

# SENATE BILL REPORT

## SB 6339

---

---

As Passed Senate, February 16, 2004

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

**Brief Description:** Regulating seed-related business practices.

**Sponsors:** Senators Swecker and Rasmussen.

**Brief History:**

**Committee Activity:** Agriculture: 1/29/04, 2/3/04 [DP].

Passed Senate: 2/16/04, 48-0.

---

### SENATE COMMITTEE ON AGRICULTURE

**Majority Report:** Do pass.

Signed by Senators Swecker, Chair; Brandland, Vice Chair; Jacobsen, Rasmussen and Sheahan.

**Staff:** Evan Sheffels (786-7486)

**Background:** Generally, the Commission Merchants Act (CMA) protects agricultural producers against theft, fraud, and unfair business practices related to the buying, selling and consigning of agricultural products. The Department of Agriculture administers the CMA program, which is funded by license fees. With certain exceptions, any person acting as a commission merchant, dealer, broker, or cash buyer for agricultural commodities must comply with CMA licensing and bonding requirements.

A "commission merchant" in seeds typically receives, processes and sells agricultural products on a consigning producer's behalf for a commission. Except for contracts related to commodity pooling arrangements, a commission merchant's contract may not require a producer/consignor to give up all involvement in determining when consigned products will be sold.

According to the department, a 1999 seed company bankruptcy left 55 Washington growers unpaid for seed valued at \$4.5 million. The department also reports that 24 of the state's 54 known seed dealers are currently licensed and bonded under CMA.

As required by SHB 1100, which passed the 2003 Legislature, the Washington State Department of Agriculture (WSDA) established an advisory committee of seed producers and seed companies to study mechanisms that might better protect seed producers in the event of nonpayment or seed company bankruptcy. WSDA has reported the results of the seed producer protection study to the Legislature and provided suggested legislative changes in bill form, as directed.

**Summary of Bill:** Seeds, as defined under Washington's Seed Labeling Act, are expressly added to the Commission Merchants Act definition of "agricultural product," clarifying that those involved in buying, selling or consigning seeds are subject to CMA requirements.

The bonding formula is modified so that the same bonding formula applies to all seed types and contracts, including seed produced under proprietary seed bailment contracts.

Seeds consigned to a commission merchant are exempt from the prohibition making it unlawful for a commission merchant's contract to require a producer/consignor to give up all involvement in determining when the consigned products will be sold.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** There was consensus among advisory group members that CMA license and bonding requirements should apply to seed dealers. There was also consensus that this was not the right time for legislative consideration of an indemnity fund program. One seed dealer member of the group thought clean-out issues should be addressed, but the other seed dealers in the advisory group indicated a preference to leave clean-out issues alone. They can be resolved by contract or in discussion between a producer and a dealer.

**Testimony Against:** There is still some concern about the department's role in disputes between producers and dealers on clean-out issues.

**Testified:** Jerry Buendel, Washington Department of Agriculture; Brad Boswell, Washington North Idaho Seed Association.

**House Amendment(s):** Disputes regarding responsibilities for seed clean out are to be governed exclusively by contracts between the producers of the seed and conditioners or processors of the seeds. This does not alter the bill's express clarification that seeds are among the commodities regulated under the commission merchant laws.