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HOUSE BILL 2864

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Linville, Armstrong, Clements, Sump, Grant, Conway, Morell and Chase

Read first time 01/30/2002. Referred to Committee on Agriculture & Ecology.

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  
37 establishing orderly, fair, sound, efficient, and unhampered marketing,

1 grading, and standardizing of the organic foods they produce, and in  
2 promoting and increasing the sale of such commodities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 The director shall notify affected producers, so listed, by mail  
32 that the public hearing affording opportunity for them to be heard upon  
33 the proposed issuance, amendment, or termination of the marketing order  
34 will be heard at the time and place stated in the notice. The notice  
35 of the hearing shall be given not less than ten days nor more than  
36 sixty days before the hearing.

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

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

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

35        (b) That the proposed issuance, amendment, or termination is in  
36 conformity with this chapter and within the applicable limitations, and  
37 restrictions in the issuance, amendment, or termination will tend to  
38 effectuate the declared purposes and policies of this chapter;

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

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

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

27 NEW SECTION. **Sec. 10.** A marketing order shall define the area of  
28 the state to be covered by the order, which may be all or any portion  
29 of the state, shall contain provisions for establishment of the organic  
30 foods commission and administration and operation and powers and duties  
31 of the commission, shall provide for assessments as provided for in  
32 this chapter, and shall contain one or more of the provisions in  
33 section 3 of this act.

34 NEW SECTION. **Sec. 11.** The marketing order shall establish an  
35 organic foods commission composed of not less than five nor more than  
36 thirteen members. In addition, the director shall be an ex officio

1 member of the organic foods commission. Commission members shall be  
2 citizens and residents of this state, over the age of twenty-five  
3 years. The term of office of commission members shall be three years  
4 with the terms rotating so that one-third of the terms will commence as  
5 nearly as practicable each year. However, the first commission shall  
6 be selected, one-third for a term of one year, one-third for a term of  
7 two years, and one-third for a term of three years, as nearly as  
8 practicable. Two-thirds of the commission members shall be elected by  
9 the affected producers and such elected members shall all be affected  
10 producers. The remaining one-third shall be appointed by the  
11 commission and shall be either affected producers, others active in  
12 matters relating to the organic foods or persons not so related.

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

24 Not less than sixty days nor more than seventy-five days before the  
25 commencement of such commission member term, the director shall submit  
26 by mail ballots to all affected producers, which ballots shall be  
27 required to be returned to the director not less than thirty days  
28 before the commencement of such term. Such mail ballot shall be  
29 conducted in a manner so that it shall be a secret ballot. With  
30 respect to the first organic foods commission, the director may call  
31 for nominations in the notice of decision following the hearing and the  
32 ballot may be submitted at the time the director's proposed order is  
33 submitted to the affected producers for their assent.

34 The elected members may be elected from various districts within  
35 the area covered by the marketing order if the order so provides, with  
36 the number of members from each district to be in accordance with the  
37 provisions of the marketing order.

1 The members of the commission not elected by the affected producers  
2 shall be elected by a majority of the commission at a meeting of the  
3 commission within ninety days before expiration of the term but to fill  
4 nonelective vacancies caused by other reasons than the expiration of a  
5 term, the new member shall be elected by the commission at its first  
6 meeting after the occurrence of the vacancy.

7 When only one nominee is nominated for any position on the  
8 commission, the director shall deem that the nominee satisfies the  
9 requirements of the position and then it shall be deemed that the  
10 nominee has been duly elected.

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

21 Each member of the commission shall be compensated in accordance  
22 with RCW 43.03.230 and shall be reimbursed for travel expenses in  
23 accordance with RCW 43.03.050 and 43.03.060.

24 NEW SECTION. **Sec. 14.** The organic foods commission shall have  
25 such powers and duties in accordance with this chapter as may be  
26 provided in the marketing order and shall have the following powers and  
27 duties:

28 (1) To elect a chair and such other officers as determined  
29 advisable;

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

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

35 (4) To employ and discharge at its discretion such administrators  
36 and additional personnel, attorneys, advertising and research agencies,



1 and other persons and firms that it may deem appropriate and pay  
2 compensation to the same;

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

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

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

13 (8) To borrow money and incur indebtedness;

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

15 (10) To expend funds for organic foods-related education, training,  
16 and leadership programs as the organic foods commission deems  
17 expedient;

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

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

26 NEW SECTION. **Sec. 16.** (1) There is hereby levied, and there shall  
27 be collected by the organic foods commission, upon each and every  
28 dollar unit of any organic food product specified in any marketing  
29 order an annual assessment that shall be paid by the producer thereof  
30 upon each and every such dollar unit sold, processed, stored, or  
31 delivered for sale, processing, or storage by the producer. Such  
32 assessments shall be expressed as a stated percentage of the net unit  
33 price at the time of sale. The total amount of such annual assessment  
34 to be paid by all affected producers shall not exceed one percent of  
35 the total market value of all affected units sold, processed, stored,  
36 or delivered for sale, processing, or storage by all affected producers  
37 of such units during the year to which the assessment applies.

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

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

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

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

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

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

30 Upon the termination of any marketing order any and all moneys  
31 remaining with the organic foods commission operating under that  
32 marketing order and not required to defray expenses or repay  
33 obligations incurred by the organic foods commission shall be returned  
34 to the affected producers in proportion to the assessments paid by each  
35 in the two-year period preceding the date of the termination order.

36 NEW SECTION. **Sec. 18.** Any due and payable assessment levied under  
37 this chapter, and every sum due under the marketing order in a

1 specified amount, constitutes a personal debt of every person so  
2 assessed or who otherwise owes the same, and the same shall be due and  
3 payable to the organic foods commission when payment is called for by  
4 the organic foods commission. In the event any person fails to pay the  
5 full amount of such assessment or such other sum on or before the date  
6 due, the organic foods commission may add to such unpaid assessment or  
7 sum an amount not exceeding ten percent of the same to defray the cost  
8 of enforcing the collecting of the same. In the event of failure of  
9 such person or persons to pay any such due and payable assessment or  
10 other such sum, the organic foods commission may bring a civil action  
11 against such person or persons in a state court of competent  
12 jurisdiction for the collection thereof, together with ten percent  
13 provided for in this section, and such action shall be tried and  
14 judgment rendered as in any other cause of action for debt due and  
15 payable.

16 NEW SECTION. **Sec. 19.** All moneys that are collected or otherwise  
17 received under a marketing order created under this chapter shall be  
18 used solely by and for the organic foods commission and shall not be  
19 used for any other commission or the department. Such moneys shall be  
20 deposited in a separate account or accounts in the name of the organic  
21 foods commission in any bank that is a state depository. All expenses  
22 and disbursements incurred and made pursuant to the provisions of any  
23 marketing order shall be paid from moneys collected and received  
24 pursuant to such order without the necessity of a specific legislative  
25 appropriation and all moneys deposited for the account of any order  
26 shall be paid from the account by check or voucher in such form and in  
27 such manner and upon the signature of such person as may be prescribed  
28 by the organic foods commission. None of the provisions of RCW  
29 43.01.050 are applicable to any such account or any moneys so received,  
30 collected, or expended.

31 NEW SECTION. **Sec. 20.** Any funds of the organic foods commission  
32 may be invested in savings or time deposits in banks, trust companies,  
33 and mutual savings banks that are doing business in this state, up to  
34 the amount of insurance afforded such accounts by the Federal Deposit  
35 Insurance Corporation. This section applies to all funds that may be  
36 lawfully so invested that in the judgment of the organic foods  
37 commission are not required for immediate expenditure. The authority

1 granted by this section is not exclusive and shall be construed to be  
2 cumulative and in addition to other authority provided by law for the  
3 investment of such funds.

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

10 NEW SECTION. **Sec. 22.** An affected producer subject to a marketing  
11 order may file a written petition with the director stating that the  
12 order, agreement, or program or any part thereof is not in accordance  
13 with the law, and requesting a modification thereof or exemption  
14 therefrom. The producer shall thereupon be given a hearing, which  
15 hearing shall be conducted in the manner provided in section 7 of this  
16 act, and thereafter the director shall make a ruling which shall be  
17 final.

18 Appeal from any ruling of the director may be taken to the superior  
19 court of the county in which the petitioner resides or has his or her  
20 principal place of business, by serving upon the director a copy of the  
21 notice of appeal and complaint within twenty days from the date of  
22 entry of the ruling. Upon such application, the court may proceed in  
23 accordance with RCW 7.16.010 through 7.16.140. If the court determines  
24 that the ruling is not in accordance with law, it shall remand the  
25 proceedings to the director with directions to make a ruling as the  
26 court determines to be in accordance with law or to take such further  
27 proceedings as in its opinion are required by this chapter.

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

29 (1) Any person willfully to violate any provision of this chapter  
30 or any provision of any marketing order duly issued by the director  
31 under this chapter;

32 (2) Any person willfully to render or furnish a false or fraudulent  
33 report, statement of record required by the director or the organic  
34 foods commission under this chapter, or any provision of any marketing  
35 order duly issued by the director under this chapter or willfully to

1 fail or refuse to furnish or render any such report, statement, or  
2 record so required.

3 In the event of violation or threatened violation of any provision  
4 of this chapter or of any marketing order duly issued or entered into  
5 under this chapter, the director, the organic foods commission, or any  
6 affected producer on joining the organic foods commission shall be  
7 entitled to an injunction to prevent further violation and to a decree  
8 of specific performance of such order, and to a temporary restraining  
9 order and injunction pending litigation upon filing a verified  
10 complaint and sufficient bond.

11 All persons subject to any order shall severally from time to time,  
12 upon the request of the director, furnish the director with such  
13 information as the director finds to be necessary to enable him or her  
14 to effectuate the policies of this chapter and the purposes of such  
15 order or to ascertain and determine the extent to which such order has  
16 been carried out or has effectuated such policies and purposes, or to  
17 determine whether or not there has been any abuse of the privilege of  
18 exemptions from laws relating to trusts, monopolies, and restraints of  
19 trade. Such information shall be furnished in accordance with forms  
20 and reports to be prescribed by the director. For the purpose of  
21 ascertaining the correctness of any report made to the director under  
22 this section or for the purpose of obtaining the information required  
23 in any such report where it has been requested and has not been  
24 furnished, the director may examine such books, papers, records, copies  
25 of tax reports, accounts, correspondence, contracts, documents, or  
26 memoranda as the director deems relevant and that are within the  
27 control of any such person from whom such report was requested, or of  
28 any person having, either directly or indirectly, actual or legal  
29 control of or over such person or such records, or of any subsidiary of  
30 any such person. To carry out the purposes of this section the  
31 director, upon giving due notice, may hold hearings, take testimony,  
32 administer oaths, subpoena witnesses, and issue subpoenas for the  
33 production of books, records, documents, or other writings of any kind,  
34 and section 7 of this act applies with respect to any such hearing,  
35 together with such other rules consistent therewith as the director may  
36 from time to time prescribe.

37 NEW SECTION. **Sec. 24.** In any civil or criminal action or  
38 proceeding for violation of any rule of statutory or common law against

1 monopolies or combinations in restraint of trade, proof that the act  
2 complained of was done in compliance with this chapter or a marketing  
3 order issued under this chapter, and in furtherance of the purposes and  
4 provisions of this chapter, shall be a complete defense to such action  
5 or proceeding.

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

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

28 NEW SECTION. **Sec. 27.** All general administrative expenses of the  
29 director in carrying out the provisions of this chapter shall be borne  
30 by the state: PROVIDED, That the department shall be reimbursed for  
31 actual costs incurred in conducting nominations and elections for  
32 members of the organic foods commission established under this chapter.  
33 Such reimbursement shall be made from the funds of the organic foods  
34 commission for which the nominations and elections were conducted by  
35 the director.

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

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

6        NEW SECTION.    **Sec. 30.**    Subsequent to the formation of an organic  
7    food commission following a referendum vote of affected producers in  
8    accordance with section 9 of this act and the establishment of an  
9    assessment on organic foods in accordance with section 16 of this act,  
10    organic food subject to an assessment by the organic food commission is  
11    exempt from assessments by any other commodity commissions formed under  
12    chapters 15.24, 15.26, 15.28, 15.44, 15.62, 15.65, 15.66, and 16.67  
13    RCW.

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

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

20       NEW SECTION.    **Sec. 32.**    A new section is added to chapter 15.26 RCW  
21    to read as follows:

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

26       NEW SECTION.    **Sec. 33.**    A new section is added to chapter 15.28 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.

32       NEW SECTION.    **Sec. 34.**    A new section is added to chapter 15.44 RCW  
33    to read as follows:

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

5 NEW SECTION. **Sec. 35.** A new section is added to chapter 15.62 RCW  
6 to read as follows:

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

11 NEW SECTION. **Sec. 36.** A new section is added to chapter 15.65 RCW  
12 to read as follows:

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

17 NEW SECTION. **Sec. 37.** A new section is added to chapter 15.66 RCW  
18 to read as follows:

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

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

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

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

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



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

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