

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 803

Introduced by Hughes, 44.

Read first time January 08, 2020

Committee: Agriculture

1 A BILL FOR AN ACT relating to agriculture; to amend sections 2-3740 and
2 49-1499.02, Reissue Revised Statutes of Nebraska, and sections
3 52-1308 and 60-6,298, Revised Statutes Cumulative Supplement, 2018;
4 to adopt the Pulse Crop Resources Act; to redefine terms under the
5 Dry Bean Resources Act, the Nebraska Political Accountability and
6 Disclosure Act, and for purposes of a filing system for farm product
7 security interests; to change provisions relating to a distance
8 limitation exception for certain vehicle weight and length permits;
9 to repeal the original sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 19 of this act shall be known and may be
2 cited as the Pulse Crop Resources Act.

3 Sec. 2. For purposes of the Pulse Crop Resources Act, unless the
4 context otherwise requires:

5 (1) Board means the Pulse Crop Development, Utilization, and
6 Marketing Board;

7 (2) Commercial channels means the sale of any pulse crop for any use
8 when sold to any commercial buyer, dealer, processor, cooperative, or any
9 person, public or private, who resells any pulse crop or product produced
10 from a pulse crop;

11 (3) First purchaser means any person, public or private corporation,
12 association, partnership, or limited liability company buying, accepting
13 for shipment, or otherwise acquiring the property rights in or to any
14 pulse crop from a grower and includes a mortgagee, pledgee, lienor, or
15 other person, public or private, having a claim against the grower when
16 the actual or constructive possession of such pulse crop is taken as part
17 payment or in satisfaction of such mortgage, pledge, lien, or claim;

18 (4) Grower means any landowner personally engaged in growing any
19 pulse crop, a tenant of the landowner personally engaged in growing any
20 pulse crop, and both the owner and the tenant jointly and includes a
21 person, partnership, limited liability company, association, corporation,
22 cooperative, trust, sharecropper, and other business units, devices, and
23 arrangements;

24 (5) Net market price means the sales price, or other value, per
25 volumetric unit received by a grower for any pulse crop after adjustment
26 for any premium or discount;

27 (6) Net market value means the value found by multiplying the net
28 market price by the appropriate quantity of the volumetric units or the
29 minimum value in a production contract received by a grower for any pulse
30 crop after adjustments for any premium or discount. For any pulse crop
31 pledged as collateral for a loan issued under any Commodity Credit

1 Corporation price support loan program, net market value means the
2 principal amount of the loan;

3 (7) Pulse crop means dry peas, lentils, chickpeas or garbanzo beans,
4 faba beans, and lupine; and

5 (8) Sale includes any pledge or mortgage of any pulse crop after
6 harvest to any person, public or private.

7 Sec. 3. The Pulse Crop Development, Utilization, and Marketing
8 Board is created. Members shall be appointed to the board by the Governor
9 pursuant to section 4 of this act.

10 Sec. 4. (1) The board shall be composed of five members who shall:

11 (a) Be citizens of Nebraska;

12 (b) Be at least twenty-one years of age;

13 (c) Have been actually engaged in growing pulse crops in this state
14 for a period of at least five years;

15 (d) Reside in the district they represent; and

16 (e) Derive a substantial portion of their income from growing pulse
17 crops.

18 (2) The Director of Agriculture and the vice chancellor of the
19 University of Nebraska Institute of Agriculture and Natural Resources
20 shall serve as nonvoting members of the board.

21 (3) With the exception of the nonvoting members, the Governor shall
22 appoint the members to the board. The Governor shall appoint the initial
23 members no later than July 1, 2020. Voting members shall be nominated for
24 appointment by petition of at least three growers along with the
25 recommendation of an organization representing growers. One member shall
26 be appointed from each of the following five districts:

27 (a) District 1: The counties of Sioux, Scotts Bluff, Banner,
28 Kimball, Dawes, Box Butte, Morrill, Cheyenne, Sheridan, Garden, and
29 Deuel;

30 (b) District 2: The counties of Cherry, Grant, Hooker, Thomas,
31 Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Chase, Hayes,

1 Frontier, Dundy, Hitchcock, and Red Willow;

2 (c) District 3: All counties other than those listed in subdivision
3 (a) or (b) of this subsection;

4 (d) District 4: The state at-large; and

5 (e) District 5: The state at-large.

6 Sec. 5. The term of the member first appointed to serve district 1
7 shall expire on June 30, 2021; the term of the members first appointed to
8 serve district 2 and district 4 shall expire on June 30, 2022; and the
9 term of the members first appointed to serve district 3 and district 5
10 shall expire on June 30, 2023. As the terms of office of the initial
11 board members expire as provided in this section, their successors shall
12 be appointed to serve for terms of three years and until their successors
13 are appointed and qualified. A member appointed to fill a vacancy,
14 occurring before the expiration of the term of a member separated from
15 the board for any cause, shall be appointed for the remainder of the term
16 of the member whose office has been so vacated in the same manner as his
17 or her predecessor. Each board member may serve a maximum of three
18 consecutive terms.

19 Sec. 6. All voting members of the board shall be entitled to actual
20 and necessary expenses, as provided for in sections 81-1174 to 81-1177,
21 while attending meetings of the board or while engaged in the performance
22 of official responsibilities as determined by the board.

23 Sec. 7. A member of the board shall be removable by the Governor
24 for cause. He or she shall first be given a copy of written charges
25 against him or her and also an opportunity to be heard publicly. In
26 addition to all other causes, a member ceasing to (1) be a resident of
27 the state, (2) live in the district from which he or she was appointed,
28 or (3) be actually engaged in growing pulse crops in the state shall be
29 deemed sufficient cause for removal from office.

30 Sec. 8. At the first meeting of the board, it shall elect a
31 chairperson from among its members. The board shall meet at least once

1 every year and at such other times as called by the chairperson or by any
2 three members of the board. The majority of the members of the board
3 shall constitute a quorum for transaction of business. The board may hold
4 meetings by teleconference or videoconference subject to the Open
5 Meetings Act. No member shall vote by proxy, and the affirmative vote of
6 the majority of all members of the board shall be necessary for the
7 adoption of rules and regulations.

8 Sec. 9. It is hereby declared to be the public policy of the State
9 of Nebraska to protect and foster the health, prosperity, and general
10 welfare of its people by protecting and stabilizing the pulse crop
11 industry and the economy of the areas producing pulse crops. The board
12 shall be the agency of the State of Nebraska for such purpose. In
13 connection with and in furtherance of such purpose, the board shall have
14 the power to:

15 (1) Formulate the general policies and programs of the State of
16 Nebraska respecting the discovery, promotion, and development of markets
17 and industries for the utilization of pulse crops grown within the State
18 of Nebraska;

19 (2) Adopt and devise a program of education and publicity;

20 (3) Cooperate with local, state, or national organizations, whether
21 public or private, in carrying out the purposes of the Pulse Crop
22 Resources Act and to enter into such contracts as may be necessary;

23 (4) Adopt and promulgate such rules and regulations as are necessary
24 to promptly and effectively enforce the Pulse Crop Resources Act. The
25 rules and regulations shall include provisions which prescribe the
26 procedure for adjustment of the excise tax by the board pursuant to
27 section 11 of this act;

28 (5) Conduct, in addition to the things enumerated in this section,
29 any other program for the development, utilization, and marketing of
30 pulse crops grown in the State of Nebraska. Such programs may include a
31 program to make grants and enter into contracts for research and

1 accumulation of data;

2 (6) Make refunds for overpayments of the excise tax according to
3 rules and regulations adopted and promulgated by the board; and

4 (7) Employ personnel and contract for services which are necessary
5 for the proper operation of the program.

6 Sec. 10. The board may establish an administrative office in the
7 State of Nebraska at such place as may be suitable for the furtherance of
8 the Pulse Crop Resources Act. The board shall not purchase, construct, or
9 otherwise obtain title to its own administrative office, but shall be
10 limited to leasing state or commercial office space.

11 Sec. 11. (1) Beginning on July 1, 2020, there is hereby levied an
12 excise tax of one percent of the net market value of pulse crops sold
13 through commercial channels in the State of Nebraska. The tax shall be
14 levied and imposed on the grower at the time of sale or delivery and
15 shall be collected by the first purchaser. Under the Pulse Crop Resources
16 Act, no pulse crop shall be subject to the tax more than once.

17 (2) After July 1, 2022, the board may, whenever it determines that
18 the excise tax levied by this section is yielding more or less than is
19 required to carry out the intent and purposes of the Pulse Crop Resources
20 Act, reduce or increase such levy for such period as it deems
21 justifiable, but not less than one year, and such levy shall not be less
22 than one percent of net market value and not exceed two percent of the
23 net market value. Any adjustment to the levy shall be by rule and
24 regulation adopted and promulgated by the board.

25 Sec. 12. In the case of a pledge or mortgage of pulse crops as
26 security for a loan under the federal price support program, the tax
27 shall be deducted from the proceeds of such loan at the time the loan is
28 made.

29 Sec. 13. The tax provided for by section 11 of this act shall be
30 deducted as provided by the Pulse Crop Resources Act, whether such pulse
31 crops are stored in this or any other state.

1 Sec. 14. The tax levied and imposed by section 11 of this act shall
2 not apply to the sale of pulse crops to the federal government for
3 ultimate use or consumption by the people of the United States, where the
4 State of Nebraska is prohibited from imposing such tax by the
5 Constitution of the United States and laws enacted pursuant thereto.

6 Sec. 15. (1) The first purchaser, at the time of settlement, shall
7 deduct the pulse crop excise tax as provided for in section 11 of this
8 act and shall maintain the necessary records of the excise tax for each
9 purchase of pulse crops on the grain settlement form or check stub
10 showing payment to the grower for each purchase. Such records maintained
11 by the first purchaser shall provide the following information:

12 (a) Name and address of the grower and seller;

13 (b) Date of the purchase;

14 (c) Number of pounds of pulse crop sold;

15 (d) Total value of the pulse crop sold; and

16 (e) Amount of pulse crop excise tax collected on each purchase.

17 (2) Such records shall be open for inspection and audit by
18 authorized representatives of the board during normal business hours
19 observed by the first purchaser.

20 (3) The first purchaser shall render and have on file with the board
21 by the tenth day of each month on forms prescribed by the board, a
22 statement of the number of pounds of pulse crops purchased in Nebraska.
23 At the time the statement is filed, the first purchaser shall pay and
24 remit to the board the tax as provided for in section 11 of this act.

25 Sec. 16. The Pulse Crop Development, Utilization, and Marketing
26 Fund is created. All taxes collected by the board pursuant to the Pulse
27 Crop Resources Act and any repayments relating to the fund, including
28 license fees or royalties, shall be remitted to the State Treasurer for
29 credit to the fund. The fund shall be used to carry out such act. The
30 board shall at each regular meeting review and approve all expenditures
31 made since its last regular meeting. Any money in the fund available for

1 investment shall be invested by the state investment officer pursuant to
2 the Nebraska Capital Expansion Act and the Nebraska State Funds
3 Investment Act.

4 Sec. 17. The Pulse Crop Development, Utilization, and Marketing
5 Board shall not be authorized to set up research or development units or
6 agencies of its own, but shall limit its activity to cooperation and
7 contracts with the Department of Agriculture, University of Nebraska
8 Institute of Agriculture and Natural Resources, or other proper local,
9 state, or national organizations, public or private, in carrying out the
10 Pulse Crop Resources Act.

11 Sec. 18. Any person violating the Pulse Crop Resources Act shall be
12 guilty of a Class III misdemeanor.

13 Sec. 19. No funds collected by the board shall be expended directly
14 or indirectly to promote or oppose any candidate for public office or to
15 influence state legislation. The board shall not expend more than twenty-
16 five percent of its annual budget to influence federal legislation.

17 Sec. 20. Section 2-3740, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 2-3740 Dry bean shall mean any dry edible bean. Dry bean does not
20 include chickpeas or garbanzo beans.

21 Sec. 21. Section 49-1499.02, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 49-1499.02 (1) An official or employee of the executive branch of
24 state government who would be required to take any action or make any
25 decision in the discharge of his or her official duties that may cause
26 financial benefit or detriment to him or her, a member of his or her
27 immediate family, or a business with which he or she is associated, which
28 is distinguishable from the effects of such action on the public
29 generally or a broad segment of the public, shall take the following
30 actions as soon as he or she is aware of such potential conflict or
31 should reasonably be aware of such potential conflict, whichever is

1 sooner:

2 (a) Prepare a written statement describing the matter requiring
3 action or decision and the nature of the potential conflict; and

4 (b) Deliver a copy of the statement to the commission and to his or
5 her immediate superior, if any, who shall assign the matter to another.
6 If the immediate superior does not assign the matter to another or if
7 there is no immediate superior, the official or employee shall take such
8 action as the commission shall advise or prescribe to remove himself or
9 herself from influence over the action or decision on the matter.

10 (2) This section does not prevent such a person from (a) making or
11 participating in the making of a governmental decision to the extent that
12 the individual's participation is legally required for the action or
13 decision to be made or (b) making or participating in the making of a
14 governmental decision if the potential conflict of interest is based upon
15 a business association and the business association exists only as the
16 result of his or her position on a commodity board. A person acting
17 pursuant to subdivision (a) of this subsection shall report the
18 occurrence to the commission.

19 (3) For purposes of this section, commodity board means only the
20 following:

21 (a) Corn Development, Utilization, and Marketing Board;

22 (b) Nebraska Dairy Industry Development Board;

23 (c) Grain Sorghum Development, Utilization, and Marketing Board;

24 (d) Nebraska Wheat Development, Utilization, and Marketing Board;

25 (e) Dry Bean Commission;

26 (f) Nebraska Potato Development Committee; ~~and~~

27 (g) Nebraska Poultry and Egg Development, Utilization, and Marketing
28 Committee; and -

29 (h) Pulse Crop Development, Utilization, and Marketing Board.

30 Sec. 22. Section 52-1308, Revised Statutes Cumulative Supplement,
31 2018, is amended to read:

1 52-1308 Farm product shall mean an agricultural commodity, a species
2 of livestock used or produced in farming operations, or a product of such
3 crop or livestock in its unmanufactured state, that is in the possession
4 of a person engaged in farming operations. Farm products shall include,
5 but are not limited to, apples, artichokes, asparagus, barley, bees,
6 buffalo, bull semen, cantaloupe, carrots, cattle and calves, chickens,
7 corn, cucumbers, dry beans, eggs, embryos or genetic products, emu, fish,
8 flax seed, grapes, hay, hogs, honey, honeydew melon, horses, llamas,
9 milk, millet, muskmelon, oats, onions, ostrich, popcorn, potatoes, pulse
10 crops, pumpkins, raspberries, rye, safflower, seed crops, sheep and
11 lambs, silage, sorghum grain, soybeans, squash, strawberries, sugar
12 beets, sunflower seeds, sweet corn, tomatoes, trees, triticale, turkeys,
13 vetch, walnuts, watermelon, wheat, and wool. The Secretary of State may,
14 by rule and regulation, add other farm products to the list specified in
15 this section if such products are covered by the general definition
16 provided by this section.

17 Sec. 23. Section 60-6,298, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

19 60-6,298 (1)(a) The Department of Transportation or the Nebraska
20 State Patrol, with respect to highways under its jurisdiction including
21 the National System of Interstate and Defense Highways, and local
22 authorities, with respect to highways under their jurisdiction, may in
23 their discretion upon application and good cause being shown therefor
24 issue a special, continuing, or continuous permit in writing authorizing
25 the applicant or his or her designee:

26 (i) To operate or move a vehicle, a combination of vehicles, or
27 objects of a size or weight of vehicle or load exceeding the maximum
28 specified by law when such permit is necessary:

29 (A) To further the national defense or the general welfare;

30 (B) To permit movement of cost-saving equipment to be used in
31 highway or other public construction or in agricultural land treatment;

1 or

2 (C) Because of an emergency, an unusual circumstance, or a very
3 special situation;

4 (ii) To operate vehicles, for a distance up to one hundred twenty
5 miles, loaded up to fifteen percent greater than the maximum weight
6 specified by law, or up to ten percent greater than the maximum length
7 specified by law, or both, except that any combination with two or more
8 cargo-carrying units, not including the truck-tractor, also known as a
9 longer combination vehicle, may only operate for a distance up to seventy
10 miles loaded up to fifteen percent greater than the maximum weight
11 specified by law, or up to ten percent greater than the maximum length
12 specified by law, or both, when carrying grain or other seasonally
13 harvested products from the field where such grain or products are
14 harvested to storage, market, or stockpile in the field or from stockpile
15 to market or factory when failure to move such grain or products in
16 abundant quantities would cause an economic loss to the person or persons
17 whose grain or products are being transported or when failure to move
18 such grain or products in as large quantities as possible would not be in
19 the best interests of the national defense or general welfare. The
20 distance limitation may be waived for vehicles when carrying dry beans or
21 pulse crops from the field where harvested to storage or market when dry
22 beans or pulse crops are not normally stored, purchased, or used within
23 the permittee's local area and must be transported more than one hundred
24 twenty miles to an available marketing or storage destination. No permit
25 shall authorize a weight greater than twenty thousand pounds on any
26 single axle;

27 (iii) To transport an implement of husbandry which does not exceed
28 twelve and one-half feet in width during daylight hours, except that the
29 permit shall not allow transport on holidays;

30 (iv) To operate one or more recreational vehicles, as defined in
31 section 71-4603, exceeding the maximum width specified by law if movement

1 of the recreational vehicles is prior to retail sale and the recreational
2 vehicles comply with subdivision (2)(k) of section 60-6,288;

3 (v) To operate an emergency vehicle for purposes of sale,
4 demonstration, exhibit, or delivery, if the applicant or his or her
5 designee is a manufacturer or sales agent of the emergency vehicle. No
6 permit shall be issued for an emergency vehicle which weighs over sixty
7 thousand pounds on the tandem axle; or

8 (vi) To transport during daylight hours divisible loads of livestock
9 forage in bale form which do not exceed twelve feet in width, except that
10 the permit shall not allow transport on holidays.

11 (b) No permit shall be issued under subdivision (a)(i) of this
12 subsection for a vehicle carrying a load unless such vehicle is loaded
13 with an object which exceeds the size or weight limitations, which cannot
14 be dismantled or reduced in size or weight without great difficulty, and
15 which of necessity must be moved over the highways to reach its intended
16 destination. No permit shall be required for the temporary movement on
17 highways other than dustless-surfaced state highways and for necessary
18 access to points on such highways during daylight hours of cost-saving
19 equipment to be used in highway or other public construction or in
20 agricultural land treatment when such temporary movement is necessary and
21 for a reasonable distance.

22 (2) The application for any such permit shall specifically describe
23 the vehicle, the load to be operated or moved, whenever possible the
24 particular highways for which permit to operate is requested, and whether
25 such permit is requested for a single trip or for continuous or
26 continuing operation. The permit shall include a signed affirmation under
27 oath that, for any load sixteen feet high or higher, the applicant has
28 contacted any and all electric utilities that have high voltage
29 conductors and infrastructure that cross over the roadway affected by the
30 move and made arrangements with such electric utilities for the safe
31 movement of the load under any high voltage conductors owned by such

1 electric utilities.

2 (3) The department or local authority is authorized to issue or
3 withhold such permit at its discretion or, if such permit is issued, to
4 limit the number of days during which the permit is valid, to limit the
5 number of trips, to establish seasonal or other time limitations within
6 which the vehicles described may be operated on the highways indicated,
7 or to issue a continuous or continuing permit for use on all highways,
8 including the National System of Interstate and Defense Highways. The
9 permits are subject to reasonable conditions as to periodic renewal of
10 such permit and as to operation or movement of such vehicles. The
11 department or local authority may otherwise limit or prescribe conditions
12 of operation of such vehicle or vehicles, when necessary to assure
13 against undue damage to the road foundations, surfaces, or structures or
14 undue danger to the public safety. The department or local authority may
15 require such undertaking or other security as may be deemed necessary to
16 compensate for any injury to any roadway or road structure.

17 (4) Every such permit shall be carried in the vehicle to which it
18 refers and shall be open to inspection by any peace officer, carrier
19 enforcement officer, or authorized agent of any authority granting such
20 permit. Each such permit shall state the maximum weight permissible on a
21 single axle or combination of axles and the total gross weight allowed.
22 No person shall violate any of the terms or conditions of such special
23 permit. In case of any violation, the permit shall be deemed
24 automatically revoked and the penalty of the original limitations shall
25 be applied unless:

26 (a) The violation consists solely of exceeding the size or weight
27 specified by the permit, in which case only the penalty of the original
28 size or weight limitation exceeded shall be applied; or

29 (b) The total gross load is within the maximum authorized by the
30 permit, no axle is more than ten percent in excess of the maximum load
31 for such axle or group of axles authorized by the permit, and such load

1 can be shifted to meet the weight limitations of wheel and axle loads
2 authorized by such permit. Such shift may be made without penalty if it
3 is made at the state or commercial scale designated in the permit. The
4 vehicle may travel from its point of origin to such designated scale
5 without penalty, and a scale ticket from such scale, showing the vehicle
6 to be properly loaded and within the gross and axle weights authorized by
7 the permit, shall be reasonable evidence of compliance with the terms of
8 the permit.

9 (5) The department or local authority issuing a permit as provided
10 in this section may adopt and promulgate rules and regulations with
11 respect to the issuance of permits provided for in this section.

12 (6) The department shall make available applications for permits
13 authorized pursuant to subdivisions (1)(a)(ii) and (1)(a)(iii) of this
14 section in the office of each county treasurer. The department may make
15 available applications for all other permits authorized by this section
16 to the office of the county treasurer and may make available applications
17 for all permits authorized by this section to any other location chosen
18 by the department.

19 (7) The department or local authority issuing a permit may require a
20 permit fee of not to exceed twenty-five dollars, except that:

21 (a) The fee for a continuous or continuing permit may not exceed
22 twenty-five dollars for a ninety-day period, fifty dollars for a one-
23 hundred-eighty-day period, or one hundred dollars for a one-year period;
24 and

25 (b) The fee for permits issued pursuant to subdivision (1)(a)(ii) of
26 this section shall be twenty-five dollars. Permits issued pursuant to
27 such subdivision shall be valid for thirty days and shall be renewable
28 four times for a total number of days not to exceed one hundred fifty
29 days per calendar year.

30 A vehicle or combination of vehicles for which an application for a
31 permit is requested pursuant to this section shall be registered under

1 section 60-3,147 or 60-3,198 for the maximum gross vehicle weight that is
2 permitted pursuant to section 60-6,294 before a permit shall be issued.

3 Sec. 24. Original sections 2-3740 and 49-1499.02, Reissue Revised
4 Statutes of Nebraska, and sections 52-1308 and 60-6,298, Revised Statutes
5 Cumulative Supplement, 2018, are repealed.

6 Sec. 25. Since an emergency exists, this act takes effect when
7 passed and approved according to law.