
ENGROSSED HOUSE BILL 2773

State of Washington

57th Legislature

2002 Regular Session

By Representatives Clements, Linville, Chandler and Grant

Read first time 01/28/2002. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to sales of fruit; amending RCW 20.01.440,
2 20.01.370, and 20.01.420; adding a new section to chapter 15.17 RCW;
3 and adding a new section to chapter 20.01 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 15.17 RCW
6 to read as follows:

7 To provide uniformity in the marketplace and to protect consignors
8 of apples, the director shall revise state standards for grades and
9 packs of apples. The director shall adopt revisions to the standards
10 for grades and packs of apples that will clarify the standards in such
11 a way that they will be applied consistently among warehouses and
12 commission merchants. That is, these revisions must provide a level of
13 uniformity that will ensure that the apples of a particular variety,
14 grade, and pack sold from one warehouse will be the same as the apples
15 of the same variety, grade, and pack sold from any other warehouse.
16 For this purpose, the director shall invite a grades and packs
17 committee that is widely recognized within the horticultural industry
18 as representing the interests of the industry regarding grades and
19 packs of apples to recommend by consensus revisions to the standards

1 that it believes will provide that uniformity. If the industry
2 committee recommends such revisions by committee consensus by January
3 1, 2004, the director shall immediately initiate rule making and give
4 great weight to proposing and adopting the recommendations of the
5 committee. If the committee does not make the recommendations by
6 committee consensus by January 1, 2004, the director shall adopt
7 revisions to the standards the director believes will provide such
8 uniformity by January 1, 2005.

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

11 Every commission merchant shall retain a copy of all records
12 covering each transaction for a period of three years from the date
13 thereof, which copy shall at all times be available for, and open to,
14 the confidential inspection of the director and the consignor, or
15 authorized representative of either. Upon the request of the consignor
16 or the authorized representative of the consignor, the information
17 shall be rendered to the consignor or the authorized representative;
18 however, for a pooling arrangement, the information to be rendered is
19 the information that must be rendered under RCW 20.01.370 or, upon
20 final remittance, the information that must be transmitted under RCW
21 20.01.370. In the event of any dispute or disagreement between a
22 consignor and a commission merchant arising at the time of delivery as
23 to condition, quality, grade, pack, quantity, or weight of any lot,
24 shipment or consignment of agricultural products, the department shall
25 furnish, upon the payment of a reasonable fee therefor by the
26 requesting party, a certificate establishing the condition, quality,
27 grade, pack, quantity, or weight of such lot, shipment, or consignment.
28 Such certificate shall be prima facie evidence in all courts of this
29 state as to the recitals thereof. The burden of proof shall be upon
30 the commission merchant to prove the correctness of his or her
31 accounting as to any transaction which may be questioned.

32 Nothing in this chapter may be construed as preventing the
33 reporting of information required to be reported under section 5 of
34 this act, the publication of such information, or the availability of
35 such information for public inspection as required by section 5 of this
36 act.

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

3 Every commission merchant taking control of any agricultural
4 products for sale as such commission merchant, shall promptly make and
5 keep for a period of three years, beginning on the day the sale of the
6 product is complete, a correct record showing in detail the following
7 with reference to the handling, sale, or storage of such agricultural
8 products:

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

10 (2) The date received.

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

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

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

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

19 (7) The names and addresses of all purchasers if said commission
20 merchant has any financial interest in the business of said purchasers,
21 or if said purchasers have any financial interest in the business of
22 said commission merchant, directly or indirectly, as holder of the
23 other's corporate stock, as copartner, as lender or borrower of money
24 to or from the other, or otherwise. Such interest shall be noted in
25 said records following the name of any such purchaser.

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

30 (9) Any claim or claims which have been or may be filed by the
31 commission merchant against any person for overcharges or for damages
32 resulting from the injury or deterioration of such agricultural
33 products by the act, neglect or failure of such person and such records
34 shall be open to the inspection of the director and the consignor of
35 agricultural products for whom such claim or claims are made.

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

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

8 For individual accounting, the commission merchant shall transmit
9 a copy of the record required by this section to the consignor on the
10 same day the final remittance is made to the consignor as required by
11 RCW 20.01.430. For a consignor who is participating in a pooling
12 arrangement, the commission merchant shall, on the same day final
13 remittance and accounting are made to the consignor as required by RCW
14 20.01.430, transmit to the consignor a summary of the records which are
15 available for inspection by any consignor to that pool.

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

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

23 When requested by a consignor, a commission merchant shall promptly
24 make available to the consignor or to the director all records of the
25 ongoing sales of the consignor's agricultural products showing the
26 amount sold, the selling price, and any other information required
27 under RCW 20.01.370. Upon the request of the consignor, such
28 information as must be rendered to the consignor under RCW 20.01.370
29 shall be rendered to the consignor and, upon final remittance, such
30 information as must be transmitted to the consignor under RCW 20.01.370
31 shall be rendered to the consignor.

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

34 Each commission merchant shall report to the department by the
35 tenth day of each month the volume of fruit imported into the United
36 States that was received by and the volume of such fruit that was
37 packed and sold by the commission merchant during the previous month

1 and the sale prices of such sales. The department shall ensure that
2 the information it receives under this section is readily available for
3 public inspection. The department shall provide the information to the
4 Washington state fruit commission which shall publish the information
5 in a timely manner in a monthly or bimonthly publication authorized
6 under RCW 15.28.260.

--- END ---