

HB 2524 - S COMM AMD

By Committee on Agriculture, Water, Natural Resources & Parks

ADOPTED 03/04/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 15.83.010 and 1989 c 355 s 2 are each amended to
4 read as follows:

5 (~~Unless the context clearly requires otherwise, the~~) The
6 definitions in this section apply throughout this chapter unless the
7 context clearly requires otherwise.

8 (1) "Accredited association of producers" means an association of
9 producers which is accredited by the director to be the exclusive
10 negotiation agent for all producer members of the association within
11 a negotiating unit.

12 (2) "Advance contract" means a contract for purchase and sale of
13 a crop entered into before the crop becomes a growing crop and
14 providing for delivery at or after the harvest of that crop.

15 (3) "Agricultural products" as used in this chapter means pears,
16 sweet corn, and potatoes produced for sale from farms in this state.

17 (4) "Association of producers" means any association of producers
18 of agricultural products engaged in marketing, negotiating for its
19 members, shipping, or processing as defined in section 15(a) of the
20 federal agriculture marketing act of 1929 or in section 1 of 42 Stat.
21 388.

22 (5) "Director" means the director of the department of
23 agriculture.

24 (6) "Handler" means a processor or a person engaged in the
25 business or practice of:

26 (a) Acquiring agricultural products from producers or
27 associations of producers for use by a processor;

28 (b) Processing agricultural products received from producers or
29 associations of producers, provided that a cooperative association
30 owned by producers shall not be a handler except when contracting for

1 crops from producers who are not members of the cooperative
2 association;

3 (c) Contracting or negotiating contracts or other arrangements,
4 written or oral, with or on behalf of producers or associations of
5 producers with respect to the production or marketing of any
6 agricultural product for use by a processor; or

7 (d) Acting as an agent or broker for a handler in the performance
8 of any function or act specified in (a), (b), or (c) of this
9 subsection.

10 (7) "Negotiate" means meeting at reasonable times and for
11 reasonable periods of time commencing at least sixty days before the
12 normal planting date for sweet corn and potatoes, or at least sixty
13 days before the normal harvest date for pears, and concluding within
14 thirty days of the normal planting date for sweet corn and potatoes,
15 or within thirty days of the normal harvest date for pears, to make a
16 serious, fair, and reasonable attempt to reach agreement by
17 acknowledging or refuting with reason points brought up by either
18 party with respect to the price, terms of sale, compensation for
19 products produced under contract, or other terms relating to the
20 production or sale of these products: PROVIDED, That neither party
21 shall be required to disclose proprietary business or financial
22 records or information.

23 (8) "Negotiating unit" means a negotiating unit approved by the
24 director under RCW 15.83.020.

25 (9) "Person" means an individual, partnership, corporation,
26 association, or any other entity.

27 (10) "Processor" means any person that purchases agricultural
28 crops from a producer and cans, freezes, dries, dehydrates, cooks,
29 presses, powders, or otherwise processes those crops in any manner
30 for eventual resale. A person who solely cleans, sorts, grades, and
31 packages a farm product for sale without altering the natural
32 condition of the product is not a processor. A person processing any
33 portion of a crop is a processor.

34 (11) "Producer" means a person engaged in the production of
35 agricultural products as a farmer or planter, including a grower or
36 farmer furnishing inputs, production management, or facilities for
37 growing or raising agricultural products. A producer who is also a
38 handler shall be considered a handler under this chapter.

39 (12) "Qualified commodity" means agricultural products as defined
40 in subsection (3) of this section.

1 **Sec. 2.** RCW 15.83.020 and 1989 c 355 s 3 are each amended to
2 read as follows:

3 (1) An association of producers may file an application with the
4 director:

5 (a) Requesting accreditation to serve as the exclusive
6 negotiating agent on behalf of its producer members who are within a
7 proposed negotiating unit with respect to any qualified commodity;

8 (b) Describing geographical boundaries of the proposed
9 negotiating unit;

10 (c) Specifying the number of producers and the quantity of
11 products included within the proposed negotiating unit;

12 (d) Specifying the number and location of the producers and the
13 quantity of products represented by the association; (~~and~~)

14 (e) Agreeing to reimburse the department for all anticipated and
15 uncovered costs incurred by the department for actions necessary to
16 carry out the provisions of this chapter; and

17 (f) Supplying any other information required by the director.

18 (2) Within a reasonable time after receiving an application under
19 subsection (1) of this section, the director shall approve or
20 disapprove the application in accordance with this section.

21 (a) The director shall approve the initial application or renewal
22 if the director determines that:

23 (i) The association is owned and controlled by producers under
24 the charter documents or bylaws of the association;

25 (ii) The association has valid and binding contracts with its
26 members empowering the association to sell or negotiate terms of sale
27 of its members' products or to negotiate for compensation for
28 products produced under contract by its members;

29 (iii) The association represents a sufficient percentage of
30 producers or that its members produce a sufficient percentage of
31 agricultural products to enable it to function as an effective agent
32 for producers in negotiating with a given handler as defined in rules
33 promulgated by the department. In making this finding, the director
34 shall exclude any quantity of the agricultural products contracted by
35 producers with producer-owned and controlled processing cooperatives
36 with its members and any quantity of these products produced by
37 handlers;

38 (iv) One of the association's functions is to act as principal or
39 agent for its members in negotiations with handlers for prices and
40 other terms of trade with respect to the production, sale, and

1 marketing of the products of its members, or for compensation for
2 products produced by its members under contract; ((and))

3 (v) Sufficient resources, including public funds and any funds to
4 be provided by the applicant under reimbursement agreements, will be
5 available to cover department costs for services provided by the
6 department in carrying out the provisions of this chapter, including
7 department costs to defend a decision made by the department under
8 this chapter if such a decision is appealed; and

9 (vi) Accreditation would not be contrary to the policies
10 established in RCW 15.83.005.

11 (b) If the director does not approve the application under (a) of
12 this subsection, then the association of producers may file an
13 amended application with the director. The director, within a
14 reasonable time, shall approve the amended application if it meets
15 the requirements set out in (a) of this subsection.

16 (3) The department shall provide the association an estimate of
17 expenses that may be incurred prior to the department's provision of
18 services.

19 (4) At the discretion of the director, or upon submission of a
20 timely filed petition by an affected handler or an affected
21 association of producers, the association of producers accredited
22 under this section may be required by the director to renew the
23 application for accreditation by providing the information required
24 under subsection (1) of this section.

25 **Sec. 3.** RCW 15.83.030 and 1989 c 355 s 4 are each amended to
26 read as follows:

27 It shall be unlawful for any handler to engage, or permit any
28 employee or agent to engage, in the following practices:

29 (1) To refuse to negotiate with an association of producers
30 accredited under RCW 15.83.020 with respect to any qualified
31 commodity: PROVIDED, That the obligation to negotiate does not
32 require either party to agree to a proposal, to make a concession, or
33 to enter into a contract;

34 (2) To coerce any producer in the exercise of his or her right to
35 contract with, join, refrain from contracting with or joining, belong
36 to an association of producers, or refuse to deal with any producer
37 because of the exercise of that producer's right to contract with,
38 join, or belong to an association or because of that producer's
39 promotion of legislation on behalf of an association of producers;

1 (3) To discriminate against any producer with respect to price,
2 quantity, quality, or other terms of purchase, acquisition, or other
3 handling of agricultural products because of that producer's
4 membership in or contract with an association of producers or because
5 of that producer's promotion of legislation on behalf of an
6 association of producers;

7 (4) To coerce or intimidate any producer to enter into, maintain,
8 breach, cancel, or terminate a membership agreement or marketing
9 contract with an association of producers or a contract with a
10 handler;

11 (5) To pay or loan money, give anything of value, or offer any
12 other inducement or reward to a producer for refusing or ceasing to
13 belong to an association of producers;

14 (6) To make knowingly false reports about the finances,
15 management, or activities of associations of producers or handlers;
16 ((~~or~~))

17 (7) To conspire, agree, or arrange with any other person to do,
18 aid, or abet any act made unlawful by this chapter; or

19 (8) To refuse, in the event that an acceptable price cannot be
20 agreed to between a producer and a processor, to meet with a mutually
21 agreed upon third-party mediator to resolve the price dispute. Any
22 fees associated with the third-party mediation must be borne by the
23 producer."

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24 On page 1, line 3 of the title, after "marketing;" strike the
25 remainder of the title and insert "and amending RCW 15.83.010,
26 15.83.020, and 15.83.030."

EFFECT: Specifies that an association of producers, when filing an application with the director of the Department of Agriculture (WSDA) under the Agricultural Marketing and Fair Practices Act, agrees to reimburse WSDA for all anticipated and uncovered costs incurred by WSDA. Requires the director of WSDA to determine that sufficient resources, including public funds and funds to be provided by the applicant under reimbursement agreements, will be available to cover costs for services provided under the application before approving the application. Requires WSDA to provide the association

with an estimate of expenses that may be incurred prior to WSDA provision of services.

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