

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2362

62nd Legislature
2012 Regular Session

Passed by the House January 1, 0001
Yeas 0 Nays 0

Speaker of the House of Representatives

Passed by the Senate January 1, 0001
Yeas 0 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2362** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2362

Passed Legislature - 2012 Regular Session

State of Washington

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By Representatives Halper, Blake, and Chandler

Read first time 01/12/12. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to wine producer liens; amending RCW 60.13.010,
2 60.13.040, 60.13.060, and 60.13.070; and adding new sections to chapter
3 60.13 RCW.

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

5 **Sec. 1.** RCW 60.13.010 and 2002 c 278 s 1 are each amended to read
6 as follows:

7 As used in this chapter, the terms defined in this section have the
8 meanings indicated unless the context clearly requires otherwise.

9 (1) "Agricultural product" means any unprocessed horticultural,
10 vermicultural and its by-products, viticultural, berry, poultry,
11 poultry product, grain, bee, or other agricultural products, and
12 includes mint or mint oil processed by or for the producer thereof and
13 hay and straw baled or prepared for market in any manner or form and
14 livestock. When used in RCW 60.13.020, "agricultural product" means
15 horticultural, viticultural, aquacultural, or berry products, hay and
16 straw, milk and milk products, vegetable seed, or turf and forage seed
17 and applies only when such products are delivered to a processor or
18 conditioner in an unprocessed form.

1 (2) "Conditioner," "consignor," "person," and "producer" have the
2 meanings defined in RCW 20.01.010.

3 (3) "Delivers" means that a producer completes the performance of
4 all contractual obligations with reference to the transfer of actual or
5 constructive possession or control of an agricultural product to a
6 processor or conditioner or preparer, regardless of whether the
7 processor or conditioner or preparer takes physical possession.

8 (4) "Preparer" means a person engaged in the business of feeding
9 livestock or preparing livestock products for market.

10 (5) "Processor" means any person, firm, company, or other
11 organization that purchases agricultural products except milk and milk
12 products from a consignor and that cans, freezes, dries, dehydrates,
13 cooks, presses, powders, or otherwise processes those crops in any
14 manner whatsoever for eventual resale, or that purchases or markets
15 milk from a dairy producer and is obligated to remit payment to such
16 dairy producer directly.

17 (6) "Commercial fisherman" means a person licensed to fish
18 commercially for or to take food fish or shellfish or steelhead legally
19 caught pursuant to executive order, treaty right, or federal statute.

20 (7) "Fish" means food fish or shellfish or steelhead legally caught
21 pursuant to executive order, treaty right, or federal statute.

22 (8) "Vinifera grapes" means the agricultural product commonly known
23 as *Vitis vinifera* and those hybrid of *Vitis vinifera* that have
24 predominantly the character of *Vitis vinifera*.

25 (9) "Wine producer" means any person or other entity licensed under
26 Title 66 RCW to produce within the state wine from vinifera grapes.

27 NEW SECTION. Sec. 2. A new section is added to chapter 60.13 RCW
28 to read as follows:

29 Starting on the date a producer of vinifera grapes delivers
30 vinifera grapes to a wine producer, the producer has a first priority
31 statutory lien, referred to as a wine producer lien. This wine
32 producer lien shall continue, without filing notice of lien, until
33 sixty days after payment for the product is due and remains unpaid, for
34 the contract price, if any, or the fair market value of the products
35 delivered. The wine producer lien attaches to the vinifera grapes
36 delivered, to the wine producer's inventory, and to the wine producer's

1 accounts receivable. For purposes of this section, payment is due on
2 the date specified in the contract, or if not specified or no contract
3 exists, then within thirty days from time of delivery.

4 **Sec. 3.** RCW 60.13.040 and 2002 c 278 s 2 are each amended to read
5 as follows:

6 (1) A producer or commercial fisherman claiming a wine producer,
7 processor, or preparer lien may file a statement evidencing the lien
8 with the department of licensing after payment from the wine producer,
9 processor, conditioner, or preparer to the producer or fisherman is due
10 and remains unpaid. For purposes of this subsection and RCW 60.13.050,
11 payment is due on the date specified in the contract, or if not
12 specified, then within thirty days from time of delivery.

13 (2) The statement shall be in a record, authenticated by the
14 producer or fisherman, and shall contain in substance the following
15 information:

16 (a) A true statement or a reasonable estimate of the amount
17 demanded after deducting all credits and offsets;

18 (b) The name of the wine producer, processor, conditioner, or
19 preparer who received the agricultural product or fish to be charged
20 with the lien;

21 (c) A description sufficient to identify the agricultural product
22 or fish to be charged with the lien;

23 (d) A statement that the amount claimed is a true and bona fide
24 existing debt as of the date of the filing of the notice evidencing the
25 lien;

26 (e) The date on which payment was due for the agricultural product
27 or fish to be charged with the lien; and

28 (f) The department of licensing may by rule prescribe standard
29 filing forms, fees, and uniform procedures for filing with, and
30 obtaining information from, filing officers.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 60.13 RCW
32 to read as follows:

33 (1)(a) If a statement is filed pursuant to RCW 60.13.040 within
34 sixty days of the date upon which payment from the wine producer is due
35 and remains unpaid, the wine producer lien evidenced by the statement
36 continues its priority over all other liens or security interests upon

1 the vinifera grapes delivered, inventory, and accounts receivable,
2 except as provided in (b) of this subsection. This priority is without
3 regard to whether the other liens or security interests attached before
4 or after the date on which the wine producer lien attached.

5 (b) The wine producer lien is subordinate to liens for taxes or
6 labor perfected before filing of the wine producer lien.

7 (2) If the statement provided for in RCW 60.13.040 is not filed
8 within sixty days of the date payment is due and remains unpaid, the
9 wine producer lien thereupon becomes subordinate to:

10 (a) A lien that has attached to the vinifera grapes delivered,
11 inventory, or accounts receivable before the date on which the wine
12 producer lien attaches; and

13 (b) A perfected security interest in the vinifera grapes delivered,
14 inventory, or accounts receivable.

15 **Sec. 5.** RCW 60.13.060 and 2002 c 278 s 3 are each amended to read
16 as follows:

17 (1) The wine producer or processor lien shall terminate twelve
18 months after, and the preparer lien shall terminate fifty days after,
19 the later of the date of attachment or filing, unless a suit to
20 foreclose the lien has been filed before that time as provided in RCW
21 60.13.070.

22 (2) If a statement has been filed as provided in RCW 60.13.040 and
23 the producer or commercial fisherman has received payment for the
24 obligation secured by the lien, the producer or fisherman shall
25 promptly file with the department of licensing a statement declaring
26 that full payment has been received and that the lien is discharged.
27 If, after payment, the producer or fisherman fails to file such
28 statement of discharge within ten days following a request to do so,
29 the producer or fisherman shall be liable to the wine producer,
30 processor, conditioner, or preparer in the sum of one hundred dollars
31 plus actual damages caused by the failure.

32 **Sec. 6.** RCW 60.13.070 and 1985 c 412 s 7 are each amended to read
33 as follows:

34 (1) The wine producer, processor, or preparer liens may be
35 foreclosed and enforced by civil action in superior court.

1 (2) In all suits to enforce wine producer, processor, or preparer
2 liens, the court shall, upon entering judgment, allow to the prevailing
3 party as a part of the costs, all moneys paid for the filing and
4 recording of the lien and reasonable attorney fees.

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