

SB 6661 - S AMD 43

By Senators Rasmussen, Jacobsen, Schoesler, Esser

ADOPTED 02/10/2006

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

3 "NEW SECTION. **Sec. 1.** The legislature declares that:

4 (1) Marketing is a dynamic and changing part of Washington
5 agriculture and a vital element in expanding the state economy;

6 (2) The sale in this state and export to other states and abroad of
7 beer made in this state contribute substantial benefits to the economy
8 of the state and provide a large number of jobs and sizeable tax
9 revenues;

10 (3) The production of beer in this state is a new and important
11 segment of Washington agriculture that has potential for greater
12 contribution to the economy of the state if it undergoes continued
13 development; and

14 (4) The general welfare of the people of this state will be served
15 by continued development of the activities of the production of beer,
16 that will improve the tax bases of local communities where agricultural
17 land and processing facilities are located, and reduce the need for
18 state and federal funding of local services. The industries are
19 therefore affected with the public interest.

20 NEW SECTION. **Sec. 2.** The definitions in this section apply
21 throughout this chapter unless the context clearly requires otherwise.

22 (1) "Affected producer" means any producer who is subject to this
23 chapter.

24 (2) "Beer" means any malt beverage or malt liquor as the terms are
25 defined in chapter 66.04 RCW.

26 (3) "Commission" means the Washington beer commission.

27 (4) "Fiscal year" means the twelve-month period beginning with
28 January 1st of any year and ending December 31st.

1 (5) "Producer" means any person or other entity licensed under
2 Title 66 RCW to produce beer within Washington state and who produces
3 less than one hundred thousand barrels of beer annually per location.

4 (6) "Referendum" means a vote by affected producers that is
5 conducted by secret ballot.

6 NEW SECTION. **Sec. 3.** The history, economy, culture, and future of
7 Washington state's agriculture involve the beer industry. In order to
8 develop and promote beer as part of an existing comprehensive scheme to
9 regulate those products, the legislature declares that:

10 (1) It is vital to the continued economic well-being of the
11 citizens of this state and their general welfare that beer produced in
12 Washington state be properly promoted;

13 (2) It is in the overriding public interest that support for the
14 Washington beer industry be clearly expressed and that beer be promoted
15 individually, and as part of a comprehensive industry to:

16 (a) Enhance the reputation and image of Washington state's
17 agriculture industry;

18 (b) Protect the public by educating the public in reference to the
19 quality, care, and methods used in the production of beer;

20 (c) Increase the knowledge of the qualities and value of
21 Washington's beer; and

22 (d) Support and engage in programs or activities that benefit the
23 production, handling, processing, marketing, and uses of beer;

24 (3) This chapter is enacted in the exercise of the police powers of
25 this state to protect the health, peace, safety, and general welfare of
26 the people of this state; and

27 (4) The production and marketing of beer is a highly regulated
28 industry and this chapter and the rules adopted under it are only one
29 aspect of the regulated industry. Other laws applicable to the beer
30 industry include:

31 (a) The organic food products act, chapter 15.86 RCW;

32 (b) The wholesale distributors and suppliers of malt beverages,
33 chapter 19.126 RCW;

34 (c) Weights and measures, chapter 19.94 RCW;

35 (d) Title 66 RCW, alcoholic beverage control;

36 (e) Title 69 RCW, food, drugs, cosmetics, and poisons;

1 (f) 21 C.F.R. as it relates to general manufacturing practices,
2 food labeling, food standards, food additives, and pesticide
3 tolerances;

4 (g) Chapter 69.07 RCW, Washington food processing act;

5 (h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;

6 (i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and

7 (j) Rules under Title 314 WAC.

8 NEW SECTION. **Sec. 4.** (1) Subject to the referendum conducted
9 under section 5 of this act, there is created an agricultural commodity
10 commission, to be known as the Washington beer commission. The
11 commission shall be comprised of seven voting members; six members
12 shall be producers and one voting member shall be the director.

13 (2) Five voting members of the commission constitute a quorum for
14 the transaction of any commission business.

15 (3) Each producer member shall be a citizen and resident of this
16 state and over the age of twenty-one. Each producer member must be
17 engaged in producing beer, and must, during his or her term of office,
18 derive a substantial portion of income from the production of beer, or
19 have a substantial investment in the production of beer as an owner,
20 lessee, partner, or the manager or executive officer of such a
21 corporation. No more than one board member may be part of the same
22 person as defined by RCW 15.04.010. These qualifications apply
23 throughout each member's term of office but do not apply to the
24 director.

25 (4) The producer members shall serve three-year terms. Of the
26 initial voting members, two members shall be appointed for a one-year
27 term, two members shall be appointed for a two-year term, and two
28 members shall be appointed for a three-year term.

29 NEW SECTION. **Sec. 5.** (1) Upon receipt of a petition containing
30 the signatures of five beer producers from a statewide Washington state
31 craft brewing trade association or other affected producers to
32 implement this chapter and to determine producer participation in the
33 commission and assessment under this chapter, the director shall:

34 (a) Conduct a referendum of beer producers. The requirements of
35 assent or approval of the referendum are met if:

1 (i) At least fifty-one percent by numbers of affected producers
2 participating in the referendum vote affirmatively; and

3 (ii) Thirty percent of the affected producers and thirty percent of
4 the production have been represented in the referendum to determine
5 assent or approval of participation and assessment. The referendum
6 shall be conducted within sixty days of receipt of the petition; and

7 (b) Establish a list of beer producers from information provided by
8 the petitioners, by obtaining information on beer producers from
9 applicable producer organizations or associations or other sources
10 identified as maintaining the information. In establishing a current
11 list of beer producers and their individual production, the director
12 shall use the beer producer's name, mailing address, and production by
13 the producer in the preceding fiscal year. Information on each
14 producer shall be mailed to each beer producer on record with the
15 director for verification. All corrections shall be filed with the
16 director within twenty days from the date of mailing. The list of
17 affected producers shall be kept in a file by the director. The list
18 shall be certified as a true representation of the referendum mailing
19 list. Inadvertent failure to notify an affected producer does not
20 invalidate a proceeding conducted under this chapter. The director
21 shall provide the commission the list of affected producers after
22 assent in a referendum as provided in this section.

23 (2) If the director determines that the requisite assent has been
24 given in the referendum conducted under subsection (1) of this section,
25 the director shall:

26 (a) Within sixty days after assent of the referendum held, appoint
27 the members of the commission; and

28 (b) Direct the commission to put into force the assessment as
29 provided for in section 14 of this act.

30 (3) If the director determines that the requisite assent has not
31 been given in the referendum conducted under subsection (1) of this
32 section, the director shall take no further action to implement or
33 enforce this chapter.

34 (4) Upon completion of the referendum conducted under subsection
35 (1) of this section, the department shall tally the results of the vote
36 and provide the results to affected producers. If an affected producer
37 disputes the results of a vote, that producer within sixty days from
38 the announced results, shall provide in writing a statement of why the

1 vote is disputed and request a recount. Once the vote is tallied and
2 distributed, all disputes are resolved, and all matters in a vote are
3 finalized, the individual ballots may be destroyed.

4 (5) Before conducting the referendum provided for in subsection (1)
5 of this section, the director may require the petitioners to deposit
6 with him or her an amount of money as the director deems necessary to
7 defray the expenses of conducting the referendum. The director shall
8 provide the petitioners an estimate of expenses that may be incurred to
9 conduct a referendum before any service takes place. Petitioners shall
10 deposit funds with the director to pay for expenses incurred by the
11 department. The commission shall reimburse petitioners the amount paid
12 to the department when funds become available. However, if for any
13 reason the referendum process is discontinued, the petitioners shall
14 reimburse the department for expenses incurred by the department up
15 until the time the process is discontinued.

16 (6) The director is not required to hold a referendum under
17 subsection (1) of this section more than once in any twelve-month
18 period.

19 NEW SECTION. **Sec. 6.** (1) The director shall appoint the producer
20 members of the commission. In making appointments, no later than
21 ninety days before an expiration of a commission member's term, the
22 director shall call for recommendations for commission member
23 positions, and the director shall take into consideration
24 recommendations made by a statewide Washington state craft brewing
25 trade association or other affected producers. In appointing persons
26 to the commission, the director shall seek a balanced representation on
27 the commission that reflects the composition of the beer producers
28 throughout the state on the basis of beer produced and geographic
29 location. Information on beer production by geographic location shall
30 be provided by the commission upon the director's request.

31 (2) If a position on the commission becomes vacant due to
32 resignation, disqualification, death, or for any other reason, the
33 commission shall notify the director and the unexpired term shall
34 immediately be filled by appointment by the director.

35 (3) Each member or employee of the commission shall be reimbursed
36 for actual travel expenses incurred in carrying out this chapter as

1 defined by the commission in rule. Otherwise if not defined in rule,
2 reimbursement for travel expenses shall be at the rates allowed by RCW
3 43.03.050 and 43.03.060.

4 NEW SECTION. **Sec. 7.** Obligations incurred by the commission and
5 any other liabilities or claims against the commission shall be
6 enforced only against the assets of the commission and, except to the
7 extent of such assets, no liability for the debts or actions of the
8 commission exists against either the state of Washington or any
9 subdivision or instrumentality thereof or against any member, employee,
10 or agent of the commission or the state of Washington in his or her
11 individual capacity. Except as otherwise provided in this chapter,
12 neither the commission members, nor its employees, may be held
13 individually responsible for errors in judgment, mistakes, or other
14 acts, either of commission or omission, as principal, agent, person, or
15 employee, except for their own individual acts of dishonesty or crime.
16 No person or employee may be held individually responsible for any act
17 or omission of any other commission members. The liability of the
18 commission members shall be several and not joint, and no member is
19 liable for the default of any other member. This provision confirms
20 that commission members have been and continue to be, state officers or
21 volunteers for purposes of RCW 4.92.075 and are entitled to the
22 defenses, indemnifications, limitations of liability, and other
23 protections and benefits of chapter 4.92 RCW.

24 NEW SECTION. **Sec. 8.** The commission shall:

25 (1) Elect a chair and officers. The officers must include a
26 treasurer who is responsible for all receipts and disbursements by the
27 commission and the faithful discharge of whose duties shall be
28 guaranteed by a bond at the sole expense of the commission. The
29 commission must adopt rules for its own governance that provide for the
30 holding of an annual meeting for the election of officers and the
31 transaction of other business and for other meetings the commission may
32 direct;

33 (2) Do all things reasonably necessary to effect the purposes of
34 this chapter. However, the commission has no rule-making power except
35 as provided in this chapter;

1 (3) Employ and discharge managers, secretaries, agents, attorneys,
2 and employees and engage the services of independent contractors;

3 (4) Retain, as necessary, the services of private legal counsel to
4 conduct legal actions on behalf of the commission. The retention of a
5 private attorney is subject to review by the office of the attorney
6 general;

7 (5) Receive donations of beer from producers for promotional
8 purposes under subsections (6) and (7) of this section and for fund-
9 raising purposes under subsection (8) of this section. Donations of
10 beer for promotional purposes may only be disseminated without charge;

11 (6) Engage directly or indirectly in the promotion of Washington
12 beer, including, without limitation, the acquisition in any lawful
13 manner and the dissemination without charge of beer. This
14 dissemination is not deemed a sale for any purpose and the commission
15 is not deemed a producer, supplier, or manufacturer, or the clerk,
16 servant, or agent of a producer, supplier, distributor, or
17 manufacturer. This dissemination without charge shall be for
18 agricultural development or trade promotion, and not for fund-raising
19 purposes under subsection (8) of this section. Dissemination for
20 promotional purposes may include promotional hosting and must in the
21 good faith judgment of the commission be in the aid of the marketing,
22 advertising, sale of beer, or of research related to such marketing,
23 advertising, or sale;

24 (7) Promote Washington beer by conducting unique beer tastings
25 without charge;

26 (8) Fund the Washington beer commission through sponsorship of up
27 to twelve beer festivals annually at which beer may be sold to festival
28 participants. For this purpose, the commission would qualify for issue
29 of a special occasion license as an exception to WAC 314-05-020 but
30 must comply with laws under Title 66 RCW and rules adopted by the
31 liquor control board under which such events may be conducted. If
32 Substitute Senate Bill No. 6838, promoting Washington's craft beer
33 industry by conducting beer festivals, is enacted during the 2006
34 regular legislative session, the commission may not conduct beer
35 festivals before July 1, 2007;

36 (9) Participate in international, federal, state, and local
37 hearings, meetings, and other proceedings relating to the production,

1 regulation, distribution, sale, or use of beer including activities
2 authorized under RCW 42.17.190, including the reporting of those
3 activities to the public disclosure commission;

4 (10) Acquire and transfer personal and real property, establish
5 offices, incur expenses, and enter into contracts, including contracts
6 for the creation and printing of promotional literature. The contracts
7 are not subject to chapter 43.78 RCW, and are cancelable by the
8 commission unless performed under conditions of employment that
9 substantially conform to the laws of this state and the rules of the
10 department of labor and industries. The commission may create debt and
11 other liabilities that are reasonable for proper discharge of its
12 duties under this chapter;

13 (11) Maintain accounts with one or more qualified public
14 depositories as the commission may direct, for the deposit of money,
15 and expend money for purposes authorized by this chapter by drafts made
16 by the commission upon such institutions or by other means;

17 (12) Cause to be kept and annually closed, in accordance with
18 generally accepted accounting principles, accurate records of all
19 receipts, disbursements, and other financial transactions, available
20 for audit by the state auditor;

21 (13) Create and maintain a list of producers and disseminate
22 information among and solicit the opinions of producers with respect to
23 the discharge of the duties of the commission, directly or by
24 arrangement with trade associations or other instrumentalities;

25 (14) Employ, designate as an agent, act in concert with, and enter
26 into contracts with any person, council, commission, or other entity to
27 promote the general welfare of the beer industry and particularly to
28 assist in the sale and distribution of Washington beer in domestic and
29 foreign commerce. The commission shall expend money necessary or
30 advisable for this purpose and to pay its proportionate share of the
31 cost of any program providing direct or indirect assistance to the sale
32 and distribution of Washington beer in domestic or foreign commerce,
33 employing and paying for vendors of professional services of all kinds;

34 (15) Sue and be sued as a commission, without individual liability
35 for acts of the commission within the scope of the powers conferred
36 upon it by this chapter; and

37 (16) Serve as liaison with the liquor control board on behalf of
38 the commission and not for any individual producer.

1 NEW SECTION. **Sec. 9.** (1) The commission shall develop and submit
2 to the director for approval any plans, programs, and projects
3 concerning the following:

4 (a) The establishment, issuance, effectuation, and administration
5 of appropriate programs or projects for advertising, promotion, and
6 education programs related to beer; and

7 (b) The establishment and effectuation of market research projects,
8 market development projects, or both to the end that the marketing of
9 beer may be encouraged, expanded, improved, or made more efficient.

10 (2) The director shall review the commission's advertising or
11 promotion program to ensure that no false claims are being made
12 concerning beer.

13 (3) The commission, before the beginning of its fiscal year, shall
14 prepare and submit to the director for approval its research plan, its
15 commodity-related education and training plan, and its budget on a
16 fiscal period basis.

17 (4) The director shall strive to review and make a determination of
18 all submissions described in this section in a timely manner.

19 NEW SECTION. **Sec. 10.** The commission exists primarily for the
20 benefit of the people of the state of Washington and its economy. The
21 legislature hereby charges the commission, with oversight by the
22 director, to speak on behalf of the Washington state government with
23 regard to the marketing and promotion of Washington produced beer.

24 NEW SECTION. **Sec. 11.** The commission may create, provide for, and
25 conduct a comprehensive and extensive research, promotional, and
26 educational campaign as sales and market conditions reasonably require.
27 It shall investigate and ascertain the needs of producers, conditions
28 of markets, and degree of public awareness of products, and take into
29 account this information in the discharge of its duties under this
30 chapter.

31 NEW SECTION. **Sec. 12.** The commission shall adopt as major
32 objectives of its research, promotional, and educational campaign goals
33 that serve the needs of producers. The goals may include efforts to:

34 (1) Establish Washington beer as a major factor in markets
35 everywhere;

- 1 (2) Promote Washington breweries as tourist attractions;
- 2 (3) Encourage favorable reporting of Washington beer and breweries
3 in the press throughout the world;
- 4 (4) Establish Washington beer in markets everywhere as a major
5 source of premium beer;
- 6 (5) Encourage favorable legislative and regulatory treatment of
7 Washington beer in markets everywhere;
- 8 (6) Encourage promotion of Washington agriculture related to beer
9 production, specifically hops, malting barley, and wheat grown in the
10 state; and
- 11 (7) Foster economic conditions favorable to investment in the
12 production of Washington beer.

13 NEW SECTION. **Sec. 13.** (1) The commission shall prepare a list of
14 all affected producers from information available from the liquor
15 control board, the department, or the producers' association. This
16 list must contain the names and addresses of affected producers within
17 this state and the amount, by barrelage, of beer produced during the
18 period designated by the commission. A qualified person may, at any
19 time, have his or her name placed upon the list by delivering or
20 mailing the information to the commission. This list shall be
21 corrected and brought up-to-date in accordance with evidence and
22 information available to the commission by December 31st of each year.
23 For the purposes of giving notice and holding referendums, the list
24 updated before the date for issuing notices or ballots is the list of
25 all producers entitled to notice, to assent or dissent, or to vote.
26 Inadvertent failure to notify a producer does not invalidate a
27 proceeding conducted under this chapter.

28 (2) It is the responsibility of affected producers to ensure that
29 their correct address is filed with the commission. It is also the
30 responsibility of affected producers to submit production data to the
31 commission as prescribed by this chapter.

32 (3) The commission shall develop a reporting system to document
33 that the affected producers in this state are reporting quantities of
34 beer produced and are paying the assessment as provided in section 14
35 of this act.

1 NEW SECTION. **Sec. 14.** (1) Pursuant to referendum in accordance
2 with section 5 of this act, there is levied, and the commission shall
3 collect, upon beer produced by an affected producer, an annual
4 assessment of ten cents per barrel of beer produced, up to ten thousand
5 barrels per location.

6 (2) The commission shall adopt rules prescribing the time, place,
7 and method for payment and collection of this assessment and provide
8 for the collection of assessments from affected producers who ship
9 directly out-of-state.

10 (3) The commission may reduce the assessment per affected producer
11 based upon in-kind contributions to the commission.

12 NEW SECTION. **Sec. 15.** The commission shall deposit money
13 collected under section 14 of this act in a separate account in the
14 name of the commission in any bank that is a state depository. All
15 expenditures and disbursements made from this account under this
16 chapter may be made without the necessity of a specific legislative
17 appropriation. RCW 43.01.050 does not apply to this account or to the
18 money received, collected, or expended as provided in this chapter.

19 NEW SECTION. **Sec. 16.** An assessment levied in an amount
20 determined by the commission under section 14 of this act constitutes
21 a personal debt of every person assessed or who otherwise owes the
22 assessment, and the assessment is due and payable to the commission
23 when payment is called for by the commission. If a producer fails to
24 pay the commission the full amount of the assessment by the date due,
25 the commission may add to the unpaid assessment an amount not exceeding
26 ten percent of the assessment to defray the cost of enforcing its
27 collection. If the person fails to pay an assessment, the commission
28 may bring a civil action for collection against the person or persons
29 in a court of competent jurisdiction. The action shall be tried and
30 judgment rendered as in any other cause of action for a debt due and
31 payable.

32 NEW SECTION. **Sec. 17.** (1) Under RCW 42.56.380, certain
33 agricultural business records, commission records, and department of
34 agriculture records relating to the commission and producers of
35 agricultural commodities are exempt from public disclosure.

1 (2) Financial and commercial information and records submitted to
2 either the department or the commission for the purpose of
3 administering this chapter may be shared between the department and the
4 commission. They may also be used, if required, in any suit or
5 administrative hearing involving this chapter.

6 (3) This section does not prohibit:

7 (a) The issuance of general statements based upon the reports of
8 persons subject to this chapter as long as the statements do not
9 identify the information furnished by any person; or

10 (b) The publication by the director or the commission of the name
11 of any person violating this chapter and a statement of the manner of
12 the violation by that person.

13 NEW SECTION. **Sec. 18.** (1) All costs incurred by the department,
14 including the adoption of rules and other actions necessary to carry
15 out this chapter, shall be reimbursed by the commission.

16 (2) The director may provide by rule for a method to fund staff
17 support for all commodity boards or commissions in accordance with RCW
18 43.23.033 if a position is not directly funded by the legislature and
19 costs are related to the specific activity undertaken on behalf of an
20 individual commodity board or commission. The commission shall provide
21 funds to the department according to the rules adopted by the director.

22 NEW SECTION. **Sec. 19.** County and state law enforcement officers,
23 the liquor control board and its enforcement agents, and employees of
24 the department shall enforce this chapter.

25 NEW SECTION. **Sec. 20.** (1) Any prosecution brought under this
26 chapter may be instituted in any county in which the defendant or any
27 defendant resides, or in which the violation was committed, or in which
28 the defendant or any defendant has his or her principal place of
29 business.

30 (2) The superior courts may enforce this chapter and the rules and
31 regulations of the commission issued hereunder, and may prevent and
32 restrain violations thereof.

33 NEW SECTION. **Sec. 21.** This act shall be liberally construed to
34 effectuate its purposes.

1 **Sec. 22.** RCW 66.44.800 and 1987 c 452 s 17 are each amended to
2 read as follows:

3 (1) Nothing contained in chapter 15.88 RCW shall affect the
4 compliance by the Washington wine commission with this chapter.

5 (2) Nothing contained in chapter 15.-- RCW (sections 1 through 21
6 of this act) shall affect the compliance by the Washington beer
7 commission with this chapter.

8 NEW SECTION. **Sec. 23.** A new section is added to chapter 66.12 RCW
9 to read as follows:

10 The Washington beer commission created under section 4 of this act
11 may purchase or receive donations of beer or malt beverages from any
12 brewery, in any state, or in any country and may use such beer or malt
13 beverages for any promotional purposes as outlined in section 8 of this
14 act. Beer and malt beverages that are furnished to the commission
15 under this section that are used within the state are subject to the
16 taxes imposed under RCW 66.24.290. No license, permit, or bond is
17 required of the Washington beer commission under this title for
18 promotional activities conducted under chapter 15.-- RCW (sections 1
19 through 21 of this act).

20 **Sec. 24.** RCW 15.04.200 and 1987 c 452 s 16 are each amended to
21 read as follows:

22 (1) Under the authority of Article VIII of the state Constitution
23 as amended, agricultural commodity commission expenditures for
24 agricultural development or trade promotion and promotional hosting by
25 an agricultural commodities commission under chapters 15.24, 15.28,
26 15.44, 15.65, 15.66, 15.88, 15.-- (sections 1 through 21 of this act),
27 and 16.67 RCW shall be pursuant to specific budget items as approved by
28 the agricultural commodity commission at the annual public hearings on
29 the agricultural commodity commission budget.

30 (2) Agricultural commodity commissions shall adopt rules governing
31 promotional hosting expenditures by agricultural commodity commission
32 employees, agents or commissioners. The rules shall identify officials
33 and agents authorized to make expenditures and the objectives of the
34 expenditures. Individual agricultural commodity commission
35 commissioners shall make promotional hosting expenditures, or seek
36 reimbursements for these expenditures, only in those instances where

1 the expenditures have been approved by the agricultural commodity
2 commission. All payments and reimbursements shall be identified and
3 supported on vouchers.

4 (3) Agricultural commodity commissions shall be exempt from the
5 requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

6 **Sec. 25.** RCW 42.17.31907 and 2002 c 313 s 66 are each amended to
7 read as follows:

8 The following agricultural business records and commodity board and
9 commission records are exempt from the disclosure requirements of this
10 chapter:

11 (1) Production or sales records required to determine assessment
12 levels and actual assessment payments to commodity boards and
13 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
14 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
15 and 16.67 RCW or required by the department of agriculture to
16 administer these chapters or the department's programs;

17 (2) Consignment information contained on phytosanitary certificates
18 issued by the department of agriculture under chapters 15.13, 15.49,
19 and 15.17 RCW or federal phytosanitary certificates issued under
20 C.F.R. 353 through cooperative agreements with the animal and plant
21 health inspection service, United States department of agriculture, or
22 on applications for phytosanitary certification required by the
23 department of agriculture; and

24 (3) Financial and commercial information and records supplied by
25 persons (a) to the department of agriculture for the purpose of
26 conducting a referendum for the potential establishment of a commodity
27 board or commission; (b) to the department of agriculture or commodity
28 boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65,
29 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
30 or 16.67 RCW with respect to domestic or export marketing activities or
31 individual producer's production information.

32 **Sec. 26.** RCW 42.56.380 and 2005 c 274 s 418 are each amended to
33 read as follows:

34 The following information relating to agriculture and livestock is
35 exempt from disclosure under this chapter:

36 (1) Business-related information under RCW 15.86.110;

1 (2) Information provided under RCW 15.54.362;

2 (3) Production or sales records required to determine assessment
3 levels and actual assessment payments to commodity boards and
4 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
5 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act),
6 and 16.67 RCW or required by the department of agriculture to
7 administer these chapters or the department's programs;

8 (4) Consignment information contained on phytosanitary certificates
9 issued by the department of agriculture under chapters 15.13, 15.49,
10 and 15.17 RCW or federal phytosanitary certificates issued under 7
11 C.F.R. 353 through cooperative agreements with the animal and plant
12 health inspection service, United States department of agriculture, or
13 on applications for phytosanitary certification required by the
14 department of agriculture;

15 (5) Financial and commercial information and records supplied by
16 persons (a) to the department of agriculture for the purpose of
17 conducting a referendum for the potential establishment of a commodity
18 board or commission; or (b) to the department of agriculture or
19 commodity boards or commissions formed under chapter 15.24, 15.28,
20 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21
21 of this act), or 16.67 RCW with respect to domestic or export marketing
22 activities or individual producer's production information;

23 (6) Except under RCW 15.19.080, information obtained regarding the
24 purchases, sales, or production of an individual American ginseng
25 grower or dealer;

26 (7) Information that can be identified to a particular business and
27 that is collected under section 3(1), chapter 235, Laws of 2002; and

28 (8) Financial statements provided under RCW 16.65.030(1)(d).

29 **Sec. 27.** RCW 43.23.033 and 2002 c 313 s 78 are each amended to
30 read as follows:

31 (1) The director may provide by rule for a method to fund staff
32 support for all commodity boards and commissions if a position is not
33 directly funded by the legislature.

34 (2) Staff support funded under this section and RCW
35 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320,
36 15.44.190, 15.88.180, section 18 of this act, and 16.67.190 shall be

1 limited to one-half full-time equivalent employee for all commodity
2 boards and commissions.

3 NEW SECTION. **Sec. 28.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 29.** Sections 1 through 21 of this act
8 constitute a new chapter in Title 15 RCW.

9 NEW SECTION. **Sec. 30.** Section 25 of this act expires July 1,
10 2006.

11 NEW SECTION. **Sec. 31.** Section 26 of this act takes effect July 1,
12 2006."

SB 6661 - S AMD

By Senators Rasmussen, Jacobsen, Schoesler, Esser

ADOPTED 02/10/2006

13 On page 1, line 1 of the title, after "commission;" strike the
14 remainder of the title and insert "amending RCW 66.44.800, 15.04.200,
15 42.17.31907, 42.56.380, and 43.23.033; adding a new section to chapter
16 66.12 RCW; adding a new chapter to Title 15 RCW; providing an effective
17 date; and providing an expiration date."

--- END ---