

SHB 1100 - S COMM AMD  
By Committee on Agriculture

ADOPTED AS AMENDED 4/8/03

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

3 "Sec. 1. RCW 20.01.010 and 1991 c 174 s 1 are each amended to read  
4 as follows:

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

7 (1) "Director" means the director of agriculture or (~~his~~) a duly  
8 authorized representative.

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

12 (3) "Agricultural product" means any unprocessed horticultural,  
13 vermicultural and its byproducts, viticultural, berry, poultry, poultry  
14 product, grain, bee, grass seed, lawn seed, turf seed, forage seed,  
15 cereal seed, oil seed, fiber seed, forb seed, flower seed, and other  
16 kinds of crop seed commonly recognized within this state as  
17 agricultural seed or vegetable seed, or other agricultural products,  
18 and includes mint or mint oil processed by or for the producer thereof  
19 and hay and straw baled or prepared for market in any manner or form  
20 and livestock.

21 (4) "Producer" means any person engaged in the business of growing  
22 or producing any agricultural product, whether as the owner of the  
23 products, or producing the products for others holding the title  
24 thereof.

25 (5) "Consignor" means any producer, person, or his agent who sells,  
26 ships, or delivers to any commission merchant, dealer, cash buyer, or  
27 agent, any agricultural product for processing, handling, sale, or  
28 resale.

29 (6) "Commission merchant" means any person who receives on  
30 consignment for sale or processing and sale from the consignor thereof

1 any agricultural product for sale on commission on behalf of the  
2 consignor, or who accepts any farm product in trust from the consignor  
3 thereof for the purpose of resale, or who sells or offers for sale on  
4 commission any agricultural product, or who in any way handles for the  
5 account of or as an agent of the consignor thereof, any agricultural  
6 product.

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

19 (8) "Limited dealer" means any person (~~(operating)~~) who buys,  
20 agrees to buy, or pays for the production or increase of any  
21 agricultural product by paying to the consignor at the time of  
22 obtaining possession or control of any agricultural product the full  
23 agreed price of the agricultural product and who operates under the  
24 alternative bonding provision in RCW 20.01.211.

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

29 (10) "Cash buyer" means any person other than a commission  
30 merchant, dealer, or broker, who obtains from the consignor thereof for  
31 the purpose of resale or processing, title, possession, or control of  
32 any agricultural product or who contracts for the title, possession, or  
33 control of any agricultural product, or who buys or agrees to buy for  
34 resale any agricultural product by paying to the consignor at the time  
35 of obtaining possession or control of any agricultural product the full  
36 agreed price of the agricultural product, in coin or currency, lawful  
37 money of the United States. However, a cashier's check, certified

1 check, credit card, or bankdraft may be used for the payment. For the  
2 purposes of this subsection, "agricultural product," does not include  
3 hay, grain, straw, or livestock.

4 (11) "Agent" means any person who, on behalf of any commission  
5 merchant, dealer, broker, or cash buyer, acts as liaison between a  
6 consignor and a principal, or receives, contracts for, or solicits any  
7 agricultural product from the consignor thereof or who negotiates the  
8 consignment or purchase of any agricultural product on behalf of any  
9 commission merchant, dealer, broker, or cash buyer and who transacts  
10 all or a portion of that business at any location other than at the  
11 principal place of business of his employer. With the exception of an  
12 agent for a commission merchant or dealer handling horticultural  
13 products, an agent may operate only in the name of one principal and  
14 only to the account of that principal.

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

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

34 (14) "Processor" means any person, firm, company, or other  
35 organization that purchases agricultural crops from a consignor and  
36 that cans, freezes, dries, dehydrates, cooks, presses, powders, or

1 otherwise processes those crops in any manner whatsoever for eventual  
2 resale.

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

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

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

18 (c) Terms under which the commission merchant may use his judgment  
19 in regard to the sale of the pooled horticultural product;

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

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

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

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

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

35 (19) "Proprietary seed" means any seed that is protected under the  
36 Federal Plant Variety Protection Act.

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

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

10 (22) "Licensee" means any person or business licensed under this  
11 chapter as a commission merchant, dealer, limited dealer, broker, cash  
12 buyer, or agent.

13 **Sec. 2.** RCW 20.01.130 and 1993 sp.s. c 24 s 929 are each amended  
14 to read as follows:

15 All fees and other moneys received by the department under (~~the~~  
16 ~~provisions of~~) this chapter shall be paid to the director and (~~shall~~  
17 ~~be~~) used solely for the purpose of carrying out (~~the provisions of~~)  
18 this chapter and the rules adopted (~~hereunder or for departmental~~  
19 ~~administrative expenses during the 1993-95 biennium~~) under this  
20 chapter. All civil fines received by the courts as the result of  
21 notices of infractions issued by the director shall be paid to the  
22 director, less any mandatory court costs and assessments.

23 **Sec. 3.** RCW 20.01.140 and 1959 c 139 s 14 are each amended to read  
24 as follows:

25 Any change in the organization of any firm, association, exchange,  
26 corporation, or partnership licensed under (~~the provisions of~~) this  
27 chapter shall be reported to the director and the licensee's surety or  
28 sureties within thirty days.

29 **Sec. 4.** RCW 20.01.211 and 1983 c 305 s 5 are each amended to read  
30 as follows:

31 (1) In lieu of the bonding provision required by RCW 20.01.210, any  
32 dealer who buys, agrees to buy, or pays for the production or increase  
33 of any agricultural product by paying to the consignor at the time of  
34 obtaining possession or control of any agricultural product the full

1 agreed price of the agricultural product may file a bond in an amount  
2 equal to the dealer's maximum monthly purchases, divided by (~~(fifteen)~~)  
3 twelve, but the minimum bond (~~((provided by))~~) under this section shall  
4 be (~~((in a minimum of seven thousand five hundred))~~) no less than ten  
5 thousand dollars.

6 (2) Any dealer using the bonding provisions of this section shall  
7 file an affidavit with the director that sets forth the dealer's  
8 maximum monthly purchases from or payments to consignors. The  
9 affidavit shall be filed at the time of application and with each  
10 renewal.

11 (3) Any dealer bonded under this section who is found to be in  
12 violation of this chapter shall be required to comply with the bonding  
13 requirements of RCW 20.01.210 for a minimum of two years.

14 **Sec. 5.** RCW 20.01.240 and 1986 c 178 s 12 are each amended to read  
15 as follows:

16 ~~(1) ((Except as provided in subsection (2) of this section,))~~ Any  
17 consignor who believes he or she has a valid claim against the bond of  
18 a commission merchant or dealer shall file a claim with the director.  
19 ~~((Upon the filing of a claim under this subsection against any~~  
20 ~~commission merchant or dealer handling any agricultural product, the~~  
21 ~~director may, after investigation, proceed to ascertain the names and~~  
22 ~~addresses of all consignor creditors of such commission merchant and~~  
23 ~~dealer, together with the amounts due and owing to them by such~~  
24 ~~commission merchant and dealer, and shall request all such consignor~~  
25 ~~creditors to file a verified statement of their respective claims with~~  
26 ~~the director. Such request shall be addressed to each known consignor~~  
27 ~~creditor at his last known address.~~

28 ~~(2) Any consignor who believes he or she has a valid claim against~~  
29 ~~the bond of a commission merchant or dealer in hay or straw, shall file~~  
30 ~~a claim with the director within twenty days of the licensee's default.~~  
31 ~~In the case of a claim against the bond of a commission merchant or~~  
32 ~~unlimited dealer in hay or straw, default occurs when the licensee~~  
33 ~~fails to make payment within thirty days of the date the licensee took~~  
34 ~~possession of the hay or straw. In the case of a claim against a~~  
35 ~~limited dealer in hay or straw, default occurs when the licensee fails~~  
36 ~~to make payment upon taking possession of the hay or straw. Upon~~

1 ~~verifying the consignor's claim either through investigation or, if~~  
2 ~~necessary, an administrative action, the director shall, within ten~~  
3 ~~working days of the filing of the claim, make demand for payment of the~~  
4 ~~claim by the licensee's surety without regard to any other potentially~~  
5 ~~valid claim. Any subsequent claim will likewise result in a demand~~  
6 ~~against the licensee's surety, subject to the availability of any~~  
7 ~~remaining bond proceeds.))~~

8 (2) In the case of a claim against the bond of a commission  
9 merchant or dealer in hay or straw, default occurs when the licensee  
10 fails to make payment within thirty days of the date the licensee took  
11 possession of the hay or straw or at a date agreed to by both the  
12 consignor and commission merchant or dealer in written contract. In  
13 the case of a claim against a limited dealer in hay or straw, default  
14 occurs when the licensee fails to make payment upon taking possession  
15 of the hay or straw.

16 (3) Upon the filing of a claim under this subsection against any  
17 commission merchant or dealer handling any agricultural product, the  
18 director may, after investigation, proceed to ascertain the names and  
19 addresses of all consignor creditors of such commission merchant and  
20 dealer, together with the amounts due and owing to them by such  
21 commission merchant and dealer, and shall request all such consignor  
22 creditors to file a verified statement of their respective claims with  
23 the director. Such request shall be addressed to each known consignor  
24 creditor at his last known address.

25 (4) For claims against a bond that have been filed by consignors  
26 prior to the sixty-day deadline established in RCW 20.01.250, the  
27 director shall investigate the claims and, within thirty days of  
28 verifying the claims, demand payment for the valid claims by the  
29 licensee's surety. The director shall distribute the proceeds of the  
30 valid bond claims to the claimants on a pro rata basis within the  
31 limits of the claims and the availability of the bond proceeds. If a  
32 claim is filed after the sixty-day deadline established in RCW  
33 20.01.250, the director may investigate the claim and may demand  
34 payment for a valid claim. The director shall distribute the proceeds  
35 of any such payment made by the surety to the claimant on a first-to-  
36 file, first-to-be-paid basis within the limits of the claim and the

1 availability of any bond proceeds remaining after the pro rata  
2 distribution. All distributions made by the director under this  
3 subsection are subject to RCW 20.01.260.

4 **Sec. 6.** RCW 20.01.320 and 1959 c 139 s 32 are each amended to read  
5 as follows:

6 The director on his or her own motion or upon the verified  
7 complaint of any interested party may investigate, examine, or inspect  
8 (1) any transaction involving solicitation, receipt, sale, or attempted  
9 sale of agricultural products by any person or persons acting or  
10 assuming to act as a commission merchant, dealer, broker, cash buyer,  
11 or agent; (2) the failure to make proper and true account of sales and  
12 settlement thereof as required under this chapter (~~and/or~~) or rules  
13 (~~and regulations~~) adopted (~~hereunder~~) under this chapter; (3) the  
14 intentional making of false statements as to conditions and quantity of  
15 any agricultural products received or in storage; (4) the intentional  
16 making of false statements as to market conditions; (5) the failure to  
17 make payment for products within the time required by this chapter; (6)  
18 any and all other injurious transactions. In furtherance of (~~any~~)  
19 such an investigation, examination, or inspection, the director or  
20 (~~his~~) an authorized representative(~~s~~) may examine that portion of  
21 the ledgers, books, accounts, memoranda and other documents,  
22 agricultural products, scales, measures, and other articles and things  
23 used in connection with the business of (~~such~~) the person relating to  
24 the transactions involved. For the purpose of (~~such~~) the  
25 investigation the director shall at all times have free and unimpeded  
26 access to all buildings, yards, warehouses, storage, and transportation  
27 facilities or any other place where agricultural products are kept,  
28 stored, handled, or transported. If the director is denied access, the  
29 director may apply to any court of competent jurisdiction for a search  
30 warrant authorizing access to the premises and records. The court may  
31 upon the application issue the search warrant for the purposes  
32 requested. The director may also, for the purpose of (~~such~~) the  
33 investigation, issue subpoenas to compel the attendance of witnesses,  
34 as provided in RCW 20.01.170, (~~and/or~~) or the production of books or  
35 documents, anywhere in the state.

1           **Sec. 7.** RCW 20.01.410 and 1971 ex.s. c 182 s 12 are each amended  
2 to read as follows:

3           (1) A copy of a manifest of cargo, on a form prescribed by the  
4 director, shall be carried on any vehicle transporting agricultural  
5 products purchased by a dealer or cash buyer, or consigned to a  
6 commission merchant from the consignor thereof when prescribed by the  
7 director. A bill of lading may be carried in lieu of a manifest of  
8 cargo for an agricultural product other than hay or straw.

9           (2) Except as provided in subsection (3) of this section, the  
10 commission merchant, dealer, or cash buyer of agricultural products  
11 shall issue a copy of ((such)) the manifest or bill of lading to the  
12 consignor of ((such)) the agricultural products and the original shall  
13 be retained by the licensee for a period of ((one)) three years during  
14 which time it shall be surrendered upon request to the director.  
15 ((Such)) The manifest of cargo ((shall be)) is valid only when signed  
16 by the licensee or his or her agent and the consignor or his or her  
17 authorized representative of ((such)) the agricultural products.

18           (3) The commission merchant or dealer of hay or straw shall issue  
19 a copy of a manifest to the consignor. The original copy shall be  
20 retained by the commission merchant or dealer for a period of three  
21 years during which time it shall be surrendered upon request to the  
22 director. The manifest of cargo is valid only when signed by the  
23 licensee or his or her agent and the consignor or his or her authorized  
24 representative of hay or straw.

25           (4) Manifest forms will be provided to licensees at the actual cost  
26 for the manifests plus necessary handling costs incurred by the  
27 department.

28           **Sec. 8.** RCW 20.01.460 and 1989 c 354 s 43 are each amended to read  
29 as follows:

30           (1) Any person who violates the provisions of this chapter or fails  
31 to comply with the rules adopted under this chapter is guilty of a  
32 gross misdemeanor, except as provided in subsections (2) ~~((and (3)))~~  
33 through (4) of this section.

34           (2) Any commission merchant, dealer, or cash buyer, or any person  
35 assuming or attempting to act as a commission merchant, dealer, or cash  
36 buyer without a license is guilty of a class C felony who:

1 (a) Imposes false charges for handling or services in connection  
2 with agricultural products.

3 (b) Makes fictitious sales or is guilty of collusion to defraud the  
4 consignor.

5 (c) Intentionally makes false statement or statements as to the  
6 grade, conditions, markings, quality, or quantity of goods shipped or  
7 packed in any manner.

8 (d) With the intent to defraud the consignor, fails to comply with  
9 the requirements set forth under RCW 20.01.010(10), 20.01.390, or  
10 20.01.430.

11 (3) Any person who violates the provisions of RCW 20.01.040,  
12 20.01.080, 20.01.120, 20.01.125, 20.01.410, or 20.01.610 has committed  
13 a civil infraction.

14 (4) Unlawful issuance of a check or draft may be prosecuted under  
15 RCW 9A.56.060.

16 **Sec. 9.** RCW 20.01.490 and 1986 c 178 s 5 are each amended to read  
17 as follows:

18 Any person found to have committed a civil infraction under this  
19 chapter shall be assessed a monetary penalty. No monetary penalty so  
20 assessed may exceed ~~((one))~~ five thousand dollars. The director shall  
21 adopt a schedule of monetary penalties for each violation of this  
22 chapter classified as a civil infraction and shall submit the schedule  
23 to the proper courts. Whenever a monetary penalty is imposed by the  
24 court, the penalty is immediately due and payable. The court may, at  
25 its discretion, grant an extension of time, not to exceed thirty days,  
26 in which the penalty must be paid. Failure to pay any monetary  
27 penalties imposed under this chapter shall be punishable as a  
28 misdemeanor.

29 **Sec. 10.** RCW 20.01.610 and 1986 c 178 s 14 are each amended to  
30 read as follows:

31 The director or ~~((his))~~ appointed officers may stop a vehicle  
32 transporting ~~((hay or straw))~~ agricultural products upon the public  
33 roads of this state if there is reasonable cause to believe the  
34 carrier, seller, or buyer may be in violation of this chapter. Any

1 operator of a vehicle failing or refusing to stop when directed to do  
2 so has committed a civil infraction.

3 The director and appointed officers shall work to ensure that  
4 vehicles carrying perishable agricultural products are detained no  
5 longer than is absolutely necessary for a prompt assessment of  
6 compliance with this chapter. If a vehicle carrying perishable  
7 agricultural products is found to be in violation of this chapter, the  
8 director or appointed officers shall promptly issue necessary notices  
9 of civil infraction, as provided in RCW 20.01.482 and 20.01.484, and  
10 shall allow the vehicle to continue toward its destination without  
11 further delay.

12 NEW SECTION. Sec. 11. The department of agriculture shall study  
13 the subject of establishing an indemnity fund to provide financial  
14 recovery for producers of agricultural seeds, including those who  
15 produce the seeds under bailment contracts, in cases where the  
16 producers are not paid in full for the sale of their seeds or are not  
17 paid in full under bailment contracts for producing the seeds. The  
18 examination shall include an identification of potential means of  
19 providing moneys for such an indemnity fund and how the costs of  
20 providing and maintaining such a fund would be borne. The department  
21 shall establish an advisory committee composed of representatives of  
22 growers of and dealers in the types of agricultural seeds grown in this  
23 state to assist it in the study. If general agreement among the  
24 members of the advisory committee and the department cannot be reached  
25 regarding establishing such a fund, the department and the committee  
26 shall examine alternative means of providing such financial recovery  
27 for producers of agricultural seeds.

28 The department shall report the recommendations resulting from the  
29 study, including any recommended legislation in bill form, to the  
30 governor and to the appropriate committees of the legislature by  
31 December 1, 2003."

**ADOPTED 4/8/03**

1        On page 1, line 2 of the title, after "products;" strike the  
2 remainder of the title and insert "amending RCW 20.01.010, 20.01.130,  
3 20.01.140, 20.01.211, 20.01.240, 20.01.320, 20.01.410, 20.01.460,  
4 20.01.490, and 20.01.610; creating a new section; and prescribing  
5 penalties."

--- END ---