

HOUSE BILL REPORT

HB 1132

As Passed House:
March 6, 2017

Title: An act relating to dispute resolution between seed buyers and dealers.

Brief Description: Concerning dispute resolution between seed buyers and dealers.

Sponsors: Representatives Buys and Blake.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/25/17, 2/1/17 [DP].

Floor Activity:

Passed House: 3/6/17, 98-0.

Brief Summary of Bill

- Modifies, by replacing arbitration with mediation, the prerequisite for a seed buyer to commence a legal action against a seed dealer for damages under the Washington State Seed Act.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 13 members: Representatives Blake, Chair; Chapman, Vice Chair; Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Fitzgibbon, Lytton, Orcutt, Pettigrew, Robinson, Springer, Stanford and J. Walsh.

Staff: Robert Hatfield (786-7117).

Background:

The Washington State Seed Act (Seed Act) serves to provide uniformity and consistency in the packaging of agricultural, vegetable, and flower seeds. The purpose of the Seed Act is to facilitate the interstate movement of seeds, to protect consumers, and to provide a dispute-resolution process.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Before a seed buyer may initiate a legal action to recover any damages valued at greater than \$2,000 caused by seeds that do not perform as represented by the required label, the buyer must first seek arbitration of his or her claim. This arbitration requirement also applies to any counter-claims raised by the party accused of misrepresenting his or her product. The statute of limitations for the claim is tolled during the arbitration process. The outcome of the Seed Act-specific arbitration is not binding on either party, and either party may initiate litigation after the arbitration.

The arbitration process begins with the aggrieved seed buyer filing a sworn claim with the Washington State Department of Agriculture (WSDA) and paying any filing fees. The seed seller then has 20 days to file an answer to the complaint. Once received, the Director of the WSDA (Director) must refer the complaint to an arbitration committee for investigation, findings, and recommendations.

The arbitration committee is appointed by the Director. It must have five members, including an employee of the WSDA. The other four members must be selected to create a balanced committee that does not favor either party. Prior to making the appointments, advice must be sought from the Washington State University, and representatives of a seed dealer organization, an agricultural organization, and an organization representing seed purchasers. The members of the arbitration committee may not receive compensation for their service, but they may have their travel expenses reimbursed.

The arbitration committee must make a full investigation and return its findings to the Director within 60 days. The arbitration committee must investigate the claim, examine the buyer and the seller, hold informal hearings, and may grow a representative sample of the seed in question. The report must include a final award and recommendations as to responsibility for costs.

Summary of Bill:

The requirement for a seed buyer to provide for the arbitration of a claim prior to commencing legal action on the claim is changed to a requirement to provide for mediation of the claim. The requirement applies only to claims involving a seed dealer subject to the state's jurisdiction over the buyer's claims.

The requirement for the seed buyer to offer mediation applies to disputes of \$5,000 or more.

To submit a claim for mediation, the buyer must send to the dealer a sworn complaint alleging the damages sustained by the buyer.

In response to the complaint, the dealer must agree to engage in mediation or must state the dealer's grounds for refusing to engage in mediation. The dealer's failure to answer the complaint, or refusal to engage in mediation, must be documented for the record supporting the buyer's option to maintain a legal action for its claim against the dealer.

The parties shall share equally the responsibility for any mediation fees, unless otherwise agreed. The mediator must be selected by mutual agreement of the parties from mediators qualified to conduct mediations under the Uniform Mediation Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Because neither party to a dispute is obligated to agree with the result of arbitration under the current law, litigation frequently results even after the parties have engaged in arbitration. The current arbitration process is a burden on seed industry participants who serve on the arbitration panel without compensation.

(Opposed) None.

(Other) Small seed buyers may be unfamiliar with arbitration and so may have to hire an attorney to assist them through that process. Many other states allow parties to choose their own dispute resolution path when a dispute over seeds arises. Only three other states require the state to bear the cost of arbitration. The last seed dispute arbitration cost the state approximately \$30,000. The bill would help farmers and small businesses.

Persons Testifying: (In support) Representative Buys, prime sponsor; Steve Fuller, Department of Agriculture; and Ben St. Mary, Agricultural Forestry Leadership Class.

(Opposed) None.

(Other) Madilynne Clark, Washington Policy Center.

Persons Signed In To Testify But Not Testifying: None.