

2 **HB 2773** - H AMD

3 By Representative Clements

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 15.17 RCW
8 to read as follows:

9 To provide uniformity in the marketplace and to protect consignors
10 of apples, the director shall revise state standards for grades and
11 packs of apples. The director shall adopt revisions to the standards
12 for grades and packs of apples that will clarify the standards in such
13 a way that they will be applied consistently among warehouses and
14 commission merchants. That is, these revisions must provide a level of
15 uniformity that will ensure that the apples of a particular variety,
16 grade, and pack sold from one warehouse will be the same as the apples
17 of the same variety, grade, and pack sold from any other warehouse.
18 For this purpose, the director shall invite a grades and packs
19 committee that is widely recognized within the horticultural industry
20 as representing the interests of the industry regarding grades and
21 packs of apples to recommend by consensus revisions to the standards
22 that it believes will provide that uniformity. If the industry
23 committee recommends such revisions by committee consensus by January
24 1, 2004, the director shall immediately initiate rule making and give
25 great weight to proposing and adopting the recommendations of the
26 committee. If the committee does not make the recommendations by
27 committee consensus by January 1, 2004, the director shall adopt
28 revisions to the standards the director believes will provide such
29 uniformity by January 1, 2005.

30 **Sec. 2.** RCW 20.01.440 and 1991 c 109 s 23 are each amended to read
31 as follows:

32 Every commission merchant shall retain a copy of all records
33 covering each transaction for a period of three years from the date
34 thereof, which copy shall at all times be available for, and open to,
35 the confidential inspection of the director and the consignor, or

1 authorized representative of either. Upon the request of the consignor
2 or the authorized representative of the consignor, the information
3 shall be rendered to the consignor or the authorized representative;
4 however, for a pooling arrangement, the information to be rendered is
5 the information that must be rendered under RCW 20.01.370 or, upon
6 final remittance, the information that must be transmitted under RCW
7 20.01.370. In the event of any dispute or disagreement between a
8 consignor and a commission merchant arising at the time of delivery as
9 to condition, quality, grade, pack, quantity, or weight of any lot,
10 shipment or consignment of agricultural products, the department shall
11 furnish, upon the payment of a reasonable fee therefor by the
12 requesting party, a certificate establishing the condition, quality,
13 grade, pack, quantity, or weight of such lot, shipment, or consignment.
14 Such certificate shall be prima facie evidence in all courts of this
15 state as to the recitals thereof. The burden of proof shall be upon
16 the commission merchant to prove the correctness of his or her
17 accounting as to any transaction which may be questioned.

18 Nothing in this chapter may be construed as preventing the
19 reporting of information required to be reported under section 5 of
20 this act, the publication of such information, or the availability of
21 such information for public inspection as required by section 5 of this
22 act.

23 **Sec. 3.** RCW 20.01.370 and 1991 c 109 s 20 are each amended to read
24 as follows:

25 Every commission merchant taking control of any agricultural
26 products for sale as such commission merchant, shall promptly make and
27 keep for a period of three years, beginning on the day the sale of the
28 product is complete, a correct record showing in detail the following
29 with reference to the handling, sale, or storage of such agricultural
30 products:

31 (1) The name and address of the consignor.

32 (2) The date received.

33 (3) The quality and quantity delivered by the consignor, and where
34 applicable the dockage, tare, grade, size, net weight, or quantity.

35 (4) An accounting of all sales, including dates, terms of sales,
36 quality and quantity of agricultural products sold, and proof of
37 payments received on behalf of the consignor.

38 (5) The terms of payment to the producer.

1 (6) An itemized statement of the charges to be paid by consignor in
2 connection with the sale.

3 (7) The names and addresses of all purchasers if said commission
4 merchant has any financial interest in the business of said purchasers,
5 or if said purchasers have any financial interest in the business of
6 said commission merchant, directly or indirectly, as holder of the
7 other's corporate stock, as copartner, as lender or borrower of money
8 to or from the other, or otherwise. Such interest shall be noted in
9 said records following the name of any such purchaser.

10 (8) A lot number or other identifying mark for each consignment,
11 which number or mark shall appear on all sales tags and other essential
12 records needed to show what the agricultural products actually sold
13 for.

14 (9) Any claim or claims which have been or may be filed by the
15 commission merchant against any person for overcharges or for damages
16 resulting from the injury or deterioration of such agricultural
17 products by the act, neglect or failure of such person and such records
18 shall be open to the inspection of the director and the consignor of
19 agricultural products for whom such claim or claims are made.

20 Before a commission merchant may handle an agricultural product in
21 a pooling arrangement or accounting, the consignor must have agreed in
22 writing to allow the pooling.

23 Where a pooling arrangement is agreed to in writing between the
24 consignor and commission merchant, the reporting requirements of
25 subsections (4), (5), (6), and (8) of this section shall apply to the
26 pool rather than to the individual consignor or consignment and the
27 records of the pool shall be available for inspection by any consignor
28 to that pool and, upon the request of the consignor, shall be rendered
29 to the consignor.

30 For individual accounting, the commission merchant shall transmit
31 a copy of the record required by this section to the consignor on the
32 same day the final remittance is made to the consignor as required by
33 RCW 20.01.430. For a consignor who is participating in a pooling
34 arrangement, the commission merchant shall, on the same day final
35 remittance and accounting are made to the consignor as required by RCW
36 20.01.430, transmit to the consignor a summary of the records which are
37 available for inspection by any consignor to that pool.

38 Nothing in this chapter may be construed as preventing the
39 reporting of information required to be reported under section 5 of

1 this act, the publication of such information, or the availability of
2 such information for public inspection as required by section 5 of this
3 act.

4 **Sec. 4.** RCW 20.01.420 and 1991 c 109 s 22 are each amended to read
5 as follows:

6 When requested by a consignor, a commission merchant shall promptly
7 make available to the consignor or to the director all records of the
8 ongoing sales of the consignor's agricultural products showing the
9 amount sold, the selling price, and any other information required
10 under RCW 20.01.370. Upon the request of the consignor, such
11 information as must be rendered to the consignor under RCW 20.01.370
12 shall be rendered to the consignor and, upon final remittance, such
13 information as must be transmitted to the consignor under RCW 20.01.370
14 shall be rendered to the consignor.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 20.01 RCW
16 to read as follows:

17 Each commission merchant shall report to the department by the
18 tenth day of each month the volume of fruit imported into the United
19 States that was received by and the volume of such fruit that was
20 packed and sold by the commission merchant during the previous month
21 and the sale prices of such sales. The department shall ensure that
22 the information it receives under this section is readily available for
23 public inspection. The department shall provide the information to the
24 Washington state fruit commission which shall publish the information
25 in a timely manner in a monthly or bimonthly publication authorized
26 under RCW 15.28.260."

27 Correct the title.

EFFECT: (1) Removes the provisions of the bill requiring the
Director to establish a system for reporting sales of apples by
variety, grade, and pack and by the commission merchants making the
sales.

(2) Requires each commission merchant to report monthly on the
volume of fruit grown outside of the U.S. that is received by the
merchant, the volume of such fruit that is packed and sold by the
merchant, and the sale prices of those sales. Requires the reported
information to be available for public inspection and to be published
in a Fruit Commission publication.

(3) Requires the information that must be available to a consignor from a commission merchant to be rendered to the consignor upon request.

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