
SUBSTITUTE HOUSE BILL 3046

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives P. Sullivan, Newhouse, Grant, Kristiansen, Quall, Armstrong, Blake, Haler, Wallace, Skinner, Clibborn, Chandler, Condotta, Kessler, Morrell, Simpson, Conway, Kirby, Sells, Rodne, Kilmer and Linville)

READ FIRST TIME 02/02/06.

1 AN ACT Relating to establishing the Washington beer commission;
2 amending RCW 66.44.800, 15.04.200, 42.17.31907, 42.56.380, and
3 43.23.033; adding a new section to chapter 66.12 RCW; adding a new
4 chapter to Title 15 RCW; providing an effective date; and providing an
5 expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature declares that:

8 (1) Marketing is a dynamic and changing part of Washington
9 agriculture and a vital element in expanding the state economy;

10 (2) The sale in this state and export to other states and abroad of
11 beer made in this state contribute substantial benefits to the economy
12 of the state and provide a large number of jobs and sizeable tax
13 revenues;

14 (3) The production of beer in this state is a new and important
15 segment of Washington agriculture that has potential for greater
16 contribution to the economy of the state if it undergoes continued
17 development; and

18 (4) The general welfare of the people of this state will be served
19 by continued development of the activities of the production of beer,

1 that will improve the tax bases of local communities where agricultural
2 land and processing facilities are located, and reduce the need for
3 state and federal funding of local services. The industries are
4 therefore affected with the public interest.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Affected producer" means any producer who is subject to this
8 chapter.

9 (2) "Beer" means any malt beverage or malt liquor as the terms are
10 defined in chapter 66.04 RCW.

11 (3) "Commission" means the Washington beer commission.

12 (4) "Fiscal year" means the twelve-month period beginning with
13 January 1st of any year and ending December 31st.

14 (5) "Producer" means any person or other entity licensed under
15 Title 66 RCW to produce beer within Washington state and who produces
16 less than one hundred thousand barrels of beer annually per location.

17 (6) "Referendum" means a vote by affected producers that is
18 conducted by secret ballot.

19 NEW SECTION. **Sec. 3.** The history, economy, culture, and future of
20 Washington state's agriculture involve the beer industry. In order to
21 develop and promote beer as part of an existing comprehensive scheme to
22 regulate those products, the legislature declares that:

23 (1) It is vital to the continued economic well-being of the
24 citizens of this state and their general welfare that beer produced in
25 Washington state be properly promoted;

26 (2) It is in the overriding public interest that support for the
27 Washington beer industry be clearly expressed and that beer be promoted
28 individually, and as part of a comprehensive industry to:

29 (a) Enhance the reputation and image of Washington state's
30 agriculture industry;

31 (b) Protect the public by educating the public in reference to the
32 quality, care, and methods used in the production of beer;

33 (c) Increase the knowledge of the qualities and value of
34 Washington's beer; and

35 (d) Support and engage in programs or activities that benefit the
36 production, handling, processing, marketing, and uses of beer;

1 (3) This chapter is enacted in the exercise of the police powers of
2 this state to protect the health, peace, safety, and general welfare of
3 the people of this state; and

4 (4) The production and marketing of beer is a highly regulated
5 industry and this chapter and the rules adopted under it are only one
6 aspect of the regulated industry. Other laws applicable to the beer
7 industry include:

8 (a) The organic food products act, chapter 15.86 RCW;

9 (b) The wholesale distributors and suppliers of malt beverages,
10 chapter 19.126 RCW;

11 (c) Weights and measures, chapter 19.94 RCW;

12 (d) Title 66 RCW, alcoholic beverage control;

13 (e) Title 69 RCW, food, drugs, cosmetics, and poisons;

14 (f) 21 C.F.R. as it relates to general manufacturing practices,
15 food labeling, food standards, food additives, and pesticide
16 tolerances;

17 (g) Chapter 69.07 RCW, Washington food processing act;

18 (h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;

19 (i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and

20 (j) Rules under Titles 16 and 314 WAC.

21 NEW SECTION. **Sec. 4.** (1) Subject to the referendum conducted
22 under section 5 of this act, there is created an agricultural commodity
23 commission, to be known as the Washington beer commission. The
24 commission shall be comprised of seven voting members; six members
25 shall be producers and one voting member shall be the director.

26 (2) Five voting members of the commission constitute a quorum for
27 the transaction of any commission business.

28 (3) Each producer member shall be a citizen and resident of this
29 state and over the age of twenty-one. Each producer member must be
30 engaged in producing beer, and must, during his or her term of office,
31 derive a substantial portion of income from the production of beer, or
32 have a substantial investment in the production of beer as an owner,
33 lessee, partner, or the manager or executive officer of such a
34 corporation. No more than one board member may be part of the same
35 person as defined by RCW 15.04.010. These qualifications apply
36 throughout each member's term of office but do not apply to the
37 director.

1 (4) The producer members shall serve three-year terms. Of the
2 initial voting members, two members shall be appointed for a one-year
3 term, two members shall be appointed for a two-year term, and two
4 members shall be appointed for a three-year term.

5 NEW SECTION. **Sec. 5.** (1) Upon receipt of a petition containing
6 the signatures of five beer producers from a statewide Washington state
7 craft brewing trade association or other affected producers to
8 implement this chapter and to determine producer participation in the
9 commission and assessment under this chapter, the director shall:

10 (a) Conduct a referendum of beer producers. The requirements of
11 assent or approval of the referendum are met if:

12 (i) At least fifty-one percent by numbers of affected producers
13 participating in the referendum vote affirmatively; and

14 (ii) Thirty percent of the affected producers and thirty percent of
15 the production have been represented in the referendum to determine
16 assent or approval of participation and assessment. The referendum
17 shall be conducted within sixty days of receipt of the petition; and

18 (b) Establish a list of beer producers from information provided by
19 the petitioners, by obtaining information on beer producers from
20 applicable producer organizations or associations or other sources
21 identified as maintaining the information. In establishing a current
22 list of beer producers and their individual production, the director
23 shall use the beer producer's name, mailing address, and production by
24 the producer in the preceding fiscal year. Information on each
25 producer shall be mailed to each beer producer on record with the
26 director for verification. All corrections shall be filed with the
27 director within twenty days from the date of mailing. The list of
28 affected producers shall be kept in a file by the director. The list
29 shall be certified as a true representation of the referendum mailing
30 list. Inadvertent failure to notify an affected producer does not
31 invalidate a proceeding conducted under this chapter. The director
32 shall provide the commission the list of affected producers after
33 assent in a referendum as provided in this section.

34 (2) If the director determines that the requisite assent has been
35 given in the referendum conducted under subsection (1) of this section,
36 the director shall:

1 (a) Within sixty days after assent of the referendum held, appoint
2 the members of the commission; and

3 (b) Direct the commission to put into force the assessment as
4 provided for in section 14 of this act.

5 (3) If the director determines that the requisite assent has not
6 been given in the referendum conducted under subsection (1) of this
7 section, the director shall take no further action to implement or
8 enforce this chapter.

9 (4) Upon completion of the referendum conducted under subsection
10 (1) of this section, the department shall tally the results of the vote
11 and provide the results to affected producers. If an affected producer
12 disputes the results of a vote, that producer within sixty days from
13 the announced results, shall provide in writing a statement of why the
14 vote is disputed and request a recount. Once the vote is tallied and
15 distributed, all disputes are resolved, and all matters in a vote are
16 finalized, the individual ballots may be destroyed.

17 (5) Before conducting the referendum provided for in subsection (1)
18 of this section, the director may require the petitioners to deposit
19 with him or her an amount of money as the director deems necessary to
20 defray the expenses of conducting the referendum. The director shall
21 provide the petitioners an estimate of expenses that may be incurred to
22 conduct a referendum before any service takes place. Petitioners shall
23 deposit funds with the director to pay for expenses incurred by the
24 department. The commission shall reimburse petitioners the amount paid
25 to the department when funds become available. However, if for any
26 reason the referendum process is discontinued, the petitioners shall
27 reimburse the department for expenses incurred by the department up
28 until the time the process is discontinued.

29 (6) The director is not required to hold a referendum under
30 subsection (1) of this section more than once in any twelve-month
31 period.

32 NEW SECTION. **Sec. 6.** (1) The director shall appoint the producer
33 members of the commission. In making appointments, no later than
34 ninety days before an expiration of a commission member's term, the
35 director shall call for recommendations for commission member
36 positions, and the director shall take into consideration
37 recommendations made by a statewide Washington state craft brewing

1 trade association or other affected producers. In appointing persons
2 to the commission, the director shall seek a balanced representation on
3 the commission that reflects the composition of the beer producers
4 throughout the state on the basis of beer produced and geographic
5 location. Information on beer production by geographic location shall
6 be provided by the commission upon the director's request.

7 (2) If a position on the commission becomes vacant due to
8 resignation, disqualification, death, or for any other reason, the
9 commission shall notify the director and the unexpired term shall
10 immediately be filled by appointment by the director.

11 (3) Each member or employee of the commission shall be reimbursed
12 for actual travel expenses incurred in carrying out this chapter as
13 defined by the commission in rule. Otherwise if not defined in rule,
14 reimbursement for travel expenses shall be at the rates allowed by RCW
15 43.03.050 and 43.03.060.

16 NEW SECTION. **Sec. 7.** Obligations incurred by the commission and
17 any other liabilities or claims against the commission shall be
18 enforced only against the assets of the commission and, except to the
19 extent of such assets, no liability for the debts or actions of the
20 commission exists against either the state of Washington or any
21 subdivision or instrumentality thereof or against any member, employee,
22 or agent of the commission or the state of Washington in his or her
23 individual capacity. Except as otherwise provided in this chapter,
24 neither the commission members, nor its employees, may be held
25 individually responsible for errors in judgment, mistakes, or other
26 acts, either of commission or omission, as principal, agent, person, or
27 employee, except for their own individual acts of dishonesty or crime.
28 No person or employee may be held individually responsible for any act
29 or omission of any other commission members. The liability of the
30 commission members shall be several and not joint, and no member is
31 liable for the default of any other member. This provision confirms
32 that commission members have been and continue to be, state officers or
33 volunteers for purposes of RCW 4.92.075 and are entitled to the
34 defenses, indemnifications, limitations of liability, and other
35 protections and benefits of chapter 4.92 RCW.

36 NEW SECTION. **Sec. 8.** The commission shall:

1 (1) Elect a chair and officers. The officers must include a
2 treasurer who is responsible for all receipts and disbursements by the
3 commission and the faithful discharge of whose duties shall be
4 guaranteed by a bond at the sole expense of the commission. The
5 commission must adopt rules for its own governance that provide for the
6 holding of an annual meeting for the election of officers and the
7 transaction of other business and for other meetings the commission may
8 direct;

9 (2) Do all things reasonably necessary to effect the purposes of
10 this chapter. However, the commission has no rule-making power except
11 as provided in this chapter;

12 (3) Employ and discharge managers, secretaries, agents, attorneys,
13 and employees and engage the services of independent contractors;

14 (4) Retain, as necessary, the services of private legal counsel to
15 conduct legal actions on behalf of the commission. The retention of a
16 private attorney is subject to review by the office of the attorney
17 general;

18 (5) Receive donations of beer from producers for promotional
19 purposes;

20 (6) Engage directly or indirectly in the promotion of Washington
21 beer, including, without limitation, the acquisition in any lawful
22 manner and the dissemination with or without charge of beer. This
23 dissemination is not deemed a sale for any purpose and the commission
24 is not deemed a producer, supplier, or manufacturer, or the clerk,
25 servant, or agent of a producer, supplier, distributor, or
26 manufacturer. This dissemination shall be for agricultural development
27 or trade promotion, that may include promotional hosting and must in
28 the good faith judgment of the commission be in the aid of the
29 marketing, advertising, sale of beer, or of research related to such
30 marketing, advertising, or sale;

31 (7) Promote Washington beer through the production of special
32 events such as beer festivals and unique tastings. For this purpose,
33 the commission would qualify for issue of special event liquor permits
34 as an exception to WAC 314-05-020;

35 (8) Participate in international, federal, state, and local
36 hearings, meetings, and other proceedings relating to the production,
37 regulation, distribution, sale, or use of beer including activities

1 authorized under RCW 42.17.190, including the reporting of those
2 activities to the public disclosure commission;

3 (9) Acquire and transfer personal and real property, establish
4 offices, incur expenses, and enter into contracts, including contracts
5 for the creation and printing of promotional literature. The contracts
6 are not subject to chapter 43.78 RCW, and are cancelable by the
7 commission unless performed under conditions of employment that
8 substantially conform to the laws of this state and the rules of the
9 department of labor and industries. The commission may create debt and
10 other liabilities that are reasonable for proper discharge of its
11 duties under this chapter;

12 (10) Maintain accounts with one or more qualified public
13 depositories as the commission may direct, for the deposit of money,
14 and expend money for purposes authorized by this chapter by drafts made
15 by the commission upon such institutions or by other means;

16 (11) Cause to be kept and annually closed, in accordance with
17 generally accepted accounting principles, accurate records of all
18 receipts, disbursements, and other financial transactions, available
19 for audit by the state auditor;

20 (12) Create and maintain a list of producers and disseminate
21 information among and solicit the opinions of producers with respect to
22 the discharge of the duties of the commission, directly or by
23 arrangement with trade associations or other instrumentalities;

24 (13) Employ, designate as an agent, act in concert with, and enter
25 into contracts with any person, council, commission, or other entity to
26 promote the general welfare of the beer industry and particularly to
27 assist in the sale and distribution of Washington beer in domestic and
28 foreign commerce. The commission shall expend money necessary or
29 advisable for this purpose and to pay its proportionate share of the
30 cost of any program providing direct or indirect assistance to the sale
31 and distribution of Washington beer in domestic or foreign commerce,
32 employing and paying for vendors of professional services of all kinds;

33 (14) Sue and be sued as a commission, without individual liability
34 for acts of the commission within the scope of the powers conferred
35 upon it by this chapter; and

36 (15) Serve as liaison with the liquor control board on behalf of
37 the commission and not for any individual producer.

1 NEW SECTION. **Sec. 9.** (1) The commission shall develop and submit
2 to the director for approval any plans, programs, and projects
3 concerning the following:

4 (a) The establishment, issuance, effectuation, and administration
5 of appropriate programs or projects for advertising, promotion, and
6 education programs related to beer; and

7 (b) The establishment and effectuation of market research projects,
8 market development projects, or both to the end that the marketing of
9 beer may be encouraged, expanded, improved, or made more efficient.

10 (2) The director shall review the commission's advertising or
11 promotion program to ensure that no false claims are being made
12 concerning beer.

13 (3) The commission, before the beginning of its fiscal year, shall
14 prepare and submit to the director for approval its research plan, its
15 commodity-related education and training plan, and its budget on a
16 fiscal period basis.

17 (4) The director shall strive to review and make a determination of
18 all submissions described in this section in a timely manner.

19 NEW SECTION. **Sec. 10.** The commission exists primarily for the
20 benefit of the people of the state of Washington and its economy. The
21 legislature hereby charges the commission, with oversight by the
22 director, to speak on behalf of the Washington state government with
23 regard to the marketing and promotion of Washington produced beer.

24 NEW SECTION. **Sec. 11.** The commission may create, provide for, and
25 conduct a comprehensive and extensive research, promotional, and
26 educational campaign as sales and market conditions reasonably require.
27 It shall investigate and ascertain the needs of producers, conditions
28 of markets, and degree of public awareness of products, and take into
29 account this information in the discharge of its duties under this
30 chapter.

31 NEW SECTION. **Sec. 12.** The commission shall adopt as major
32 objectives of its research, promotional, and educational campaign goals
33 that serve the needs of producers. The goals may include efforts to:

34 (1) Establish Washington beer as a major factor in markets
35 everywhere;

- 1 (2) Promote Washington breweries as tourist attractions;
- 2 (3) Encourage favorable reporting of Washington beer and breweries
3 in the press throughout the world;
- 4 (4) Establish Washington beer in markets everywhere as a major
5 source of premium beer;
- 6 (5) Encourage favorable legislative and regulatory treatment of
7 Washington beer in markets everywhere;
- 8 (6) Encourage promotion of Washington agriculture related to beer
9 production, specifically hops, malting barley, and wheat grown in the
10 state; and
- 11 (7) Foster economic conditions favorable to investment in the
12 production of Washington beer.

13 NEW SECTION. **Sec. 13.** (1) The commission shall prepare a list of
14 all affected producers from information available from the department
15 or the producers' association. This list must contain the names and
16 addresses of affected producers within this state and the amount, by
17 barrelage, of beer produced during the period designated by the
18 commission. A qualified person may, at any time, have his or her name
19 placed upon the list by delivering or mailing the information to the
20 commission. This list shall be corrected and brought up-to-date in
21 accordance with evidence and information available to the commission by
22 December 31st of each year. For the purposes of giving notice and
23 holding referendums, the list updated before the date for issuing
24 notices or ballots is the list of all producers entitled to notice, to
25 assent or dissent, or to vote. Inadvertent failure to notify a
26 producer does not invalidate a proceeding conducted under this chapter.

27 (2) It is the responsibility of affected producers to ensure that
28 their correct address is filed with the commission. It is also the
29 responsibility of affected producers to submit production data to the
30 commission as prescribed by this chapter.

31 (3) The commission shall develop a reporting system to document
32 that the affected producers in this state are reporting quantities of
33 beer produced and are paying the assessment as provided in section 14
34 of this act.

35 NEW SECTION. **Sec. 14.** (1) Pursuant to referendum in accordance
36 with section 5 of this act, there is levied, and the commission shall

1 collect, upon beer produced by an affected producer, an annual
2 assessment of ten cents per barrel of beer produced, up to ten thousand
3 barrels per location.

4 (2) The commission shall adopt rules prescribing the time, place,
5 and method for payment and collection of this assessment and provide
6 for the collection of assessments from affected producers who ship
7 directly out-of-state.

8 (3) The commission may reduce the assessment per affected producer
9 based upon in-kind contributions to the commission.

10 NEW SECTION. **Sec. 15.** The commission shall deposit money
11 collected under section 14 of this act in a separate account in the
12 name of the commission in any bank that is a state depository. All
13 expenditures and disbursements made from this account under this
14 chapter may be made without the necessity of a specific legislative
15 appropriation. RCW 43.01.050 does not apply to this account or to the
16 money received, collected, or expended as provided in this chapter.

17 NEW SECTION. **Sec. 16.** An assessment levied in an amount
18 determined by the commission under section 14 of this act constitutes
19 a personal debt of every person assessed or who otherwise owes the
20 assessment, and the assessment is due and payable to the commission
21 when payment is called for by the commission. If a producer fails to
22 pay the commission the full amount of the assessment by the date due,
23 the commission may add to the unpaid assessment an amount not exceeding
24 ten percent of the assessment to defray the cost of enforcing its
25 collection. If the person fails to pay an assessment, the commission
26 may bring a civil action for collection against the person or persons
27 in a court of competent jurisdiction. The action shall be tried and
28 judgment rendered as in any other cause of action for a debt due and
29 payable.

30 NEW SECTION. **Sec. 17.** (1) Under RCW 42.56.380, certain
31 agricultural business records, commission records, and department of
32 agriculture records relating to the commission and producers of
33 agricultural commodities are exempt from public disclosure.

34 (2) Financial and commercial information and records submitted to
35 either the department or the commission for the purpose of

1 administering this chapter may be shared between the department and the
2 commission. They may also be used, if required, in any suit or
3 administrative hearing involving this chapter.

4 (3) This section does not prohibit:

5 (a) The issuance of general statements based upon the reports of
6 persons subject to this chapter as long as the statements do not
7 identify the information furnished by any person; or

8 (b) The publication by the director or the commission of the name
9 of any person violating this chapter and a statement of the manner of
10 the violation by that person.

11 NEW SECTION. **Sec. 18.** (1) All costs incurred by the department,
12 including the adoption of rules and other actions necessary to carry
13 out this chapter, shall be reimbursed by the commission.

14 (2) The director may provide by rule for a method to fund staff
15 support for all commodity boards or commissions in accordance with RCW
16 43.23.033 if a position is not directly funded by the legislature and
17 costs are related to the specific activity undertaken on behalf of an
18 individual commodity board or commission. The commission shall provide
19 funds to the department according to the rules adopted by the director.

20 NEW SECTION. **Sec. 19.** County and state law enforcement officers
21 and employees of the department shall enforce this chapter.

22 NEW SECTION. **Sec. 20.** (1) Any prosecution brought under this
23 chapter may be instituted in any county in which the defendant or any
24 defendant resides, or in which the violation was committed, or in which
25 the defendant or any defendant has his or her principal place of
26 business.

27 (2) The superior courts may enforce this chapter and the rules and
28 regulations of the commission issued hereunder, and may prevent and
29 restrain violations thereof.

30 NEW SECTION. **Sec. 21.** This act shall be liberally construed to
31 effectuate its purposes.

32 **Sec. 22.** RCW 66.44.800 and 1987 c 452 s 17 are each amended to
33 read as follows:

1 (1) Nothing contained in chapter 15.88 RCW shall affect the
2 compliance by the Washington wine commission with this chapter.

3 (2) Nothing contained in chapter 15.-- RCW (sections 1 through 21
4 of this act) shall affect the compliance by the Washington beer
5 commission with this chapter.

6 **NEW SECTION.** **Sec. 23.** A new section is added to chapter 66.12 RCW
7 to read as follows:

8 The Washington beer commission created under section 4 of this act
9 may purchase or receive donations of beer or malt beverages from any
10 brewery, in any state, or in any country and may use such beer or malt
11 beverages for any promotional purposes as outlined in section 8 of this
12 act. Beer and malt beverages that are furnished to the commission
13 under this section that are used within the state are subject to the
14 taxes imposed under RCW 66.24.290. No license, permit, or bond is
15 required of the Washington beer commission under this title for
16 promotional activities conducted under chapter 15.-- RCW (sections 1
17 through 21 of this act).

18 **Sec. 24.** RCW 15.04.200 and 1987 c 452 s 16 are each amended to
19 read as follows:

20 (1) Under the authority of Article VIII of the state Constitution
21 as amended, agricultural commodity commission expenditures for
22 agricultural development or trade promotion and promotional hosting by
23 an agricultural commodities commission under chapters 15.24, 15.28,
24 15.44, 15.65, 15.66, 15.88, 15.-- (sections 1 through 21 of this act),
25 and 16.67 RCW shall be pursuant to specific budget items as approved by
26 the agricultural commodity commission at the annual public hearings on
27 the agricultural commodity commission budget.

28 (2) Agricultural commodity commissions shall adopt rules governing
29 promotional hosting expenditures by agricultural commodity commission
30 employees, agents or commissioners. The rules shall identify officials
31 and agents authorized to make expenditures and the objectives of the
32 expenditures. Individual agricultural commodity commission
33 commissioners shall make promotional hosting expenditures, or seek
34 reimbursements for these expenditures, only in those instances where
35 the expenditures have been approved by the agricultural commodity

1 commission. All payments and reimbursements shall be identified and
2 supported on vouchers.

3 (3) Agricultural commodity commissions shall be exempt from the
4 requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

5 **Sec. 25.** RCW 42.17.31907 and 2002 c 313 s 66 are each amended to
6 read as follows:

7 The following agricultural business records and commodity board and
8 commission records are exempt from the disclosure requirements of this
9 chapter:

10 (1) Production or sales records required to determine assessment
11 levels and actual assessment payments to commodity boards and
12 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
13 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
14 and 16.67 RCW or required by the department of agriculture to
15 administer these chapters or the department's programs;

16 (2) Consignment information contained on phytosanitary certificates
17 issued by the department of agriculture under chapters 15.13, 15.49,
18 and 15.17 RCW or federal phytosanitary certificates issued under 7
19 C.F.R. 353 through cooperative agreements with the animal and plant
20 health inspection service, United States department of agriculture, or
21 on applications for phytosanitary certification required by the
22 department of agriculture; and

23 (3) Financial and commercial information and records supplied by
24 persons (a) to the department of agriculture for the purpose of
25 conducting a referendum for the potential establishment of a commodity
26 board or commission; (b) to the department of agriculture or commodity
27 boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65,
28 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
29 or 16.67 RCW with respect to domestic or export marketing activities or
30 individual producer's production information.

31 **Sec. 26.** RCW 42.56.380 and 2005 c 274 s 418 are each amended to
32 read as follows:

33 The following information relating to agriculture and livestock is
34 exempt from disclosure under this chapter:

- 35 (1) Business-related information under RCW 15.86.110;
- 36 (2) Information provided under RCW 15.54.362;

1 (3) Production or sales records required to determine assessment
2 levels and actual assessment payments to commodity boards and
3 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
4 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
5 and 16.67 RCW or required by the department of agriculture to
6 administer these chapters or the department's programs;

7 (4) Consignment information contained on phytosanitary certificates
8 issued by the department of agriculture under chapters 15.13, 15.49,
9 and 15.17 RCW or federal phytosanitary certificates issued under
10 C.F.R. 353 through cooperative agreements with the animal and plant
11 health inspection service, United States department of agriculture, or
12 on applications for phytosanitary certification required by the
13 department of agriculture;

14 (5) Financial and commercial information and records supplied by
15 persons (a) to the department of agriculture for the purpose of
16 conducting a referendum for the potential establishment of a commodity
17 board or commission; or (b) to the department of agriculture or
18 commodity boards or commissions formed under chapter 15.24, 15.28,
19 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21
20 of this act), or 16.67 RCW with respect to domestic or export marketing
21 activities or individual producer's production information;

22 (6) Except under RCW 15.19.080, information obtained regarding the
23 purchases, sales, or production of an individual American ginseng
24 grower or dealer;

25 (7) Information that can be identified to a particular business and
26 that is collected under section 3(1), chapter 235, Laws of 2002; and

27 (8) Financial statements provided under RCW 16.65.030(1)(d).

28 **Sec. 27.** RCW 43.23.033 and 2002 c 313 s 78 are each amended to
29 read as follows:

30 (1) The director may provide by rule for a method to fund staff
31 support for all commodity boards and commissions if a position is not
32 directly funded by the legislature.

33 (2) Staff support funded under this section and RCW
34 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320,
35 15.44.190, 15.88.180, section 18 of this act, and 16.67.190 shall be
36 limited to one-half full-time equivalent employee for all commodity
37 boards and commissions.

1 NEW SECTION. **Sec. 28.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 29.** Sections 1 through 21 of this act
6 constitute a new chapter in Title 15 RCW.

7 NEW SECTION. **Sec. 30.** Section 25 of this act expires July 1,
8 2006.

9 NEW SECTION. **Sec. 31.** Section 26 of this act takes effect July 1,
10 2006.

--- END ---