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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 20.01.010 and 1989 c 354 s 37 are each amended to
8 read as follows:

9 As used in this title the terms defined in this section have the
10 meanings indicated unless the context clearly requires otherwise.

11 (1) "Director" means the director of agriculture or his or her duly
12 authorized representative.

13 (2) "Person" means any natural person, firm, partnership, exchange,
14 association, trustee, receiver, corporation, and any member, officer,
15 or employee thereof or assignee for the benefit of creditors.

16 (3) "Agricultural product" means any unprocessed horticultural,
17 vermicultural and its byproducts, viticultural, berry, poultry, poultry
18 product, grain, bee, or other agricultural products, and includes mint
19 or mint oil processed by or for the producer thereof and hay and straw
20 baled or prepared for market in any manner or form and livestock.

21 (~~When used in RCW 60.13.020, "agricultural product" means~~
22 ~~horticultural, viticultural, and berry products, hay and straw, and~~
23 ~~turf and forage seed and applies only when such products are delivered~~
24 ~~to a processor or conditioner in an unprocessed form.))~~

25 (4) "Producer" means any person engaged in the business of growing
26 or producing any agricultural product, whether as the owner of the
27 products, or producing the products for others holding the title
28 thereof.

1 (5) "Consignor" means any producer, person, or his or her agent who
2 sells, ships, or delivers to any commission merchant, dealer, cash
3 buyer, or agent, any agricultural product for processing, handling,
4 sale, or resale.

5 (6) "Commission merchant" means any person who receives on
6 consignment for sale or processing and sale from the consignor thereof
7 any agricultural product for sale on commission on behalf of the
8 consignor, or who accepts any farm product in trust from the consignor
9 thereof for the purpose of resale, or who sells or offers for sale on
10 commission any agricultural product, or who in any way handles for the
11 account of or as an agent of the consignor thereof, any agricultural
12 product.

13 (7) "Dealer" means any person other than a cash buyer, as defined
14 in subsection (10) of this section, who solicits, contracts for, or
15 obtains from the consignor thereof for reselling or processing, title,
16 possession, or control of any agricultural product, or who buys or
17 agrees to buy any agricultural product from the consignor thereof for
18 sale or processing and includes any person, other than one who acts
19 solely as a producer, who retains title in an agricultural product and
20 delivers it to a producer for further production or increase. For the
21 purposes of this chapter, the term dealer includes any person who
22 purchases livestock on behalf of and for the account of another, or who
23 purchases cattle in another state or country and imports these cattle
24 into this state for resale.

25 (8) "Limited dealer" means any person operating under the
26 alternative bonding provision in RCW 20.01.211.

27 (9) "Broker" means any person other than a commission merchant,
28 dealer, or cash buyer who negotiates the purchase or sale of any
29 agricultural product, but no broker may handle the agricultural
30 products involved or proceeds of the sale.

1 (10) "Cash buyer" means any person other than a commission
2 merchant, dealer, or broker, who obtains from the consignor thereof for
3 the purpose of resale or processing, title, possession, or control of
4 any agricultural product or who contracts for the title, possession, or
5 control of any agricultural product, or who buys or agrees to buy for
6 resale any agricultural product by paying to the consignor at the time
7 of obtaining possession or control of any agricultural product the full
8 agreed price of the agricultural product, in coin or currency, lawful
9 money of the United States. However, a cashier's check, certified
10 check, or bankdraft may be used for the payment. For the purposes of
11 this subsection, "agricultural product," does not include hay, grain,
12 straw, or livestock.

13 (11) "Agent" means any person who, on behalf of any commission
14 merchant, dealer, broker, or cash buyer, acts as liaison between a
15 consignor and a principal, or receives, contracts for, or solicits any
16 agricultural product from the consignor thereof or who negotiates the
17 consignment or purchase of any agricultural product on behalf of any
18 commission merchant, dealer, broker, or cash buyer and who transacts
19 all or a portion of that business at any location other than at the
20 principal place of business of his or her employer. With the exception
21 of an agent for a commission merchant or dealer handling horticultural
22 products, an agent may operate only in the name of one principal and
23 only to the account of that principal.

24 (12) "Retail merchant" means any person operating from a bona fide
25 or established place of business selling agricultural products twelve
26 months of each year.

27 (13) "Fixed or established place of business" for the purpose of
28 this chapter means any permanent warehouse, building, or structure, at
29 which necessary and appropriate equipment and fixtures are maintained
30 for properly handling those agricultural products generally dealt in,

1 and at which supplies of the agricultural products being usually
2 transported are stored, offered for sale, sold, delivered, and
3 generally dealt in ((in)) quantities reasonably adequate for and
4 usually carried for the requirements of such a business, and that is
5 recognized as a permanent business at such place, and carried on as
6 such in good faith and not for the purpose of evading this chapter, and
7 where specifically designated personnel are available to handle
8 transactions concerning those agricultural products generally dealt in,
9 which personnel are available during designated and appropriate hours
10 to that business, and shall not mean a residence, barn, garage, tent,
11 temporary stand or other temporary quarters, any railway car, or
12 permanent quarters occupied pursuant to any temporary arrangement.

13 (14) "Processor" means any person, firm, company, or other
14 organization that purchases agricultural crops from a consignor and
15 that cans, freezes, dries, dehydrates, cooks, presses, powders, or
16 otherwise processes those crops in any manner whatsoever for eventual
17 resale.

18 (15) "Pooling contract" means any written agreement whereby a
19 consignor delivers a horticultural product to a commission merchant
20 under terms whereby the commission merchant may commingle the
21 consignor's horticultural products for sale with others similarly
22 agreeing, which must include all of the following:

23 (a) A delivery receipt for the consignor that indicates the variety
24 of horticultural product delivered, the number of containers, or the
25 weight and tare thereof;

26 (b) Horticultural products received for handling and sale in the
27 fresh market shall be accounted for to the consignor with individual
28 pack-out records that shall include variety, grade, size, and date of
29 delivery. Individual daily packing summaries shall be available within
30 forty-eight hours after packing occurs. However, platform inspection

1 shall be acceptable by mutual contract agreement on small deliveries to
2 determine variety, grade, size, and date of delivery;

3 (c) Terms under which the commission merchant may use his or her
4 judgment in regard to the sale of the pooled horticultural product;

5 (d) The charges to be paid by the consignor as filed with the state
6 of Washington;

7 (e) A provision that the consignor shall be paid for his or her
8 pool contribution when the pool is in the process of being marketed in
9 direct proportion, not less than eighty percent of his or her interest
10 less expenses directly incurred, prior liens, and other advances on the
11 grower's crop unless otherwise mutually agreed upon between grower and
12 commission merchant.

13 (16) "Date of sale" means the date agricultural products are
14 delivered to the person buying the products.

15 (17) "Conditioner" means any person, firm, company, or other
16 organization that receives turf, forage, or vegetable seeds from a
17 consignor for drying or cleaning.

18 (18) "Seed bailment contract" means any contract meeting the
19 requirements of chapter 15.48 RCW.

20 (19) "Proprietary seed" means any seed that is protected under the
21 federal plant variety protection act.

22 (20) "Licensed public weighmaster" means any person, licensed under
23 the provisions of chapter 15.80 RCW, who weighs, measures, or counts
24 any commodity or thing and issues therefor a signed certified
25 statement, ticket, or memorandum of weight, measure, or count upon
26 which the purchase or sale of any commodity or upon which the basic
27 charge of payment for services rendered is based.

28 (21) "Certified weight" means any signed certified statement or
29 memorandum of weight, measure or count issued by a licensed public
30 weighmaster in accordance with the provisions of chapter 15.80 RCW."

1 **"Sec. 2.** RCW 60.13.010 and 1987 c 148 s 1 are each amended to read
2 as follows:

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

5 (1) "Agricultural product(~~(7)~~)" means any unprocessed horticultural
6 product, poultry or poultry product, livestock, hay, or straw, grain,
7 or other unprocessed agricultural product. When used in RCW 60.13.020,
8 "agricultural product" means horticultural, aquacultural, viticultural,
9 or berry products, hay or straw, milk or milk products, and turf or
10 forage seed and applies only when such products are delivered to a
11 processor or conditioner in an unprocessed form.

12 (2) "Conditioner," "consignor," "person," (~~("processor,"~~) and
13 "producer" have the meanings defined in RCW 20.01.010.

14 (~~(2)~~) (3) "Delivers" means that a producer completes the
15 performance of all contractual obligations with reference to the
16 transfer of actual or constructive possession or control of an
17 agricultural product to a processor or conditioner or preparer,
18 regardless of whether the processor or conditioner or preparer takes
19 physical possession.

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

22 (~~(3)~~) (5) "Processor" means any person, firm, company, or other
23 organization that purchases agricultural products from a consignor and
24 that cans, freezes, dries, dehydrates, cooks, presses, powders, or
25 otherwise processes those agricultural products in any manner
26 whatsoever for eventual resale, or that purchases or markets milk from
27 a dairy producer and is obligated to remit payment to such dairy
28 producer directly.

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

4 (~~(4)~~) (7) "Fish" means food fish or shellfish or steelhead
5 legally caught pursuant to executive order, treaty right, or federal
6 statute."

7 "NEW SECTION. **Sec. 3.** A new section is added to chapter 60.13 RCW
8 to read as follows:

9 A person who controls or possesses amounts payable to the processor
10 of agricultural products or the processor's assigns, which are properly
11 encumbered by a processor's lien upon an account receivable shall not
12 be obligated to pay a producer amounts to which the producer's
13 processor lien has attached until that person receives written notice
14 of such lien, nor shall that person be liable to the producer for any
15 amounts paid out prior to receipt of the notice. The notice required
16 by this section shall contain the information described in RCW
17 60.13.040(2). If requested by the person responsible for payment of
18 such amounts, the producer must seasonably furnish reasonable proof
19 that the processor lien continues to exist and unless such proof is so
20 furnished, that person has no obligation to pay the producer. A
21 processor shall provide the name of the purchaser or marketing agent of
22 the products to the producer upon request.

23 Failure to furnish the written notice as provided in this section
24 does not affect the status of the lien established under this chapter
25 in regard to the relationship with other creditors."

1 **SSB 5098** - H COMM AMD

2 By Committee on Agriculture & Rural Development

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4 On page 1, line 1 of the title, after "liens;" strike the remainder
5 of the title and insert "amending RCW 20.01.010 and 60.13.010; and
6 adding a new section to chapter 60.13 RCW."