

IN THE SENATE

SENATE BILL NO. 1207

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE SEED INDEMNITY FUND LAW; AMENDING SECTION 22-5103, IDAHO
2 CODE, TO REQUIRE THAT CERTAIN AUDITED OR REVIEWED FINANCIAL STATEMENTS
3 BE PROVIDED WITH ANNUAL LICENSE RENEWALS, TO PROVIDE CERTAIN NET WORTH
4 AND BOND REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING
5 SECTION 22-5117, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE IDAHO
6 STATE DEPARTMENT OF AGRICULTURE MAY DENY THE ISSUANCE OF A LICENSE OR
7 RENEWAL BASED ON SPECIFIED CRITERIA AND AFTER A PUBLIC HEARING AND TO
8 PROVIDE FOR JUDICIAL REVIEW OF FINAL DETERMINATIONS.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 22-5103, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 22-5103. LICENSES. (1) Prior to beginning operation, a person intend-
14 ing to operate as a seed buyer shall first procure a license from the depart-
15 ment. Each license issued pursuant to this chapter shall be issued for a pe-
16 riod of one (1) year and the license or legible copy thereof shall be promi-
17 nently displayed in each place of business.

18 (2) A seed facility endorsement showing the location of each seed fa-
19 cility in Idaho shall be attached to the seed buyer's license.

20 (3) The department is authorized to issue or renew a seed buyer license
21 in accordance with this chapter, and the rules promulgated by the depart-
22 ment, provided each applicant meets the following conditions:

23 (a) Pay an application fee of up to five hundred dollars (\$500) pursuant
24 to criteria established by rule, with the exception of those persons
25 holding a license issued pursuant to chapter 4, title 22, Idaho Code;

26 (b) Submit a completed application form provided by the department,
27 with required exhibits. The application shall include:

28 (i) The name of the applicant;

29 (ii) The names of the officers and directors if the applicant is a
30 corporation or association;

31 (iii) The names of the partners if the applicant is a partnership
32 or a limited liability company;

33 (iv) The location of the principal place of business;

34 (v) Information relating to any judgment against the applicants;
35 and

36 (vi) Any other reasonable information the department finds neces-
37 sary to carry out the provisions and purposes of this chapter.

38 (c) Provide a sufficient and valid bond as required by this chapter;

39 (d) Provide a current, sufficient policy of insurance covering losses
40 as required by this chapter;

41 (e) Provide the location of its seed facilities in Idaho;

1 (f) Provide a written schedule of conditioning, bagging and testing
2 charges;

3 (g) Have on file a test report pursuant to sections 71-113 and 71-117,
4 Idaho Code, from the Idaho state department of agriculture bureau of
5 weights and measures showing approved status for any scales used for
6 weighing received seed crops and any scales used for weighing clean
7 weight of seed crops; and

8 (h) Provide with the initial license application and all subsequent an-
9 annual license renewals an audited or reviewed financial statement pre-
10 pared by an independent certified public accountant or licensed public
11 accountant showing that the applicant has and does maintain a balance
12 sheet with current assets not less than current liabilities, a state-
13 ment of profit or loss, a statement of net worth and a statement of cash
14 flows, all of which have been prepared according to generally accepted
15 accounting principles not more than twelve (12) months prior to the date
16 of the initial license application and additional financial informa-
17 tion as determined by the director; and

18 (i) Provide proof that the license applicant has maintained a net worth
19 of at least fifty thousand dollars (\$50,000) or a bond in the amount of
20 two thousand dollars (\$2,000) for each one thousand dollars (\$1,000) or
21 fraction thereof of net worth financial requirement; however, a person
22 shall not be licensed as a seed buyer if the person has a net worth of
23 less than twenty-five thousand dollars (\$25,000). A bond submitted for
24 purposes of this subsection shall be in addition to any bond otherwise
25 required under the provisions of this chapter.

26 (4) All fees collected, pursuant to this chapter, for license applica-
27 tion and renewal shall be deposited in the seed indemnity fund.

28 (5) All materials required for renewal of a license shall be received
29 by the department prior to the expiration date of the current license. A
30 license ~~which~~ that has expired may be reinstated by the department upon
31 receipt of all necessary licensing materials required by the provisions of
32 this chapter and a reinstatement fee in an amount up to one thousand dollars
33 (\$1,000) pursuant to criteria established by rule, ~~providing~~ provided that
34 this material is filed within thirty (30) days from the date of expiration of
35 the current license.

36 (6) A delivery of seedcrop between producers, none of whom are seed
37 buyers, shall be exempt from the provisions of this chapter.

38 SECTION 2. That Section 22-5117, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 22-5117. LICENSE DENIAL. (1) Any seed buyer against whose bond a claim
41 has been ordered collected or has actually been collected shall not be li-
42 icensed by the department for a period of three (3) years from the date of such
43 order or collection. License denial may be waived if the person can show, to
44 the satisfaction of the director, that full settlement of all claims against
45 the bond have been made. Full settlement does not include seed indemnity
46 fund settlements. A change in a person's business name shall not absolve any
47 unsettled claim against that person's prior bond.

48 (2) The director may deny the issuance or renewal of a license to an ap-
49 plicant after a public hearing and based on the following criteria:

- 1 (a) The applicant failed or refused to make prior claimants whole due to
2 a previous failure;
3 (b) The applicant misrepresented material facts in the application for
4 a license;
5 (c) The industry required to pay into the seed indemnity fund presents
6 relevant objections; or
7 (d) Any material fact provided by a stakeholder or member of the public
8 that demonstrates license denial would serve the best interest of the
9 public.
10 (3) Any person adversely affected by the director's final determina-
11 tion may secure judicial review as prescribed under the provisions of chap-
12 ter 52, title 67, Idaho Code.