

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chair of Committee

\_\_\_\_\_  
Date

May 27, 2020

Committee on Rural Affairs & Agriculture.

After consideration on the merits, the Committee recommends the following:

HB20-1213 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, page 2, line 3, strike "(32)" and substitute  
2 "(26)(a)(IX)".

3 Page 2, strike lines 10 through 12.

4 Page 3, strike lines 1 through 4 and substitute:

5 "(26)(a) The following agencies, functions, or both, are scheduled  
6 for repeal on September 1, 2025:

7 (IX) THE LICENSING AND REGULATION OF PERSONS BY THE  
8 DEPARTMENT OF AGRICULTURE IN ACCORDANCE WITH ARTICLE 36 OF TITLE  
9 35."

10 Page 7, strike lines 18 and 19 and substitute:

11 "~~(10)~~ (15) "Financial statement" means a statement PREPARED  
12 ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES that  
13 accurately presents the financial".

14 Page 10, strike line 2 and substitute "commodity handler's OR  
15 SMALL-VOLUME COMMODITY HANDLER'S transactions with an owner.

16 (33) "SMALL-VOLUME COMMODITY HANDLER" MEANS A PERSON  
17 WHO:

18 (a) HAS A FIXED OR ESTABLISHED PLACE OF BUSINESS IN THIS  
19 STATE;

- 1 (b) ENGAGES IN COMMODITIES HANDLING;
- 2 (c) BUYS LESS THAN TWO HUNDRED FIFTY THOUSAND DOLLARS'
- 3 WORTH OF COMMODITIES AND FARM PRODUCTS PER YEAR FROM OWNERS
- 4 FOR PROCESSING OR RESALE; AND
- 5 (d) DOES NOT PURCHASE COMMODITIES FOR COMMERCIAL FEEDING
- 6 OF LIVESTOCK."

7 Renumber succeeding subsections accordingly.

8 Page 11, strike line 2 and substitute "**duties - repeal.** (1) (a) The  
9 commissioner ~~may~~ SHALL promulgate ~~such~~ rules in".

10 Page 11, strike line 4 and substitute "administration of this article 36. ON  
11 OR BEFORE DECEMBER 31, 2020, THE COMMISSIONER MUST PROMULGATE  
12 RULES THAT".

13 Page 11, line 6, strike "(a)" and substitute "(I)".

14 Page 11, line 8, strike "(b)" and substitute "(II)".

15 Page 11, line 9, strike "(c)" and substitute "(III)".

16 Page 11, line 10, strike "(d)" and substitute "(IV)".

17 Page 11, line 11, strike "(e)" and substitute "(V)".

18 Page 11, line 12, strike "(f)" and substitute "(VI)".

19 Page 11, after line 13 insert:

20 "(b) (I) BEFORE THE COMMISSIONER PROMULGATES THE RULES  
21 LISTED IN SUBSECTION (1)(a) OF THIS SECTION, THE DEPARTMENT SHALL  
22 CONVENE A STAKEHOLDERS' GROUP AS SOON AS PRACTICABLE TO WORK  
23 ON DRAFTING THE RULES. THE STAKEHOLDERS' GROUP MUST INCLUDE:

24 (A) ONE OR MORE COMMODITY HANDLERS WHO PURCHASE LESS  
25 THAN TWO HUNDRED FIFTY THOUSAND DOLLARS WORTH OF COMMODITIES  
26 AND FARM PRODUCTS EACH YEAR;

27 (B) ONE OR MORE COMMODITY HANDLERS WHO PURCHASE TWO  
28 HUNDRED FIFTY THOUSAND DOLLARS WORTH OR MORE OF COMMODITIES  
29 AND FARM PRODUCTS EACH YEAR;

30 (C) ONE OR MORE SMALL-VOLUME DEALERS;

- 1 (D) ONE OR MORE DEALERS;  
2 (E) ONE OR MORE AGRICULTURAL TRADE ASSOCIATIONS  
3 REPRESENTED IN THE STATE; AND  
4 (F) ANY OTHER PERSON THAT THE COMMISSIONER DEEMS  
5 NECESSARY TO INCLUDE.  
6 (II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE SEPTEMBER  
7 1, 2021."

8 Page 12, line 6, strike "WAREHOUSE." and substitute "WAREHOUSE OR FOR  
9 THE CONTINUED COMMERCIAL FEEDING OF LIVESTOCK."

10 Page 12, strike line 9 and substitute "functions, except those necessary to  
11 prevent spoilage ~~be ceased forthwith~~ OR FOR THE CONTINUED  
12 COMMERCIAL FEEDING OF LIVESTOCK,".

13 Page 15, strike line 2 and substitute:

14 **"35-36-108. Report - repeal.** (1) ON OR BEFORE NOVEMBER 1,  
15 2021, THE DEPARTMENT SHALL SUBMIT A WRITTEN REPORT TO THE  
16 AGRICULTURE AND NATURAL RESOURCES COMMITTEE IN THE SENATE AND  
17 THE RURAL AFFAIRS AND AGRICULTURE COMMITTEE IN THE HOUSE OF  
18 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, SUMMARIZING THE  
19 DEPARTMENT'S PROGRESS IN IMPLEMENTING THIS ARTICLE 36. THE REPORT  
20 MUST INCLUDE:

21 (a) A SUMMARY OF THE DEPARTMENT'S PROGRESS REGARDING  
22 CHANGES MADE TO THE REGULATORY PROGRAM AUTHORIZED IN THIS  
23 ARTICLE 36 AFTER THE EFFECTIVE DATE OF THIS SECTION;

24 (b) A SUMMARY OF INDUSTRY OUTREACH THAT THE DEPARTMENT  
25 HAS CONDUCTED TO ENSURE THAT THE REGULATORY PROGRAM IS  
26 MEETING THE NEEDS OF THE REGULATED COMMUNITY;

27 (c) AN OVERVIEW OF INSPECTIONS, EXAMINATIONS, AND  
28 INVESTIGATIONS CONDUCTED SINCE THE EFFECTIVE DATE OF THIS SECTION,  
29 WHICH OVERVIEW MUST INCLUDE INFORMATION ON THE DEPARTMENT'S  
30 ANALYSIS OF GENERAL INDUSTRY TRENDS REGARDING THE FINANCIAL  
31 HEALTH OF COMMODITY HANDLERS AND FARM PRODUCT DEALERS. THE  
32 OVERVIEW MUST NOT INCLUDE ANY PERSONALLY IDENTIFYING  
33 INFORMATION OF PERSONS OR PLACES INSPECTED, EXAMINED, OR  
34 INVESTIGATED.

35 (d) AN OUTLINE OF ANY OBSTACLES OR CHALLENGES THE  
36 REGULATORY PROGRAM IS FACING AND ANY LEGISLATIVE CHANGES THAT  
37 THE DEPARTMENT RECOMMENDS TO ADDRESS THOSE OBSTACLES OR

1 CHALLENGES.

2 (2) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.  
3 **35-36-109. [Formerly 35-36-125 and similar to].**

4 Page 15, line 4, strike "2031." and substitute "2025."

5 Page 18, strike line 4 and substitute:

6 "(a) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(II) OF THIS  
7 SECTION, the applicant or licensee shall furnish the commissioner with".

8 Page 18, strike line 13 and substitute:

9 "(II) A SMALL-VOLUME COMMODITY HANDLER NEED NOT COMPLY  
10 WITH SUBSECTION (1)(a)(I) OF THIS SECTION.

11 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(b)(III) OF THIS  
12 SECTION, the applicant ~~or licensee shall~~ MUST furnish the commissioner".

13 Page 18, strike line 20 and substitute:

14 "(II) Whenever the commissioner deems it appropriate, ~~he or she~~  
15 THE".

16 Page 18, after line 26, insert:

17 "(III) AN APPLICANT FOR A SMALL-VOLUME COMMODITY HANDLER  
18 LICENSE NEED NOT COMPLY WITH THE FINANCIAL STATEMENT SUBMISSION  
19 REQUIREMENT SET FORTH IN SUBSECTION (1)(b)(I) OF THIS SECTION."

20 Page 19, strike line 21 and substitute:

21 "(e) WITH RESPECT TO A COMMODITY HANDLER APPLICANT OR  
22 LICENSEE, failed or refused to execute and deliver to the commissioner".

23 Page 21, strike lines 21 through 24 and substitute "years ~~and shall~~ AFTER  
24 THE DATE OF COMPLETION OF THE CREDIT SALE CONTRACTS. FOR  
25 COMMODITY HANDLERS, THE RECORDS MUST reflect those credit sale  
26 contracts that have been PAID, cancelled, OR AMENDED and those that are  
27 still open ~~The records shall~~ AND MUST be kept at the commodity handler's  
28 place of business at all times.

29 (3) THE COMMISSIONER SHALL REQUIRE an annual report of the".

- 1 Page 21, line 21, strike "THE" and substitute "FOR COMMODITY  
2 HANDLERS, THE".
- 3 Page 22, line 9, strike "fifty" and substitute "fifty ONE HUNDRED".
- 4 Page 22, line 18, after "agriculture;" insert "OR".
- 5 Page 22, strikes lines 21 through 23 and substitute "35-36-119 SECTION  
6 35-36-216. or  
7 (e) Net worth of the commodity handler of at least four times the  
8 value of the open credit sale contracts:".
- 9 Page 22, after line 23 insert:
- 10 "(6) A SMALL-VOLUME COMMODITY HANDLER SHALL NOT ENTER  
11 INTO OR OFFER TO ENTER INTO A CREDIT SALE CONTRACT.".
- 12 Page 25, line 20, after "handlers" insert "OR SMALL-VOLUME COMMODITY  
13 HANDLERS".
- 14 Page 27, line 24, after "handlers" insert "OR SMALL-VOLUME COMMODITY  
15 HANDLERS".
- 16 Page 28, line 14, after "be" insert "OR SMALL-VOLUME COMMODITY  
17 HANDLER".
- 18 Page 37, line 24, strike "handlers." and substitute "handlers OR  
19 SMALL-VOLUME COMMODITY HANDLERS.".
- 20 Page 39, lines 10 and 11, strike "one hundred eighty days" and substitute  
21 "~~one hundred eighty~~ FIVE HUNDRED FORTY-EIGHT days, WHICH IS  
22 APPROXIMATELY EIGHTEEN MONTHS,".
- 23 Page 40, after line 12 insert:
- 24 "(3) THIS SECTION DOES NOT APPLY TO SMALL-VOLUME  
25 COMMODITY HANDLERS.".
- 26 Page 47, line 16, strike "by a certified public accountant" and substitute  
27 "~~by a certified public accountant~~ ACCORDING TO GENERALLY ACCEPTED  
28 ACCOUNTING PRINCIPLES".

1 Page 48, lines 25 and 26, strike "one hundred eighty days" and substitute  
2 "~~one hundred eighty~~ FIVE HUNDRED FORTY-EIGHT days, WHICH IS  
3 APPROXIMATELY EIGHTEEN MONTHS,".

4 Page 57, strike lines 26 and 27 and substitute "years AFTER THE DATE OF  
5 COMPLETION OF THE CREDIT SALE CONTRACTS, and ~~shall~~ THE RECORDS  
6 MUST reflect those credit sale contracts that have been PAID, cancelled, OR  
7 AMENDED and those that are still open. The DEALER OR".

8 Page 58, strike lines 3 through 5 and substitute:

9 "(3) THE COMMISSIONER SHALL REQUIRE an annual report of the  
10 status of all of a dealer's or small-volume dealer's credit sale contracts  
11 ~~may be required by the commissioner~~ ALONG WITH THE FINANCIAL  
12 STATEMENT REQUIRED UNDER SECTION 35-36-204 (1)(b).".

13 Page 58, after line 11 insert:

14 "(5) A DEALER OR SMALL-VOLUME DEALER ISSUING CREDIT SALE  
15 CONTRACTS SHALL MAINTAIN POSITIVE WORKING CAPITAL AND A CURRENT  
16 RATIO EQUAL TO OR GREATER THAN ONE-TO-ONE AND RESERVES IN AN  
17 AMOUNT EQUALING OR EXCEEDING ONE HUNDRED PERCENT OF THE VALUE  
18 OF ALL OF THAT DEALER'S OR SMALL-VOLUME DEALER'S OPEN CREDIT SALE  
19 CONTRACTS, WHICH VALUE SHALL BE DETERMINED WITH REFERENCE TO  
20 THE DAILY BID PRICE. THE RESERVES MAY BE IN THE FORM OF ANY ONE OR  
21 A COMBINATION OF THE FOLLOWING:

22 (a) CASH;

23 (b) FARM PRODUCT ASSETS, INCLUDING FARM PRODUCTS OR OTHER  
24 EVIDENCE OF STORAGE OF FARM PRODUCTS;

25 (c) CREDIT SALE CONTRACTS WITH OTHER DEALERS OR  
26 SMALL-VOLUME DEALERS LICENSED BY THE DEPARTMENT; OR

27 (d) AN IRREVOCABLE LETTER OF CREDIT IN FAVOR OF THE  
28 COMMISSIONER, WHICH LETTER OF CREDIT IS SUBJECT TO SECTION  
29 35-36-216.".

30 Page 68, strike line 10 and substitute "a person acting as a commodity  
31 handler OR A SMALL-VOLUME COMMODITY HANDLER, as ~~that term is~~  
32 THOSE TERMS ARE defined in section".

33 After "handler," insert "SMALL-VOLUME COMMODITY HANDLER," on: **Page**  
34 **12**, line 3; and **Page 14**, lines 16 and 18.

- 1 After "handler" insert "OR SMALL-VOLUME COMMODITY HANDLER" on:  
2 **Page 15**, lines 10 and 12; **Page 16**, lines 11 and 21; **Page 24**, line 15;  
3 **Page 25**, lines 9, 14, and 15; **Page 27**, line 26; **Page 28**, line 11; **Page 33**,  
4 line 6; **Page 41**, line 8; and **Page 42**, lines 18 and 23.
- 5 After "HANDLER" insert "OR SMALL-VOLUME COMMODITY HANDLER" on:  
6 **Page 21**, line 19; **Page 22**, line 1; **Page 25**, line 24; **Page 26**, lines 2 and  
7 13; **Page 27**, line 27; and **Page 32**, line 24.
- 8 After "handler's" insert "OR SMALL-VOLUME COMMODITY HANDLER'S" on:  
9 **Page 26**, lines 16 and 18; and **Page 28**, line 9.
- 10 After "HANDLER'S" insert "OR SMALL-VOLUME COMMODITY HANDLER'S"  
11 on: **Page 21**, line 20; **Page 26**, line 13; and **Page 33**, lines 7 and 8.

\*\* \*\*\* \*\* \*\*\* \*\*