

SENATE BILL REPORT

SB 5074

As Reported by Senate Committee On:
Agriculture & Natural Resources, February 13, 2025

Title: An act relating to the payment of turfgrass seed contracts.

Brief Description: Concerning the payment of turfgrass seed contracts. [**Revised for 1st Substitute:** Concerning payment of seed contracts.]

Sponsors: Senators Boehnke, Chapman and Krishnadasan.

Brief History:

Committee Activity: Agriculture & Natural Resources: 1/20/25, 2/13/25 [DPS].

Brief Summary of First Substitute Bill

- Establishes processes and terms regulating contracts for the sale and distribution of turf seed grass.
- Authorizes the Washington State Department of Agriculture (WSDA) to adopt rules requiring a seed dealer to provide financial assurance for performance of turf seed production or purchase contracts.
- Authorizes the WSDA to make mediation services available for the resolution of turf seed production and seed purchase contract disputes.

SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: That Substitute Senate Bill No. 5074 be substituted therefor, and the substitute bill do pass.

Signed by Senators Chapman, Chair; Krishnadasan, Vice Chair; Short, Ranking Member; Liias, Muzzall, Saldaña, Schoesler, Shewmake and Wagoner.

Staff: Jeff Olsen (786-7428)

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

Background: With certain exceptions, no person may act as a commission merchant, dealer, broker, or cash buyer for agricultural commodities or as the agent of any of them, without being licensed by the Washington Department of Agriculture (WSDA) under the state's commission merchant laws. A commission merchant is a person who:

- receives on consignment for sale or processing and sale from the consignor any agricultural product for sale on commission on behalf of the consignor;
- accepts any farm product in trust from the consignor for the purpose of resale;
- sells or offers for sale on commission any agricultural product; or
- in any way handles for the account as an agent of the consignor any agricultural product.

A dealer is a person other than a cash buyer who solicits, obtains, or contracts or agrees to obtain from a consignor the title, possession, or control of an agricultural product for resale, sale, or processing. A consignor is any producer, person, or their agent who sells, ships, or delivers to any commission merchant, dealer, cash buyer, or agent, any agricultural product for processing, handling, sale, or resale.

Agricultural products for purposes of the commission merchant's licensing program includes any unprocessed horticultural, vermicultural, viticultural, berry, poultry, grain, bee, or other agricultural products. Agricultural products also includes mint, hay and straw baled or prepared for market, and agricultural seed. Any disputes regarding responsibilities for seed clean out are governed exclusively by contracts between the producers of the seed and conditioners or processors of the seed.

Summary of Bill (First Substitute): Processes are established for regulating contracts for the sale and distribution of turf seed grass. Terms of a turf seed contract must include the estimated date for seed delivery, terms and estimated dates for payment, and the amount and type of seed to be purchased. Unless otherwise specified in contract, payment to a producer is due the earliest of the date specified in the contract, 30 days after seed delivery, or May 1st of the calendar year following the harvesting of seed. However, a turf seed production contract that is established before the producer plants the turfgrass seed may contain different payment terms if the contract states the date by which final payment is due.

A seed bailment contract or seed purchase contract does not create a possessory security interest in goods. Turf seed payments due from a turf seed dealer to a bailee or turf seed producer are subject to liens and security interests. A turf seed contract may not provide for exclusive venue or jurisdiction in another state.

A turf seed dealer that requests modification to the terms of a seed production contract shall pay an amount equal to at least 25 percent of the value of the contract prior to modification. A party to a turf seed contract may not require the other party to agree to a material modification of the contract. In any action to recover damages for breach of contract, if the court finds that a party to the contract failed to act in good faith, the court may award the prevailing party court costs and reasonable attorneys' fees.

Processes are established for purchasing turfgrass seed if testing establishes that the turfgrass seed does not meet quality standards as set forth in the contract. The producer may send the test results to the turf seed dealer and inquire whether the turf seed dealer intends to purchase the seed. The parties may establish the terms of the turf seed purchase contract including the price of seed not meeting quality standards.

A turf seed grower may notify WSDA if a seed dealer fails to pay a producer for seed when payment is due. If WSDA determines that a turf seed dealer has not made payment, WSDA must notify the dealer in writing and the dealer has 30 days to pay the producer. WSDA may charge a turf seed dealer in accordance with interest amounts authorized for commission merchants. WSDA may refuse to issue a seed dealer license for a seed dealer whose license has been suspended.

WSDA may adopt rules to require a seed dealer provide financial assurance for performance of turf seed production or purchase contracts. WSDA director may make mediation services available for the resolution of turf seed production contract disputes.

EFFECT OF CHANGES MADE BY AGRICULTURE & NATURAL RESOURCES COMMITTEE (First Substitute):

- Specifies terms for the payment of a turf seed production contract.
- Provides that if a seed dealer fails to pay a producer for seed when payment is due, a grower may notify WSDA.
- Requires a seed dealer to provide to WSDA financial assurance for performance of contracts.
- Provides that WSDA may refuse to issue a seed dealer license for a seed dealer whose license has been suspended.
- Authorizes WSDA to adopt rules and to make mediation services available for the resolution of turf seed production contract disputes.
- Removes definitions for seed grower, seed producer, seed purchase contract and turfgrass seed from the state's commission merchant laws.
- Removes an exemption for turfgrass seed production and purchase contracts from a provision making it unlawful for a consignor to give up all involvement in determining the time an agricultural product is sold.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Adding clear definitions will assist turf grass seed growers with their contracts to get paid in a timely manner. Oregon passed legislation on turfgrass seeds, and this would align with other states and create a level playing field. Farm loan delinquencies are increasing, and it is important that farmers get paid in a timely manner. The hope is that the legislation mirrors the legislation in Oregon and the timelines can be worked out so that processors pay growers on a consistent timeline. Late pay in contracts results in payment occurring multiple years after the seed is turned over to the processor.

OTHER: The bill as written needs a little more work and the WSDA is happy to work on the bill so it is something the agency can implement.

Persons Testifying: PRO: Senator Matt Boehnke, Prime Sponsor.

OTHER: Alison Halpern, Washington Department of Agriculture.

Persons Signed In To Testify But Not Testifying: PRO: Travis Meacham, Washington Turfgrass Seed Association.