

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2524

Chapter 176, Laws of 2020

66th Legislature
2020 Regular Session

AGRICULTURAL MARKETING AND FAIR PRACTICES ACT--PEARS--MEDIATION

EFFECTIVE DATE: June 11, 2020

Passed by the House March 7, 2020
Yeas 97 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 4, 2020
Yeas 46 Nays 0

CYRUS HABIB

President of the Senate

Approved March 27, 2020 2:18 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2524** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 27, 2020

**Secretary of State
State of Washington**

HOUSE BILL 2524

AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

State of Washington **66th Legislature** **2020 Regular Session**

By Representatives Chandler, Blake, and Dent

Read first time 01/15/20. Referred to Committee on Rural Development, Agriculture, & Natural Resources.

1 AN ACT Relating to expanding the scope of agricultural products
2 subject to requirements in chapter 15.83 RCW related to negotiation
3 concerning production or marketing; and amending RCW 15.83.010,
4 15.83.020, and 15.83.030.

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

6 **Sec. 1.** RCW 15.83.010 and 1989 c 355 s 2 are each amended to
7 read as follows:

8 (~~Unless the context clearly requires otherwise, the~~) The
9 definitions in this section apply throughout this chapter unless the
10 context clearly requires otherwise.

11 (1) "Accredited association of producers" means an association of
12 producers which is accredited by the director to be the exclusive
13 negotiation agent for all producer members of the association within
14 a negotiating unit.

15 (2) "Advance contract" means a contract for purchase and sale of
16 a crop entered into before the crop becomes a growing crop and
17 providing for delivery at or after the harvest of that crop.

18 (3) "Agricultural products" as used in this chapter means pears,
19 sweet corn, and potatoes produced for sale from farms in this state.

20 (4) "Association of producers" means any association of producers
21 of agricultural products engaged in marketing, negotiating for its

1 members, shipping, or processing as defined in section 15(a) of the
2 federal agriculture marketing act of 1929 or in section 1 of 42 Stat.
3 388.

4 (5) "Director" means the director of the department of
5 agriculture.

6 (6) "Handler" means a processor or a person engaged in the
7 business or practice of:

8 (a) Acquiring agricultural products from producers or
9 associations of producers for use by a processor;

10 (b) Processing agricultural products received from producers or
11 associations of producers, provided that a cooperative association
12 owned by producers shall not be a handler except when contracting for
13 crops from producers who are not members of the cooperative
14 association;

15 (c) Contracting or negotiating contracts or other arrangements,
16 written or oral, with or on behalf of producers or associations of
17 producers with respect to the production or marketing of any
18 agricultural product for use by a processor; or

19 (d) Acting as an agent or broker for a handler in the performance
20 of any function or act specified in (a), (b), or (c) of this
21 subsection.

22 (7) "Negotiate" means meeting at reasonable times and for
23 reasonable periods of time commencing at least sixty days before the
24 normal planting date for sweet corn and potatoes, or at least sixty
25 days before the normal harvest date for pears, and concluding within
26 thirty days of the normal planting date for sweet corn and potatoes,
27 or within thirty days of the normal harvest date for pears, to make a
28 serious, fair, and reasonable attempt to reach agreement by
29 acknowledging or refuting with reason points brought up by either
30 party with respect to the price, terms of sale, compensation for
31 products produced under contract, or other terms relating to the
32 production or sale of these products: PROVIDED, That neither party
33 shall be required to disclose proprietary business or financial
34 records or information.

35 (8) "Negotiating unit" means a negotiating unit approved by the
36 director under RCW 15.83.020.

37 (9) "Person" means an individual, partnership, corporation,
38 association, or any other entity.

39 (10) "Processor" means any person that purchases agricultural
40 crops from a producer and cans, freezes, dries, dehydrates, cooks,

1 presses, powders, or otherwise processes those crops in any manner
2 for eventual resale. A person who solely cleans, sorts, grades, and
3 packages a farm product for sale without altering the natural
4 condition of the product is not a processor. A person processing any
5 portion of a crop is a processor.

6 (11) "Producer" means a person engaged in the production of
7 agricultural products as a farmer or planter, including a grower or
8 farmer furnishing inputs, production management, or facilities for
9 growing or raising agricultural products. A producer who is also a
10 handler shall be considered a handler under this chapter.

11 (12) "Qualified commodity" means agricultural products as defined
12 in subsection (3) of this section.

13 **Sec. 2.** RCW 15.83.020 and 1989 c 355 s 3 are each amended to
14 read as follows:

15 (1) An association of producers may file an application with the
16 director:

17 (a) Requesting accreditation to serve as the exclusive
18 negotiating agent on behalf of its producer members who are within a
19 proposed negotiating unit with respect to any qualified commodity;

20 (b) Describing geographical boundaries of the proposed
21 negotiating unit;

22 (c) Specifying the number of producers and the quantity of
23 products included within the proposed negotiating unit;

24 (d) Specifying the number and location of the producers and the
25 quantity of products represented by the association; (~~and~~)

26 (e) Agreeing to reimburse the department for all anticipated and
27 uncovered costs incurred by the department for actions necessary to
28 carry out the provisions of this chapter; and

29 (f) Supplying any other information required by the director.

30 (2) Within a reasonable time after receiving an application under
31 subsection (1) of this section, the director shall approve or
32 disapprove the application in accordance with this section.

33 (a) The director shall approve the initial application or renewal
34 if the director determines that:

35 (i) The association is owned and controlled by producers under
36 the charter documents or bylaws of the association;

37 (ii) The association has valid and binding contracts with its
38 members empowering the association to sell or negotiate terms of sale

1 of its members' products or to negotiate for compensation for
2 products produced under contract by its members;

3 (iii) The association represents a sufficient percentage of
4 producers or that its members produce a sufficient percentage of
5 agricultural products to enable it to function as an effective agent
6 for producers in negotiating with a given handler as defined in rules
7 promulgated by the department. In making this finding, the director
8 shall exclude any quantity of the agricultural products contracted by
9 producers with producer-owned and controlled processing cooperatives
10 with its members and any quantity of these products produced by
11 handlers;

12 (iv) One of the association's functions is to act as principal or
13 agent for its members in negotiations with handlers for prices and
14 other terms of trade with respect to the production, sale, and
15 marketing of the products of its members, or for compensation for
16 products produced by its members under contract; (~~and~~)

17 (v) Sufficient resources, including public funds and any funds to
18 be provided by the applicant under reimbursement agreements, will be
19 available to cover department costs for services provided by the
20 department in carrying out the provisions of this chapter, including
21 department costs to defend a decision made by the department under
22 this chapter if such a decision is appealed; and

23 (vi) Accreditation would not be contrary to the policies
24 established in RCW 15.83.005.

25 (b) If the director does not approve the application under (a) of
26 this subsection, then the association of producers may file an
27 amended application with the director. The director, within a
28 reasonable time, shall approve the amended application if it meets
29 the requirements set out in (a) of this subsection.

30 (3) The department shall provide the association an estimate of
31 expenses that may be incurred prior to the department's provision of
32 services.

33 (4) At the discretion of the director, or upon submission of a
34 timely filed petition by an affected handler or an affected
35 association of producers, the association of producers accredited
36 under this section may be required by the director to renew the
37 application for accreditation by providing the information required
38 under subsection (1) of this section.

1 **Sec. 3.** RCW 15.83.030 and 1989 c 355 s 4 are each amended to
2 read as follows:

3 It shall be unlawful for any handler to engage, or permit any
4 employee or agent to engage, in the following practices:

5 (1) To refuse to negotiate with an association of producers
6 accredited under RCW 15.83.020 with respect to any qualified
7 commodity: PROVIDED, That the obligation to negotiate does not
8 require either party to agree to a proposal, to make a concession, or
9 to enter into a contract;

10 (2) To coerce any producer in the exercise of his or her right to
11 contract with, join, refrain from contracting with or joining, belong
12 to an association of producers, or refuse to deal with any producer
13 because of the exercise of that producer's right to contract with,
14 join, or belong to an association or because of that producer's
15 promotion of legislation on behalf of an association of producers;

16 (3) To discriminate against any producer with respect to price,
17 quantity, quality, or other terms of purchase, acquisition, or other
18 handling of agricultural products because of that producer's
19 membership in or contract with an association of producers or because
20 of that producer's promotion of legislation on behalf of an
21 association of producers;

22 (4) To coerce or intimidate any producer to enter into, maintain,
23 breach, cancel, or terminate a membership agreement or marketing
24 contract with an association of producers or a contract with a
25 handler;

26 (5) To pay or loan money, give anything of value, or offer any
27 other inducement or reward to a producer for refusing or ceasing to
28 belong to an association of producers;

29 (6) To make knowingly false reports about the finances,
30 management, or activities of associations of producers or handlers;
31 (~~or~~)

32 (7) To conspire, agree, or arrange with any other person to do,
33 aid, or abet any act made unlawful by this chapter; or

34 (8) To refuse, in the event that an acceptable price cannot be
35 agreed to between a producer and a processor, to meet with a mutually
36 agreed upon third-party mediator to resolve the price dispute. Any
37 fees associated with the third-party mediation must be borne by the
38 producer.

Passed by the House March 7, 2020.
Passed by the Senate March 4, 2020.

Approved by the Governor March 27, 2020.
Filed in Office of Secretary of State March 27, 2020.

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