

FINAL BILL REPORT

HB 2524

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Synopsis as Enacted

Brief Description: Expanding the scope of agricultural products subject to requirements in chapter 15.83 RCW related to negotiation concerning production or marketing.

Sponsors: Representatives Chandler, Blake and Dent.

House Committee on Rural Development, Agriculture, & Natural Resources
House Committee on Appropriations
Senate Committee on Agriculture, Water, Natural Resources & Parks

Background:

The Agricultural Marketing and Fair Practices Act (Act), enacted in 1989, addresses standards for production and marketing negotiations for agricultural products. For the purposes of the Act, "agricultural product" is defined as sweet corn and potatoes.

Negotiating Units.

An association of producers of an agricultural product may file an application with the Director of the Department of Agriculture (Director) requesting accreditation as the exclusive negotiating agent for its members within a negotiating unit with respect to the sweet corn or potatoes produced by its members. The Director must approve an application if the Director finds that the association satisfies certain specified requirements.

Negotiations.

Negotiations between agricultural product handlers (handler) and accredited associations of producers regarding the sale, compensation, or production of sweet corn or potatoes must begin at least 60 days before the normal planting date of the crop. The required negotiations must conclude within 30 days of the normal planting date. A serious, fair, and reasonable attempt to reach agreement is required. However, neither party to a negotiation must agree to a proposal, make a concession, or enter into a contract, nor is either party required to disclose proprietary business or financial records or information.

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.

Negotiation is not required by a processor that only cleans, sorts, grades, and packages these products for sale without altering the natural condition of the products. A cooperative association that contracts for crops from its own members is not required to negotiate.

Prohibited Acts.

It is unlawful for a handler to:

- coerce a producer regarding the producer's right to belong to or contract with an association;
- discriminate against any producer in price or other terms because of such a membership or contract or the producer's promotion of legislation on behalf of an association of producers;
- offer inducements to a producer for refusing or ceasing to belong to an association;
- knowingly make certain false reports regarding an association;
- refuse to negotiate with an accredited association; or
- engage in certain other related activities.

It is unlawful for an association to:

- refuse to negotiate with a handler;
- coerce or intimidate a handler with respect to terminating a contract with an association or a member of the association;
- knowingly make certain false reports regarding an association or a handler; or
- engage in certain related activities.

The Director must investigate complaints regarding alleged violations of these prohibited acts. If the Director issues a complaint charging a violation, a hearing on the charge must be conducted as a contested case under the Administrative Procedure Act. Any person injured by a violation of the Act may sue to recover damages, and reasonable attorneys' fees and costs within two years. A person who violates the Act may also be assessed a civil penalty by the Director of not more than \$5,000. The Director or an aggrieved producer or handler may seek injunctive relief regarding violations.

Advisory Committee.

A 12-member advisory committee studies and reports on issues relating to the Act. The Act requires six of the members to be producers selected from names submitted by an association of producers, and six must be handlers selected from names submitted by handlers.

Summary:

Pears are included in the definition of "agricultural products" under the state Agricultural Marketing and Fair Practices Act (Act). For pears, to "negotiate" means meeting at reasonable times and for reasonable periods commencing at least 60 days before the normal harvest date, and concluding within 30 days of the normal harvest date.

When filing an application with the Director of the Department of Agriculture (WSDA) under the Act, an association of producers must agree to reimburse the WSDA for all anticipated and uncovered costs incurred by the WSDA. The WSDA must provide the

applicant with an estimate of expenses that may be incurred prior to providing the services under the Act. The Director of the WSDA must ensure that sufficient resources will be provided by the applicant to cover WSDA costs for services provided under the application, including any costs incurred by the WSDA if a decision is appealed. Resources include both public funds and any funds provided by the applicant under reimbursement agreements.

It is unlawful for an agricultural product handler to refuse to meet with a mutually agreed upon third-party mediator to resolve a price dispute. The producer is responsible for paying any fees associated with the third-party mediation.

Votes on Final Passage:

House	98	0	
Senate	46	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 11, 2020