

HOUSE BILL REPORT

EHB 2773

As Amended by the Senate

Title: An act relating to sales of fruit.

Brief Description: Revising standards for apple grades and requiring reports on the consignment sales of apples under the new standards.

Sponsors: By Representatives Clements, Linville, Chandler and Grant.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/7/02 [DPS].

Floor Activity:

Passed House: 2/14/02, 98-0.

Senate Amended.

Passed Senate: 3/7/02, 48-0.

Brief Summary of Engrossed Bill

- Requires standards for grades and packs of apples to be revised to provide uniformity.
- Requires certain records held by a commission merchant regarding a consignor's products to be rendered to the consignor upon request.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Linville, Chair; Hunt, Vice Chair; Schoesler, Ranking Minority Member; Chandler, Cooper, Delvin, Grant, Holmquist, Kirby, Quall and Roach.

Staff: Kenneth Hirst (786-7105).

Background:

State laws require the director of Agriculture to establish standards and grades for apples, apricots, Italian prunes, peaches, sweet cherries, pears, potatoes and asparagus and allow the director to establish them for other fruits and vegetables.

With certain exceptions, no person may act as a commission merchant, dealer, broker, or cash buyer for agricultural commodities, or as the agent of any of them, without being licensed under the state's commission merchant laws. A "commission merchant" is a person who receives an agricultural product on consignment for sale on commission on behalf of the consignor, or for processing and such a sale. It is also a person who accepts a farm product in trust from a consignor for the purpose of resale, or who sells on commission an agricultural product, or who in any way handles an agricultural product for a consignor.

Commission merchants must retain copies of their records of sales for three years. These records are to be available for inspection by the Director of Agriculture and the consignor, or their authorized representatives. Special rules apply if the commodity is to be sold by a commission merchant through a "pooling" agreement under which the commodities grown by various producers are pooled for sale in common. Under such an agreement, certain of the records are kept with regard to the commodities of the pool, rather than the commodities of the individual consignor, and these records of the pool are to be available for inspection by any consignor to the pool. At the same time that the commission merchant transmits the final remittance to the consignor, the merchant must also provide the consignor a summary of the records that are available for inspection.

Summary of Engrossed Bill:

Standards for Grades and Packs. The Director of Agriculture must revise the standards for grades and packs of apples to clarify the standards in such a way that they will be applied consistently among warehouses and commission merchants. The revisions must provide a level of uniformity that will ensure that the apples of a particular variety, grade, and pack sold from one warehouse will be the same as the apples of the same variety, grade, and pack sold from any other warehouse.

The director is to invite a widely recognized grades and packs committee within the horticultural industry to recommend by consensus revisions to the standards that it believes will provide that uniformity. If the industry committee recommends the revisions by committee consensus by January 1, 2004, the director must immediately initiate rule making and must give great weight to proposing and adopting the recommendations of the committee. If the committee does not, the director must adopt revisions to the standards the Director believes will provide the uniformity by January 1, 2005.

Imported Fruit - Reports. A commission merchant must report monthly to the Department of Agriculture on the volume of fruit grown outside of the U.S. that is received by the commission merchant, the volume of such fruit that is packed and sold by the merchant, and the sale prices of those sales. The reported information must be made

available by the department for public inspection and must be published in a Fruit Commission publication.

Records. Upon the request of a consignor or the authorized representative of a consignor, the information held by a commission merchant regarding the sale of the consignor's products that is available for inspection must also be rendered to the consignor or the authorized representative. For a pooling arrangement, the information to be rendered is the information that must be provided to an individual consignor regarding the pool or, upon final remittance, the information that must be transmitted to the consignor.

EFFECT OF SENATE AMENDMENT(S):

The amendments: 1) Require the industry committee's recommendations on standards and grades for apples to be made by consensus by December 15, 2003, or its findings and conclusions be reported to the department and the legislature; 2) request several fruit industry associations to meet to conduct an analysis of the marketing information needs of the industry and provide recommendations on how they may be met, and request reports to the department and to the legislature by December 15, 2003; and 3) require a one-time report, rather than on-going monthly reports, on the receipt and sale by commission merchants of apples imported into the United States. The information is to be reported to the department by December 15, 2002, for such apples received during 2002 by the end of November and the department is to report the information to the legislature by the end of 2002. The reported information that can be ascribed to a particular business is not subject to public disclosure.

Appropriation: None.

Fiscal Note: Requested on February 3, 2002.

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

Testimony For: (1) Although a person may pack apples to higher standards than the state or federal standards, an official state inspection cannot be conducted to such unofficial standards. (2) The state standards emphasize appearance, not taste. As a result, sellers pack to a variety of unofficial "grades" within the official grades. Since there is no way to provide uniformity of quality, growers of quality apples are losing money unnecessarily. (3) Uniformity in standards is needed to keep buyers from playing one seller against another. (4) Some packers treat the sales records they must keep for growers as if the growers should not look at them, or if they do, the growers can do business elsewhere. Under current law, a grower is entitled to "view" a record, but cannot even take notes regarding the sale of the grower's fruit, even though the grower still owns it for 24 hours after it has been shipped. A change in reporting is needed. (5)

The federal law requires the records to be "rendered", not just "available." Being able to take possession of the record and analyze it would be valuable to a grower dealing with a tough market.

Testimony Against: (With concerns) (1) The industry committee referred to in the bill for developing recommended changes to standards for grades and packs has not reached consensus on such changes so far; the Director of Agriculture should not be in the position of having to make those changes without that consensus. (2) The department's data collection system for sales made by commission merchants depends on the voluntary submission of data by the merchants. The department cannot attest to the accuracy of the information it now receives.

Testified: (In support) Representative Clements, prime sponsor; Gary Holwegner; Bill Goble; and Paul Hollander.

(With concerns) Jerry Buendel, Department of Agriculture.