
SENATE BILL 5840

State of Washington

52nd Legislature

1991 Regular Session

By Senators Hansen and Barr.

Read first time February 25, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to regulation of commission merchants; amending RCW
2 20.01.210 and 20.01.420; adding new sections to chapter 20.01 RCW;
3 prescribing penalties; and declaring an emergency.

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

5 **Sec. 1.** RCW 20.01.210 and 1986 c 178 s 9 are each amended to read
6 as follows:

7 (1) Before the license is issued to any commission merchant or
8 dealer, or both, the applicant shall execute and deliver to the
9 director a surety bond executed by the applicant as principal and by a
10 surety company qualified and authorized to do business in this state as
11 surety. Said bond shall be to the state for the benefit of qualified
12 consignors of agricultural products in this state. All such sureties
13 on a bond, as provided herein, shall be released and discharged from
14 all liability to the state accruing on such bond by giving notice to
15 the principal and the director by certified mail. Upon receipt of such

1 notice the director shall notify the surety and the principal of the
2 effective date of termination which shall be thirty days from the
3 receipt of such notice by the director, but this shall not relieve,
4 release, or discharge the surety from any liability already accrued or
5 which shall accrue before the expiration period provided for above.

6 (2) The bond for a commission merchant or dealer in hay, straw or
7 turf, forage or vegetable seed shall be not less than fifteen thousand
8 dollars. The actual amount of such bond shall be determined by
9 dividing the annual dollar volume of the licensee's net proceeds or net
10 payments due consignors by twelve and increasing that amount to the
11 next multiple of five thousand dollars, except that the bond amount for
12 dollar volume arising from proprietary seed bailment contracts shall be
13 computed as provided in subsection (4) of this section. Such bond for
14 a new commission merchant or dealer in hay, straw or turf, forage or
15 vegetable seed shall be subject to increase at any time during the
16 licensee's first year of operation based on the average of business
17 volume for any three months. Except as provided in subsection (3) of
18 this section, the bond shall be not less than (~~three~~) ten thousand
19 dollars for any other dealer.

20 (3) The bond for a commission merchant or dealer in livestock shall
21 be not less than ten thousand dollars. The actual amount of such bond
22 shall be determined in accordance with the formula set forth in the
23 packers and stockyard act of 1921 (7 U.S.C. 181), except that a
24 commission merchant or dealer in livestock shall increase his bond by
25 five thousand dollars for each agent he has endorsed under RCW
26 20.01.090.

27 (4) The bond for a commission merchant handling agricultural
28 products other than livestock, hay, straw or turf, forage or vegetable
29 seed shall not be less than (~~seven~~) ten thousand (~~five hundred~~)
30 dollars. The bond for a dealer handling agricultural products other

1 than livestock, hay, straw or turf, forage or vegetable seed shall not
2 be less than ((three)) ten thousand dollars. The actual amount of such
3 bond shall be determined by dividing the annual dollar volume of the
4 licensee's net proceeds or net payments due consignors by fifty-two and
5 increasing that amount to the next multiple of two thousand dollars.
6 However, bonds above twenty-six thousand dollars shall be increased to
7 the next multiple of five thousand dollars.

8 (5) When the annual dollar volume of any commission merchant or
9 dealer reaches two million six hundred thousand dollars, the amount of
10 the bond required above this level shall be on a basis of ten percent
11 of the amount arrived at by applying the appropriate formula.

12 **Sec. 2.** RCW 20.01.420 and 1959 c 139 s 42 are each amended to read
13 as follows:

14 When requested by ((his)) a consignor, a commission merchant shall,
15 before the close of the next business day following the sale of any
16 agricultural products consigned to ((him)) the commission merchant,
17 transmit or deliver to the owner or consignor of the agricultural
18 products a true written report of such sale, showing the amount sold,
19 and the selling price. The commission merchant shall maintain records
20 of all accounts receivable and shall make those records available at
21 any time to the consignor or to the director.

22 NEW SECTION. **Sec. 3.** It is unlawful for a licensee to
23 discriminate against any person because of an action taken pursuant to
24 this chapter, including, but not limited to, the filing of a complaint
25 or bond claim.

26 NEW SECTION. **Sec. 4.** If it has been determined after an
27 investigation that a licensee has committed a violation of this

1 chapter, the director may levy a civil penalty against the licensee.
2 The director may establish, by rule, a schedule of penalties for
3 violations of this chapter, but the level of penalties may not exceed
4 one thousand dollars for a first offense, ten thousand dollars for a
5 second offense, or twenty-five thousand dollars for a third or
6 subsequent offense. A licensee shall be given the opportunity for an
7 administrative hearing, as provided under chapter 34.05 RCW, upon
8 request before any penalty is made final. All fines shall be paid to
9 the director and shall be used solely for the purpose of carrying out
10 the provisions of this chapter and rules adopted hereunder.

11 NEW SECTION. **Sec. 5.** Each commission merchant shall establish
12 a custodial account for consignor's proceeds. All funds derived from
13 the sale of agricultural products handled by a commission merchant on
14 behalf of any other person shall be deposited in that account. The
15 account shall be drawn on only for the payment of net proceeds to
16 consignors or to other persons the commission merchant knows are
17 entitled to such proceeds, and for the payment of the amounts due the
18 commission merchant for the commission merchant's commission, filed and
19 posted charges, and repayment of any advances. Commission merchants
20 shall maintain accounts and records that will at all times disclose the
21 names of the consignors and the amounts due and payable to each from
22 the funds in the custodial account derived from the consignor's return.
23 Commission merchants shall maintain the required custodial accounts in
24 a manner that will expedite examination by the director and will
25 reflect compliance with the requirements of this section.

26 NEW SECTION. **Sec. 6.** Sections 3 through 5 of this act are
27 each added to chapter 20.01 RCW.

1 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and shall take
4 effect immediately.