

SECOND REGULAR SESSION

HOUSE BILL NO. 1624

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYER.

Read 1st time March 4, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4442L.011

AN ACT

To amend chapter 276, RSMo, by adding thereto seven new sections relating to the grain indemnity program, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 276, RSMo, is amended by adding thereto seven new sections, to be
2 known as sections 276.350, 276.353, 276.356, 276.359, 276.362, 276.365, and 276.368, to read
3 as follows:

276.350. As used in sections 276.350 to 276.368, the following terms mean:

2 **(1) "Board", the governing body of the Missouri grain indemnity corporation**
3 **created in section 276.353;**

4 **(2) "Claimant", the same meaning as such term is defined in sections 276.401 and**
5 **411.026, RSMo;**

6 **(3) "Cooperative agreement", an agreement made by the board as may be**
7 **reasonable and proper to carry out the provisions of sections 276.350 to 276.368;**

8 **(4) "Corporation", the Missouri grain indemnity corporation established in section**
9 **276.356;**

10 **(5) "Department", the Missouri department of agriculture;**

11 **(6) "Director", the director of the department of agriculture;**

12 **(7) "Failed" or "failure", any of the following:**

13 **(a) An inability to satisfy a claimant in accordance with applicable statutes or rules**
14 **and the time limits provided in the statutes or rules;**

15 **(b) A declaration of insolvency;**

16 **(c) A filing of bankruptcy;**

17 **(d) A failure to pay claimants in the ordinary course of business where a bona fide**

18 **dispute does not exist between a grain dealer and a customer;**

19 **(8) "Financial loss", a loss resulting from a producer not being fully paid for grain**
20 **that has been delivered and sold to a grain dealer, net of any outstanding charges against**
21 **the grain;**

22 **(9) "Fund", the Missouri grain indemnity fund established in section 276.359;**

23 **(10) "Grain", the same meaning as such term is defined in sections 276.401 and**
24 **411.026, RSMo;**

25 **(11) "Grain dealer", the same meaning as such term is defined in section 276.401;**

26 **(12) "Grain indemnity program", the system created in sections 276.350 to 276.368**
27 **to have the board pay moneys out of the fund to producers having losses due to a failure;**

28 **(13) "Person", a natural person, partnership, firm, association, corporation, limited**
29 **liability company, or other business organization;**

30 **(14) "Producer", an owner of land, a tenant on land, or an operator of a farm that**
31 **has an interest in and receives all or any part of the proceeds from the sale in Missouri of**
32 **the grain produced;**

33 **(15) "Producer premium", the amount of money charged to and collected from a**
34 **producer under subsection 4 of section 276.359 that qualifies the producer to be a part of**
35 **the grain indemnity program;**

36 **(16) "Storage loss", a loss to a storage depositor resulting from a failed**
37 **warehouseman not fully satisfying the warehouseman's storage obligation to the depositor,**
38 **net of any outstanding charges against the grain;**

39 **(17) "United States Warehouse Act", the federal United States Warehouse Act**
40 **enacted August 11, 1916, as amended;**

41 **(18) "Valid claim", a claim arising from a failure of a registered grain dealer or**
42 **licensed warehouseman that occurs after September 1, 2004, and adjudicated valid by the**
43 **department and approved by the board, less any credits and offsets;**

44 **(19) "Warehouse", the same meaning as such term is defined in section 411.026,**
45 **RSMo;**

46 **(20) "Warehouseman", a person engaged in the business of operating a warehouse**
47 **for storing, shipping, or handling grain for hire that holds a valid warehouseman's license**
48 **under chapter 411, RSMo, or the United States Warehouse Act;**

49 **(21) "Warehouse receipt", any of the following:**

50 **(a) A warehouse receipt issued under chapter 411, RSMo; or**

51 **(b) A warehouse receipt issued under the United States Warehouse Act.**

276.353. 1. All grain dealers shall, beginning September 1, 2004, register with the
2 board and pay a registration fee of one hundred dollars. A producer who buys less than

3 one hundred thousand bushels of grain annually for the buyer's own use as feed is not
4 required to register under this section.

5 2. When registering, the grain dealer shall report the grain dealer's name, the
6 headquarter's address and every Missouri address at which the dealer buys from the
7 producers, the dealer's telephone number at each address, and whether the dealer is a
8 warehouse. A grain dealer registered under sections 276.350 to 276.368 shall report any
9 change in registration not later than thirty days after the change.

10 3. The board shall determine the deadline for filing the registration.

11 4. The corporation, board, a representative of the board, or the department may
12 in accordance with subsection 8 of section 276.359 inspect the books and records of a grain
13 dealer registered under sections 276.350 to 276.368 to confirm that the grain dealer is
14 complying with the provisions of sections 276.350 to 276.368.

276.356. 1. There is hereby established the "Missouri Grain Indemnity
2 Corporation" which is a public body corporate and politic, and though it is separate from
3 the state, the exercise by the corporation of its powers constitutes an essential government
4 function. The corporation may sue and be sued.

5 2. The corporation shall be governed by and the powers of the board shall be
6 vesting in a board, which shall be comprised of the following eight members who are
7 residents of Missouri:

8 (1) The following seven voting members:

9 (a) Two members appointed by the largest Missouri organization representing the
10 interests of grain and feed dealers in Missouri;

11 (b) Two members appointed by the largest Missouri organization representing
12 general farm interests in Missouri;

13 (c) One member appointed by the largest Missouri organization exclusively
14 representing the interests of corn producers;

15 (d) One member appointed by the largest Missouri organization exclusively
16 representing the interests of soybean producers in Missouri; and

17 (e) One member appointed by the largest Missouri organization representing the
18 interests of bankers in Missouri.

19
20 The members appointed under paragraphs (b) to (d) must be producers; and

21 (2) The executive director of the agriculture and small business authority
22 established in chapter 348, RSMo, shall serve as a nonvoting member.

23 3. The voting members of the board shall serve four-year terms, may be reimbursed
24 for their actual and necessary expenses incurred in the performance of their official duties,

25 and may be reappointed. Vacancies on the board shall be filled in the same manner as
26 appointments to the board. The replacement board members shall fill the vacancy for the
27 unexpired term of the previous member. A vacancy in the membership of the board shall
28 not impair the right of a quorum to exercise all the rights and perform all the duties of the
29 board and corporation.

30 4. Four voting members constitutes a quorum. The affirmative votes of at least
31 four voting members are necessary for any action to be taken by the board.

32 5. The board shall meet at least twice a year. One meeting of the board must be
33 held in May.

34 6. The board shall:

35 (1) Adopt rules, create forms, and establish guidelines to implement sections
36 276.350 to 276.368;

37 (2) Collect and deposit all producer premiums authorized in subsection 4 of section
38 276.359 into the fund for investment by the board;

39 (3) Initiate any action it may consider necessary to compel the grain dealer against
40 whom an awarded claim arose to repay the fund the sums that are disbursed from the fund
41 in relation to each claim;

42 (4) Initiate any action it may consider necessary to compel the claimant whose claim
43 arose due to a failure to participate in any legal proceeding in relation to the claim;

44 (5) Within five business days of receiving notice of failure of a grain dealer, publish
45 notice of the failure in a manner determined by the department.

46 7. A member of the board or other person acting on behalf of the corporation shall
47 not be personally liable for damage or injury resulting from the performance of the
48 member's or person's duties under sections 276.350 to 276.368.

49 8. The corporation may do or shall have any of the following:

50 (1) Perpetual succession by its corporate name as a corporate body;

51 (2) Adopt and make use of an official seal and alter the same at pleasure;

52 (3) Adopt, amend, and repeal bylaws consistent with the provisions of sections
53 276.350 to 276.368 for the regulation and conduct of the corporation's affairs and prescribe
54 rules and policies in connection with the performance of the corporation's functions and
55 duties;

56 (4) Use the services of the department and the attorney general when considered
57 necessary in the execution of the duties of the board;

58 (5) Use the services and staff of the agriculture and small business authority to
59 carry out the functions of the corporation;

60 (6) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing,

61 other financing and assistance, and any other aid from any source and agree to and comply
62 with any attached conditions;

63 (7) Procure insurance against any loss in connection with its operations in the
64 amounts and from the insurers as it considers necessary or desirable;

65 (8) Borrow money from a bank, an insurance company, an investment company,
66 or any other person. The corporation may negotiate the terms of a loan contract. The
67 contract must provide for repayment of the money in not more than five years and that the
68 loan may be prepaid. The loan contract must plainly state that it is not an indebtedness
69 of the state but constitutes a corporate obligation solely of the corporation and is payable
70 solely from revenues of the corporation or any appropriations from the state that may be
71 made to the corporation for such purpose;

72 (9) (a) For the purposes of this subdivision, "bond" means any type of obligation
73 issued under this subdivision, including any bond, note, tax anticipation note or similar
74 instrument.

75 (b) a. Before entering into his or her duties each member of the board shall execute
76 a surety bond in the sum of fifty thousand dollars, or in lieu thereof the chair of the board
77 may execute a blanket bond covering all members of the board with each surety bond to
78 be conditioned upon the faithful performance of the duties of the office or offices covered
79 and to be executed by a surety company authorized to transact business in this state as a
80 surety and to be approved by the attorney general and filed in the office of the secretary
81 of state. The cost of each such bond shall be paid by the corporation.

82 b. In the event that any of the board members whose signatures or facsimile
83 signatures appear on any bonds shall cease to be board members before the delivery of
84 such bonds, their signatures or facsimile signatures shall be valid and sufficient for all
85 purposes as if such board members had remained in office until delivery of such bonds.

86 c. The board members executing the bonds of the corporation shall not be subject
87 to any personal liability or accountability by reason of the issuance of the bonds.

88 d. The board shall following the close of each fiscal year submit an annual report
89 of its activities for the preceding year to the governor and the general assembly. Each
90 report shall set forth a complete operating and financial statement for the corporation
91 during the fiscal year it covers. At least once in each year an independent certified public
92 accountant shall audit the records and accounts of the corporation.

93 (c) a. The corporation is authorized to issue, sell, and deliver bonds which shall
94 mature no later than five years after issuance in the name of the corporation in an amount
95 determined by the board.

96 b. The corporation shall provide for the payment of the principal of the bonds, any

redemption premiums, the interest on the bonds, and the costs attributable to the bonds being issued or outstanding as provided in this subdivision.

c. The board may irrevocably pledge money received from sections 276.350 to 276.368 as revenue for the payment of bonds and deposited in an account created for such purpose in the Missouri grain indemnity fund.

d. Bonds issued under this subdivision shall not constitute debts of this state or of any agency, political corporation, or political subdivision of this state and are not a pledge of the faith and credit of this state or of any of those governmental entities. The bonds are payable only from revenue provided for under sections 276.350 to 276.368. The bonds shall contain a statement to the effect that:

(i) Neither the state nor any agency, political corporation, or political subdivision of the state shall be obligated to pay the principal or interest on the bonds except as provided by this section; and

(ii) Neither the full faith and credit nor the taxing power of the state nor any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal, premium, if any, or interest on the bonds except as provided by this section.

(e) The owner of any bonds issued under this subdivision shall at the time of purchase agree to waive any right of recovery and forever hold harmless the state and any agency, political corporation, or political subdivision thereof. The bond owner shall agree the sole source of revenue for repayment of such bonds shall be those revenues derived from sections 276.350 to 276.368.

(f) The state pledges and agrees with the owners of any bonds issued under this subdivision that the state will not limit or alter the rights vested in the corporation to fulfill the terms of any agreements made with the owners or in any way impair the rights and remedies of the owners until the bonds are fully discharged except as provided by this subdivision.

(g) The board may provide for the flow of funds and the establishment and maintenance of separate accounts within the Missouri grain indemnity fund and other necessary accounts, and may make additional covenants with respect to the bonds in the documents authorizing the issuance of bonds including refunding bonds. The documents authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from appropriated moneys or may reserve the right to issue additional bonds to be payable from appropriated moneys on a parity with or subordinate to the lien and pledge in support of the bonds being issued and may contain other provisions and covenants as determined by the board.

(h) The board may issue bonds to refund all or any part of the outstanding bonds issued under this subdivision including matured but unpaid interest.

(i) The bonds issued by the board, any transaction relating to the bonds, and profits made from the sale of the bonds are free from taxation by the state or by any municipality, court, special district, or other political subdivision of the state.

(j) As determined necessary by the board, the proceeds of the bonds less the cost of issuance shall be placed in the Missouri grain indemnity fund and may be used for the purposes for which that fund may otherwise be used.

(k) The board may enter into any contract or agreement deemed necessary or desirable to effectuate cost effective financing hereunder. Such agreements may include credit enhancement, credit support, or interest rate agreements. Any fees or costs associated with such agreements shall be deemed administrative expenses for the purposes of calculating the payment of the principal, interest, and administrative expenses related to bonds.

(l) To the extent this subdivision conflicts with other laws the provisions of this subdivision prevail. This subdivision shall not be subject to the provisions of sections 23.250 to 23.298, RSMo;

(10) Include in any borrowing amounts considered necessary by the corporation to pay financing charges, interest on the obligations, consultant, advisory, and legal fees, and other expenses necessary or incident to such borrowing;

(11) Employ personnel, in addition to the staff of the agriculture and small business authority, as may be required in the judgment of the corporation, and fix and pay compensation from moneys available to the corporation;

(12) Make, execute, and carry out any and all contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to accomplish the purposes of sections 276.350 to 276.368;

(13) Upon the request of the director of the department and the approval of the board, make payment from the fund when the payment is necessary for the purpose of compensating claimants in accordance with section 276.362;

(14) Have powers necessary or appropriate for the exercise of the powers specifically conferred upon the corporation and all incidental powers customary in corporations.

The corporation or the board may use the services of a person other than the attorney general to collect money owed to the fund or to litigate claims concerning money owed to

169 the fund.

170 **10. The corporation shall adopt rules or a policy establishing a code of ethics for**
171 **its employees, or decide it wishes to be under the jurisdiction and rules adopted by the state**
172 **ethics commission. A code of ethics adopted by rule or policy under this subsection must**
173 **be consistent with state law and approved by the governor.**

276.359. 1. The "Missouri Grain Indemnity Fund" is hereby established for the
2 **purpose of providing moneys to pay producers for losses incurred due to the failure of a**
3 **grain dealer or warehouseman. Deposits to the fund shall be administered by the board**
4 **of the corporation. The fund shall operate on a fiscal year of July first to June thirtieth.**

5 **2. The fund shall consist of moneys paid into the fund from the producers of grain**
6 **under this section. The expenses of administering the fund shall be paid from moneys in**
7 **the fund. After the fund reaches an amount in excess of two million dollars, the board may**
8 **annually take an amount required and allocate it to a separate administrative expenses**
9 **account to pay administrative expenses. Board approved legal fees and legal expenses in**
10 **actions brought against the corporation, board, or fund shall be paid from moneys in the**
11 **fund.**

12 **3. All producer premiums submitted to the board by a grain dealer under**
13 **subsection 2 of section 276.362 shall be held by the corporation in trust in the fund for**
14 **carrying out the purposes of sections 276.350 to 276.368. The commission shall invest the**
15 **moneys in the fund not currently needed to meet the obligations of the fund. Interest**
16 **earned from such investments shall be credited to the fund.**

17 **4. Except as provided in section 276.353, for the first year beginning September 1,**
18 **2004, the producers of grain shall be charged a producer premium equal to two-tenths of**
19 **one percent of the price of all grain for which title transfers in Missouri. After the first**
20 **year, the producers shall be charged a variable producer premium between five one-**
21 **hundredths and three-tenths of one percent of the price of all grain for which title transfers**
22 **in Missouri. The producer premiums required under this subsection shall be in addition**
23 **to any other fees or assessments required by law.**

24 **5. Before September 1, 2004, the department shall notify each grain dealer**
25 **registered under section 276.353 that producer premiums described in subsection 4 of this**
26 **section shall be deducted from the purchase price of the grain on and after the date**
27 **specified in the notice. The notice shall be sent by first class mail.**

28 **6. When purchasing grain, a grain dealer, grain dealer's agent, or grain dealer's**
29 **representative shall deduct the producer premium described in subsection 4 of this section**
30 **from the producer's payment and document the producer premium paid by the producer.**
31 **A grain dealer shall, on a monthly basis, submit producer premiums collected under this**

32 subsection by the fifteenth of the month immediately following each month such premiums
33 are collected to the board for the purpose of financing or contributing to the financing of
34 the fund. The board may contract for the collection of premiums under this section,
35 provided that the costs associated with such collection services do not exceed seven percent
36 of the total premiums collected.

37 7. Any fee, premiums, or other moneys paid under sections 276.350 to 276.368 shall
38 not be considered to be a part of the total state revenue as defined in article X, section 18
39 of the Constitution of Missouri.

40 8. The books and records of each grain dealer shall clearly indicate the producer
41 premiums collected by the grain dealer and the portion of the books and records reflecting
42 the premiums collected shall be open for inspection by the corporation, board, board's
43 authorized agents, director, or the director's designee during regular business hours. The
44 corporation, board, board's authorized agent, director, or the director's designee may take
45 steps reasonably necessary to verify the accuracy of the portion of a grain dealer's books
46 and records that reflect the premiums collected. The information obtained under this
47 subsection is confidential, and unless otherwise required by judicial order, may be
48 disclosed only to parties empowered to see or review the information. Verification
49 permitted under this subsection shall be completed by the department unless two-thirds
50 of the board vote to have the verification completed by an independent auditor.

51 9. (1) The producer premiums required under subsection 4 of this section must be
52 collected until the fund contains more than four million dollars as of June thirtieth of any
53 given year.

54 (2) Except as provided in subdivision (3) of this subsection, after the fund reaches
55 four million dollars, the board shall not require the collection of additional producer
56 premiums until the amount in the fund drops below two million dollars as determined
57 under subsection 10 of this section. In a year when the board determines that the fund is
58 at or below two million dollars, the board shall reinstate the collection described in sections
59 276.350 to 276.368.

60 (3) The board shall reinstate the collection described in sections 276.350 to 276.368
61 if as of May first:

62 (a) The fund contains less than two million dollars; and

63 (b) The board is aware of a failure of a grain dealer.

64 10. At the May meeting required in section 276.356, the board shall certify the
65 amount of moneys in the fund on May first. Except as provided in subdivision (3) of
66 subsection 9 of this section, the board shall not require the collection of a producer
67 premium during a fiscal year when the board certifies that the fund has money in excess

68 of four million dollars. If the fund is at or below two million dollars, the board shall
69 reinstate the collection.

276.362. 1. Except as provided in section 276.353, the moneys in the fund are not
2 available for any purpose other than the payment of valid claims and shall not be
3 transferred to any other fund. Such provision is nonseverable from sections 276.350 to
4 276.368.

5 2. The board is authorized to pay the administrative expenses of the fund and to
6 pay the fund's legal fees and legal expenses from the fund.

7 3. (1) Except as provided in subdivision (2) of this subsection, within ninety days
8 of the board's approval of a valid claim, the board shall compensate from the fund, in an
9 amount described in section 276.353 and in the manner described in subdivision (3) of this
10 subsection, a claimant who has incurred a financial loss or storage loss due to a failure of
11 a grain dealer or warehouseman.

12 (2) The time for payment may be extended if the board and the claimant mutually
13 agree and put the terms of the payment in writing;

14 (3) If:

15 (a) A claimant engaged in farming operations granted to one or more secured
16 parties, one or more security interests in the grain related to the claimant's claim under
17 this section; and

18 (b) One or more secured parties described in paragraph (a) of this subdivision have
19 given to the licensee prior written notice of the security interest and the board prior written
20 notice of the security interest with respect to the grain described in paragraph (a) of this
21 subdivision sufficient to give the board a reasonable opportunity to cause the issuance of
22 a joint check under this subsection,

23
24 the board may compensate the claimant described in paragraph (a) of this subdivision in
25 the amount to which the claimant is entitled under section 276.359 by causing the issuance
26 of a check payable jointly to the order of the claimant and any secured party described in
27 paragraph (a) of this subdivision who has given the notices described in paragraph (b) of
28 this subdivision. If only one secured party described in paragraph (a) of this subdivision
29 is a payee, the rights of the secured party in the check shall be to the extent of the
30 indebtedness of the claimant to the secured party. If two or more secured parties described
31 in paragraph (a) of this subdivision are payees, the nature, extent, and priority of their
32 respective rights in the check are determined in the same manner as the nature, extent, and
33 priority of their respective security interests under the Uniform Commercial Code.

34 4. (1) A claimant who has a storage loss within the last eighteen months due to the

35 failure of a warehouseman is entitled to be compensated by the board from the fund for
36 one hundred percent of the storage loss incurred less any producer premium that would
37 have been due on the sale of the grain. The gross amount of the storage loss shall be as
38 determined by the department for warehouses licensed under chapter 411, RSMo, or by
39 the United States Department of Agriculture for warehouses licensed under the United
40 States Warehouse Act. The warehouseman and claimants may submit to the department
41 evidence related to outstanding charges against stored grain. If the evidence is submitted,
42 the department shall determine the storage loss payable by the board.

43 (2) A claimant who has incurred a financial loss within the last eighteen months due
44 to the failure of a grain dealer is entitled to be compensated by the board from the fund for
45 eighty percent of the loss incurred. The department shall determine the loss incurred in
46 the following manner:

47 (a) For grain that has been priced, the loss shall be the value of the priced grain less
48 any outstanding charges against the grain;

49 (b) For grain sold to a grain dealer who is also a warehouseman and that has not
50 been priced, the loss shall be established using the price determined for the storage
51 obligations;

52 (c) For grain sold to a grain dealer who is not a warehouseman and that has not
53 been priced, the loss shall be established using a price determined by the department using
54 the same procedures used by the department to determine the price at the warehouse.

55 5. A claim under section 276.359 is valid only if brought within ninety days after
56 the notice of the failure of the grain dealer is published under section 276.356.

57 6. A claimant compensated under sections 276.350 to 276.368 may be required to
58 subrogate to the board or corporation all the claimant's rights to collect on a bond issued
59 under this chapter and chapter 411, RSMo, or the United States Warehouse Act and all the
60 claimant's rights to any other compensation arising from the failure of the grain dealer or
61 warehouseman. If so required, the claimant shall assign all the claimant's rights, title, and
62 interest in any judgment concerning the failure to the board or corporation.

63 7. The board shall deny the payment of compensation under sections 276.350 to
64 276.368 to a claimant who has incurred a financial loss or storage loss due to the failure of
65 a warehouse or grain dealer when the board determines the existence of any of the
66 following:

67 (1) The claimant as payee fails to present for payment a negotiable instrument
68 issued as payment for grain within ninety days from the date the negotiable instrument is
69 tendered to the claimant in satisfaction of obligations for grain purchased by the licensed
70 grain establishment;

71 (2) The claimant has engaged in conduct or practices that differ from generally
72 acceptable marketing practices within the grain industry to an extent that the claimant's
73 actions have substantially contributed to the claimant's loss.

74 8. After the department has determined that a grain dealer or warehouseman has
75 defaulted payment or failed, the board shall have the following duties:

76 (1) Determine the valid claims and the amount of such claims to be paid to
77 claimants for financial losses that were incurred due to the failure of a grain dealer or
78 warehouseman;

79 (2) Authorize payment of moneys from the fund when necessary for the purpose
80 of compensating claimants in accordance with sections 276.350 to 276.368;

81 (3) Collect moneys through subrogated claims against bonds in the place of
82 claimants who collected for a loss due to a warehouse or grain dealer failure;

83 (4) Borrow money and/or issue bonds as authorized in section 276.356 if the fund
84 has insufficient moneys to cover valid claims;

85 (5) Deposit into the fund any remaining grain assets of a failed grain dealer or
86 warehouseman for the purpose of repayment to the fund the moneys used to pay claimants,
87 subject to any priority right a holder of a mortgage, security interest, or other
88 encumbrance may possess under any other applicable law. Any repayment into the fund
89 shall not exceed the principal amount paid to claimants plus interest at the rate paid on
90 ninety-days United States Treasury bills;

91 (6) If the amount in the fund is insufficient to pay all valid claims in accordance
92 with sections 276.350 to 276.368 and the board is unable to borrow funds for whatever
93 reason, grant priority of payment of all claims in the order the claims were approved as
94 valid by the board.

276.365. 1. The department, corporation, and board have the authority to publish
2 and adopt rules consistent with sections 276.350 to 276.368. No rule or portion of a rule
3 promulgated pursuant to the authority of sections 276.350 to 276.368 shall become effective
4 unless it has been promulgated pursuant to chapter 536, RSMo.

5 2. Sections 276.350 to 276.368 do not limit the authority of the director of the
6 department of agriculture to take disciplinary actions against a grain dealer or
7 warehouseman for a violation of any applicable law or the rules of the department.

8 3. The repayment in full of all obligations to the fund by a grain dealer or
9 warehouseman does not nullify or modify the effect of any other disciplinary proceedings
10 brought under any applicable law.

276.368. 1. Any person who knowingly or intentionally refuses or fails to collect
2 from producers under the program or pay producer premiums collected from producers

3 under the program is guilty of a class C felony. In addition to the criminal penalty under
4 this section, the grain dealer shall also pay to the fund moneys collected from producers
5 and owed to the fund.

6 2. Any person who knowingly makes any false statement, representation, or
7 certification, or who knowingly fails to make any statement, representation, or
8 certification, in any record, report, or other document filed or required to be filed or
9 maintained by the director, department, board, or corporation is guilty of a class C felony.

10 3. Except as permitted by law, any person who willfully or knowingly resists,
11 prevents, impedes, or interferes with the board or other agents or employees of the
12 corporation or the board in the performance of the duties assigned under sections 276.350
13 to 276.368 is guilty of a class C felony.