thousand dollars and shall also answer for any special or other damages which any such owner may suffer by such unlawful conduct.

**SECTION 39‑19‑60.** Penalty for disposal of stored cotton without consent of owner; effect on mortgagees and other creditors.

It shall be a misdemeanor for any person doing business as a cotton factor or warehouseman and having in his warehouse any cotton on storage, the property of another, to dispose of such cotton or any portion thereof by sale, loan, pledge or otherwise to any person without the consent or approval of the owner of such stored cotton, except as permitted by the provisions of Chapter 7 of Title 36, and, upon conviction of so doing, any such person shall be punished by a fine of not more than five hundred dollars or imprisonment for not more than one year.

The rights of persons holding mortgages over such cotton or of persons who have advanced or loaned money on such cotton shall not be abridged or affected by the provisions of this section, nor shall the provisions of this section affect the warehouseman’s claim for storage.

**SECTION 39‑19‑70.** Warehouseman shall keep books of transactions; inspection by interested persons.

Every public warehouseman shall keep a book in which shall be entered an account of all his transactions relating to warehousing, storing and insuring cotton, goods, wares and merchandise and to the issuing of receipts therefor. Such books shall be open to the inspection of any person actually interested in the property to which such entries relate.

**SECTION 39‑19‑80.** Warehouse receipts issued by corporations formed, owned or controlled by cooperatives.

Any warehousing corporation organized, formed, operated, owned or controlled by an association formed under Chapter 47 of Title 33 or in which any such association shall have an interest, own stock or be a member may issue legal warehouse receipts to the association or to any other person and such legal warehouse receipts shall be considered as adequate collateral to the extent of the current value of the commodity represented thereby. In case a warehouse of such a corporation is licensed or bonded under the laws of this State or the United States its warehouse receipt shall not be challenged or discriminated against because of ownership or control, wholly or in part, by the association.

ARTICLE 3.

TOBACCO WAREHOUSEMEN GENERALLY

**SECTION 39‑19‑210.** “Warehouseman” defined.

A “warehouseman” within the meaning of this article shall mean a person operating a warehouse for the sale of leaf tobacco, whether such person be the owner or lessee of such warehouse.

**SECTION 39‑19‑220.** Maximum rates for handling and selling leaf tobacco; statement of charges on bill.

(A) The charges and expenses of handling and selling leaf tobacco on the floor of tobacco warehouses must be posted in a conspicuous place and may not exceed the following schedule of prices determined under either subsection (B) or (C) of this section at the option of the warehouse.

(B) The first optional method for determining charges and expenses for handling and selling leaf tobacco on the floor of the tobacco warehouse is:

(1) for auction fees, fifteen cents on all piles of one hundred pounds or less and twenty‑five cents on all piles over one hundred pounds;

(2) for weighing and handling, ten cents a pile for all piles of less than one hundred pounds and ten cents for each additional one hundred pounds; and

(3) for commission on the gross sales of leaf tobacco in the warehouses not to exceed two and one‑half percent.

(C) The second optional method for determining charges and expenses for handling and selling leaf tobacco on the floor of the tobacco warehouse is a commission not to exceed three percent on the gross sales of leaf tobacco in the warehouses with no auction, weighing, or handling fees.

(D) The proprietor of each warehouse shall render to each seller of tobacco at his warehouse a bill, plainly stating the amount charged for weighing and handling, the amounts charged for auction fees and the commission charged on the sale. It is unlawful for any other charges or fees exceeding those named in this section to be made or accepted.

(E) The charges authorized to be imposed by this section may not be changed except on March first of each year, and the optional method chosen shall remain in effect for a period of one year from that date.”

**SECTION 39‑19‑230.** Warehousemen shall keep record of amount of tobacco sold.

The warehouseman of each leaf tobacco warehouse doing business in this State shall keep a correct account of the number of pounds of leaf tobacco sold upon the floor of his warehouse daily.

**SECTIONS 39‑19‑240 to 39‑19‑280.** Repealed by 1986 Act No. 359, eff April 3, 1986.

**SECTIONS 39‑19‑240 to 39‑19‑280.** Repealed by 1986 Act No. 359, eff April 3, 1986.

**SECTION 39‑19‑290.** Civil penalty for violating maximum rates provision; action to recover such penalty.

Any person willfully violating the provisions of Section 39‑19‑220 shall be subject, in addition to the overcharges, to a penalty of two hundred dollars which shall be for the benefit of the person charged the excessive fee. The sales sheet or bill showing such charges and fees shall be conclusive proof of excessive charges. A complainant where successful shall be allowed court costs and a reasonable attorney’s fee to be taxed and collected as a part of the cost of the action. Such action may be brought in any court of competent jurisdiction in the county where the warehouse is located, or in the county where the owner or operator is a resident.

ARTICLE 5.

PREVENTION OF FRAUD IN SALE OF LEAF TOBACCO

**SECTION 39‑19‑410.** Declaration of purpose.

The purpose of this article is to prevent frauds in the handling and sale of leaf tobacco; to protect producers of leaf tobacco from loss of it from theft or other improper conduct of irresponsible parties; to protect all persons having a lien on any tobacco or any interest in any tobacco; and to protect persons purchasing tobacco or having contracts to purchase tobacco.

**SECTION 39‑19‑420.** “Warehouseman” defined.

The term “warehouseman,” as used in this article, is defined as any person engaged in the business of selling leaf tobacco at auction for a commission or for any other consideration or any employee of such person.

**SECTION 39‑19‑430.** True name of owner or producer of tobacco shall be furnished warehousemen or cooperatives.

Every person who shall deliver any leaf tobacco to a warehouseman or to a cooperative marketing association for sale, offer for sale or display for sale shall impart to such warehouseman or cooperative marketing association the true name of the owner of such leaf tobacco and, in case the then owner is not the producer or the landlord on whose land such tobacco was produced, the true name of the person from whom he obtained such tobacco and the true name of the grower thereof or of the landlord on whose land it was grown.

**SECTION 39‑19‑440.** Record of delivery shall be kept by warehouseman or cooperative.

Any such warehouseman or cooperative marketing association shall keep a record of such purchase or delivery showing the quantity of leaf tobacco so delivered, the name of the owner thereof given as provided in Section 39‑19‑430, the name of the person from whom the person other than the producer or landlord on whose land the tobacco was produced obtained it and the name of the landlord on whose land it was produced.

**SECTION 39‑19‑450.** Information ticket or card shall be placed on tobacco.

Any such warehouseman or cooperative marketing association shall place upon all leaf tobacco delivered to him or to it for sale, offer for sale or display for sale a ticket or card on which shall appear the matters and things required to be recorded by such warehouseman or cooperative marketing association under Section 39‑19‑440 and such cards or tickets shall be placed upon such tobacco at the time it is delivered to a warehouse for sale and shall be on such tobacco at the time it is sold.

**SECTION 39‑19‑460.** Tickets or cards and tobacco shall be open to inspection.

Such cards or tickets and such tobacco awaiting sale shall be open to the inspection of any person at any time during the regular business hours of the warehouse and any person shall have access to the place where such tobacco is being sold or is awaiting sale and to such tobacco at any time during the regular business hours of the warehouse.

**SECTION 39‑19‑470.** Retention of tickets or cards after sale.

Such cards or tickets or duplicates or copies thereof shall, after the sale of such tobacco, be collected by the warehouseman or cooperative marketing association and shall be kept by the warehouseman or cooperative marketing association for a period of not less than fifteen days after the sale of the tobacco and for such period of fifteen days such tickets and such sale books as shall be kept by the warehouseman or cooperative association shall be open to the inspection of any person who knows or has reason to believe that there has been delivered or sold in such warehouse any tobacco in which such person or the principal or employer of such person has any legal or equitable interest. But no one shall have the right during the sale hours to inspect the books authorized in this section to be inspected.

**SECTION 39‑19‑480.** Failure to give true name shall be a misdemeanor.

Any person who shall give a fictitious or false name to a warehouseman or cooperative marketing association or shall fail to give to a warehouseman or cooperative marketing association the name of the true owner of such leaf tobacco or the person from whom such tobacco was obtained or the grower and landlord, as required by Section 39‑19‑430, upon delivering the tobacco, shall be guilty of a misdemeanor.

**SECTION 39‑19‑490.** Offenses by warehousemen or cooperatives.

Any warehouseman or cooperative marketing association who shall fail to comply with any of the provisions of this article; who shall place upon any pile of tobacco a ticket bearing information concerning the ownership which the warehouseman knows or has reason to believe is false; who shall sell tobacco without placing any name thereon; who shall fail and neglect to elicit from the person delivering tobacco the information required by this article; who shall deny any person the right of access to the place where tobacco is awaiting sale or being sold; who shall deny any person with an interest in tobacco the privilege of inspection of the tickets or sale books as provided in Sections 39‑19‑460 and 39‑19‑470; or who shall in any way violate any of the provisions of this article shall be guilty of a misdemeanor.

**SECTION 39‑19‑500.** Sale of tobacco in name other than that of true owner.

Any warehouseman or cooperative marketing association who shall buy or sell leaf tobacco in a name other than that of the true owner and who knows or has reason to believe that the name in which such leaf tobacco is sold or any name given pursuant to the provisions of this article is false or fictitious shall be guilty of a misdemeanor; provided, however, that:

(1) Whenever one person offers for sale more than one pile of tobacco it shall be sufficient for the full name to appear on the first pile and the correct initials on the other piles with consecutive numbers on the piles following; and

(2) Leaf tobacco dealers offering for resale tobacco once sold upon the warehouse floor and with respect to which the provisions of this article have previously been complied with may offer for sale or sell such tobacco in the name under which the original sale was made or in their own names.

**SECTION 39‑19‑510.** Penalty.

Any person guilty of a misdemeanor under the provisions of this article shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment for not less than fifteen nor more than thirty days and each sale or offering for sale shall constitute a separate and distinct offense under the provisions of this article.