
SUBSTITUTE SENATE BILL 5098

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr, Hansen, Newhouse, Gaspard, Bailey, Conner, Amondson, Bauer and L. Smith).

Read first time February 11, 1991.

1 AN ACT Relating to extending the coverage of processor liens;
2 amending RCW 20.01.010 and 60.13.010; and adding a new section to
3 chapter 60.13 RCW.

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

5 **Sec. 1.** RCW 20.01.010 and 1989 c 354 s 37 are each amended to read
6 as follows:

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

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

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

14 (3) "Agricultural product" means any unprocessed horticultural,
15 vermicultural and its byproducts, viticultural, berry, poultry, poultry

1 product, grain, bee, or other agricultural products, and includes mint
2 or mint oil processed by or for the producer thereof and hay and straw
3 baled or prepared for market in any manner or form and livestock.
4 (~~When used in RCW 60.13.020, "agricultural product" means~~
5 ~~horticultural, viticultural, and berry products, hay and straw, and~~
6 ~~turf and forage seed and applies only when such products are delivered~~
7 ~~to a processor or conditioner in an unprocessed form.))~~

8 (4) "Producer" means any person engaged in the business of growing
9 or producing any agricultural product, whether as the owner of the
10 products, or producing the products for others holding the title
11 thereof.

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

16 (6) "Commission merchant" means any person who receives on
17 consignment for sale or processing and sale from the consignor thereof
18 any agricultural product for sale on commission on behalf of the
19 consignor, or who accepts any farm product in trust from the consignor
20 thereof for the purpose of resale, or who sells or offers for sale on
21 commission any agricultural product, or who in any way handles for the
22 account of or as an agent of the consignor thereof, any agricultural
23 product.

24 (7) "Dealer" means any person other than a cash buyer, as defined
25 in subsection (10) of this section, who solicits, contracts for, or
26 obtains from the consignor thereof for reselling or processing, title,
27 possession, or control of any agricultural product, or who buys or
28 agrees to buy any agricultural product from the consignor thereof for
29 sale or processing and includes any person, other than one who acts
30 solely as a producer, who retains title in an agricultural product and

1 delivers it to a producer for further production or increase. For the
2 purposes of this chapter, the term dealer includes any person who
3 purchases livestock on behalf of and for the account of another, or who
4 purchases cattle in another state or country and imports these cattle
5 into this state for resale.

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

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

12 (10) "Cash buyer" means any person other than a commission
13 merchant, dealer, or broker, who obtains from the consignor thereof for
14 the purpose of resale or processing, title, possession, or control of
15 any agricultural product or who contracts for the title, possession, or
16 control of any agricultural product, or who buys or agrees to buy for
17 resale any agricultural product by paying to the consignor at the time
18 of obtaining possession or control of any agricultural product the full
19 agreed price of the agricultural product, in coin or currency, lawful
20 money of the United States. However, a cashier's check, certified
21 check, or bankdraft may be used for the payment. For the purposes of
22 this subsection, "agricultural product," does not include hay, grain,
23 straw, or livestock.

24 (11) "Agent" means any person who, on behalf of any commission
25 merchant, dealer, broker, or cash buyer, acts as liaison between a
26 consignor and a principal, or receives, contracts for, or solicits any
27 agricultural product from the consignor thereof or who negotiates the
28 consignment or purchase of any agricultural product on behalf of any
29 commission merchant, dealer, broker, or cash buyer and who transacts
30 all or a portion of that business at any location other than at the

1 principal place of business of his or her employer. With the exception
2 of an agent for a commission merchant or dealer handling horticultural
3 products, an agent may operate only in the name of one principal and
4 only to the account of that principal.

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

8 (13) "Fixed or established place of business" for the purpose of
9 this chapter means any permanent warehouse, building, or structure, at
10 which necessary and appropriate equipment and fixtures are maintained
11 for properly handling those agricultural products generally dealt in,
12 and at which supplies of the agricultural products being usually
13 transported are stored, offered for sale, sold, delivered, and
14 generally dealt in ((in)) quantities reasonably adequate for and
15 usually carried for the requirements of such a business, and that is
16 recognized as a permanent business at such place, and carried on as
17 such in good faith and not for the purpose of evading this chapter, and
18 where specifically designated personnel are available to handle
19 transactions concerning those agricultural products generally dealt in,
20 which personnel are available during designated and appropriate hours
21 to that business, and shall not mean a residence, barn, garage, tent,
22 temporary stand or other temporary quarters, any railway car, or
23 permanent quarters occupied pursuant to any temporary arrangement.

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

29 (15) "Pooling contract" means any written agreement whereby a
30 consignor delivers a horticultural product to a commission merchant

1 under terms whereby the commission merchant may commingle the
2 consignor's horticultural products for sale with others similarly
3 agreeing, which must include all of the following:

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

7 (b) Horticultural products received for handling and sale in the
8 fresh market shall be accounted for to the consignor with individual
9 pack-out records that shall include variety, grade, size, and date of
10 delivery. Individual daily packing summaries shall be available within
11 forty-eight hours after packing occurs. However, platform inspection
12 shall be acceptable by mutual contract agreement on small deliveries to
13 determine variety, grade, size, and date of delivery;

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

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

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

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

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

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

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

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

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

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

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

16 (1) "Agricultural product(~~(7)~~)" means horticultural, viticultural,
17 aquacultural, and berry products, hay and straw, milk and milk
18 products, turf and forage seed and applies only when such products are
19 delivered to a processor or conditioner in an unprocessed form.

20 (2) "Conditioner," "consignor," "person," "processor," and
21 "producer" have the meanings defined in RCW 20.01.010.

22 ~~((2))~~ (3) "Preparer" means a person engaged in the business of
23 feeding livestock or preparing livestock products for market.

24 ~~((3))~~ (4) "Commercial fisherman" means a person licensed to fish
25 commercially for or to take food fish or shellfish or steelhead legally
26 caught pursuant to executive order, treaty right, or federal statute.

27 ~~((4))~~ (5) "Fish" means food fish or shellfish or steelhead
28 legally caught pursuant to executive order, treaty right, or federal
29 statute.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 60.13 RCW
2 to read as follows:

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

17 Failure to furnish the written notice as provided in this section
18 does not affect the status of the lien established under this chapter
19 in regard to the relationship with other creditors.