

2 SHB 2688 - H AMD 0232 Adopted February 18, 2002  
3 By Representative

4

5 On page 85, after line 5, insert the following:

6 "Sec. 114. RCW 15.24.010 and 1989 c 354 s 53 are each amended to  
7 read as follows:

8 As used in this chapter:

9 (1) "Commission" means the Washington ((state)) apple  
10 ((advertising)) commission;

11 (2) "Ship" means to load apples into a conveyance for transport,  
12 except apples being moved from the orchard where grown to a packing  
13 house or warehouse within the immediate area of production;

14 (3) "Handler" means any person who ships or initiates a shipping  
15 operation, whether for himself, herself, or for another;

16 (4) "Dealer" means any person who handles, ships, buys, or sells  
17 apples, or who acts as sales or purchasing agent, broker, or factor of  
18 apples;

19 (5) "Processor" and "processing plant" means every person to whom  
20 and every place to which apples are delivered for drying, dehydrating,  
21 canning, pressing, powdering, extracting, cooking, or for use in  
22 producing a product or manufacturing a manufactured article;

23 (6) "Processing apples" means all apples delivered to a processing  
24 plant for drying, dehydrating, canning, pressing, powdering,  
25 extracting, cooking, or for use in producing a product or manufacturing  
26 a manufactured article. However, "processing apples" does not include  
27 fresh apples sliced or cut for raw consumption;

28 (7) "Fresh apples" means all apples other than processing apples;

29 (8) "Director" means the director of the department of agriculture  
30 or his or her duly authorized representative;

31 (9) "Grower district No. 1" includes the counties of Chelan,  
32 Okanogan, and Douglas;

33 (10) "Grower district No. 2" includes the counties of Kittitas,  
34 Yakima, Benton, and Franklin;

35 (11) "Grower district No. 3" includes all counties in the state not  
36 included in the first and second districts;

1 (12) "Dealer district No. 1" includes the area of the state north  
2 of Interstate 90;

3 (13) "Dealer district No. 2" includes the area of the state south  
4 of Interstate 90; and

5 (14) "Executive officer" includes, but is not limited to, the  
6 principal management executive, sales manager, general manager, or  
7 other executive employee of similar responsibility and authority.

8 **Sec. 115.** RCW 15.24.020 and 1989 c 354 s 54 are each amended to  
9 read as follows:

10 There is hereby created a Washington (~~(state)~~) apple  
11 (~~(advertising)~~) commission to be thus known and designated. The  
12 commission shall be composed of nine practical apple producers and four  
13 practical apple dealers. The director shall be an ex officio member of  
14 the commission without vote.

15 The nine producer members shall be citizens and residents of this  
16 state, over the age of twenty-five years, each of whom, either  
17 individually or as an executive officer of a corporation, firm or  
18 partnership, is and has been actually engaged in growing and producing  
19 apples within the state of Washington for a period of five years,  
20 currently operates a commercial producing orchard in the district  
21 represented, and has during that period derived a substantial portion  
22 of his or her income therefrom: PROVIDED, That he or she may own and  
23 operate an apple warehouse and pack and store apples grown by others,  
24 without being disqualified, so long as a substantial quantity of the  
25 apples handled in such warehouse are grown by him or her; and he or she  
26 may sell apples grown by himself, herself, and others so long as he or  
27 she does not sell a larger quantity of apples grown by others than  
28 those grown by himself or herself. The four dealer members shall be  
29 persons who, either individually or as executive officers of a  
30 corporation, firm, partnership, association, or cooperative  
31 organization, are and have been actively engaged as dealers in apples  
32 within the state of Washington for a period of five years, and are  
33 citizens and residents of this state, and are engaged as apple dealers  
34 in the district represented. The qualifications of members of the  
35 commission as herein set forth must continue during their term of  
36 office.

1       **Sec. 116.** RCW 15.24.040 and 1989 c 354 s 56 are each amended to  
2 read as follows:

3       The (~~director~~) commission shall call a meeting of apple growers,  
4 and meetings of apple dealers in dealer district No. 1 and dealer  
5 district No. 2 for the purpose of nominating their respective members  
6 of the commission, when a term is about to expire, or when a vacancy  
7 exists, except as provided in RCW 15.24.050, as amended, at times and  
8 places to be fixed by the commission. (~~Said~~) The meetings shall be  
9 held not later than February 15th of each year and insofar as  
10 practicable, the (~~said~~) meetings of the growers shall be held at the  
11 same time and place as the annual meeting of the Washington state  
12 horticultural association, or the annual meeting of any other producer  
13 organization which represents a majority of the state's apple  
14 producers, as determined by the commission, but not while the same is  
15 in actual session. Public notice of such meetings shall be given by  
16 the commission in such manner as it may determine: PROVIDED, That  
17 nonreceipt of the notice by any interested person shall not invalidate  
18 the proceedings. Any qualified person may be nominated orally for such  
19 positions at the (~~said~~) respective meetings. Nominations may also be  
20 made within five days after any such meeting by written petition filed  
21 in the Wenatchee office of the commission, signed by not less than five  
22 apple growers or dealers, as the case may be, residing within the  
23 district or within the subdivision if the nomination is made from a  
24 subdivision.

25       The members of the commission shall be elected by secret mail  
26 ballot under the supervision of the director: PROVIDED, That in any  
27 case where there is but one nomination for a position, a secret mail  
28 ballot shall not be conducted or required and the director shall  
29 certify the candidate to be elected. Grower members of the commission  
30 shall be elected by a majority of the votes cast by the apple growers  
31 in the respective districts or subdivisions thereof, as the case may  
32 be, each grower who operates a commercial producing apple orchard  
33 within the district or subdivision being represented, whether an  
34 individual proprietor, partnership, joint venture, or corporation,  
35 being entitled to one vote. As to bona fide leased or rented orchards,  
36 only the lessee-operator, if otherwise qualified, shall be entitled to  
37 vote. An individual commercial orchard operator, if otherwise  
38 qualified, shall be entitled to vote as such, even though he or she is  
39 also a member of a partnership or corporation which votes for other

1 apple acreage. Dealer members of the commission shall be elected by a  
2 majority of the votes cast by the apple dealers in the respective  
3 districts, each dealer being entitled to one vote. If a nominee does  
4 not receive a majority of the votes on the first ballot, a run-off  
5 election shall be held by mail in a similar manner between the two  
6 candidates for such position receiving the largest number of votes.

7 **Sec. 117.** RCW 15.24.050 and 1984 c 287 s 12 are each amended to  
8 read as follows:

9 In the event a position becomes vacant due to resignation,  
10 disqualification, death, or for any other reason, such position until  
11 the next annual meeting shall be filled by vote of the remaining  
12 members of the commission. At such annual meeting a commissioner shall  
13 be elected to fill the balance of the unexpired term.

14 A majority of the voting members shall constitute a quorum for the  
15 transaction of all business and the carrying out of the duties of the  
16 commission.

17 Each member of the commission shall be compensated in accordance  
18 with RCW 43.03.230 and shall be reimbursed for actual travel expenses  
19 incurred in carrying out the provisions of this chapter. Employees of  
20 the commission may also be reimbursed for actual travel expenses when  
21 (~~out of state~~) on official commission business.

22 **Sec. 118.** RCW 15.24.070 and 1994 c 134 s 1 are each amended to  
23 read as follows:

24 The Washington (~~state~~) apple (~~advertising~~) commission is hereby  
25 declared and created a corporate body. The powers and duties of the  
26 commission shall include the following:

27 (1) To elect a chair and such other officers as it deems advisable;  
28 and to adopt, rescind, and amend rules and orders for the exercise of  
29 its powers under this chapter, which shall have the force and effect of  
30 the law when not inconsistent with existing laws;

31 (2) To administer and enforce the provisions of this chapter, and  
32 do all things reasonably necessary to effectuate the purposes of this  
33 chapter;

34 (3) To employ and at its pleasure discharge a manager, secretary,  
35 agents, attorneys, and employees as it deems necessary, and to  
36 prescribe their duties and powers and fix their compensation;

1 (4) To establish offices and incur expense and enter into contracts  
2 and to create such liabilities as may be reasonable for the proper  
3 administration and enforcement of this chapter. Expenses may include  
4 reasonable, prudent use of promotional hosting to benefit the purposes  
5 of this chapter;

6 (5) To investigate and prosecute violations of this chapter;

7 (6) To conduct scientific research to develop and discover the  
8 health, food, therapeutic, and dietetic value of apples and apple  
9 products;

10 (7) To keep accurate record of all of its dealings, which shall be  
11 open to inspection and audit by the state auditor;

12 (8) To sue and be sued, adopt a corporate seal, and have all of the  
13 powers of a corporation;

14 (9) To expend funds for commodity-related education, training, and  
15 leadership programs as the commission deems expedient;

16 (10) To borrow money and incur indebtedness;

17 (11) To accept gifts, grants, conveyances, bequests, and devises,  
18 of real or personal property, or both, in trust or otherwise, and sell,  
19 lease, exchange, invest, or expend these donations or the proceeds,  
20 rents, profits, and income from the donations except as limited by the  
21 donor's terms. The commission shall adopt rules to govern and protect  
22 the receipt and expenditure of the proceeds, rents, profits, and income  
23 of all such gifts, grants, conveyances, bequests, and devises. The  
24 authority to make expenditures granted by this subsection includes the  
25 authority to make expenditures to provide scholarships or financial  
26 assistance to persons as defined in RCW 1.16.080 or entities associated  
27 with the apple industry, but is not limited to the authority to make  
28 expenditures for such a purpose; ((and))

29 (12) To engage in appropriate fund-raising activities for the  
30 purpose of supporting the activities of the commission authorized by  
31 this chapter; and

32 (13) To retain, discharge, or contract with, at its pleasure,  
33 accountants, marketing agencies, and other professional consultants as  
34 necessary, under procedures for hiring, discharging, and review as  
35 adopted by the commission.

36 **Sec. 119.** RCW 15.24.080 and 1961 c 11 s 15.24.080 are each amended  
37 to read as follows:

1 In order to benefit the people of this state, the state's economy  
2 and its general tax revenues, the commission shall provide for and  
3 conduct a comprehensive and extensive research, advertising, and  
4 educational campaign as continuous as the crop, sales, and market  
5 conditions reasonably require. It shall investigate and ascertain the  
6 needs of producers, conditions of the markets, and extent to which  
7 public convenience and necessity require research and advertising to be  
8 conducted.

9 **Sec. 120.** RCW 15.24.085 and 1961 c 11 s 15.24.085 are each amended  
10 to read as follows:

11 The restrictive provisions of chapter 43.78 RCW shall not apply to  
12 promotional printing and literature for the Washington ((state)) apple  
13 ((advertising)) commission, the Washington state fruit commission, or  
14 the Washington state dairy products commission.

15 **Sec. 121.** RCW 15.24.090 and 1983 c 95 s 1 are each amended to read  
16 as follows:

17 If it appears from investigation by the commission that the revenue  
18 from the assessment levied on fresh apples under this chapter is too  
19 high or is inadequate to accomplish the purposes of this chapter, the  
20 commission shall adopt a resolution setting forth the necessities of  
21 the industry, the extent and probable cost of the required research,  
22 market promotion, and advertising, the extent of public convenience,  
23 interest, and necessity, and probable revenue from the assessment  
24 levied. It shall thereupon decrease or increase the assessment to a  
25 sum determined by the commission to be necessary for those purposes  
26 based upon a rate per one hundred pounds of apples, gross billing  
27 weight, shipped in bulk, container, or any style of package or  
28 reasonable equivalent net product assessment as determined by the  
29 commission. However, if a different rate is determined for any  
30 specific variety or for fresh apples sliced or cut for raw consumption,  
31 that different rate must be applied to that variety or those sliced or  
32 cut apples. A decrease or an increase becomes effective sixty days  
33 after the resolution is adopted or on any other date provided for in  
34 the resolution, but shall be first referred by the commission to a  
35 referendum mail ballot by the apple growers of this state conducted  
36 under the supervision of the director and be approved by a majority of  
37 the growers voting on it and also be approved by voting growers who

1 operate more than fifty percent of the acreage voted in the same  
2 election. After the mail ballot, if favorable to the increase or  
3 decrease, the commission shall nevertheless exercise its independent  
4 judgment and discretion as to whether or not to approve the increase or  
5 decrease.

6 **Sec. 122.** RCW 15.24.100 and 1967 c 240 s 28 are each amended to  
7 read as follows:

8 There is hereby levied upon all fresh apples grown annually in this  
9 state, and all apples packed as Washington apples, an assessment of  
10 twelve cents on each one hundred pounds gross billing weight or  
11 reasonable equivalent net product assessment measurement, as determined  
12 by the commission, plus such annual decreases or increases thereof as  
13 are imposed pursuant to the provisions of RCW 15.24.090. All moneys  
14 collected hereunder shall be expended to effectuate the purpose and  
15 objects of this chapter.

16 **Sec. 123.** RCW 15.24.110 and 1967 c 240 s 29 are each amended to  
17 read as follows:

18 The assessments on fresh apples shall be paid, or provision made  
19 therefor satisfactory to the commission, prior to shipment, and no  
20 fresh apples shall be carried, transported, or shipped by any person or  
21 by any carrier, railroad, truck, boat, or other conveyance until the  
22 assessment has been paid or provision made therefor satisfactory to the  
23 commission.

24 The commission shall by rule (~~or regulation~~) prescribe the method  
25 of collection, and for that purpose may require stamps to be known as  
26 "Washington apple (~~advertising~~) stamps" to be purchased from the  
27 commission and attached to the containers, invoices, shipping  
28 documents, inspection certificates, releases, or receiving receipts or  
29 tickets. Rule-making procedures conducted under this section are  
30 exempt from the provisions of RCW 43.135.055 when adoption of the rule  
31 or rules is determined by a referendum vote of the persons taxed under  
32 this chapter.

33 NEW SECTION. **Sec. 124.** A new section is added to chapter 15.24  
34 RCW to read as follows:

35 Rule-making proceedings conducted under this chapter are exempt  
36 from compliance with RCW 34.05.310 and the provisions of chapter 19.85

1 RCW, the regulatory fairness act, when the proposed rule is subject to  
2 a referendum.

3 **Sec. 125.** RCW 15.24.160 and 1961 c 11 s 15.24.160 are each amended  
4 to read as follows:

5 To maintain and complement the existing comprehensive regulatory  
6 scheme, the commission may employ, designate as agent, act in concert  
7 with, and enter into contracts with any person, council, or commission,  
8 including but not limited to the director, state agencies such as the  
9 Washington state fruit commission and its successors, statewide  
10 horticultural associations, organizations or associations engaged in  
11 tracking the movement and marketing of horticultural products, and  
12 organizations or associations of horticultural growers, for the purpose  
13 of promoting the general welfare of the apple industry and particularly  
14 for the purpose of assisting in the sale and distribution of apples in  
15 domestic or foreign commerce, and expend its funds or such portion  
16 thereof as it may deem necessary or advisable for such purpose and for  
17 the purpose of paying its proportionate share of the cost of any  
18 program providing direct or indirect assistance to the sale and  
19 distribution of apples in domestic or foreign commerce. For such  
20 purposes it may employ and pay for legal counsel and contract and pay  
21 for other professional services. Neither the state, nor any member,  
22 agent, or employee of the commission, is liable for the acts of the  
23 commission, or upon its contracts. In any civil or criminal action or  
24 proceeding for violation of any rule of statutory or common law against  
25 monopolies or combinations in restraint of trade, including any action  
26 under chapter 19.86 RCW, proof that the act complained of was done in  
27 compliance with the provisions of this chapter, and in furtherance of  
28 the purposes and provisions of this chapter, is a complete defense to  
29 such an action or proceeding.

30 **Sec. 126.** RCW 15.24.170 and 1975 1st ex.s. c 7 s 37 are each  
31 amended to read as follows:

32 Rules, regulations, and orders made by the commission shall be  
33 filed with the director and published in a legal newspaper in the  
34 cities of Wenatchee and Yakima within five days after being made, and  
35 shall become effective pursuant to the provisions of RCW ((34.05.040))  
36 34.05.380.



1       **Sec. 127.** RCW 15.24.800 and 1987 c 6 s 1 are each amended to read  
2 as follows:

3       The legislature hereby finds that, in order to permit the  
4 Washington ((state)) apple ((advertising)) commission to accomplish  
5 more efficiently its important public purposes, as enumerated in  
6 chapter 15.24 RCW, it is necessary for the state to assist in financing  
7 a new building for the commission, to be located on Euclid Avenue in  
8 Chelan county, and housing commission offices, warehouse space, and a  
9 display room. The state's assistance shall augment approximately five  
10 hundred thousand dollars in commission funds which will be applied  
11 directly to the payment of the costs of this project. The state's  
12 assistance shall be in the amount of eight hundred thousand dollars, or  
13 so much thereof as may be required, to be provided from the proceeds  
14 from the sale and issuance of general obligation bonds of the state,  
15 the principal of and interest on which shall be reimbursed to the state  
16 treasury by the commission from revenues derived from the assessments  
17 levied pursuant to chapter 15.24 RCW and other sources.

18       **Sec. 128.** RCW 15.24.802 and 1987 c 6 s 2 are each amended to read  
19 as follows:

20       For the purpose of providing part of the funds necessary for the  
21 Washington ((state)) apple ((advertising)) commission to undertake a  
22 capital project consisting of the land acquisition for, and the design,  
23 construction, furnishing, and equipping of, the building described in  
24 RCW 15.24.800, and to pay the administrative costs of such project,  
25 including costs of bond issuance and retirement, salaries and related  
26 costs of officials and employees of the state, and other expenses  
27 incidental to the administration of such project, the state finance  
28 committee is authorized to issue general obligation bonds of the state  
29 of Washington in the sum of eight hundred thousand dollars, or so much  
30 thereof as may be required.

31       **Sec. 129.** RCW 15.24.806 and 1987 c 6 s 4 are each amended to read  
32 as follows:

33       The proceeds from the sale of the bonds authorized in RCW  
34 15.24.802, together with all grants, donations, transferred funds, and  
35 all other moneys which the state finance committee or the Washington  
36 ((state)) apple ((advertising)) commission may direct the state

1 treasurer to deposit therein, shall be deposited in the state building  
2 construction account in the state treasury.

3 **Sec. 130.** RCW 15.24.808 and 1987 c 6 s 5 are each amended to read  
4 as follows:

5 Subject to legislative appropriation, all proceeds from the sale of  
6 the bonds authorized in RCW 15.24.802 shall be administered and  
7 expended by the Washington ((state)) apple ((advertising)) commission  
8 exclusively for the purposes specified in RCW 15.24.802.

9 **Sec. 131.** RCW 15.24.812 and 1987 c 6 s 7 are each amended to read  
10 as follows:

11 On or before June 30 of each year, the state finance committee  
12 shall certify to the Washington ((state)) apple ((advertising))  
13 commission the principal and interest payments determined under RCW  
14 15.24.810, exclusive of deposit interest credit, attributable to the  
15 bonds issued under RCW 15.24.802. On each date on which any interest  
16 or principal and interest payment is due, the commission shall cause  
17 the amount certified by the state finance committee to be due on such  
18 date to be paid out of the commission's general fund to the state  
19 treasurer for deposit into the general fund of the state treasury.

20 **Sec. 132.** RCW 15.24.818 and 1987 c 6 s 10 are each amended to read  
21 as follows:

22 The bonds authorized by RCW 15.24.802 shall be issued only after  
23 the treasurer of the Washington ((state)) apple ((advertising))  
24 commission has certified that the net proceeds of the bonds, together  
25 with all money to be made available by the commission for the purposes  
26 described in RCW 15.24.802, shall be sufficient for such purposes; and  
27 also that, based upon the treasurer's estimates of future income from  
28 assessments levied pursuant to chapter 15.24 RCW and other sources, an  
29 adequate balance will be maintained in the commission's general fund to  
30 enable the commission to meet the requirements of RCW 15.24.812 during  
31 the life of the bonds to be issued.

32 **Sec. 133.** RCW 15.24.900 and 1961 c 11 s 15.24.900 are each amended  
33 to read as follows:

34 (1) This chapter is passed:

1       (~~(1)~~) (a) In the exercise of the police power of the state to  
2 assure, through this chapter, and other chapters, that the apple  
3 industry is highly regulated to protect the public health, to prevent  
4 fraudulent practices, to promote the welfare of the state, and to  
5 stabilize and protect the apple industry of the state as a vital and  
6 integral part of its economy for the benefit of all its citizens;

7       (~~(2)~~) (b) Because the apple crop grown in Washington comprises  
8 one of the major agricultural crops of Washington, and that therefore  
9 the business of selling and distributing such crop and the expanding  
10 and protection of its market is of public interest;

11       (~~(3)~~) (c) Because it is necessary and expedient to enhance the  
12 reputation of Washington apples in domestic and foreign markets;

13       (~~(4)~~) (d) Because it is necessary to discover the health giving  
14 qualities and food and dietetic value of Washington apples, and to  
15 spread that knowledge throughout the world in order to increase the  
16 consumption of Washington apples;

17       (~~(5)~~) (e) Because Washington grown apples are handicapped by high  
18 freight rates in competition with eastern and foreign grown apples in  
19 the markets of the world, and this disadvantage can only be overcome by  
20 education and advertising;

21       (~~(6)~~) (f) Because the stabilizing and promotion of the apple  
22 industry, the enlarging of its markets, and the increasing of the  
23 consumption of apples are necessary to assure and increase the payment  
24 of taxes to the state and its subdivisions, to alleviate unemployment  
25 within the state, and increase wages for agricultural labor;

26       (~~(7)~~) (g) To disseminate information giving the public full  
27 knowledge of the manner of production, the cost and expense thereof,  
28 the care taken to produce and sell only apples of the finest quality,  
29 the methods and care used in preparing for market, and the methods of  
30 sale and distribution to increase the amount secured by the producer  
31 therefor, so that they can pay higher wages and pay their taxes, and by  
32 such information to reduce the cost of distribution so that the spread  
33 between the cost to the consumer and the amount received by the  
34 producer will be reduced to the minimum absolutely necessary; and

35       (~~(8)~~) (h) To protect the general public by educating it in  
36 reference to the various varieties and grades of Washington apples, the  
37 time to use and consume each variety, and the uses to which each  
38 variety should be put.

1       (2) The history, economy, culture, and future of Washington state's  
2 agricultural industry involves the apple industry. In order to develop  
3 and promote apples and apple products as part of an existing  
4 comprehensive scheme to regulate those products, the legislature  
5 declares:

6       (a) That it is vital to the continued economic well-being of the  
7 citizens of this state and their general welfare that its apple and  
8 apple products be properly promoted by establishing orderly, fair,  
9 sound, efficient, and unhampered marketing, grading, and standards of  
10 and for apples and apple products; and by working to stabilize the  
11 apple industry and by increasing consumption of apples and apple  
12 products within the state, nation, and internationally;

13       (b) That apple producers operate within a regulatory environment  
14 that imposes burdens on them for the benefit of society and the  
15 citizens of the state and includes restrictions on marketing autonomy.  
16 Those restrictions may impair the agricultural producer's ability to  
17 compete in local, domestic, and foreign markets;

18       (c) That it is in the overriding public interest that support for  
19 the apple industry be clearly expressed, that adequate protection be  
20 given to agricultural commodities, uses, activities, and operations,  
21 and that apples and apple products be promoted individually, as well as  
22 part of a comprehensive promotion of the agricultural industry to:

23       (i) Enhance the reputation and image of Washington state's  
24 agricultural industry;

25       (ii) Increase the sale and use of apples and apple products in  
26 local, domestic, and foreign markets;

27       (iii) Protect the public and consumers by correcting any false or  
28 misleading information and by educating the public in reference to the  
29 quality, care, and methods used in the production of apples and apple  
30 products, and in reference to the various sizes, grades, and varieties  
31 of apples and the uses to which each should be put;

32       (iv) Increase the knowledge of the health-giving qualities and  
33 dietetic value of apple products; and

34       (v) Support and engage in programs or activities that benefit the  
35 production, handling, processing, marketing, and uses of apples and  
36 apple products;

37       (d) That the apple industry is a highly regulated industry and that  
38 this chapter and the rules adopted under it are only one aspect of the

1 regulation of the industry. Other regulations and restraints  
2 applicable to the apple industry include:

3 (i) Washington agriculture general provisions, chapter 15.04 RCW;

4 (ii) Pests and diseases, chapter 15.08 RCW;

5 (iii) Standards of grades and packs, chapter 15.17 RCW;

6 (iv) Tree fruit research, chapter 15.26 RCW;

7 (v) Controlled atmosphere storage, chapter 15.30 RCW;

8 (vi) Higher education in agriculture, chapter 28.30 RCW;

9 (vii) Department of agriculture, chapter 43.23 RCW;

10 (viii) Fertilizers, minerals, and limes under chapter 15.54 RCW;

11 (ix) Organic food products act under chapter 15.86 RCW;

12 (x) Intrastate commerce in food, drugs, and cosmetics under chapter  
13 69.04 RCW and rules;

14 (xi) Horticultural plants and facilities - inspection and licensing  
15 under chapter 15.13 RCW;

16 (xii) Planting stock under chapter 15.14 RCW;

17 (xiii) Washington pesticide control act under chapter 15.58 RCW;

18 (xiv) Farm marketing under chapter 15.64 RCW;

19 (xv) Insect pests and plant diseases under chapter 17.24 RCW;

20 (xvi) Weights and measures under chapter 19.94 RCW;

21 (xvii) Agricultural products - commission merchants, dealers,  
22 brokers, buyers, and agents under chapter 20.01 RCW; and

23 (xviii) The federal insecticide, fungicide, and rodenticide act  
24 under 7 U.S.C. Sec. 136; and

25 (e) That this chapter is in the exercise of the police powers of  
26 this state for the purposes of protecting the health, peace, safety,  
27 and general welfare of the people of this state.

28 **Sec. 134.** RCW 15.26.130 and 1969 c 129 s 13 are each amended to  
29 read as follows:

30 The Washington apple (~~(advertising)~~) commission and the Washington  
31 state fruit commission shall supply the director with a list of known  
32 producers subject to paying assessments to the respective commissions.  
33 The director, in addition, shall at the commission's cost compile a  
34 list of known tree fruit producers producing fruit not subject to  
35 assessments of the Washington apple (~~(advertising)~~) commission and the  
36 Washington state fruit commission but subject to assessments or  
37 becoming subject to assessments under the provisions of this chapter.  
38 In compiling such list the director shall publish notice to producers

1 of such tree fruit, requiring them to file with the director a report  
2 giving the producer's name, mailing address and orchard location. The  
3 notice shall be published once a week for four consecutive weeks in  
4 weekly or daily newspapers of general circulation in the area or areas  
5 where such tree fruit is produced. All producer reports shall be filed  
6 with the director within twenty days from the date of last publication  
7 of notice or thirty days of mailing notice to producers of such tree  
8 fruit, whichever is later. The director shall for the purpose of  
9 conducting any referendum affecting tree fruits subject to the  
10 provisions of this chapter keep such list up to date when conducting  
11 such referendum. Every person who becomes a producer after ((said))  
12 the list is compiled shall file with the director a similar report,  
13 giving his or her name, mailing address and orchard location. Such  
14 list shall be final and conclusive in conducting referendums and  
15 failure to notify a producer shall not be cause for the invalidation of  
16 any referendum.

17 **Sec. 135.** RCW 15.26.250 and 1969 c 129 s 25 are each amended to  
18 read as follows:

19 The Washington apple ((advertising)) commission and Washington  
20 state fruit commission in order to avoid unnecessary duplication of  
21 costs and efforts in collecting assessments for tree fruits at the time  
22 said commissions collect assessments due under the provisions of their  
23 acts may also collect the assessment due the commission on such tree  
24 fruit. Such assessments on winter pears may be collected by the  
25 Washington state fruit commission or in a manner prescribed by the  
26 commission. Assessments collected for the commission by the Washington  
27 ((state)) apple ((advertising)) commission and the Washington state  
28 fruit commission shall be forwarded to the commissions expeditiously.  
29 No fee shall be charged the commission for the collection of  
30 assessments because the research conducted by the commission shall be  
31 of direct benefit to all commercial growers of tree fruits in the state  
32 of Washington((:—PROVIDED, That)). However, the commission shall  
33 reimburse at actual cost to the department or the Washington state  
34 fruit commission or apple commission any assessment collected for the  
35 commission by such agencies for any tree fruit subject to the  
36 provisions of this chapter, but not subject to pay assessments to the  
37 Washington state fruit commission or the Washington apple  
38 ((advertising)) commission."

1           Renumber the remaining section consecutively and correct the title.

EFFECT: Amends the statutes for the Apple Advertising Commission:  
(1) Changes the name of the Apple Advertising Commission to the Apple Commission. (2) Expands the statement of policy for the commission's statutes. It states that apple growers operate within a regulatory environment that imposes burdens, including those that may impair the producer's ability to compete in local, domestic, and foreign markets and it is in the overriding public interest that apples be promoted individually and as part of a comprehensive industry. The commission's laws and rules are only one aspect of the comprehensively regulated industry. A number of state and federal laws and rules are cited as being regulations and restraints on the industry. (3) Extends the authority of the employees of the commission to be reimbursed for actual travel expenses for out-of-state travel for official business by applying it also to their in-state travel. (4) When the adoption of rules is subject to a referendum, exempts the rule making from the provisions of the Administrative Procedure Act regarding prenotice statements of inquiry and negotiated and pilot rule making and from the Regulatory Fairness Act. (5) Authorizes the commission to decrease, not just increase, assessments. (6) Changes how assessments may be calculated. Rather than the assessment being based upon a rate per one hundred pounds of apples, the commission may use a reasonable equivalent net product assessment, including a different rate for a specific variety or for fresh apples sliced or cut for raw consumption. (7) States that fresh apples sliced or cut for raw consumption are fresh apples and, therefore, subject to assessment. (8) Waives liability of the state and any member, agent, or employee of the commission for the acts of the commission and its contracts. In a civil or criminal action or proceeding for a violation of any prohibitions against monopolies or combinations in restraint of trade, including any action under the state's consumer protection laws, proof that the act complained of was done in compliance with and in furthering the purposes of the commission's statutes is a complete defense to the action or proceeding.

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