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**SUBSTITUTE HOUSE BILL 2864**

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**State of Washington**

**57th Legislature**

**2002 Regular Session**

**By** House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, Armstrong, Clements, Sump, Grant, Conway, Morell and Chase)

Read first time 02/08/2002. Referred to Committee on .

1 AN ACT Relating to formation of an organic foods commission; adding  
2 a new section to chapter 15.24 RCW; adding a new section to chapter  
3 15.26 RCW; adding a new section to chapter 15.28 RCW; adding a new  
4 section to chapter 15.44 RCW; adding a new section to chapter 15.62  
5 RCW; adding a new section to chapter 15.65 RCW; adding a new section to  
6 chapter 15.66 RCW; adding a new section to chapter 16.67 RCW; adding a  
7 new section to chapter 43.78 RCW; adding a new chapter to Title 15 RCW;  
8 and prescribing penalties.

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

10 NEW SECTION. **Sec. 1.** The history, economy, culture, and the  
11 future of Washington to a large degree all involves agriculture. A  
12 large and growing segment of the agriculture community are producers  
13 who choose to raise their crops organically. In order to develop and  
14 promote Washington's organic agricultural products as part of the  
15 existing comprehensive scheme to regulate agricultural commodities, the  
16 legislature declares:

17 (1) That the marketing of organic agricultural products within this  
18 state is in the public interest. It is vital to the continued economic  
19 well-being of the citizens of this state, their general welfare, and

1 the environment that its organic agricultural commodities be properly  
2 promoted by (a) enabling producers of organic agricultural commodities  
3 to help themselves in establishing orderly, fair, sound, efficient, and  
4 unhampered marketing, grading, standardizing, and labeling of the  
5 organic commodities they produce and (b) working towards stabilizing  
6 the organic agricultural industry by increasing consumption of organic  
7 agricultural commodities within the state, the nation, and  
8 internationally;

9 (2) That organic producers operate within a regulatory environment  
10 that imposes burdens on them for the benefit of society and the  
11 citizens of the state and includes restrictions on marketing autonomy.  
12 Those restrictions may impair the agricultural producer's ability to  
13 compete in local, domestic, and foreign markets;

14 (3) That it is now in the overriding public interest that support  
15 for the organic agricultural industry be clearly expressed, that  
16 adequate protection be given to organic agricultural commodities, uses,  
17 activities, and operations, and that organic agricultural commodities  
18 be promoted to:

19 (a) Enhance the image of Washington's organic agricultural  
20 commodities;

21 (b) Increase the sale and use of Washington's organic agricultural  
22 commodities in local, domestic, and foreign markets;

23 (c) Protect the public by educating the public in reference to the  
24 quality, care, and methods used in the production of Washington's  
25 organic agricultural commodities;

26 (d) Increase the knowledge of the health-giving qualities and  
27 dietetic value of Washington's organic agricultural commodities and  
28 products; and

29 (e) Support and engage in programs or activities that benefit the  
30 planting, production, harvesting, handling, processing, marketing, and  
31 uses of organic agricultural commodities produced in Washington;

32 (4) That the director seek to enhance, protect, and perpetuate the  
33 ability of the private sector to produce organic food, and seek to  
34 maintain the economic well-being of the organic agricultural industry  
35 in Washington consistent with its regulatory activities and  
36 responsibilities;

37 (5) That the director is hereby authorized to implement,  
38 administer, and enforce this chapter through the adoption of marketing  
39 orders that establish the organic food commission;

1 (6) This chapter and the rules adopted under it are only one aspect  
2 of the comprehensively regulated agricultural industry. The organic  
3 food commission is also subject to the other applicable regulations  
4 sited in chapters 15.65 and 15.66 RCW; and

5 (7) That this chapter is enacted in the exercise of the police  
6 powers of this state for the purpose of protecting the health, peace,  
7 safety, and general welfare of the people of this state.

8 NEW SECTION. **Sec. 2.** For the purposes of this chapter:

9 (1) "Director" means the director of agriculture or any qualified  
10 person or persons designated by the director of agriculture to act for  
11 the director concerning some matter under this chapter.

12 (2) "Department" means the department of agriculture.

13 (3) "Marketing order" means an order issued by the director under  
14 this chapter.

15 (4) "Organic food" has the definition in RCW 15.86.020.

16 (5) "Producer" means any person engaged in the business of  
17 producing or causing to be produced for market in commercial quantities  
18 any organic food. For the purposes of this chapter, "producer"  
19 includes bailees who contract to produce or grow any organic food on  
20 behalf of a bailor who retains title to the seed and its resulting  
21 organic food or the organic food delivered for further production or  
22 increase.

23 (6) "Affected producer" means any producer of organic food.

24 (7) "Unfair trade practice" means any practice that is unlawful or  
25 prohibited under the laws of the state of Washington including but not  
26 limited to Titles 15, 16, and 69 RCW and chapters 9.16, 19.77, 19.80,  
27 19.84, and 19.83 RCW, or any practice, whether concerning interstate or  
28 intrastate commerce that is unlawful under the provisions of the act of  
29 Congress of the United States, September 26, 1914, chapter 311, section  
30 5, 38 U.S. Statutes at Large 719 as amended, known as the "Federal  
31 Trade Commission Act of 1914," or the violation of or failure  
32 accurately to label as to grades and standards in accordance with any  
33 lawfully established grades or standards or labels.

34 (8) "Person" includes any individual, firm, corporation, trust,  
35 association, partnership, society, or any other organization of  
36 individuals.

37 (9) "Cooperative association" means any incorporated or  
38 unincorporated association of producers that conforms to the

1 qualifications set out in the act of Congress of the United States,  
2 Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large  
3 388 as amended, known as the "Capper-Volstead Act" and which is engaged  
4 in making collective sales or in marketing any organic food or product  
5 thereof or in rendering service for or advancing the interests of the  
6 producers of such organic food on a nonprofit cooperative basis.

7 (10) "Member of a cooperative association" or "member" means any  
8 producer of organic food who markets his or her product through such  
9 cooperative association and who is a voting stockholder of or has a  
10 vote in the control of or is under a marketing agreement with such  
11 cooperative association with respect to such product.

12 NEW SECTION. **Sec. 3.** The marketing of organic foods within this  
13 state is affected with a public interest. It is declared to be the  
14 policy and purpose of this chapter to promote the general welfare of  
15 the state by enabling producers of organic foods to help themselves in  
16 establishing orderly, fair, sound, efficient, and unhampered marketing,  
17 grading, and standardizing of the organic foods they produce, and in  
18 promoting and increasing the sale of such commodities.

19 NEW SECTION. **Sec. 4.** Marketing orders may be made for any one or  
20 more of the following purposes:

21 (1) To establish plans and conduct programs for advertising and  
22 sales promotion, to maintain present markets, or to create new or  
23 larger markets for any organic food grown in the state of Washington;

24 (2) To provide for carrying on research studies to find more  
25 efficient methods of production, processing, handling, and marketing of  
26 any organic food;

27 (3) To provide for improving standards and grades by defining,  
28 establishing, and providing labeling requirements consistent with  
29 chapter 15.86 RCW with respect to the same;

30 (4) To investigate and take necessary action to prevent unfair  
31 trade practices.

32 NEW SECTION. **Sec. 5.** Marketing orders and orders modifying or  
33 terminating existing marketing orders shall be adopted by the director  
34 only after the director has done the following:

35 (1) Received a petition as provided for in section 6 of this act;

1 (2) Given notice of hearing as provided for in section 7 of this  
2 act;

3 (3) Conducted a hearing as provided for in section 8 of this act;

4 (4) Made findings and a decision as provided for in section 9 of  
5 this act;

6 (5) Determined assent of affected producers as provided for in  
7 section 10 of this act.

8 NEW SECTION. **Sec. 6.** Petitions for issuance, amendment, or  
9 termination of a marketing order for organic food shall be signed by  
10 not less than ten percent or fifty of the producers alleged to be  
11 affected, whichever is less, and shall be filed with the director.  
12 Such petition shall be accompanied by a filing fee of one hundred  
13 dollars payable to the state treasurer; and shall designate some person  
14 as attorney-in-fact for the purpose of this section. Upon receipt of  
15 such a petition, the director shall prepare a budget estimate for  
16 handling such petition that includes the cost of the preparation of the  
17 estimate, the cost of the hearings, and the cost of the proposed  
18 referendum. The petitioners, within thirty days after receipt of the  
19 budget estimate by their attorney-in-fact, shall remit to the director  
20 the difference between the filing fee of one hundred dollars already  
21 paid and the total budget estimate. If the petitioners fail to remit  
22 the difference, or if for any other reason the proceedings for the  
23 issuance, amendment, or termination of the marketing order are  
24 discontinued, the filing fee, including any additional amount paid in  
25 accordance with such budget estimates, shall not be refunded. If the  
26 petition results, after proper proceedings, in the issuance, amendment,  
27 or termination of a marketing order, the petitioners shall be  
28 reimbursed for the amount paid for the total filing fee out of funds of  
29 the organic food commission as they become available.

30 NEW SECTION. **Sec. 7.** Upon receipt of a petition for the issuance,  
31 amendment, or termination of a marketing order, the director shall  
32 establish a list of producers of organic food who are certified under  
33 chapter 15.86 RCW. In establishing or making current such a list of  
34 producers and their individual production, the director shall use the  
35 producer's name, mailing address, and the yearly average fees paid  
36 under RCW 15.86.070 by the producer in the three preceding years or in  
37 such lesser time as the producer has produced the organic food in

1 question. Information on each producer shall be mailed to the affected  
2 producer on record with the director for verification. All corrections  
3 shall be filed with the director within twenty days from the date of  
4 mailing. The director shall keep lists as current as possible and may  
5 require updated information from affected producers at various times in  
6 accordance with rules prescribed by the director.

7 The producer list shall be final and conclusive in making  
8 determinations relative to the assent by producers upon the issuance,  
9 amendment, or termination of a marketing order and in elections under  
10 this chapter.

11 The director shall notify affected producers, so listed, by mail  
12 that the public hearing affording opportunity for them to be heard upon  
13 the proposed issuance, amendment, or termination of the marketing order  
14 will be heard at the time and place stated in the notice. The notice  
15 of the hearing shall be given not less than ten days nor more than  
16 sixty days before the hearing.

17 NEW SECTION. **Sec. 8.** At the public hearing the director shall  
18 receive evidence and testimony offered in support of, or opposition to,  
19 the proposed issuance of, amendment to, or termination of a marketing  
20 order and concerning the terms, conditions, scope, and area thereof.  
21 Such hearing shall be public and all testimony shall be received under  
22 oath. A full and complete record of all proceedings at such hearings  
23 shall be made and maintained on file in the office of the director,  
24 which file shall be open to public inspection. The director shall base  
25 his or her findings upon the testimony and evidence received at the  
26 hearing, together with any other relevant facts available to the  
27 director from official publications of institutions of recognized  
28 standing. The director shall describe in the findings such official  
29 publications upon which any finding is based.

30 NEW SECTION. **Sec. 9.** (1) The director shall make and publish  
31 findings upon every material point controverted at the hearing and  
32 required by this chapter and upon such other matters and things as he  
33 or she may deem fitting and proper. The director shall also issue a  
34 recommended decision based upon the director's findings and shall cause  
35 copies of the findings and recommended decision to be delivered or  
36 mailed to all parties of record appearing at the hearing, or their  
37 attorneys of record. The recommended decision shall contain the text

1 in full of any order, or amendment or termination of existing order,  
2 and may deny or approve the proposal in its entirety, or it may  
3 recommend a marketing order containing other or different terms or  
4 conditions from those contained in the proposal: PROVIDED, That the  
5 same shall be of a kind or type substantially within the purview of the  
6 notice of hearing and shall be supported by evidence taken at the  
7 hearing or by documents of which the director is authorized to take  
8 official notice. The director shall not approve the issuance,  
9 amendment, or termination of any marketing order unless he or she finds  
10 with respect thereto:

11 (a) That the proposed issuance, amendment, or termination thereof  
12 is reasonably calculated to attain the objective sought in such  
13 marketing order;

14 (b) That the proposed issuance, amendment, or termination is in  
15 conformity with this chapter and within the applicable limitations, and  
16 restrictions in the issuance, amendment, or termination will tend to  
17 effectuate the declared purposes and policies of this chapter;

18 (c) That the interests of consumers of the organic food are  
19 protected in that the powers of this chapter are being exercised only  
20 to the extent necessary to attain such objectives.

21 (2) After the issuance of a recommended decision, all interested  
22 parties shall have a period of not less than ten days to file  
23 objections with the director. The director shall consider the  
24 objections and shall issue a final decision which may be the same as  
25 the recommended decision or may be revised in light of the objections.  
26 The final decision shall set out in full the text of the order. The  
27 director shall deliver or mail copies of the final decision to the same  
28 parties to whom copies of the findings and recommended decision are  
29 required to be sent. If the final decision denies the proposal in its  
30 entirety, no further action may be taken by the director.

31 NEW SECTION. **Sec. 10.** After the issuance by the director of the  
32 final decision approving the issuance, amendment, or termination of a  
33 marketing order, the director shall determine by a referendum whether  
34 the affected producers assent to the proposed action or not. The  
35 director shall conduct the referendum among the affected producers  
36 based on the list as provided for in section 7 of this act, and the  
37 affected producers shall be deemed to have assented to the proposed  
38 issuance, amendment, or termination order if sixty percent or more by

1 number and sixty percent or more by amount of assessment paid of those  
2 replying assent to the proposed order. The determination by volume  
3 shall be made on the basis of volume as determined in the list of  
4 affected producers created under section 7 of this act, subject to  
5 rules of the director for such determination.

6 NEW SECTION. **Sec. 11.** A marketing order shall define the area of  
7 the state to be covered by the order, which may be all or any portion  
8 of the state, shall contain provisions for establishment of the organic  
9 foods commission and administration and operation and powers and duties  
10 of the commission, shall provide for assessments as provided for in  
11 this chapter, and shall contain one or more of the provisions in  
12 section 4 of this act.

13 NEW SECTION. **Sec. 12.** The marketing order shall establish an  
14 organic foods commission composed of not less than five nor more than  
15 thirteen members. In addition, the director shall be an ex officio  
16 member of the organic foods commission. Commission members shall be  
17 citizens and residents of this state, over the age of twenty-five  
18 years. The term of office of commission members shall be three years  
19 with the terms rotating so that one-third of the terms will commence as  
20 nearly as practicable each year. However, the first commission shall  
21 be selected, one-third for a term of one year, one-third for a term of  
22 two years, and one-third for a term of three years, as nearly as  
23 practicable. Two-thirds of the commission members shall be elected by  
24 the affected producers and such elected members shall all be affected  
25 producers. The remaining one-third shall be appointed by the  
26 commission and shall be either affected producers, others active in  
27 matters relating to the organic foods or persons not so related.

28 NEW SECTION. **Sec. 13.** Not less than ninety days nor more than one  
29 hundred five days before the beginning of each term of each elected  
30 commission member, the director shall give notice by mail to all  
31 affected producers of the vacancy and call for nominations in  
32 accordance with this section and with the provisions of the marketing  
33 order and shall give notice of the final date for filing nominations,  
34 which shall not be less than eighty days nor more than eighty-five days  
35 before the beginning of such term. Such notice shall also advise that  
36 nominating petitions shall be signed by five persons qualified to vote



1 for such candidates or, if the number of nominating signers is provided  
2 for in the marketing order, such number as such order provides.

3 Not less than sixty days nor more than seventy-five days before the  
4 commencement of such commission member term, the director shall submit  
5 by mail ballots to all affected producers, which ballots shall be  
6 required to be returned to the director not less than thirty days  
7 before the commencement of such term. Such mail ballot shall be  
8 conducted in a manner so that it shall be a secret ballot. With  
9 respect to the first organic foods commission, the director may call  
10 for nominations in the notice of decision following the hearing and the  
11 ballot may be submitted at the time the director's proposed order is  
12 submitted to the affected producers for their assent.

13 The elected members may be elected from various districts within  
14 the area covered by the marketing order if the order so provides, with  
15 the number of members from each district to be in accordance with the  
16 provisions of the marketing order.

17 The members of the commission not elected by the affected producers  
18 shall be elected by a majority of the commission at a meeting of the  
19 commission within ninety days before expiration of the term but to fill  
20 nonelective vacancies caused by other reasons than the expiration of a  
21 term, the new member shall be elected by the commission at its first  
22 meeting after the occurrence of the vacancy.

23 When only one nominee is nominated for any position on the  
24 commission, the director shall deem that the nominee satisfies the  
25 requirements of the position and then it shall be deemed that the  
26 nominee has been duly elected.

27 NEW SECTION. **Sec. 14.** The organic foods commission shall hold  
28 such regular meetings as the marketing order may prescribe or that the  
29 commission by resolution may prescribe, together with such special  
30 meetings that may be called in accordance with provisions of its  
31 resolutions upon reasonable notice to all members thereof. A majority  
32 of the members constitutes a quorum for the transaction of all business  
33 of the commission. In the event of a vacancy in an elected or  
34 appointed position on the commission, the remaining elected members of  
35 the commission shall select a qualified person to fill the unexpired  
36 term.

1 Each member of the commission shall be compensated in accordance  
2 with RCW 43.03.230 and shall be reimbursed for travel expenses in  
3 accordance with RCW 43.03.050 and 43.03.060.

4 NEW SECTION. **Sec. 15.** The organic foods commission shall have  
5 such powers and duties in accordance with this chapter as may be  
6 provided in the marketing order and shall have the following powers and  
7 duties:

8 (1) To elect a chair and such other officers as determined  
9 advisable;

10 (2) To adopt, rescind, and amend rules reasonably necessary for the  
11 administration and operation of the organic foods commission and the  
12 enforcement of its duties under the marketing order;

13 (3) To administer, enforce, direct, and control the provisions of  
14 the marketing order and of this chapter relating thereto;

15 (4) To employ and discharge at its discretion such administrators  
16 and additional personnel, attorneys, advertising and research agencies,  
17 and other persons and firms that it may deem appropriate and pay  
18 compensation to the same;

19 (5) To acquire personal property and lease office space and other  
20 necessary real property and transfer and convey the same;

21 (6) To institute and maintain in its own name any and all legal  
22 actions, including actions by injunction, mandatory injunction, or  
23 civil recovery, or proceedings before administrative tribunals or other  
24 governmental authorities necessary to carry out the provisions of this  
25 chapter and of the marketing order;

26 (7) To keep accurate records of all its receipts and disbursements,  
27 which records shall be open to inspection and audit by the state  
28 auditor at least every five years;

29 (8) To borrow money and incur indebtedness;

30 (9) To make necessary disbursements for routine operating expenses;

31 (10) To expend funds for organic foods-related education, training,  
32 and leadership programs as the organic foods commission deems  
33 expedient;

34 (11) Such other powers and duties that are necessary to carry out  
35 the purposes of this chapter.

36 NEW SECTION. **Sec. 16.** Any member of the organic foods commission  
37 may also be a member or officer of an association which has the same

1 objectives for which the organic foods commission was formed. The  
2 organic foods commission may also contract with such association for  
3 services necessary to carry out any purposes authorized under this  
4 chapter, if an appropriate contract has been entered into.

5 NEW SECTION. **Sec. 17.** (1) There is hereby levied, and there shall  
6 be collected by the organic foods commission, upon each and every  
7 dollar unit of any organic food product specified in any marketing  
8 order an annual assessment that shall be paid by the producer thereof  
9 upon each and every such dollar unit sold, processed, stored, or  
10 delivered for sale, processing, or storage by the producer. Such  
11 assessments shall be expressed as a stated percentage of the net unit  
12 price at the time of sale. The total amount of such annual assessment  
13 to be paid by all affected producers shall not exceed one percent of  
14 the total market value of all affected units sold, processed, stored,  
15 or delivered for sale, processing, or storage by all affected producers  
16 of such units during the year to which the assessment applies.

17 (2) The marketing order shall prescribe the percentage rate of such  
18 assessment. Such rate may be at the full amount of, or at any lesser  
19 amount than, the amount in this section and may be altered from time to  
20 time by amendment of such order.

21 (3) To collect such assessment, each order may require:

22 (a) Stamps to be purchased from the organic foods commission or  
23 other authority stated in such order and attached to the containers,  
24 invoices, shipping documents, inspection certificates, releases, or  
25 receiving receipts or tickets, the stamps to be canceled immediately  
26 upon being attached and the date of cancellation placed thereon;

27 (b) Payment of producer assessments before the affected units are  
28 shipped off the farm or payment of assessments at different or later  
29 times, and in such event the order may require any person subject to  
30 the assessment to give adequate assurance or security for its payment;

31 (c) Handlers receiving the organic foods from the producer,  
32 including warehousemen and processors, to collect producer assessments  
33 from producers whose production they handle and remit the same to the  
34 organic foods commission. The lending agency for a commodity credit  
35 corporation loan to producers shall be deemed a handler for the purpose  
36 of this subsection (3)(c). No affected units may be transported,  
37 carried, shipped, sold, stored, or otherwise handled or disposed of  
38 until every due and payable assessment required under this section has

1 been paid and the receipt issued, but there is no liability under this  
2 section for common carriers in the regular course of their business.

3 NEW SECTION. **Sec. 18.** Moneys collected by the organic foods  
4 commission under a marketing order from any assessment for marketing  
5 purposes shall be used by the organic foods commission only for the  
6 purpose of paying for the costs or expenses arising in connection with  
7 carrying out the purposes and provisions of such agreement or order.

8 Upon the termination of any marketing order any and all moneys  
9 remaining with the organic foods commission operating under that  
10 marketing order and not required to defray expenses or repay  
11 obligations incurred by the organic foods commission shall be returned  
12 to the affected producers in proportion to the assessments paid by each  
13 in the two-year period preceding the date of the termination order.

14 NEW SECTION. **Sec. 19.** Any due and payable assessment levied under  
15 this chapter, and every sum due under the marketing order in a  
16 specified amount, constitutes a personal debt of every person so  
17 assessed or who otherwise owes the same, and the same shall be due and  
18 payable to the organic foods commission when payment is called for by  
19 the organic foods commission. In the event any person fails to pay the  
20 full amount of such assessment or such other sum on or before the date  
21 due, the organic foods commission may add to such unpaid assessment or  
22 sum an amount not exceeding ten percent of the same to defray the cost  
23 of enforcing the collecting of the same. In the event of failure of  
24 such person or persons to pay any such due and payable assessment or  
25 other such sum, the organic foods commission may bring a civil action  
26 against such person or persons in a state court of competent  
27 jurisdiction for the collection thereof, together with ten percent  
28 provided for in this section, and such action shall be tried and  
29 judgment rendered as in any other cause of action for debt due and  
30 payable.

31 NEW SECTION. **Sec. 20.** All moneys that are collected or otherwise  
32 received under a marketing order created under this chapter shall be  
33 used solely by and for the organic foods commission and shall not be  
34 used for any other commission or the department. Such moneys shall be  
35 deposited in a separate account or accounts in the name of the organic  
36 foods commission in any bank that is a state depository. All expenses

1 and disbursements incurred and made pursuant to the provisions of any  
2 marketing order shall be paid from moneys collected and received  
3 pursuant to such order without the necessity of a specific legislative  
4 appropriation and all moneys deposited for the account of any order  
5 shall be paid from the account by check or voucher in such form and in  
6 such manner and upon the signature of such person as may be prescribed  
7 by the organic foods commission. None of the provisions of RCW  
8 43.01.050 are applicable to any such account or any moneys so received,  
9 collected, or expended.

10 NEW SECTION. **Sec. 21.** Any funds of the organic foods commission  
11 may be invested in savings or time deposits in banks, trust companies,  
12 and mutual savings banks that are doing business in this state, up to  
13 the amount of insurance afforded such accounts by the Federal Deposit  
14 Insurance Corporation. This section applies to all funds that may be  
15 lawfully so invested that in the judgment of the organic foods  
16 commission are not required for immediate expenditure. The authority  
17 granted by this section is not exclusive and shall be construed to be  
18 cumulative and in addition to other authority provided by law for the  
19 investment of such funds.

20 NEW SECTION. **Sec. 22.** Every administrator, employee, or other  
21 person occupying a position of trust under any marketing order and  
22 every member actually handling or drawing upon funds shall give a bond  
23 in such penal amount as may be required by the organic foods commission  
24 or by the order, the premium for which bond or bonds shall be paid by  
25 the organic foods commission.

26 NEW SECTION. **Sec. 23.** An affected producer subject to a marketing  
27 order may file a written petition with the director stating that the  
28 order, agreement, or program or any part thereof is not in accordance  
29 with the law, and requesting a modification thereof or exemption  
30 therefrom. The producer shall thereupon be given a hearing, which  
31 hearing shall be conducted in the manner provided in section 8 of this  
32 act, and thereafter the director shall make a ruling which shall be  
33 final.

34 Appeal from any ruling of the director may be taken to the superior  
35 court of the county in which the petitioner resides or has his or her  
36 principal place of business, by serving upon the director a copy of the

1 notice of appeal and complaint within twenty days from the date of  
2 entry of the ruling. Upon such application, the court may proceed in  
3 accordance with RCW 7.16.010 through 7.16.140. If the court determines  
4 that the ruling is not in accordance with law, it shall remand the  
5 proceedings to the director with directions to make a ruling as the  
6 court determines to be in accordance with law or to take such further  
7 proceedings as in its opinion are required by this chapter.

8 NEW SECTION. **Sec. 24.** It is a misdemeanor for:

9 (1) Any person willfully to violate any provision of this chapter  
10 or any provision of any marketing order duly issued by the director  
11 under this chapter;

12 (2) Any person willfully to render or furnish a false or fraudulent  
13 report, statement of record required by the director or the organic  
14 foods commission under this chapter, or any provision of any marketing  
15 order duly issued by the director under this chapter or willfully to  
16 fail or refuse to furnish or render any such report, statement, or  
17 record so required.

18 In the event of violation or threatened violation of any provision  
19 of this chapter or of any marketing order duly issued or entered into  
20 under this chapter, the director, the organic foods commission, or any  
21 affected producer on joining the organic foods commission shall be  
22 entitled to an injunction to prevent further violation and to a decree  
23 of specific performance of such order, and to a temporary restraining  
24 order and injunction pending litigation upon filing a verified  
25 complaint and sufficient bond.

26 All persons subject to any order shall severally from time to time,  
27 upon the request of the director, furnish the director with such  
28 information as the director finds to be necessary to enable him or her  
29 to effectuate the policies of this chapter and the purposes of such  
30 order or to ascertain and determine the extent to which such order has  
31 been carried out or has effectuated such policies and purposes, or to  
32 determine whether or not there has been any abuse of the privilege of  
33 exemptions from laws relating to trusts, monopolies, and restraints of  
34 trade. Such information shall be furnished in accordance with forms  
35 and reports to be prescribed by the director. For the purpose of  
36 ascertaining the correctness of any report made to the director under  
37 this section or for the purpose of obtaining the information required  
38 in any such report where it has been requested and has not been

1 furnished, the director may examine such books, papers, records, copies  
2 of tax reports, accounts, correspondence, contracts, documents, or  
3 memoranda as the director deems relevant and that are within the  
4 control of any such person from whom such report was requested, or of  
5 any person having, either directly or indirectly, actual or legal  
6 control of or over such person or such records, or of any subsidiary of  
7 any such person. To carry out the purposes of this section the  
8 director, upon giving due notice, may hold hearings, take testimony,  
9 administer oaths, subpoena witnesses, and issue subpoenas for the  
10 production of books, records, documents, or other writings of any kind,  
11 and section 8 of this act applies with respect to any such hearing,  
12 together with such other rules consistent therewith as the director may  
13 from time to time prescribe.

14 NEW SECTION. **Sec. 25.** In any civil or criminal action or  
15 proceeding for violation of any rule of statutory or common law against  
16 monopolies or combinations in restraint of trade, proof that the act  
17 complained of was done in compliance with this chapter or a marketing  
18 order issued under this chapter, and in furtherance of the purposes and  
19 provisions of this chapter, shall be a complete defense to such action  
20 or proceeding.

21 NEW SECTION. **Sec. 26.** Obligations incurred by the organic foods  
22 commission and any other liabilities or claims against the organic  
23 foods commission shall be enforced only against the assets of the  
24 organic foods commission in the same manner as if it were a corporation  
25 and no liability for the debts or actions of the organic foods  
26 commission shall exist against either the state of Washington or any  
27 subdivision or instrumentality thereof, or against any member officer,  
28 employee, or agent of the organic foods commission in his or her  
29 individual capacity. The members of any such commission, including  
30 employees of such board, shall not be held responsible individually in  
31 any way whatsoever to any person for errors in judgment, mistakes, or  
32 other acts, either of commission or omission, as principal, agent,  
33 person, or employee, except for their own individual acts of dishonesty  
34 or crime. No such person or employee may be held responsible  
35 individually for any act or omission of any other member of the organic  
36 foods commission. The liability of the members of the organic foods

1 commission shall be several and not joint and no member shall be liable  
2 for the default of any other member.

3 NEW SECTION. **Sec. 27.** Nothing in this chapter permits fixing of  
4 prices not otherwise permitted by law or any limitation on production  
5 and no marketing order or agreement or any rule adopted under it may  
6 contain any such provisions.

7 NEW SECTION. **Sec. 28.** All general administrative expenses of the  
8 director in carrying out the provisions of this chapter shall be borne  
9 by the state: PROVIDED, That the department shall be reimbursed for  
10 actual costs incurred in conducting nominations and elections for  
11 members of the organic foods commission established under this chapter.  
12 Such reimbursement shall be made from the funds of the organic foods  
13 commission for which the nominations and elections were conducted by  
14 the director.

15 NEW SECTION. **Sec. 29.** The restrictive provisions of chapter 43.78  
16 RCW do not apply to promotional printing and literature for the organic  
17 foods commission formed under this chapter.

18 NEW SECTION. **Sec. 30.** This chapter may be known and cited as the  
19 Washington organic foods commission act.

20 NEW SECTION. **Sec. 31.** Subsequent to the formation of an organic  
21 food commission following a referendum vote of affected producers in  
22 accordance with section 10 of this act and the establishment of an  
23 assessment on organic foods in accordance with section 17 of this act,  
24 organic food subject to an assessment by the organic food commission is  
25 exempt from assessments by any other commodity commissions formed under  
26 chapters 15.24, 15.26, 15.28, 15.44, 15.62, 15.65, 15.66, and 16.67  
27 RCW.

28 NEW SECTION. **Sec. 32.** A new section is added to chapter 15.24 RCW  
29 to read as follows:

30 Organic foods subject to an assessment by the organic food  
31 commission established in accordance with section 10 of this act and  
32 levied in accordance with section 17 of this act are exempt from an  
33 assessment levied by a commission established under this chapter.



1        NEW SECTION.    **Sec. 33.** A new section is added to chapter 15.26 RCW  
2 to read as follows:

3        Organic foods subject to an assessment by the organic food  
4 commission established in accordance with section 10 of this act and  
5 levied in accordance with section 17 of this act are exempt from an  
6 assessment levied by a commission established under this chapter.

7        NEW SECTION.    **Sec. 34.** A new section is added to chapter 15.28 RCW  
8 to read as follows:

9        Organic foods subject to an assessment by the organic food  
10 commission established in accordance with section 10 of this act and  
11 levied in accordance with section 17 of this act are exempt from an  
12 assessment levied by a commission established under this chapter.

13       NEW SECTION.    **Sec. 35.** A new section is added to chapter 15.44 RCW  
14 to read as follows:

15       Organic foods subject to an assessment by the organic food  
16 commission established in accordance with section 10 of this act and  
17 levied in accordance with section 17 of this act are exempt from an  
18 assessment levied by a commission established under this chapter.

19       NEW SECTION.    **Sec. 36.** A new section is added to chapter 15.62 RCW  
20 to read as follows:

21       Organic foods subject to an assessment by the organic food  
22 commission established in accordance with section 10 of this act and  
23 levied in accordance with section 17 of this act are exempt from an  
24 assessment levied by a commission established under this chapter.

25       NEW SECTION.    **Sec. 37.** A new section is added to chapter 15.65 RCW  
26 to read as follows:

27       Organic foods subject to an assessment by the organic food  
28 commission established in accordance with section 10 of this act and  
29 levied in accordance with section 17 of this act are exempt from an  
30 assessment levied by a commission established under this chapter.

31       NEW SECTION.    **Sec. 38.** A new section is added to chapter 15.66 RCW  
32 to read as follows:

33       Organic foods subject to an assessment by the organic food  
34 commission established in accordance with section 10 of this act and

1 levied in accordance with section 17 of this act are exempt from an  
2 assessment levied by a commission established under this chapter.

3 NEW SECTION. **Sec. 39.** A new section is added to chapter 16.67 RCW  
4 to read as follows:

5 Organic foods subject to an assessment by the organic food  
6 commission established in accordance with section 10 of this act and  
7 levied in accordance with section 17 of this act are exempt from an  
8 assessment levied by a commission established under this chapter.

9 NEW SECTION. **Sec. 40.** A new section is added to chapter 43.78 RCW  
10 to read as follows:

11 This chapter does not apply to promotional printing and literature  
12 for the organic foods commission formed under chapter 15.-- RCW  
13 (sections 1 through 31 of this act).

14 NEW SECTION. **Sec. 41.** Sections 1 through 31 of this act  
15 constitute a new chapter in Title 15 RCW.

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