

CERTIFICATION OF ENROLLMENT

SENATE BILL 6339

58th Legislature
2004 Regular Session

Passed by the Senate March 11, 2004
YEAS 48 NAYS 0

President of the Senate

Passed by the House March 4, 2004
YEAS 94 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SENATE BILL 6339 as passed by the
Senate and the House of
Representatives on the dates
hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 6339

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Senators Swecker and Rasmussen

Read first time 01/19/2004. Referred to Committee on Agriculture.

1 AN ACT Relating to seed-related business practices; and amending
2 RCW 20.01.010, 20.01.210, and 20.01.465.

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

4 **Sec. 1.** RCW 20.01.010 and 2003 c 395 s 1 are each amended to read
5 as follows:

6 As used in this title the terms defined in this section have the
7 meanings indicated unless the context clearly requires otherwise.

8 (1) "Director" means the director of agriculture or a duly
9 authorized representative.

10 (2) "Person" means any natural person, firm, partnership, exchange,
11 association, trustee, receiver, corporation, and any member, officer,
12 or employee thereof or assignee for the benefit of creditors.

13 (3) "Agricultural product" means any unprocessed horticultural,
14 vermicultural and its byproducts, viticultural, berry, poultry, poultry
15 product, grain, bee, or other agricultural products(~~(, and)~~).
16 "Agricultural product" also includes (a) mint or mint oil processed by
17 or for the producer thereof (~~and~~), hay and straw baled or prepared
18 for market in any manner or form and livestock; and (b) agricultural
19 seed, flower seed, vegetable seed, other crop seed, and seeds, as

1 defined in chapter 15.49 RCW, however, any disputes regarding
2 responsibilities for seed clean out are governed exclusively by
3 contracts between the producers of the seed and conditioners or
4 processors of the seed.

5 (4) "Producer" means any person engaged in the business of growing
6 or producing any agricultural product, whether as the owner of the
7 products, or producing the products for others holding the title
8 thereof.

9 (5) "Consignor" means any producer, person, or his agent who sells,
10 ships, or delivers to any commission merchant, dealer, cash buyer, or
11 agent, any agricultural product for processing, handling, sale, or
12 resale.

13 (6) "Commission merchant" means any person who receives on
14 consignment for sale or processing and sale from the consignor thereof
15 any agricultural product for sale on commission on behalf of the
16 consignor, or who accepts any farm product in trust from the consignor
17 thereof for the purpose of resale, or who sells or offers for sale on
18 commission any agricultural product, or who in any way handles for the
19 account of or as an agent of the consignor thereof, any agricultural
20 product.

21 (7) "Dealer" means any person other than a cash buyer, as defined
22 in subsection (10) of this section, who solicits, contracts for, or
23 obtains from the consignor thereof for reselling or processing, title,
24 possession, or control of any agricultural product, or who buys or
25 agrees to buy any agricultural product from the consignor thereof for
26 sale or processing and includes any person, other than one who acts
27 solely as a producer, who retains title in an agricultural product and
28 delivers it to a producer for further production or increase. For the
29 purposes of this chapter, the term dealer includes any person who
30 purchases livestock on behalf of and for the account of another, or who
31 purchases cattle in another state or country and imports these cattle
32 into this state for resale.

33 (8) "Limited dealer" means any person who buys, agrees to buy, or
34 pays for the production or increase of any agricultural product by
35 paying to the consignor at the time of obtaining possession or control
36 of any agricultural product the full agreed price of the agricultural
37 product and who operates under the alternative bonding provision in RCW
38 20.01.211.

1 (9) "Broker" means any person other than a commission merchant,
2 dealer, or cash buyer who negotiates the purchase or sale of any
3 agricultural product, but no broker may handle the agricultural
4 products involved or proceeds of the sale.

5 (10) "Cash buyer" means any person other than a commission
6 merchant, dealer, or broker, who obtains from the consignor thereof for
7 the purpose of resale or processing, title, possession, or control of
8 any agricultural product or who contracts for the title, possession, or
9 control of any agricultural product, or who buys or agrees to buy for
10 resale any agricultural product by paying to the consignor at the time
11 of obtaining possession or control of any agricultural product the full
12 agreed price of the agricultural product, in coin or currency, lawful
13 money of the United States. However, a cashier's check, certified
14 check, credit card, or bankdraft may be used for the payment. For the
15 purposes of this subsection, "agricultural product," does not include
16 hay, grain, straw, or livestock.

17 (11) "Agent" means any person who, on behalf of any commission
18 merchant, dealer, broker, or cash buyer, acts as liaison between a
19 consignor and a principal, or receives, contracts for, or solicits any
20 agricultural product from the consignor thereof or who negotiates the
21 consignment or purchase of any agricultural product on behalf of any
22 commission merchant, dealer, broker, or cash buyer and who transacts
23 all or a portion of that business at any location other than at the
24 principal place of business of his employer. With the exception of an
25 agent for a commission merchant or dealer handling horticultural
26 products, an agent may operate only in the name of one principal and
27 only to the account of that principal.

28 (12) "Retail merchant" means any person operating from a bona fide
29 or established place of business selling agricultural products twelve
30 months of each year.

31 (13) "Fixed or established place of business" for the purpose of
32 this chapter means any permanent warehouse, building, or structure, at
33 which necessary and appropriate equipment and fixtures are maintained
34 for properly handling those agricultural products generally dealt in,
35 and at which supplies of the agricultural products being usually
36 transported are stored, offered for sale, sold, delivered, and
37 generally dealt with in quantities reasonably adequate for and usually
38 carried for the requirements of such a business, and that is recognized

1 as a permanent business at such place, and carried on as such in good
2 faith and not for the purpose of evading this chapter, and where
3 specifically designated personnel are available to handle transactions
4 concerning those agricultural products generally dealt in, which
5 personnel are available during designated and appropriate hours to that
6 business, and shall not mean a residence, barn, garage, tent, temporary
7 stand or other temporary quarters, any railway car, or permanent
8 quarters occupied pursuant to any temporary arrangement.

9 (14) "Processor" means any person, firm, company, or other
10 organization that purchases agricultural crops from a consignor and
11 that cans, freezes, dries, dehydrates, cooks, presses, powders, or
12 otherwise processes those crops in any manner whatsoever for eventual
13 resale.

14 (15) "Pooling contract" means any written agreement whereby a
15 consignor delivers a horticultural product to a commission merchant
16 under terms whereby the commission merchant may commingle the
17 consignor's horticultural products for sale with others similarly
18 agreeing, which must include all of the following:

19 (a) A delivery receipt for the consignor that indicates the variety
20 of horticultural product delivered, the number of containers, or the
21 weight and tare thereof;

22 (b) Horticultural products received for handling and sale in the
23 fresh market shall be accounted for to the consignor with individual
24 pack-out records that shall include variety, grade, size, and date of
25 delivery. Individual daily packing summaries shall be available within
26 forty-eight hours after packing occurs. However, platform inspection
27 shall be acceptable by mutual contract agreement on small deliveries to
28 determine variety, grade, size, and date of delivery;

29 (c) Terms under which the commission merchant may use his judgment
30 in regard to the sale of the pooled horticultural product;

31 (d) The charges to be paid by the consignor as filed with the state
32 of Washington;

33 (e) A provision that the consignor shall be paid for his pool
34 contribution when the pool is in the process of being marketed in
35 direct proportion, not less than eighty percent of his interest less
36 expenses directly incurred, prior liens, and other advances on the
37 grower's crop unless otherwise mutually agreed upon between grower and
38 commission merchant.

1 (16) "Date of sale" means the date agricultural products are
2 delivered to the person buying the products.

3 (17) "Conditioner" means any person, firm, company, or other
4 organization that receives (~~turf, forage, or vegetable~~) seeds from a
5 consignor for drying or cleaning.

6 (18) "Seed bailment contract" means any contract meeting the
7 requirements of chapter 15.48 RCW.

8 (19) "Proprietary seed" means any seed that is protected under the
9 Federal Plant Variety Protection Act.

10 (20) "Licensed public weighmaster" means any person, licensed under
11 the provisions of chapter 15.80 RCW, who weighs, measures, or counts
12 any commodity or thing and issues therefor a signed certified
13 statement, ticket, or memorandum of weight, measure, or count upon
14 which the purchase or sale of any commodity or upon which the basic
15 charge of payment for services rendered is based.

16 (21) "Certified weight" means any signed certified statement or
17 memorandum of weight, measure or count issued by a licensed public
18 weighmaster in accordance with the provisions of chapter 15.80 RCW.

19 (22) "Licensee" means any person or business licensed under this
20 chapter as a commission merchant, dealer, limited dealer, broker, cash
21 buyer, or agent.

22 (23) "Seed" means agricultural seed, flower seed, vegetable seed,
23 other crop seed, and seeds, as defined in chapter 15.49 RCW.

24 (24) "Seed clean out" means the process of removing impurities from
25 raw seed product.

26 **Sec. 2.** RCW 20.01.210 and 1991 c 109 s 18 are each amended to read
27 as follows:

28 (1) Before the license is issued to any commission merchant or
29 dealer, or both, the applicant shall execute and deliver to the
30 director a surety bond executed by the applicant as principal and by a
31 surety company qualified and authorized to do business in this state as
32 surety. (~~Said~~) The bond shall be to the state for the benefit of
33 qualified consignors of agricultural products in this state. All such
34 sureties on a bond, as provided (~~herein~~) in this section, shall be
35 released and discharged from all liability to the state accruing on
36 such bond by giving notice to the principal and the director by
37 certified mail. Upon receipt of such notice the director shall notify

1 the surety and the principal of the effective date of termination which
2 shall be thirty days from the receipt of such notice by the director,
3 but this shall not relieve, release, or discharge the surety from any
4 liability already accrued or which shall accrue before the expiration
5 period provided for (~~(above)~~) in this subsection.

6 (2) The bond for a commission merchant or dealer in hay, straw, or
7 (~~(turf, forage or vegetable)~~) seed shall be not less than fifteen
8 thousand dollars. The actual amount of such bond shall be determined
9 by dividing the annual dollar volume of the licensee's net proceeds or
10 net payments due consignors by twelve and increasing that amount to the
11 next multiple of five thousand dollars (~~(, except that the bond amount~~
12 ~~for dollar volume arising from proprietary seed bailment contracts~~
13 ~~shall be computed as provided in subsection (4) of this section)~~).
14 (~~(Such)~~) The bond for a new commission merchant or dealer in hay,
15 straw, or (~~(turf, forage or vegetable)~~) seed shall be subject to
16 increase at any time during the licensee's first year of operation
17 based on the average of business volume for any three months. Except
18 as provided in subsection (3) of this section, the bond shall be not
19 less than ten thousand dollars for any other dealer.

20 (3) The bond for a commission merchant or dealer in livestock shall
21 be not less than ten thousand dollars. The actual amount of such bond
22 shall be determined in accordance with the formula set forth in the
23 packers and stockyard act of 1921 (7 U.S.C. 181), except that a
24 commission merchant or dealer in livestock shall increase the
25 commission merchant's or dealer's bond by five thousand dollars for
26 each agent the commission merchant or dealer has endorsed under RCW
27 20.01.090. A dealer who also acts as an order buyer for other persons
28 who are also licensed and bonded under this chapter or under the
29 packers and stockyards act (7 U.S.C. 181) may subtract that amount of
30 business from the annual gross volume of purchases reported to the
31 director in determining the amount of bond coverage that must be
32 provided and maintained for the purposes of this chapter.

33 (4) The bond for a commission merchant handling agricultural
34 products other than livestock, hay, straw, or (~~(turf, forage or~~
35 ~~vegetable)~~) seed shall not be less than ten thousand dollars. The bond
36 for a dealer handling agricultural products other than livestock, hay,
37 straw, or (~~(turf, forage or vegetable)~~) seed shall not be less than ten
38 thousand dollars. The actual amount of such bond shall be determined

1 by dividing the annual dollar volume of the licensee's net proceeds or
2 net payments due consignors by fifty-two and increasing that amount to
3 the next multiple of two thousand dollars. However, bonds above
4 twenty-six thousand dollars shall be increased to the next multiple of
5 five thousand dollars.

6 (5) When the annual dollar volume of any commission merchant or
7 dealer reaches two million six hundred thousand dollars, the amount of
8 the bond required above this level shall be on a basis of ten percent
9 of the amount arrived at by applying the appropriate formula.

10 **Sec. 3.** RCW 20.01.465 and 1991 c 109 s 24 are each amended to read
11 as follows:

12 (1) In the preparation and use of written contracts, it is unlawful
13 for a commission merchant to include in such contracts a requirement
14 that a consignor give up all involvement in determining the time the
15 consignor's agricultural products will be sold. (~~(This provision)~~)

16 (2) Subsection (1) of this section does not apply to agricultural
17 products consigned to a commission merchant under a written pooling
18 agreement.

19 (3) Subsection (1) of this section does not apply to seeds
20 consigned to a commission merchant.

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