
**Agriculture & Natural Resources
Committee**

SB 5075

Brief Description: Concerning dispute resolution between seed buyers and dealers.

Sponsors: Senators Takko and Warnick.

Brief Summary of Bill

- Requires seed buyers to seek mediation before instituting a legal action to recover damages in excess of \$5,000.
- Establishes a process for mediation between a seed buyer and seller.

Hearing Date: 3/14/17

Staff: Robert Hatfield (786-7117).

Background:

The Washington State Seed Act (Seed Act) serves to provide uniformity and consistency in the packaging of agricultural, vegetable, and flower seeds. The purpose of the Seed Act is to facilitate the interstate movement of seeds, to protect consumers, and to provide a dispute-resolution process.

The Washington State Department of Agriculture (WSDA) administers the Seed Act. The program conducts pre-harvest field inspections and laboratory testing of agricultural, vegetable, and flower seeds grown under the seed program. The program tests seed samples submitted by seed growers and companies to determine compliance with purity and germination standards, and to certify seeds for domestic and international marketing. The program provides for labeling of seeds in commerce.

Before a seed buyer may initiate a legal action to recover any damages valued at greater than \$2,000 caused by seeds that do not perform as represented by the required label, the buyer must

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first seek arbitration of his or her claim. This arbitration requirement also applies to any counter-claims raised by the party accused of misrepresenting his or her product. Information relating to this prerequisite to legal action must be provided on the actual seed label. The statute of limitations for the claim is tolled during the arbitration process. The outcome of the Seed Act-specific arbitration is not binding on either party, and either party may initiate litigation after the arbitration.

The arbitration process begins with the aggrieved seed buyer filing a sworn claim with the WSDA and paying any filing fees. The seed seller then has 20 days to file an answer to the complaint. Once received, the Director of the WSDA (Director) must refer the complaint to an arbitration committee for investigation, findings, and recommendations.

The arbitration committee is appointed by the Director. It must have five members, including an employee of the WSDA. The other four members must be selected to create a balanced committee that does not favor either party. Prior to making the appointments, advice must be sought from the Washington State University, and representatives of a seed dealer organization, an agricultural organization, and an organization representing seed purchasers. The members of the arbitration committee may not receive compensation for their service, but they may have their travel expenses reimbursed.

The arbitration committee must make a full investigation and return its findings to the Director within 60 days. The arbitration committee must investigate the claim, examine the buyer and the seller, hold informal hearings, and may grow a representative sample of the seed in question. The report must include a final award and recommendations as to responsibility for costs.

Summary of Bill:

The requirement for a seed buyer to provide for the arbitration of a claim prior to commencing legal action on the claim is changed to a requirement to provide for mediation of the claim. The requirement applies only to claims involving a seed dealer subject to the state's jurisdiction over the buyer's claims, and applies only to disputes of \$5,000 or more. The claim is tolled from the date the mediation proceedings are instituted until ten days after the date the mediation is concluded.

To submit a claim for mediation, the buyer must send to the dealer a sworn complaint alleging the damages sustained by the buyer. In response to the complaint, the dealer must agree to engage in mediation or must state the dealer's grounds for refusing to engage in mediation. The dealer's failure to answer the complaint, or refusal to engage in mediation, must be documented for the record supporting the buyer's option to maintain a legal action for its claim against the dealer.

The parties shall share equally the responsibility for any mediation fees, unless otherwise agreed. The mediator must be selected by mutual agreement of the parties from mediators qualified to conduct mediations under the Uniform Mediation Act. The mediation must take place within the part of the state where the buyer conducts operations unless otherwise agreed to by the parties.

Appropriation: None.

Fiscal Note: Available.

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