
SECOND SUBSTITUTE HOUSE BILL 1974

State of Washington

66th Legislature

2020 Regular Session

By House Appropriations (originally sponsored by Representatives Shewmake, Blake, Peterson, Walsh, Chandler, Macri, Fitzgibbon, Appleton, Thai, Tharinger, and Riccelli)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to establishing a Washington state cannabis
2 commission; amending RCW 42.56.380, 43.23.033, and 41.06.070; and
3 adding a new chapter to Title 15 RCW.

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

5 NEW SECTION. **Sec. 1.** The history, economy, culture, and the
6 future of Washington state to a large degree all involve agriculture.
7 In order to develop Washington's agricultural products as part of the
8 existing comprehensive scheme to regulate agricultural commodities,
9 the legislature declares:

10 (1) The Washington state cannabis commission exists primarily for
11 the benefit of the people of the state of Washington and its economy;

12 (2) The production of cannabis in the state is a new and
13 important segment of Washington agriculture, which has potential for
14 greater contribution to the economy of the state if it undergoes safe
15 and healthy development;

16 (3) The general welfare of the people of the state will be served
17 by the development of the safe growing and processing activities of
18 cannabis. The industry is therefore affected with the public
19 interest;

20 (4) Creation of a Washington state cannabis commission for the
21 public purpose of administering the revenue of the commission for the

1 enhancement of the safe production of cannabis and the marketing of
2 Washington cannabis in keeping with state and federal laws will
3 materially advance the industries of growing and processing cannabis
4 and thereby the interests of the citizens of the state; and

5 (5) The commerce within the state and potential export to other
6 states and abroad of cannabis grown, produced, and processed in the
7 state will contribute substantial benefits to the economy of the
8 state, provide a large number of jobs, sizeable tax revenues, and
9 have an important stabilizing effect on prices received by cannabis
10 producers. Development of exports of these commodities abroad in
11 keeping with state and federal laws will contribute favorably to the
12 balance of trade of the United States and of the state. The sale and
13 export are therefore affected with the public interest.

14 NEW SECTION. **Sec. 2.** The economy, culture, and future of
15 Washington state's agriculture involves the cannabis industry. In
16 order to develop and promote cannabis and cannabis products as part
17 of an existing comprehensive scheme to regulate those products the
18 legislature declares:

19 (1) That cannabis producers operate within a regulatory
20 environment that imposes burdens on them for the benefit of society
21 and the citizens of the state and includes restrictions on marketing
22 autonomy. Those restrictions may impair the cannabis growers' and
23 cannabis producers' ability to compete against the unregulated market
24 in local, domestic, and foreign markets as they become available;

25 (2) That it is in the overriding public interest that support of
26 the legal cannabis industry be clearly expressed; that adequate
27 protection be given to cannabis commodities, uses, activities, and
28 operations; and that cannabis and cannabis product education be
29 promoted individually, and as part of a comprehensive industry to:

30 (a) Enhance the reputation and image of Washington state's
31 overall agriculture industry;

32 (b) Protect the public by educating the public in reference to
33 the quality, care, and methods used in the production of cannabis and
34 cannabis products;

35 (c) Increase the knowledge of the qualities and value of
36 Washington's cannabis and cannabis products; and

37 (d) Support and engage in programs or activities that benefit the
38 production, handling, processing, and uses of cannabis and cannabis
39 products;

1 (3) This chapter is enacted in the exercise of the police powers
2 of this state for the purpose of protecting the health, peace,
3 safety, and general welfare of the people of this state; and

4 (4) That the production and marketing of cannabis in keeping with
5 state and federal laws is a highly regulated industry and that the
6 provisions of this chapter and the rules adopted under it are only
7 one aspect of the regulated industry.

8 NEW SECTION. **Sec. 3.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires
10 otherwise.

11 (1) "Active license" means any person or legal entity holding in
12 its name a producer license that reports sales activity as defined by
13 the commission.

14 (2) "Affected producers" means any persons or entities producing
15 or growing assessed cannabis.

16 (3) "Cannabis" means Washington grown cannabis and is synonymous
17 with the term "marijuana" as defined by RCW 69.50.101. "Cannabis"
18 does not include "industrial hemp" as defined by RCW 15.120.010.

19 (4) "Commission" and "Washington state cannabis commission" are
20 synonymous and mean the commission established by this chapter.

21 (5) "Commodity" has the meaning provided in RCW 15.65.020(4).

22 (6) "Cooperative" means a cooperative as defined under WAC
23 314-55-410.

24 (7) "Department" means the department of agriculture.

25 (8) "Director" means the director of the department of
26 agriculture or the director's designee.

27 (9) "District" means each of the geographical divisions of the
28 state of Washington established under commission rule.

29 (10) "First sale" means the initial sale and transfer of cannabis
30 or a cannabis product by its producer:

31 (a) As an unprocessed product to another producer, processor,
32 cooperative, or any other purchaser; or

33 (b) In case of a producer processor, processing house-grown
34 cannabis product into intermediate product sold to another processor
35 or end product to a retailer.

36 (11) "Fiscal year" means the twelve-month period beginning July
37 1st of any year and ending June 30th.

38 (12) "In-house" means cannabis produced and physically grown on
39 the licensed site.

1 (13) "Interested parties" means governmental departments,
2 agencies, and bodies at the federal, state, or local levels, as well
3 as universities, national and international associations, and other
4 public and private sector organizations with an interest in cannabis
5 related matters.

6 (14) "Manifest" means a transportation document generated for
7 each sales transaction and reported to the state.

8 (15) "Net unit price" means the amount of money paid to a
9 producer by a buyer upon the sale of any propagation material,
10 unprocessed or processed product. The net unit price must be
11 reflected on two corroborating documents including a manifest,
12 invoice, sales order, purchase order, or any other transactional
13 document accepted by the commission.

14 (16) "Processor" means any person or legal entity holding in its
15 name a marijuana processor license issued by state liquor and
16 cannabis board.

17 (17) "Producer" means any person or legal entity holding in its
18 name a marijuana producer license issued by the state liquor and
19 cannabis board, regardless of whether the same holder has been issued
20 a processor license by state liquor and cannabis board.

21 (18) "Product" means the commodity subject to assessment, which
22 includes two categories: Unprocessed product and processed product.

23 (a) Unprocessed product is marijuana sold in bulk that has been
24 minimally processed; minimal processing includes, without limitation,
25 uprooted or wet-cut whole plants, bundles of branches with colas,
26 bagged bulk lot of dried or frozen flower, trim, or leaf marijuana.
27 Unprocessed product also includes material that has been cropped,
28 untrimmed, machine trimmed, bulk bagged, purged, or subject to other
29 minimal means to prepare the product for further processing.
30 Unprocessed product is not ready for sale to retail. Unprocessed
31 product includes propagation material.

32 (b) Processed product is marijuana partially or fully processed;
33 sold as intermediate product to be further processed or sold as an
34 end product ready for retail; partially processed marijuana includes
35 marijuana that has been hand trimmed, converted to an intermediate
36 product or other product not ready for retail.

37 (19) "Propagation material" means live cannabis plant matter in
38 the form of clones, live plants, tissue cultures, cuttings, seeds, or
39 other genetic material used and intended for the propagation of the
40 cannabis plant.

1 (20) "Retailer" means any person or legal entity holding in its
2 name a marijuana retail license issued by state liquor and cannabis
3 board.

4 (21) "Testing laboratory" means any laboratory accredited by a
5 Washington state agency to conduct marijuana-related analysis.

6 (22) "Tier" means any of the production licensing categories
7 established under WAC 314-55-075(6), which defines the maximum amount
8 of growth canopy an individual licensed producer may grow.

9 NEW SECTION. **Sec. 4.** The Washington state cannabis commission
10 is established to:

11 (1) Establish plans and conduct programs for cannabis-related
12 matters;

13 (2) Provide for conducting research as provided in commission
14 rules;

15 (3) Cooperate with and act in an advisory capacity to local,
16 state, and federal agencies or other interested parties with respect
17 to cannabis-related matters within the scope of the powers and
18 purposes of the commission and as described in commission rules;

19 (4) Cooperate with other interested parties toward standardizing
20 methods by which to identify and determine the genetics, strains,
21 cultivars, phenotypes, standards, and grades of cannabis and advise
22 on packaging and labeling requirements with respect to the same;

23 (5) Conduct reviews, surveys, and inquiries regarding market
24 metrics and analytics, including trends, revenues, profitability,
25 projections, production, business practices, and other economic
26 drivers of the industry;

27 (6) Inform and advise producers in all matters regarding
28 cannabis, including but not limited to educational information on its
29 cultivation, usage, risks, and related technical and scientific
30 developments;

31 (7) Provide cannabis-related education and training to producers,
32 processors, retailers, and researchers and their employees, including
33 health and safety information;

34 (8) Provide information and services for meeting resource
35 conservation objectives of producers;

36 (9) Assist and cooperate with local, state, or federal government
37 agencies in the investigation and control of pests, diseases, and
38 other factors that could adversely affect the cultivation, quality,
39 or safety of Washington produced cannabis;

1 (10) Advance knowledge and practice of the production of cannabis
2 in this state through the research and testing of methods to improve
3 pest management, worker protection and safety training, energy
4 efficiency, and environmental protection;

5 (11) Encourage promotion of Washington agriculture related to
6 cannabis production in the state in keeping with state and federal
7 laws;

8 (12) Foster economic conditions favorable to investment in the
9 production of Washington cannabis in keeping with state and federal
10 laws;

11 (13) Limit youth access and youth exposure to cannabis;

12 (14) Encourage favorable legislative and regulatory treatment of
13 Washington cannabis in markets where cannabis is legal;

14 (15) Aid producers in preventing economic waste in the marketing
15 of their commodities and in developing more efficient methods of
16 marketing cannabis commodities in keeping with state and federal
17 laws; and

18 (16) Enable marijuana producers of this state, with the aid of
19 the state to:

20 (a) Develop and engage in research for discovering better and
21 more efficient production, irrigation, processing, transportation,
22 handling, and utilization of cannabis commodities;

23 (b) Establish orderly marketing of cannabis commodities in
24 keeping with state and federal laws;

25 (c) Provide for uniform grading and proper preparation of
26 cannabis commodities for market;

27 (d) Provide methods and means including, but not limited to,
28 public relations and promotion for the maintenance of present markets
29 and for the development of new or larger markets, both domestic and
30 foreign, for cannabis commodities produced within this state in
31 keeping state and federal law;

32 (e) Protect the interest of consumers and the state by monitoring
33 the plant canopy to assure a balanced, sufficient, and wholesome
34 supply of cannabis commodities of good quality at all seasons and
35 times;

36 (f) Discover and develop new and improved cultivars for the
37 reliable and economical production of cannabis in the state; and

38 (g) Advance knowledge and the practice of processing cannabis in
39 the state.

1 NEW SECTION. **Sec. 5.** The commission may:

2 (1) Elect a chair and other officers by a majority vote of the
3 commission or as contained in bylaws adopted by the commission;

4 (2) Adopt, rescind, and amend bylaws and other internal rules of
5 governance necessary for the administration and operation of the
6 commission and for carrying out its duties under this chapter;

7 (3) Administer, enforce, direct, and control the provisions of
8 this chapter;

9 (4) Employ and discharge at its discretion such administrators,
10 staff, professional consultants and service providers, and other
11 persons and firms that it may deem appropriate;

12 (5) Designate a public records officer, rules coordinator, and
13 other representatives required by the laws governing state agencies
14 and commodity commissions;

15 (6) Comply with all other laws applicable to state agencies and
16 commodity commissions;

17 (7) Acquire personal property and purchase or lease office space
18 and other necessary real property and transfer and convey the same;

19 (8) Institute and maintain in its own name any and all legal
20 actions, including actions by injunction, mandatory injunction, or
21 civil recovery, or proceedings before administrative tribunals or
22 other governmental authorities necessary to carry out this chapter;

23 (9) Keep accurate records of all its receipts and disbursements,
24 which records must be open to inspection and audit by the state
25 auditor or private auditor designated by the state auditor at least
26 every five years and at any time by a duly appointed internal auditor
27 upon a majority vote of the commission;

28 (10) Make necessary disbursements for routine operating expenses;

29 (11) Expend funds for all activities, projects, and undertakings
30 of the commission permitted under this chapter, including but not
31 limited to cannabis-related education and training programs for
32 producers, processors, retailers, and researchers or their employees;

33 (12) Cooperate with other interested parties for the purposes of
34 this chapter;

35 (13) Serve as liaison with the state liquor and cannabis board
36 and all other interested parties on behalf of the commission and not
37 for any individual cannabis producer;

38 (14) Enter into contracts or cooperative agreements for research
39 as provided in this chapter;

1 (15) Enter into contracts or interagency agreements with any
2 other interested parties to carry out this chapter in accordance with
3 applicable provisions of Title 39 RCW;

4 (16) Solicit, accept, and expend or retain any gifts, bequests,
5 contributions, or grants from private persons or public agencies to
6 carry out this chapter;

7 (17) Retain in emergent situations the services of private legal
8 counsel to conduct legal actions on behalf of the commission,
9 provided that the retention of a private attorney is subject to the
10 appointment or approval by the office of the state attorney general;

11 (18) Engage in appropriate fund-raising activities and events for
12 the purpose of supporting activities of the commission authorized by
13 this chapter;

14 (19) Participate in international, federal, state and local
15 hearings, meetings, and other proceedings in all matters relating to
16 cannabis, including without limitation the production, irrigation,
17 manufacture, regulation, transportation, distribution, sale, or use
18 of cannabis including activities authorized under RCW 42.17A.635, and
19 the reporting of those activities to the public disclosure
20 commission;

21 (20) Obtain from the state liquor and cannabis board a list of
22 the names and addresses of producers, processors, and retailers, and
23 such other available data from the state as requested by the
24 commission to be used to disseminate information among and solicit
25 the opinions of producers with respect to the discharge of the duties
26 of the commission, directly, or by arrangement with trade
27 associations or other instrumentalities and to collect assessments
28 under this chapter and to verify back records for a minimum three-
29 year period. The commission may rely on such list and data as
30 provided by the state liquor and cannabis board;

31 (21) Obtain and audit the records and production canopy of
32 producers upon at least fourteen days written notice and during
33 normal business hours to determine whether appropriate assessments
34 have been paid and to verify back records for a minimum three-year
35 period;

36 (22) Acquire, create, develop, and own intellectual property
37 rights, licenses, and patents and to collect royalties resulting from
38 the sale or licensing of commission-funded research, provided all
39 results and recommendations from research conducted or funded by the

1 commission must be available to all producers without charge, except
2 for reasonable out-of-pocket costs as the commission may determine;

3 (23) Speak on behalf of the Washington state government with
4 regard to cannabis producers and producer/processors, subject to
5 oversight of the director;

6 (24) Possess marijuana products for the limited purposes of
7 section 4 of this act; and

8 (25) Exercise other powers and duties necessary to carry out this
9 chapter.

10 NEW SECTION. **Sec. 6.** (1) There is created an agricultural
11 commodity commission to be known as the Washington state cannabis
12 commission.

13 (2) (a) The commission consists of thirteen voting members,
14 including eight producer members from the districts, one statewide
15 at-large producer member, one statewide tier 1 producer member, one
16 statewide tier 2 producer member, one statewide tier 3 producer
17 member, and the director.

18 (b) An advisory council must assist the commission. Upon
19 nomination by state liquor and cannabis board or the commission, the
20 director appoints a state liquor and cannabis board representative.
21 Upon nomination by the commission, the director must appoint a
22 processor only member, a retailer member, and a testing laboratory
23 member to serve as a nonvoting advisory council to the commission.

24 (3) Each member of the commission other than the director and the
25 state liquor and cannabis board representative must:

26 (a) Be twenty-one years of age or older;

27 (b) Be a citizen of the United States of America and a resident
28 of this state;

29 (c) Directly hold or be a named owner in whole or in majority
30 part of an entity holding the relevant business license issued by the
31 state liquor and cannabis board. This license must not be suspended
32 at the time of nomination, election, or appointment;

33 (d) Be engaged in the production of cannabis within the state of
34 Washington for a period of three years and have, during that period,
35 derived a substantial portion of his or her income therefrom. Any
36 assignee by a licensee must be and have been, either individually or
37 as an officer or employee of a corporation, firm, partnership,
38 association, or cooperative, actually engaged in producing the
39 commodity within the state of Washington for a period of three years

1 and have, during that period, derived a substantial portion of his or
2 her income therefrom; and

3 (e) Continue to meet all membership qualifications throughout the
4 member's term.

5 (4) Producer members in voting positions must be producers with
6 production facilities in the district in which they are nominated and
7 elected. Producer members elected to at-large positions may be from
8 any district.

9 (a) District 1, positions 1 and 2, comprises the counties of
10 Clallam, Island, Jefferson, King, San Juan, Skagit, Snohomish, and
11 Whatcom.

12 (b) District 2, positions 3 and 4, comprises the counties of
13 Chelan, Douglas, Ferry, Grand, Kittitas, Okanogan, Pend Oreille, and
14 Stevens.

15 (c) District 3, positions 5 and 6, comprises the counties of
16 Adams, Asotin, Benton, Columbia, Franklin, Garfield, Lincoln,
17 Spokane, Walla Walla, Whitman, and Yakima.

18 (d) District 4, positions 7 and 8, comprises the counties of
19 Clark, Cowlitz, Grays Harbor, Kitsap, Klickitat, Lewis, Mason,
20 Pacific, Pierce, Skamania, Thurston, and Wahkiakum.

21 (5) Commission members shall serve three-year terms. Of the
22 initial members, four must be appointed by the director for a one-
23 year term starting July 1st, four must be appointed by the director
24 for a two-year term starting July 1st, and four must be appointed by
25 the director for a three-year term starting July 1st. Thereafter,
26 commission members other than the director must be elected by a vote
27 of active producers in each district for three-year terms. The
28 initial members must be considered from a pool of self-nominated
29 active producers from each district under this section.

30 (6) In the event of a vacancy on the board the commission will
31 provide a nomination to the director who will immediately appoint a
32 replacement.

33 (7)(a) Each member or employee of the commission may be
34 reimbursed for expenses incurred in carrying out this chapter under
35 RCW 43.03.230.

36 (b) Each member or employee of the commission may be reimbursed
37 for actual expenses incurred in carrying out this chapter under RCW
38 43.03.050.

39 (8) Within sixty days after this section takes effect, the
40 director must:

- 1 (a) Appoint the initial members of the commission; and
2 (b) Direct the commission to put into force the assessment
3 provided for in section 8 of this act.

4 NEW SECTION. **Sec. 7.** (1) The commission, before the beginning
5 of its fiscal year, must prepare and submit to the director for
6 approval its research plan, its commodity-related education and
7 training plan, and its budget for that fiscal year.

8 (2) The director must review and approve or disapprove all
9 submissions described in this section in a timely manner.

10 (3) The commission must develop and submit to the director for
11 approval any plans, programs, and projects concerning, but not
12 limited to, the following:

13 (a) The establishment, issuance, effectuation, and administration
14 of appropriate programs or projects for the advertising, promotion,
15 and education of the affected commodities in keeping with state and
16 federal laws; and

17 (b) The establishment and effectuation of research projects,
18 market development projects, or both to the end that the marketing
19 and utilization of the affected commodities may be encouraged,
20 expanded, improved, or made more efficient in keeping with state and
21 federal laws.

22 (4) The director shall review the commission's advertising or
23 promotion program to ensure that no false claims are being made
24 concerning the affected commodities and that they are in keeping with
25 state and federal laws.

26 NEW SECTION. **Sec. 8.** There is levied, and the commission must
27 collect, upon first sale of cannabis sold, an assessment on
28 propagation material, unprocessed and processed cannabis products.

29 (1) Assessment rates are set as a percentage surcharge of the
30 business and occupation tax based upon the net unit price paid for
31 product at the time of first sale. Processed products are to be
32 assessed at a lower rate than propagation material and unprocessed
33 products to take into account the processing costs inherent in
34 processed products.

35 (a) The commission may, by a majority vote, request the
36 department of revenue to reduce, increase, or suspend the effective
37 assessment based on the approved projects and activities of the

1 commission, as described in section 4 of this act, within a given
2 fiscal year.

3 (b) After the initial fiscal year, the commission must set
4 assessment rates at a regular meeting by May 1st of each year, to
5 become effective for the next fiscal year. The commission must give
6 notice to producers and processors of the assessment rate before the
7 beginning of the fiscal year in which it is effective.

8 (2)(a) An assessment is levied in accordance with the
9 requirements of this section. The amount of the assessment must be
10 determined in accordance with the rate schedule under this section.

11 (b) Beginning July 1, 2020, in addition to the tax imposed under
12 RCW 82.04.270, a surcharge is imposed on persons engaging within this
13 state in the business of making wholesale sales of marijuana or
14 marijuana products. The surcharge is equal to:

15 (i) 0.290 percent of the gross proceeds of sales at wholesale of
16 marijuana, including mature marijuana plants, immature marijuana
17 plants or clones, marijuana plant tissue culture, and marijuana
18 seeds; and

19 (ii) 0.145 percent of the gross proceeds of sales at wholesale of
20 marijuana products.

21 (c) The assessment levied under this subsection is subject to the
22 following conditions:

23 (i) The sale price must reflect true value as defined in WAC
24 314-55-010;

25 (ii) The current assessment must be reflected as a separate line
26 item on each transactional document accepted by the commission;

27 (iii) The commission may, subject to approval by majority of the
28 voting members of the commission, waive the payment of assessments by
29 any class of producers of minimal amounts of cannabis when the
30 commission determines subsequent to a hearing that the cost of
31 collecting and keeping records of such assessments is
32 disproportionate to the return to the commission;

33 (iv) The members of the commission may, subject to approval by
34 majority of the voting members of the commission, suspend for a
35 period not exceeding one fiscal year at a time, all or part of the
36 assessments on cannabis subject to this chapter;

37 (v) A processor combining in-house grown cannabis with cannabis
38 purchased from another producer must calculate the assessment owed on
39 the final product by subtracting the assessment already paid, and
40 determined by the transactional document or documents, to reflect the

1 remaining assessment due on the portion of in-house grown cannabis
2 used for the final processed cannabis product; and

3 (vi) The total amount of the annual assessments paid by all
4 producers must not exceed three percent of the total market value of
5 all units sold, processed, stored, or delivered for sale, processing,
6 or storage by all producers of such units during the year to which
7 the assessment applies.

8 (d) Assessments are levied only once upon first sale of cannabis.
9 No assessment is levied where there is a transfer of cannabis product
10 without a sale, including:

11 (i) Cannabis samples provided for quality control and research
12 development;

13 (ii) Cannabis samples provided without charge to retailers in
14 support of a sale or for educational purposes for their employees;

15 (iii) Cannabis samples provided to licensed laboratories for
16 testing purposes;

17 (iv) Cannabis confiscated or destroyed by enforcement
18 authorities;

19 (v) Cannabis lawfully donated to approved individuals and
20 institutions for charitable, medical, educational, or research
21 purposes; or

22 (vi) Such other noncommercial transfers or other circumstances as
23 the commission may determine are within the intent and spirit of this
24 provision.

25 (3) All receipts from the surcharge under this section must be
26 deposited into the account in section 9 of this act.

27 (4) For purposes of this section, the terms "marijuana" and
28 "marijuana products" have the same meaning as in RCW 69.50.101;
29 however, the term "marijuana" must be construed to exclude "marijuana
30 products."

31 (5) (a) Producers must self-assess and are solely liable for the
32 payment of the assessment to the department of revenue on a monthly
33 basis to coincide with payment of business and occupation taxes as
34 described under chapter 82.04 RCW currently due on the 25th of each
35 month for the prior month's sales.

36 (b) The department of revenue must report and transfer
37 assessments collected to the commission on the 5th of each month
38 following the collection of assessments.

39 (6) Upon a determination by the commission that it has received
40 more than the approved budget needed to carry out the approved

1 projects and activities of the commission within a given fiscal year,
2 the commission may:

3 (a) Refund the surplus funds on a pro rata basis to those
4 producers who paid assessments within that fiscal year;

5 (b) Carry the surplus funds over into the next succeeding fiscal
6 year to be used for commission projects and activities in that year;
7 or

8 (c) Suspend the surplus as provided in subsection (2)(c)(iv) of
9 this section.

10 (7) At the end of each fiscal year, the commission must reconcile
11 each producer's payment account with the net unit price recorded on
12 two corroborating documents accepted by the commission for the
13 applicable year and determine whether any producer has overpaid or
14 underpaid assessments. The commission must refund payment and
15 producers must pay underpayments within sixty days after the
16 commission delivers the reconciliation to the producer. The
17 determination of any such overpayment or shortfall is final, absent
18 an obvious and indisputable error.

19 NEW SECTION. **Sec. 9.** The commission must deposit money
20 collected under section 10 of this act in a separate account in the
21 name of the commission in any bank that is a state depository. All
22 expenditures and disbursements made from this account under this
23 chapter may be made without appropriation. RCW 43.01.050 does not
24 apply to this account or to the money received, collected, or
25 expended as provided in this chapter.

26 NEW SECTION. **Sec. 10.** An assessment levied in an amount
27 determined by the commission under section 8 of this act constitutes
28 a personal debt of every person assessed or who otherwise owes the
29 assessment, and the assessment is due and payable to the commission
30 when payment is called for by the commission. If a producer fails to
31 pay the commission the full amount of the assessment by the date due,
32 the commission may add to the unpaid assessment an amount not
33 exceeding ten percent of the assessment to defray the cost of
34 enforcing its collection. If the person fails to pay an assessment,
35 the commission may bring a civil action for collection against the
36 person or persons in a court of competent jurisdiction. The action
37 shall be tried and judgment rendered as in any other cause of action
38 for a debt due and payable.

1 NEW SECTION. **Sec. 11.** (1) Under RCW 42.56.380, certain
2 agricultural business records, commission records, and department of
3 agriculture records relating to the commission and producers of
4 agricultural commodities are exempt from public disclosure. However,
5 financial and commercial information and records submitted to either
6 the department or the commission for the purpose of administering
7 this chapter may be shared between the department and the commission.
8 They may also be used, if required, in any suit or administrative
9 hearing involving this chapter.

10 (2) This section does not prohibit:

11 (a) The issuance of general statements based upon the reports of
12 cannabis producers subject to this chapter as long as the statements
13 do not identify a specific cannabis producer or licensee; or

14 (b) The publication by the director or the commission of the name
15 of a cannabis producer violating this chapter and a statement of the
16 manner of the violation by that cannabis producer.

17 NEW SECTION. **Sec. 12.** (1) Every rule or order made by the
18 commission shall be filed with the director and published in two
19 legal newspapers, one east and one west of the Cascade mountains,
20 within ten days after it is adopted, and is effective as set forth
21 under RCW 34.05.380.

22 (2) Rule-making proceedings conducted under this chapter are
23 exempt from compliance with RCW 34.05.310, the provisions of chapter
24 19.85 RCW, the regulatory fairness act, and the provisions of RCW
25 43.135.055 when adoption of the rule is determined by a referendum
26 vote of the affected parties.

27 NEW SECTION. **Sec. 13.** Obligations incurred by the commission
28 and any other liabilities or claims against the commission must be
29 enforced only against the assets of the commission and, except to the
30 extent of such assets, no liability for the debts or actions of the
31 commission exists against either the state of Washington or any
32 subdivision or instrumentality thereof or against any member,
33 employee, or agent of the commission or the state of Washington in
34 the person's individual capacity. Except as otherwise provided in
35 this chapter, neither the commission members, nor its employees, may
36 be held individually responsible for errors in judgment, mistakes, or
37 other acts, either of commission or omission, as principal, agent,
38 person, or employee, except for their own individual acts of

1 dishonesty or crime. No person or employee may be held individually
2 responsible for any act or omission of any other commission members.
3 The liability of the commission members shall be several and not
4 joint, and no member is liable for the default of any other member.
5 This section confirms that commission members have been and continue
6 to be, state officers or volunteers for purposes of RCW 4.92.075 and
7 are entitled to the defenses, indemnifications, limitations of
8 liability, and other protections and benefits of chapter 4.92 RCW.

9 NEW SECTION. **Sec. 14.** All costs incurred by the department,
10 including the adoption of rules and other actions necessary to carry
11 out this chapter, must be reimbursed by the commission under RCW
12 43.23.033. The commission must provide funds to the department
13 according to the rules adopted by the director.

14 **Sec. 15.** RCW 42.56.380 and 2019 c 337 s 3 are each amended to
15 read as follows:

16 The following information relating to agriculture and livestock
17 is exempt from disclosure under this chapter:

18 (1) Business-related information under RCW 15.86.110;

19 (2) Information provided under RCW 15.54.362;

20 (3) Production or sales records required to determine assessment
21 levels and actual assessment payments to commodity boards and
22 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
23 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, 15.--- (the new chapter
24 created in section 18 of this act), and 16.67 RCW or required by the
25 department of agriculture to administer these chapters or the
26 department's programs;

27 (4) Consignment information contained on phytosanitary
28 certificates issued by the department of agriculture under chapters
29 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates
30 issued under 7 C.F.R. 353 through cooperative agreements with the
31 animal and plant health inspection service, United States department
32 of agriculture, or on applications for phytosanitary certification
33 required by the department of agriculture;

34 (5) Financial and commercial information and records supplied by
35 persons (a) to the department of agriculture for the purpose of
36 conducting a referendum for the potential establishment of a
37 commodity board or commission; or (b) to the department of
38 agriculture or commodity boards or commissions formed under chapter

1 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100,
2 15.89, 15.--- (the new chapter created in section 18 of this act), or
3 16.67 RCW with respect to domestic or export marketing activities or
4 individual producer's production information;

5 (6) Information obtained regarding the purchases, sales, or
6 production of an individual American ginseng grower or dealer, except
7 for providing reports to the United States fish and wildlife service
8 under RCW 15.19.080;

9 (7) Information collected regarding packers and shippers of
10 fruits and vegetables for the issuance of certificates of compliance
11 under RCW 15.17.140(2) and 15.17.143;

12 (8) Financial statements obtained under RCW 16.65.030(1)(d) for
13 the purposes of determining whether or not the applicant meets the
14 minimum net worth requirements to construct or operate a public
15 livestock market;

16 (9) Information submitted by an individual or business to the
17 department of agriculture under the requirements of chapters 16.36,
18 16.57, and 43.23 RCW for the purpose of herd inventory management for
19 animal disease traceability. This information includes animal
20 ownership, numbers of animals, locations, contact information,
21 movements of livestock, financial information, the purchase and sale
22 of livestock, account numbers or unique identifiers issued by
23 government to private entities, and information related to livestock
24 disease or injury that would identify an animal, a person, or
25 location. Disclosure to local, state, and federal officials is not
26 public disclosure. This exemption does not affect the disclosure of
27 information used in reportable animal health investigations under
28 chapter 16.36 RCW once they are complete;

29 (10) Results of testing for animal diseases from samples
30 submitted by or at the direction of the animal owner or his or her
31 designee that can be identified to a particular business or
32 individual;

33 (11) Records of international livestock importation that can be
34 identified to a particular animal, business, or individual received
35 from the United States department of homeland security or the United
36 States department of agriculture that are not disclosable by the
37 federal agency under federal law including 5 U.S.C. Sec. 552;

38 (12) Records related to the entry of prohibited agricultural
39 products imported into Washington state or that had Washington state
40 as a final destination received from the United States department of

1 homeland security or the United States department of agriculture that
2 are not disclosable by the federal agency under federal law including
3 5 U.S.C. Sec. 552;

4 (13) Information obtained from the federal government or others
5 under contract with the federal government or records obtained by the
6 department of agriculture, in accordance with RCW 15.135.100;

7 (14) Hop grower lot numbers and laboratory results associated
8 with the hop grower lot numbers where this information is used by the
9 department of agriculture to issue export documents; and

10 (15) Information or records obtained pursuant to a food and drug
11 administration contract or commissioning agreement, in accordance
12 with RCW 15.130.150.

13 **Sec. 16.** RCW 43.23.033 and 2009 c 33 s 38 are each amended to
14 read as follows:

15 (1) The director may provide by rule for a method to fund staff
16 support for all commodity boards and commissions if a position is not
17 directly funded by the legislature.

18 (2) Staff support funded under this section, RCW 15.65.047(1)(c),
19 15.66.055(3), 15.24.215, 15.26.265, 15.28.320, 15.44.190, 15.88.180,
20 15.89.150, section 14 of this act, and 16.67.190, and chapter 15.115
21 RCW shall be limited to one-half full-time equivalent employee for
22 all commodity boards and commissions.

23 **Sec. 17.** RCW 41.06.070 and 2019 c 146 s 3 are each amended to
24 read as follows:

25 (1) The provisions of this chapter do not apply to:

26 (a) The members of the legislature or to any employee of, or
27 position in, the legislative branch of the state government including
28 members, officers, and employees of the legislative council, joint
29 legislative audit and review committee, statute law committee, and
30 any interim committee of the legislature;

31 (b) The justices of the supreme court, judges of the court of
32 appeals, judges of the superior courts or of the inferior courts, or
33 to any employee of, or position in the judicial branch of state
34 government;

35 (c) Officers, academic personnel, and employees of technical
36 colleges;

37 (d) The officers of the Washington state patrol;

38 (e) Elective officers of the state;

1 (f) The chief executive officer of each agency;

2 (g) In the departments of employment security and social and
3 health services, the director and the director's confidential
4 secretary; in all other departments, the executive head of which is
5 an individual appointed by the governor, the director, his or her
6 confidential secretary, and his or her statutory assistant directors;

7 (h) In the case of a multimember board, commission, or committee,
8 whether the members thereof are elected, appointed by the governor or
9 other authority, serve ex officio, or are otherwise chosen:

10 (i) All members of such boards, commissions, or committees;

11 (ii) If the members of the board, commission, or committee serve
12 on a part-time basis and there is a statutory executive officer: The
13 secretary of the board, commission, or committee; the chief executive
14 officer of the board, commission, or committee; and the confidential
15 secretary of the chief executive officer of the board, commission, or
16 committee;

17 (iii) If the members of the board, commission, or committee serve
18 on a full-time basis: The chief executive officer or administrative
19 officer as designated by the board, commission, or committee; and a
20 confidential secretary to the chair of the board, commission, or
21 committee;

22 (iv) If all members of the board, commission, or committee serve
23 ex officio: The chief executive officer; and the confidential
24 secretary of such chief executive officer;

25 (i) The confidential secretaries and administrative assistants in
26 the immediate offices of the elective officers of the state;

27 (j) Assistant attorneys general;

28 (k) Commissioned and enlisted personnel in the military service
29 of the state;

30 (l) Inmate, student, and temporary employees, and part-time
31 professional consultants, as defined by the director;

32 (m) Officers and employees of the Washington state fruit
33 commission;

34 (n) Officers and employees of the Washington apple commission;

35 (o) Officers and employees of the Washington state dairy products
36 commission;

37 (p) Officers and employees of the Washington tree fruit research
38 commission;

39 (q) Officers and employees of the Washington state beef
40 commission;

1 (r) Officers and employees of the Washington grain commission;
2 (s) Officers and employees of any commission formed under chapter
3 15.66 RCW;
4 (t) Officers and employees of agricultural commissions formed
5 under chapter 15.65 RCW;
6 (u) Officers and employees of the Washington state cannabis
7 commission under chapter 15.--- RCW (the new chapter created in
8 section 18 of this act);
9 (v) Officers and employees of the Washington state wine
10 commission under chapter 15.88 RCW;
11 (w) Officers and employees of the Washington state beer
12 commission under chapter 15.89 RCW;
13 (x) Executive assistants for personnel administration and labor
14 relations in all state agencies employing such executive assistants
15 including but not limited to all departments, offices, commissions,
16 committees, boards, or other bodies subject to the provisions of this
17 chapter and this subsection shall prevail over any provision of law
18 inconsistent herewith unless specific exception is made in such law;
19 ~~((v))~~ (y) In each agency with fifty or more employees: Deputy
20 agency heads, assistant directors or division directors, and not more
21 than three principal policy assistants who report directly to the
22 agency head or deputy agency heads;
23 ~~((w))~~ (z) Staff employed by the department of commerce to
24 administer energy policy functions;
25 ~~((x))~~ (aa) The manager of the energy facility site evaluation
26 council;
27 ~~((y))~~ (bb) A maximum of ten staff employed by the department of
28 commerce to administer innovation and policy functions, including the
29 three principal policy assistants exempted under (v) of this
30 subsection;
31 ~~((z))~~ (cc) Staff employed by Washington State University to
32 administer energy education, applied research, and technology
33 transfer programs under RCW 43.21F.045 as provided in RCW
34 28B.30.900(5);
35 ~~((aa))~~ (dd) Officers and employees of the consolidated
36 technology services agency created in RCW 43.105.006 that perform the
37 following functions or duties: Systems integration; data center
38 engineering and management; network systems engineering and
39 management; information technology contracting; information

1 technology customer relations management; and network and systems
2 security;

3 ~~((bb))~~ (ee) The executive director of the Washington statewide
4 reentry council.

5 (2) The following classifications, positions, and employees of
6 institutions of higher education and related boards are hereby
7 exempted from coverage of this chapter:

8 (a) Members of the governing board of each institution of higher
9 education and related boards, all presidents, vice presidents, and
10 their confidential secretaries, administrative, and personal
11 assistants; deans, directors, and chairs; academic personnel; and
12 executive heads of major administrative or academic divisions
13 employed by institutions of higher education; principal assistants to
14 executive heads of major administrative or academic divisions; other
15 managerial or professional employees in an institution or related
16 board having substantial responsibility for directing or controlling
17 program operations and accountable for allocation of resources and
18 program results, or for the formulation of institutional policy, or
19 for carrying out personnel administration or labor relations
20 functions, legislative relations, public information, development,
21 senior computer systems and network programming, or internal audits
22 and investigations; and any employee of a community college district
23 whose place of work is one which is physically located outside the
24 state of Washington and who is employed pursuant to RCW 28B.50.092
25 and assigned to an educational program operating outside of the state
26 of Washington;

27 (b) The governing board of each institution, and related boards,
28 may also exempt from this chapter classifications involving research
29 activities, counseling of students, extension or continuing education
30 activities, graphic arts or publications activities requiring
31 prescribed academic preparation or special training as determined by
32 the board: PROVIDED, That no nonacademic employee engaged in office,
33 clerical, maintenance, or food and trade services may be exempted by
34 the board under this provision;

35 (c) Printing craft employees in the department of printing at the
36 University of Washington.

37 (3) In addition to the exemptions specifically provided by this
38 chapter, the director may provide for further exemptions pursuant to
39 the following procedures. The governor or other appropriate elected
40 official may submit requests for exemption to the office of financial

1 management stating the reasons for requesting such exemptions. The
2 director shall hold a public hearing, after proper notice, on
3 requests submitted pursuant to this subsection. If the director
4 determines that the position for which exemption is requested is one
5 involving substantial responsibility for the formulation of basic
6 agency or executive policy or one involving directing and controlling
7 program operations of an agency or a major administrative division
8 thereof, or is a senior expert in enterprise information technology
9 infrastructure, engineering, or systems, the director shall grant the
10 request. The total number of additional exemptions permitted under
11 this subsection shall not exceed one percent of the number of
12 employees in the classified service not including employees of
13 institutions of higher education and related boards for those
14 agencies not directly under the authority of any elected public
15 official other than the governor, and shall not exceed a total of
16 twenty-five for all agencies under the authority of elected public
17 officials other than the governor.

18 (4) The salary and fringe benefits of all positions presently or
19 hereafter exempted except for the chief executive officer of each
20 agency, full-time members of boards and commissions, administrative
21 assistants and confidential secretaries in the immediate office of an
22 elected state official, and the personnel listed in subsections
23 (1)(j) through ~~((t))~~ (w) and (2) of this section, shall be
24 determined by the director. Changes to the classification plan
25 affecting exempt salaries must meet the same provisions for
26 classified salary increases resulting from adjustments to the
27 classification plan as outlined in RCW 41.06.152.

28 (5)(a) Any person holding a classified position subject to the
29 provisions of this chapter shall, when and if such position is
30 subsequently exempted from the application of this chapter, be
31 afforded the following rights: If such person previously held
32 permanent status in another classified position, such person shall
33 have a right of reversion to the highest class of position previously
34 held, or to a position of similar nature and salary.

35 (b) Any classified employee having civil service status in a
36 classified position who accepts an appointment in an exempt position
37 shall have the right of reversion to the highest class of position
38 previously held, or to a position of similar nature and salary.

39 (c) A person occupying an exempt position who is terminated from
40 the position for gross misconduct or malfeasance does not have the

1 right of reversion to a classified position as provided for in this
2 section.

3 NEW SECTION. **Sec. 18.** Sections 1 through 14 of this act
4 constitute a new chapter in Title 15 RCW.

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