

HOUSE BILL REPORT

SB 6339

As Passed House:

March 4, 2004

Title: An act relating to seed-related business practices.

Brief Description: Regulating seed-related business practices.

Sponsors: By Senators Swecker and Rasmussen.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/24/04, 2/27/04 [DP].

Floor Activity:

Passed House: 3/4/04, 94-0.

Brief Summary of Bill

- Expressly includes agricultural seed, flower seed, vegetable seed, other crop seed, and certain other seeds among the agricultural commodities regulated under the state's commission merchant laws.
- Repeals an alternative bond calculation schedule for a licensee's dollar volume derived from proprietary seed bailment contracts.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 11 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Staff: Kenneth Hirst (786-7105).

Background:

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 by the Department of Agriculture under the state's commission merchant laws. Surety bonds are required for those licensed as commission merchants or dealers.

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 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. In general, a "dealer" is a person other than a cash buyer who solicits, obtains, or contracts or agrees to obtain from a consignor the title, possession, or control of an agricultural product for resale, sale, or processing.

The bond for a commission merchant or dealer in hay, straw, turf, forage or vegetable seed is not less than \$15,000. The actual amount is determined by dividing the annual dollar volume of the licensee's net proceeds or net payments due consignors by 12 and increasing that amount to the next multiple of \$5,000. However, an alternative bond computation schedule is established for the dollar volume arising from proprietary seed bailment contracts. It is determined by dividing that annual dollar volume by 52 and increasing the amount to the next multiple of \$2,000 (except that bonds above \$26,000 are increased to the next multiple of \$5,000).

Summary of Bill:

The trade in agricultural products regulated under the state's commission merchant laws expressly includes agricultural seed, flower seed, vegetable seed, other crop seed, and "seeds" as they are defined in the state's Seed Act. Although seeds are expressly among the commodities regulated under these laws, disputes regarding responsibilities for seed clean out are governed exclusively by contracts between the producers of the seed and conditioners or processors of the seed. Further, a prohibition against a commission merchant's including in the merchant's contracts a requirement that the consignor give up all involvement in determining the time the product will be sold does not apply to seeds.

The bond required for a commission merchant or dealer in such seeds is the same as is currently required for such a merchant or dealer in hay or straw or in turf, forage, or vegetable seed. Repealed is an alternative bond computation schedule for such a commission merchant or dealer for the dollar volume arising from proprietary seed bailment contracts.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: 1) Last year, the WSDA was directed to form an advisory committee to examine alternative means of providing financial security to growers in transactions involving agricultural seeds. The bill implements the recommendations of the advisory committee. 2) The group also examined the issue of providing an indemnity fund for providing such security, but the growers were not prepared to take that step at this time.

(For Amendment) The WSDA should not be given the authority to resolve disputes between growers and seed companies regarding the amount of non-seed material with the seed that is acceptable in transactions.

Testimony Against: None.

Persons Testifying: (In support) Jerry Buendel, Washington State Department of Agriculture.

(In support with amendment) Brad Boswell, Washington/North Idaho Seed Association.

Persons Signed In To Testify But Not Testifying: None.