

# SENATE BILL REPORT

## SHB 1100

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As Reported By Senate Committee On:  
Agriculture, March 27, 2003

**Title:** An act relating to regulating the sale, processing, or purchase of agricultural products.

**Brief Description:** Regulating the sale, processing, or purchase of agricultural products.

**Sponsors:** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler, Grant, Rockefeller and Sump; by request of Department of Agriculture).

**Brief History:**

**Committee Activity:** Agriculture: 3/25/03, 3/27/03 [DPA].

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### SENATE COMMITTEE ON AGRICULTURE

**Majority Report:** Do pass as amended.

Signed by Senators Swecker, Chair; Brandland, Vice Chair; Jacobsen, Rasmussen and Sheahan.

**Staff:** Evan Sheffels (786-7486)

**Background:** Generally, the Commission Merchants Act (CMA), 20.01 RCW, protects agricultural producers against theft, fraud, and unfair business practices by those engaged in the process of buying and selling agricultural products. With certain exceptions, any person acting as a commission merchant, dealer, broker, or cash buyer for agricultural commodities must comply with the licensing and bonding requirements of the state's commission merchant laws (RCW 20.01.040). The Department of Agriculture (WSDA) administers the CMA program, which is funded by license fees.

Under current law, the bond proceeds available to compensate injured hay or straw producers are distributed on a first-filed-first-paid basis. Producers who file after bond proceeds are exhausted receive no compensation. Hay or straw claims must be filed with WSDA within 20 days of the payment default date. Default is currently defined as a licensee's failure to pay within 30 days of taking possession of the hay or straw.

The CMA currently authorizes the department director, or appointed officers, to stop a vehicle transporting hay or straw where there is reasonable cause to believe a CMA violation has been or is being committed. A vehicle operator who fails to stop as directed has committed a civil infraction. Under the CMA, the maximum penalty for a civil infraction is set at \$1,000.

Under the Washington Criminal Code, RCW 9A.56.060, the unlawful issuance of a bank check can be either a class C felony (checks over \$250) or a gross misdemeanor (checks for \$250 or less).

**Summary of Amended Bill: Seeds.** Agricultural crop and vegetable seeds are specifically listed in the "agricultural product" section of CMA definitions.

Payment. The default date for a payment to a consignor by a commission merchant or dealer (other than a limited dealer) in hay or straw is either the current statutory deadline of 30 days after possession or as agreed to in a written contract. The form of payment that a cash buyer may make is expanded to include credit card payment.

Bonds. Alternative bonding requirements for certain dealers are altered. The bond must be in an amount equal to the dealer's maximum monthly purchases divided by 12 (rather than 15) and must be for at least \$10,000 (rather than at least \$7,500).

The director is no longer required to demand payment of a claim by a licensee's surety regarding a default on such a payment for hay or straw within 10 working days of the filing of the claim. The director is now to distribute on a pro rata basis the proceeds of all valid bond claims that are timely filed. The distribution is to be done within 30 days of verifying the claims. Any monies available after this distribution may be paid on a first-filed, first-paid basis.

Manifests. A bill of lading may be carried by a vehicle transporting agricultural products other than hay or straw in lieu of a manifest of cargo. The commission merchant, dealer, or cash buyer must retain a copy of the manifest or bill of lading for three years (rather than one year). A representative may sign the manifest. The provisions regarding manifests for other agricultural products (but not bills of lading) expressly apply with regard to consignments of hay or straw to commission merchants or dealers. Manifest forms will be provided to licensees at actual cost plus necessary handling charges incurred by the WSDA.

Penalties. Rather than being classified as a gross misdemeanor under the commission merchant laws, the unlawful issuance of a check or draft may be prosecuted in the same manner as prosecution for the unlawful issuance of a bank check under the theft and robbery laws which, in certain instances, is classified as a class C felony.

The maximum monetary penalty for a civil infraction under the commission merchant laws is raised to \$5,000 (rather than \$1,000).

Search Warrants. If the director is denied access to records or places agricultural products are kept, the director may apply to any court of competent jurisdiction for a search warrant authorizing access to the premises and records. The court may issue the search warrant.

Stopping Vehicles. The authority of the director or the director's officers to stop vehicles transporting hay or straw on public roads for violations of the commission merchant laws is extended to any agricultural commodity governed by those laws.

Other. Limited dealer is defined as a person operating under alternative bonding requirements who pays the consignor for the production or increase of an agricultural product upon possession or control by paying the full agreed price. A change in the organization of a licensee must be reported within 30 days.

Study. The WSDA must conduct a study of mechanisms, including indemnity funds, to provide financial recovery for producers of agricultural seed in cases of non-payment. The WSDA must appoint an advisory committee from the seed industry to assist in the study.

**Amended Bill Compared to Substitute Bill:** The striking amendment added seeds into the "agricultural product" definition.

**Appropriation:** None.

**Fiscal Note:** Requested on March 18, 2003.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For (original bill):** The bill revises and updates the commission merchant laws which provide protection against unlawful business practices; those dealing in agricultural seeds should not be licensed and bonded under the commission merchant laws. Financial protection for producers should be provided, but not under those laws. **CONCERNS:** The seed industry had been regulated under these laws until a court decision in the 1980s found that it is not. During a recent very large bankruptcy in the seed industry, there was only one bond for millions of dollars in claims. The result was recovery of less than five cents on the dollar.

**Testimony Against:** None.

**Testified:** Representative Schoesler (pro); Jerry Buendel, WSDA (pro); Brad Boswell, Washington-North Idaho Seed Assn. (pro).