

HOUSE BILL REPORT

SB 5631

As Reported by House Committee On: Agriculture & Natural Resources

Title: An act relating to miscellaneous provisions regulated by the department of agriculture.

Brief Description: Concerning miscellaneous provisions regulated by the department of agriculture.

Sponsors: Senators Swecker, Hatfield, Haugen and Shin.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/8/11, 3/15/11, 3/16/11 [DPA].

Brief Summary of Bill (As Amended by House)

- Makes a number of changes to statues administered by the Washington State Department of Agriculture (WSDA) affecting areas such as: movie theatre popcorn; methanol and ethanol signage; commodity commissions, sales, and transportation; appointment authority of the Director of the WSDA; agriculture preparer liens; and the reporting of pesticide sampling.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 13 members: Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dunshee, Hinkle, Kretz, Lytton, Orcutt, Pettigrew, Rolfes and Van De Wege.

Staff: Jason Callahan (786-7117).

Background:

The Washington State Department of Agriculture.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Washington State Department of Agriculture (WSDA) oversees, manages, regulates, and supports programs that relate to food safety and the agriculture industry. The scope of the WSDA includes animal services, commodity inspections, consumer services, pesticide management, plant services, food assistance programs, and the marketing of Washington agricultural products.

Movie Theatre Popcorn.

One of the responsibilities of the WSDA is to oversee the intrastate commerce of food, drugs, and cosmetics. This includes the regulation of food color additives, out-of-state poultry marketed with the outline of Washington on its packaging, allowable bacon packaging, and movie theatre popcorn signage.

Specifically, all popcorn sold by a theatre or other commercial food service is required to post a sign that discloses if the butter or butter-like flavoring used on the popcorn is indeed butter. In lieu of a definition for "butter," there is a reference to a different definition statute that has since been repealed. Thus, the term is undefined.

Methanol/Ethanol Signage.

Any dealer who sells gasoline with more than 1 percent ethanol or methanol must place a label on the dispensing device stating the type and maximum percentage of alcohol contained in the product. However, dealers located in an area that has been found by the United States Environmental Protection Agency to exceed the minimum air quality standards for carbon monoxide need only to follow signage requirements established in federal law. A violation of either of these requirements may be punished by a civil penalty of up to \$500.

Commodity Commissions.

There are currently 23 individual agricultural commodity commissions in Washington. These commissions are formed primarily to engage in research and marketing related to their specific commodity. The activities of commodity commissions are funded primarily by assessments on the producers of the commodities.

Of the 23 commodity commissions, seven were formed directly by an act of the Legislature. These include the Apple Commission, the Honey Bee Commission, and the Wine Commission. These commissions have individuals authorizing laws that establish procedures and protocols.

The remaining 16 commodity commissions were created by order of the Director of the WSDA (Director). Commissions created by the WSDA follow general procedures applicable to all commodity commissions. Examples of these commissions include: the Asparagus Commission, the Seed Potato Commission, the Red Raspberry Commission, the Turfgrass Seed Commission, and the Blueberry Commission.

Statutory language makes clear that the rules of a commodity commission are one aspect of regulation affecting the agricultural industry. At least 25 other statutory chapters affecting agriculture are listed as examples of other applicable regulations.

Commodity Sales.

The fees collected by the WSDA for the weighing, grading, and inspection of all grains, other than hops, are deposited into the Grain Inspection Revolving Fund. Money in this fund may be used by the WSDA for the operations of its grain inspection program. Up to 5 percent of the money in the Grain Inspection Revolving Fund may be used for research, promotional work, and rate studies relating to wheat and wheat products.

Commodity Transportation.

With some exceptions, all hay, straw, and grain that has been, or will be, purchased by weight must be weighed and have a weight ticket produced in order for the commodity to be lawfully transported on a highway. The weight must be measured and recorded by the first weighmaster the transporting vehicle encounters on its ordinary route to the destination where the commodity will be unloaded.

Appointment Authority of the Director.

The Director has the authority to create administrative subdivisions of the WSDA and to appoint a deputy director and up to eight assistant directors. The Director may also name a state veterinarian. The officers are exempt from the state civil service law.

Reporting of Pesticide Sampling.

The WSDA is required to publish annually the results of any official pesticide sampling analyses. The report must compare the results of the analyses of a pesticide with guaranteed analyses for the pesticide.

Preparer Liens.

For 20 days after the delivery of their product, the producer of hay, grain, and straw receive priority status in a lien for any money they are owed for the delivery. This priority lien status attaches without having to file a notice of a lien.

Summary of Amended Bill:

Movie Theatre Popcorn.

A definition for the term "butter" is provided for the statute that requires all popcorn sold by theatres or other commercial food services to post a sign that discloses if the butter or butter-like flavoring used on the popcorn is indeed butter. The definition describes a food product known as butter that is made from cream, milk, or cream and milk, containing less than 80 percent milkfat by weight. The definition includes both salted and unsalted butter, as well as butter with or without additional coloring.

Methanol/Ethanol Signage.

The labeling requirements for dealers selling gasoline with more than 1 percent ethanol or methanol are repealed.

Commodity Commissions.

The list of statutory chapters that are listed as examples of regulations affecting the agriculture industry beyond the rules of commodity commissions is expanded. The regulations identified deal with brassica seed production, horticultural pest and disease boards, pesticide application, and Christmas tree inspections. The identification of these regulations does not expand their affect on agricultural production covered by a commodity commission.

Commodity Sales.

The provision allowing the WSDA to use up to five percent of the money in the Grain Inspection Revolving Fund for research, promotional work, and rate studies relating to wheat and wheat products is removed.

Commodity Transportation.

The requirement that all hay, straw, and grain that has been, or will be, purchased by weight be weighed and have a weight ticket produced is allowed to be satisfied by an approved scale at a hay or straw processing facility. Pursuing this option must be agreed upon in writing by the dealer or commission merchant and the grower of the commodity or the grower's consigner.

The requirement may still be satisfied by having the vehicle's weight measured and recorded by the first weighmaster encountered on the vehicle's ordinary route to the destination where the commodity will be unloaded.

Appointment Authority of the Director.

In addition to a deputy director, a state veterinarian, and up to eight assistant directors, the Director is authorized to appoint a confidential secretary for the deputy director. Like the other officers appointed by the Director, this position would be exempt from the state's civil service laws.

Reporting of Pesticide Sampling.

The requirement that the WSDA publish annually the results of any official pesticide sampling analyses is repealed.

Preparer Liens.

The 20-day window, during which producers of hay, grain, and straw receive priority status in a lien for any money they are owed for the delivery, is extended to 45 days.

Other Provisions.

Corrections have been made to outdated provisions, obsolete statutory cross references, redundant provisions, nongender neutral terms, and other anachronistic terminology in statutes administered by the WSDA.

Amended Bill Compared to Original Bill:

The amended bill: (1) corrects a typographical error; (2) increases the number of days (from 20 to 45) after the payment for a delivered grain, hay, or straw product is due that a first priority preparer lien is viable; (3) removes the provision that eliminates the prohibition on the sale of year-old apples as fresh product after October 1 of any year; and (4) makes corrections to outdated provisions, obsolete statutory cross-references, redundant provisions, nongender neutral terms, and other anachronistic terminology in the statutes administered by the WSDA.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill is a compilation of ideas from the WSDA staff for sections of law that are outdated, in need of updating, or are no longer reflective of agency practices. It is a step towards government streamlining and the coordination between agency rules and statute. In the case of apple sales, the bill is responsive to a court injunction. Fuel labeling requirements are better done by rule so the state can more easily stay consistent with changing federal regulations. The regulation, support, and oversight of food banks have recently been transferred to the WSDA, so any clarity that can be brought to statutes affecting the WSDA is beneficial to food banks. The Deputy Director of the WSDA needs a confidential secretary.

(Other) There are some concerns about the feasibility of a proposed amendment.

(Opposed) None.

Persons Testifying: (In support) Tom Davis, Washington State Department of Agriculture; Mike Moran, Second Harvest; and Steve Robinson and Daniel Luzzo, Puget Sound Salmon Enhancement and Harvest Association.

(Other) Ed Owens, Coalition of Coastal Fisheries.

Persons Signed In To Testify But Not Testifying: None.