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SENATE BILL 5062

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State of Washington

59th Legislature

2005 Regular Session

By Senators Jacobsen and Rasmussen

Read first time 01/12/2005. Referred to Committee on Agriculture & Rural Economic Development.

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.** For the purposes of this chapter:

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

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

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

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

18 (5) "Producer" means any person engaged in the business of  
19 producing or causing to be produced for market in commercial quantities

1 any organic food. For the purposes of this chapter, "producer"  
2 includes bailees who contract to produce or grow any organic food on  
3 behalf of a bailor who retains title to the seed and its resulting  
4 organic food or the organic food delivered for further production or  
5 increase.

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

7 (7) "Unfair trade practice" means any practice that is unlawful or  
8 prohibited under the laws of the state of Washington including but not  
9 limited to Titles 15, 16, and 69 RCW and chapters 9.16, 19.77, 19.80,  
10 19.84, and 19.83 RCW, or any practice, whether concerning interstate or  
11 intrastate commerce that is unlawful under the provisions of the act of  
12 Congress of the United States, September 26, 1914, chapter 311, section  
13 5, 38 U.S. Statutes at Large 719 as amended, known as the "Federal  
14 Trade Commission Act of 1914," or the violation of or failure  
15 accurately to label as to grades and standards in accordance with any  
16 lawfully established grades or standards or labels.

17 (8) "Person" includes any individual, firm, corporation, trust,  
18 association, partnership, society, or any other organization of  
19 individuals.

20 (9) "Cooperative association" means any incorporated or  
21 unincorporated association of producers that conforms to the  
22 qualifications set out in the act of Congress of the United States,  
23 Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large  
24 388 as amended, known as the "Capper-Volstead Act" and which is engaged  
25 in making collective sales or in marketing any organic food or product  
26 thereof or in rendering service for or advancing the interests of the  
27 producers of such organic food on a nonprofit cooperative basis.

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

33 NEW SECTION. **Sec. 2.** The marketing of organic foods within this  
34 state is affected with a public interest. It is declared to be the  
35 policy and purpose of this chapter to promote the general welfare of  
36 the state by enabling producers of organic foods to help themselves in

1 establishing orderly, fair, sound, efficient, and unhampered marketing,  
2 grading, and standardizing of the organic foods they produce, and in  
3 promoting and increasing the sale of such commodities.

4 NEW SECTION. **Sec. 3.** Marketing orders may be made for any one or  
5 more of the following purposes:

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

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

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

15 (4) To investigate and take necessary action to prevent unfair  
16 trade practices.

17 NEW SECTION. **Sec. 4.** Marketing orders and orders modifying or  
18 terminating existing marketing orders shall be adopted by the director  
19 only after the director has done the following:

20 (1) Received a petition as provided for in section 5 of this act;

21 (2) Given notice of hearing as provided for in section 6 of this  
22 act;

23 (3) Conducted a hearing as provided for in section 7 of this act;

24 (4) Made findings and a decision as provided for in section 8 of  
25 this act;

26 (5) Determined assent of affected producers as provided for in  
27 section 9 of this act.

28 NEW SECTION. **Sec. 5.** Petitions for issuance, amendment, or  
29 termination of a marketing order for organic food shall be signed by  
30 not less than ten percent or fifty of the producers alleged to be  
31 affected, whichever is less, and shall be filed with the director.  
32 Such petition shall be accompanied by a filing fee of one hundred  
33 dollars payable to the state treasurer; and shall designate some person  
34 as attorney-in-fact for the purpose of this section. Upon receipt of  
35 such a petition, the director shall prepare a budget estimate for

1 handling such petition that includes the cost of the preparation of the  
2 estimate, the cost of the hearings, and the cost of the proposed  
3 referendum. The petitioners, within thirty days after receipt of the  
4 budget estimate by their attorney-in-fact, shall remit to the director  
5 the difference between the filing fee of one hundred dollars already  
6 paid and the total budget estimate. If the petitioners fail to remit  
7 the difference, or if for any other reason the proceedings for the  
8 issuance, amendment, or termination of the marketing order are  
9 discontinued, the filing fee, including any additional amount paid in  
10 accordance with such budget estimates, shall not be refunded. If the  
11 petition results, after proper proceedings, in the issuance, amendment,  
12 or termination of a marketing order, the petitioners shall be  
13 reimbursed for the amount paid for the total filing fee out of funds of  
14 the organic food commission as they become available.

15 NEW SECTION. **Sec. 6.** Upon receipt of a petition for the issuance,  
16 amendment, or termination of a marketing order, the director shall  
17 establish a list of producers of organic food who are certified under  
18 chapter 15.86 RCW. In establishing or making current such a list of  
19 producers and their individual production, the director shall use the  
20 producer's name, mailing address, and the yearly average fees paid  
21 under RCW 15.86.070 by the producer in the three preceding years or in  
22 such lesser time as the producer has produced the organic food in  
23 question. Information on each producer shall be mailed to the affected  
24 producer on record with the director for verification. All corrections  
25 shall be filed with the director within twenty days from the date of  
26 mailing. The director shall keep lists as current as possible and may  
27 require updated information from affected producers at various times in  
28 accordance with rules prescribed by the director.

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

33 The director shall notify affected producers, so listed, by mail  
34 that the public hearing affording opportunity for them to be heard upon  
35 the proposed issuance, amendment, or termination of the marketing order  
36 will be heard at the time and place stated in the notice. The notice

1 of the hearing shall be given not less than ten days nor more than  
2 sixty days before the hearing.

3 NEW SECTION. **Sec. 7.** At the public hearing the director shall  
4 receive evidence and testimony offered in support of, or opposition to,  
5 the proposed issuance of, amendment to, or termination of a marketing  
6 order and concerning the terms, conditions, scope, and area thereof.  
7 Such hearing shall be public and all testimony shall be received under  
8 oath. A full and complete record of all proceedings at such hearings  
9 shall be made and maintained on file in the office of the director,  
10 which file shall be open to public inspection. The director shall base  
11 his or her findings upon the testimony and evidence received at the  
12 hearing, together with any other relevant facts available to the  
13 director from official publications of institutions of recognized  
14 standing. The director shall describe in the findings such official  
15 publications upon which any finding is based.

16 NEW SECTION. **Sec. 8.** (1) The director shall make and publish  
17 findings upon every material point controverted at the hearing and  
18 required by this chapter and upon such other matters and things as he  
19 or she may deem fitting and proper. The director shall also issue a  
20 recommended decision based upon the director's findings and shall cause  
21 copies of the findings and recommended decision to be delivered or  
22 mailed to all parties of record appearing at the hearing, or their  
23 attorneys of record. The recommended decision shall contain the text  
24 in full of any order, or amendment or termination of existing order,  
25 and may deny or approve the proposal in its entirety, or it may  
26 recommend a marketing order containing other or different terms or  
27 conditions from those contained in the proposal: PROVIDED, That the  
28 same shall be of a kind or type substantially within the purview of the  
29 notice of hearing and shall be supported by evidence taken at the  
30 hearing or by documents of which the director is authorized to take  
31 official notice. The director shall not approve the issuance,  
32 amendment, or termination of any marketing order unless he or she finds  
33 with respect thereto:

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

1 (b) That the proposed issuance, amendment, or termination is in  
2 conformity with this chapter and within the applicable limitations, and  
3 restrictions in the issuance, amendment, or termination will tend to  
4 effectuate the declared purposes and policies of this chapter;

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

8 (2) After the issuance of a recommended decision, all interested  
9 parties shall have a period of not less than ten days to file  
10 objections with the director. The director shall consider the  
11 objections and shall issue a final decision which may be the same as  
12 the recommended decision or may be revised in light of the objections.  
13 The final decision shall set out in full the text of the order. The  
14 director shall deliver or mail copies of the final decision to the same  
15 parties to whom copies of the findings and recommended decision are  
16 required to be sent. If the final decision denies the proposal in its  
17 entirety, no further action may be taken by the director.

18 NEW SECTION. **Sec. 9.** After the issuance by the director of the  
19 final decision approving the issuance, amendment, or termination of a  
20 marketing order, the director shall determine by a referendum whether  
21 the affected producers assent to the proposed action or not. The  
22 director shall conduct the referendum among the affected producers  
23 based on the list as provided for in section 6 of this act, and the  
24 affected producers shall be deemed to have assented to the proposed  
25 issuance, amendment, or termination order if sixty percent or more by  
26 number and sixty percent or more by amount of assessment paid of those  
27 replying assent to the proposed order. The determination by volume  
28 shall be made on the basis of volume as determined in the list of  
29 affected producers created under section 6 of this act, subject to  
30 rules of the director for such determination.

31 NEW SECTION. **Sec. 10.** A marketing order shall define the area of  
32 the state to be covered by the order, which may be all or any portion  
33 of the state, shall contain provisions for establishment of the organic  
34 foods commission and administration and operation and powers and duties  
35 of the commission, shall provide for assessments as provided for in

1 this chapter, and shall contain one or more of the provisions in  
2 section 3 of this act.

3 NEW SECTION. **Sec. 11.** The marketing order shall establish an  
4 organic foods commission composed of not less than five nor more than  
5 thirteen members. In addition, the director shall be an ex officio  
6 member of the organic foods commission. Commission members shall be  
7 citizens and residents of this state, over the age of twenty-five  
8 years. The term of office of commission members shall be three years  
9 with the terms rotating so that one-third of the terms will commence as  
10 nearly as practicable each year. However, the first commission shall  
11 be selected, one-third for a term of one year, one-third for a term of  
12 two years, and one-third for a term of three years, as nearly as  
13 practicable. Two-thirds of the commission members shall be elected by  
14 the affected producers and such elected members shall all be affected  
15 producers. The remaining one-third shall be appointed by the  
16 commission and shall be either affected producers, others active in  
17 matters relating to the organic foods or persons not so related.

18 NEW SECTION. **Sec. 12.** Not less than ninety days nor more than one  
19 hundred five days before the beginning of each term of each elected  
20 commission member, the director shall give notice by mail to all  
21 affected producers of the vacancy and call for nominations in  
22 accordance with this section and with the provisions of the marketing  
23 order and shall give notice of the final date for filing nominations,  
24 which shall not be less than eighty days nor more than eighty-five days  
25 before the beginning of such term. Such notice shall also advise that  
26 nominating petitions shall be signed by five persons qualified to vote  
27 for such candidates or, if the number of nominating signers is provided  
28 for in the marketing order, such number as such order provides.

29 Not less than sixty days nor more than seventy-five days before the  
30 commencement of such commission member term, the director shall submit  
31 by mail ballots to all affected producers, which ballots shall be  
32 required to be returned to the director not less than thirty days  
33 before the commencement of such term. Such mail ballot shall be  
34 conducted in a manner so that it shall be a secret ballot. With  
35 respect to the first organic foods commission, the director may call

1 for nominations in the notice of decision following the hearing and the  
2 ballot may be submitted at the time the director's proposed order is  
3 submitted to the affected producers for their assent.

4 The elected members may be elected from various districts within  
5 the area covered by the marketing order if the order so provides, with  
6 the number of members from each district to be in accordance with the  
7 provisions of the marketing order.

8 The members of the commission not elected by the affected producers  
9 shall be elected by a majority of the commission at a meeting of the  
10 commission within ninety days before expiration of the term but to fill  
11 nonelective vacancies caused by other reasons than the expiration of a  
12 term, the new member shall be elected by the commission at its first  
13 meeting after the occurrence of the vacancy.

14 When only one nominee is nominated for any position on the  
15 commission, the director shall deem that the nominee satisfies the  
16 requirements of the position and then it shall be deemed that the  
17 nominee has been duly elected.

18 NEW SECTION. **Sec. 13.** The organic foods commission shall hold  
19 such regular meetings as the marketing order may prescribe or that the  
20 commission by resolution may prescribe, together with such special  
21 meetings that may be called in accordance with provisions of its  
22 resolutions upon reasonable notice to all members thereof. A majority  
23 of the members constitutes a quorum for the transaction of all business  
24 of the commission. In the event of a vacancy in an elected or  
25 appointed position on the commission, the remaining elected members of  
26 the commission shall select a qualified person to fill the unexpired  
27 term.

28 Each member of the commission shall be compensated in accordance  
29 with RCW 43.03.230 and shall be reimbursed for travel expenses in  
30 accordance with RCW 43.03.050 and 43.03.060.

31 NEW SECTION. **Sec. 14.** The organic foods commission shall have  
32 such powers and duties in accordance with this chapter as may be  
33 provided in the marketing order and shall have the following powers and  
34 duties:

35 (1) To elect a chair and such other officers as determined  
36 advisable;



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

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

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

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

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

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

20 (8) To borrow money and incur indebtedness;

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

22 (10) To expend funds for organic foods-related education, training,  
23 and leadership programs as the organic foods commission deems  
24 expedient;

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

27 NEW SECTION. **Sec. 15.** Any member of the organic foods commission  
28 may also be a member or officer of an association which has the same  
29 objectives for which the organic foods commission was formed. The  
30 organic foods commission may also contract with such association for  
31 services necessary to carry out any purposes authorized under this  
32 chapter, if an appropriate contract has been entered into.

33 NEW SECTION. **Sec. 16.** (1) There is hereby levied, and there shall  
34 be collected by the organic foods commission, upon each and every  
35 dollar unit of any organic food product specified in any marketing  
36 order an annual assessment that shall be paid by the producer thereof

1 upon each and every such dollar unit sold, processed, stored, or  
2 delivered for sale, processing, or storage by the producer. Such  
3 assessments shall be expressed as a stated percentage of the net unit  
4 price at the time of sale. The total amount of such annual assessment  
5 to be paid by all affected producers shall not exceed one percent of  
6 the total market value of all affected units sold, processed, stored,  
7 or delivered for sale, processing, or storage by all affected producers  
8 of such units during the year to which the assessment applies.

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

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

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

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

23 (c) Handlers receiving the organic foods from the producer,  
24 including warehousemen and processors, to collect producer assessments  
25 from producers whose production they handle and remit the same to the  
26 organic foods commission. The lending agency for a commodity credit  
27 corporation loan to producers shall be deemed a handler for the purpose  
28 of this subsection (3)(c). No affected units may be transported,  
29 carried, shipped, sold, stored, or otherwise handled or disposed of  
30 until every due and payable assessment required under this section has  
31 been paid and the receipt issued, but there is no liability under this  
32 section for common carriers in the regular course of their business.

33 NEW SECTION. **Sec. 17.** Moneys collected by the organic foods  
34 commission under a marketing order from any assessment for marketing  
35 purposes shall be used by the organic foods commission only for the  
36 purpose of paying for the costs or expenses arising in connection with  
37 carrying out the purposes and provisions of such agreement or order.

1           Upon the termination of any marketing order any and all moneys  
2 remaining with the organic foods commission operating under that  
3 marketing order and not required to defray expenses or repay  
4 obligations incurred by the organic foods commission shall be returned  
5 to the affected producers in proportion to the assessments paid by each  
6 in the two-year period preceding the date of the termination order.

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

24           NEW SECTION.   **Sec. 19.** All moneys that are collected or otherwise  
25 received under a marketing order created under this chapter shall be  
26 used solely by and for the organic foods commission and shall not be  
27 used for any other commission or the department. Such moneys shall be  
28 deposited in a separate account or accounts in the name of the organic  
29 foods commission in any bank that is a state depository. All expenses  
30 and disbursements incurred and made pursuant to the provisions of any  
31 marketing order shall be paid from moneys collected and received  
32 pursuant to such order without the necessity of a specific legislative  
33 appropriation and all moneys deposited for the account of any order  
34 shall be paid from the account by check or voucher in such form and in  
35 such manner and upon the signature of such person as may be prescribed

1 by the organic foods commission. None of the provisions of RCW  
2 43.01.050 are applicable to any such account or any moneys so received,  
3 collected, or expended.

4 NEW SECTION. **Sec. 20.** Any funds of the organic foods commission  
5 may be invested in savings or time deposits in banks, trust companies,  
6 and mutual savings banks that are doing business in this state, up to  
7 the amount of insurance afforded such accounts by the Federal Deposit  
8 Insurance Corporation. This section applies to all funds that may be  
9 lawfully so invested that in the judgment of the organic foods  
10 commission are not required for immediate expenditure. The authority  
11 granted by this section is not exclusive and shall be construed to be  
12 cumulative and in addition to other authority provided by law for the  
13 investment of such funds.

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

20 NEW SECTION. **Sec. 22.** An affected producer subject to a marketing  
21 order may file a written petition with the director stating that the  
22 order, agreement, or program or any part thereof is not in accordance  
23 with the law, and requesting a modification thereof or exemption  
24 therefrom. The producer shall thereupon be given a hearing, which  
25 hearing shall be conducted in the manner provided in section 7 of this  
26 act, and thereafter the director shall make a ruling which shall be  
27 final.

28 Appeal from any ruling of the director may be taken to the superior  
29 court of the county in which the petitioner resides or has his or her  
30 principal place of business, by serving upon the director a copy of the  
31 notice of appeal and complaint within twenty days from the date of  
32 entry of the ruling. Upon such application, the court may proceed in  
33 accordance with RCW 7.16.010 through 7.16.140. If the court determines  
34 that the ruling is not in accordance with law, it shall remand the

1 proceedings to the director with directions to make a ruling as the  
2 court determines to be in accordance with law or to take such further  
3 proceedings as in its opinion are required by this chapter.

4 NEW SECTION. **Sec. 23.** It is a misdemeanor for:

5 (1) Any person willfully to violate any provision of this chapter  
6 or any provision of any marketing order duly issued by the director  
7 under this chapter;

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

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

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

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

11 NEW SECTION. **Sec. 24.** In any civil or criminal action or  
12 proceeding for violation of any rule of statutory or common law against  
13 monopolies or combinations in restraint of trade, proof that the act  
14 complained of was done in compliance with this chapter or a marketing  
15 order issued under this chapter, and in furtherance of the purposes and  
16 provisions of this chapter, shall be a complete defense to such action  
17 or proceeding.

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

1        NEW SECTION.    **Sec. 26.**    Nothing in this chapter permits fixing of  
2 prices not otherwise permitted by law or any limitation on production  
3 and no marketing order or agreement or any rule adopted under it may  
4 contain any such provisions.

5        NEW SECTION.    **Sec. 27.**    All general administrative expenses of the  
6 director in carrying out the provisions of this chapter shall be borne  
7 by the state:    PROVIDED, That the department shall be reimbursed for  
8 actual costs incurred in conducting nominations and elections for  
9 members of the organic foods commission established under this chapter.  
10 Such reimbursement shall be made from the funds of the organic foods  
11 commission for which the nominations and elections were conducted by  
12 the director.

13        NEW SECTION.    **Sec. 28.**    The restrictive provisions of chapter 43.78  
14 RCW do not apply to promotional printing and literature for the organic  
15 foods commission formed under this chapter.

16        NEW SECTION.    **Sec. 29.**    This chapter may be known and cited as the  
17 Washington organic foods commission act.

18        NEW SECTION.    **Sec. 30.**    Subsequent to the formation of an organic  
19 food commission following a referendum vote of affected producers in  
20 accordance with section 9 of this act and the establishment of an  
21 assessment on organic foods in accordance with section 16 of this act,  
22 organic food subject to an assessment by the organic food commission is  
23 exempt from assessments by any other commodity commissions formed under  
24 chapters 15.24, 15.26, 15.28, 15.44, 15.62, 15.65, 15.66, and 16.67  
25 RCW.

26        NEW SECTION.    **Sec. 31.**    A new section is added to chapter 15.24 RCW  
27 to read as follows:

28        Organic foods subject to an assessment by the organic food  
29 commission established in accordance with section 9 of this act and  
30 levied in accordance with section 16 of this act are exempt from an  
31 assessment levied by a commission established under this chapter.

1        NEW SECTION.    **Sec. 32.** 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 9 of this act and  
5 levied in accordance with section 16 of this act are exempt from an  
6 assessment levied by a commission established under this chapter.

7        NEW SECTION.    **Sec. 33.** 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 9 of this act and  
11 levied in accordance with section 16 of this act are exempt from an  
12 assessment levied by a commission established under this chapter.

13       NEW SECTION.    **Sec. 34.** 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 9 of this act and  
17 levied in accordance with section 16 of this act are exempt from an  
18 assessment levied by a commission established under this chapter.

19       NEW SECTION.    **Sec. 35.** 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 9 of this act and  
23 levied in accordance with section 16 of this act are exempt from an  
24 assessment levied by a commission established under this chapter.

25       NEW SECTION.    **Sec. 36.** 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 9 of this act and  
29 levied in accordance with section 16 of this act are exempt from an  
30 assessment levied by a commission established under this chapter.

31       NEW SECTION.    **Sec. 37.** 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



1 commission established in accordance with section 9 of this act and  
2 levied in accordance with section 16 of this act are exempt from an  
3 assessment levied by a commission established under this chapter.

4 NEW SECTION. **Sec. 38.** A new section is added to chapter 16.67 RCW  
5 to read as follows:

6 Organic foods subject to an assessment by the organic food  
7 commission established in accordance with section 9 of this act and  
8 levied in accordance with section 16 of this act are exempt from an  
9 assessment levied by a commission established under this chapter.

10 NEW SECTION. **Sec. 39.** A new section is added to chapter 43.78 RCW  
11 to read as follows:

12 This chapter does not apply to promotional printing and literature  
13 for the organic foods commission formed under chapter 15.-- RCW  
14 (sections 1 through 30 of this act).

15 NEW SECTION. **Sec. 40.** Sections 1 through 30 of this act  
16 constitute a new chapter in Title 15 RCW.

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