
SENATE BILL 5075

State of Washington

65th Legislature

2017 Regular Session

By Senators Takko and Warnick

Read first time 01/11/17. Referred to Committee on Agriculture, Water, Trade & Economic Development.

1 AN ACT Relating to dispute resolution between seed buyers and
2 dealers; amending RCW 15.49.071 and 15.49.091; and repealing RCW
3 15.49.081, 15.49.101, and 15.49.111.

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

5 **Sec. 1.** RCW 15.49.071 and 2005 c 433 s 36 are each amended to
6 read as follows:

7 (1) When a buyer is damaged by the failure of any seed covered by
8 this chapter to produce or perform as represented by the required
9 label, by warranty, or as a result of negligence, the buyer, as a
10 prerequisite to maintaining a legal action against the dealer of such
11 seed, shall have first provided for the ~~((arbitration))~~ mediation of
12 the claim. Any statutory period of limitations with respect to such
13 claim shall be tolled from the date ~~((arbitration))~~ mediation
14 proceedings are instituted until ten days after the date on which the
15 ~~((arbitration—award—becomes—final))~~ mediation proceedings are
16 concluded. Mediation proceedings are instituted from the date the
17 buyer mails the dealer the buyer's complaint with its request to
18 engage in mediation as provided under RCW 15.49.091.

19 ~~((Similarly, no such claim may be asserted as a counterclaim~~
20 ~~or defense in any action brought by a dealer against a buyer until~~
21 ~~the buyer has first provided for arbitration of the claim. Upon the~~

1 ~~buyer's filing of a written notice of intention to assert such a~~
2 ~~claim as a counterclaim or defense in the action accompanied by a~~
3 ~~copy of the buyer's complaint in arbitration filed as provided in~~
4 ~~this chapter, the action shall be stayed, and any applicable statute~~
5 ~~of limitations shall be tolled with respect to such claim from the~~
6 ~~date arbitration proceedings are instituted until ten days after the~~
7 ~~arbitration award becomes final.~~

8 ~~(3))~~ Conspicuous language calling attention to the requirement
9 for ~~((arbitration))~~ mediation under this section shall be referenced
10 or included on the analysis label required under ~~((RCW 15.49.011~~
11 ~~through 15.49.101))~~ this chapter.

12 ~~((4) If the parties agree to submit the claim to arbitration and~~
13 ~~to be bound by the arbitration award, then the arbitration shall be~~
14 ~~subject to chapter 7.04A RCW, and RCW 15.49.081 through 15.49.111~~
15 ~~will not apply to the arbitration. If the parties do not so agree,~~
16 ~~then the buyer may provide for mandatory arbitration by the~~
17 ~~arbitration committee under RCW 15.49.081 through 15.49.111. An award~~
18 ~~rendered in such mandatory arbitration shall not be binding upon the~~
19 ~~parties and any trial on any claim so arbitrated shall be de novo.~~

20 ~~(5))~~ (3) This section applies only to claims, or counterclaims,
21 where the relief sought is, or includes, a monetary amount in excess
22 of ~~((two))~~ five thousand dollars. All claims for ~~((two))~~ five
23 thousand dollars or less ~~((shall))~~ may be commenced in either
24 district court or small claims court.

25 (4) The mediation provisions under this section apply only to a
26 dealer subject to this state's jurisdiction in relation to the
27 buyer's claims.

28 **Sec. 2.** RCW 15.49.091 and 1989 c 354 s 79 are each amended to
29 read as follows:

30 (1) To submit a claim ~~((to mandatory arbitration))~~ for mediation,
31 the buyer shall make and file ~~((with the department))~~ a sworn
32 complaint against the dealer alleging the damages sustained. The
33 sworn complaint may take the form of a declaration or affidavit. The
34 buyer shall send a copy of the complaint to the dealer by United
35 States registered mail. ~~((The filing fee shall be submitted to the~~
36 ~~department with each complaint filed and may be recovered from the~~
37 ~~dealer or other seller upon recommendations of the arbitration~~
38 ~~committee.))~~

1 (2) Within twenty days after receipt of a copy of the complaint,
2 the dealer shall file with the (~~department~~) buyer, by United States
3 registered mail, the answer to the complaint. The answer shall agree
4 to participate in mediation under chapter 7.07 RCW or shall state the
5 dealer's grounds for refusing to engage in such mediation. Failure of
6 a dealer to file a timely answer to the complaint and the request to
7 engage in mediation shall be (~~so~~) documented for the record
8 supporting the buyer's option to maintain a legal action for its
9 claim against the dealer.

10 (3) (~~The director shall, upon receipt of the answer, refer the~~
11 ~~complaint and answer to the arbitration committee for investigation,~~
12 ~~findings, and recommendations.~~) The parties shall be equally
13 responsible for the mediator's fees unless otherwise agreed between
14 the parties before retaining the mediator.

15 (4) (~~Any dealer may request an investigation by the arbitration~~
16 ~~committee for any dispute involving seed which may not otherwise be~~
17 ~~before the arbitration committee.~~) The mediator must be selected by
18 mutual agreement of the parties from mediators qualified to conduct
19 mediations under chapter 7.07 RCW. The mediation must take place
20 within the part of the state where the buyer conducts the buyer's
21 operations unless otherwise agreed between the parties.

22 NEW SECTION. Sec. 3. The following acts or parts of acts are
23 each repealed:

24 (1) RCW 15.49.081 (Arbitration—Filing fee—Rules) and 1989 c 354
25 s 78;

26 (2) RCW 15.49.101 (Investigation of complaint by arbitration
27 committee) and 2010 c 8 s 6062 & 1989 c 354 s 80; and

28 (3) RCW 15.49.111 (Arbitration committee—Creation—Generally) and
29 2010 c 8 s 6063 & 1989 c 354 s 81.

--- END ---