

- (7) Section 43.74.025, chapter 8, Laws of 1965 and RCW 43.74.025;
 (8) Section 43.74.035, chapter 8, Laws of 1965 and RCW 43.74.035;
 (9) Section 2, chapter 227, Laws of 1971 ex. sess., section 23, chapter 77, Laws of 1973 and RCW 43.74.037;
 (10) Section 43.74.040, chapter 8, Laws of 1965, section 24, chapter 77, Laws of 1973 and RCW 43.74.040;
 (11) Section 43.74.050, chapter 8, Laws of 1965 and RCW 43.74.050;
 (12) Section 43.74.060, chapter 8, Laws of 1965 and RCW 43.74.060;
 (13) Section 43.74.065, chapter 8, Laws of 1965 and RCW 43.74.065;
 (14) Section 43.74.075, chapter 8, Laws of 1965 and RCW 43.74.075;
 (15) Section 43.74.080, chapter 8, Laws of 1965, section 25, chapter 77, Laws of 1973 and RCW 43.74.080;
 (16) Section 1, chapter 227, Laws of 1971 ex. sess., section 26, chapter 77, Laws of 1973 and RCW 43.74.085;
 (17) Section 43.74.090, chapter 8, Laws of 1965 and RCW 43.74.090;
 and
 (18) Section 43.74.900, chapter 8, Laws of 1965 and RCW 43.74.900.

Passed the House April 23, 1979.

Passed the Senate April 6, 1979.

Approved by the Governor May 2, 1979.

Filed in Office of Secretary of State May 2, 1979.

CHAPTER 115

[Substitute House Bill No. 247]

COMMISSION MERCHANTS, DEALERS—RESPONSIBILITIES—LICENSE FEES

AN ACT Relating to agricultural products; amending section 1, chapter 139, Laws of 1959 as last amended by section 1, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.010; amending section 3, chapter 139, Laws of 1959 as last amended by section 2, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.030; amending section 4, chapter 139, Laws of 1959 as last amended by section 3, chapter 102, Laws of 1974 ex. sess. and RCW 20.01.040; amending section 6, chapter 139, Laws of 1959 as last amended by section 3, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.060; amending section 37, chapter 139, Laws of 1959 as last amended by section 9, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.370; and repealing section 10, chapter 102, Laws of 1974 ex. sess., section 12, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.445.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 139, Laws of 1959 as last amended by section 1, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.010 are each amended to read as follows:

As used in this title the terms defined in this section have the meanings indicated unless the context clearly requires otherwise.

(1) "Director" means the director of agriculture or his duly authorized representative.

(2) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(3) "Agricultural product" means any unprocessed horticultural, vermicultural and its byproducts, viticultural, berry, poultry, poultry product, grain ((including)), bee, or other agricultural products, and includes mint or mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form by or for the producer thereof, (~~((bee, or other agricultural products,))~~) and livestock except horses, mules, and donkeys: PROVIDED, That horses, mules, and donkeys purchased or sold for slaughter shall be considered agricultural products for the purposes of this chapter.

(4) "Producer" means any person engaged in the business of growing or producing any agricultural product, whether as the owner of such products, or producing such products for others holding the title thereof.

(5) "Consignor" means any producer, person or his agent who sells, ships or delivers to any commission merchant, dealer, cash buyer, or agent, any agricultural product for processing, handling, sale or resale.

(6) "Commission merchant" means any person who shall receive on consignment for sale or processing and sale from the consignor thereof any agricultural product for sale on commission on behalf of such consignor, or who shall accept any farm product in trust from the consignor thereof for the purpose of resale, or who shall sell or offer for sale on commission any agricultural product, or who shall in any way handle for the account of or as an agent of the consignor thereof, any agricultural product.

(7) "Dealer" means any person other than a commission merchant or cash buyer, as defined in subsection (9) of this section, who solicits, contracts for, or obtains from the consignor thereof for reselling or processing, title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product from the consignor thereof for sale or processing and includes any person, other than one who acts solely as a producer, who retains title in an agricultural product and delivers it to a producer for further production or increase: PROVIDED, That for the purpose of this chapter the term dealer includes any person who purchases livestock on behalf of and for the account of another.

(8) "Limited dealer" means any person operating under the alternative bonding provision in RCW 20.01.211, as now or hereafter amended.

(9) "Broker" means any person other than a commission merchant, dealer, or cash buyer who negotiates the purchase or sale of any agricultural product: PROVIDED, That no broker may handle the agricultural products involved or proceeds of such sale.

~~((9))~~ (10) "Cash buyer" means any person other than a commission merchant, dealer, or broker, who obtains from the consignor thereof for the

purpose of resale or processing, title, possession or control of any agricultural product or who contracts for the title, possession or control of any agricultural product, or who buys or agrees to buy any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of such agricultural product, in coin or currency, lawful money of the United States. However, a cashier's check, certified check or bankdraft may be used for such payment.

~~((10))~~ (11) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, acts as liaison between a consignor and a principal, or receives, contracts for, or solicits any agricultural product from the consignor thereof or who negotiates the consignment or purchase of any agricultural product on behalf of any commission merchant, dealer, broker, or cash buyer and who transacts all or a portion of such business at any location other than at the principal place of business of his employer: PROVIDED, That, with the exception of an agent for a commission merchant or dealer handling horticultural products, an agent may operate only in the name of one principal and only to the account of said principal.

~~((11))~~ (12) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products twelve months of each year: PROVIDED, That any retailer may occasionally wholesale any agricultural product which he has in surplus; however, such wholesaling shall not be in excess of two percent of such retailer's gross business.

~~((12))~~ (13) "Fixed or established place of business" for the purpose of this chapter shall mean any permanent warehouse, building, or structure, at which necessary and appropriate equipment and fixtures are maintained for properly handling those agricultural products generally dealt in, and at which supplies of the agricultural products being usually transported are stored, offered for sale, sold, delivered and generally dealt in in quantities reasonably adequate for and usually carried for the requirements of such a business and which is recognized as a permanent business at such place, and carried on as such in good faith and not for the purpose of evading this chapter, and where specifically designated personnel are available to handle transactions concerning those agricultural products generally dealt in, said personnel being available during designated and appropriate hours to that business, and shall not mean a residence, barn, garage, tent, temporary stand or other temporary quarters, any railway car, or permanent quarters occupied pursuant to any temporary arrangement.

~~((13))~~ (14) "Processor" means any person, firm, company or other organization that purchases agricultural crops from a consignor and who cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes such crops in any manner whatsoever for eventual resale.

~~((14))~~ (15) "Pooling contract" means any written agreement whereby a consignor delivers a horticultural product to a commission merchant under terms whereby the commission merchant may commingle the consignor's horticultural products for sale with others similarly agreeing, which must include all of the following:

(a) A delivery receipt for the consignor which shall indicate the variety of horticultural product delivered, the number of containers, or the weight and tare thereof.

(b) Horticultural products received for handling and sale in the fresh market shall be accounted for to the consignor with individual pack-out records which shall include variety, grade, size and date of delivery. Individual daily packing summaries shall be available within forty-eight hours after packing occurs: PROVIDED, That platform inspection shall be acceptable by mutual contract agreement on small deliveries to determine variety, grade, size and date of delivery.

(c) Terms under which the commission merchant may use his judgment in regard to the sale of the pooled horticultural product.

(d) The charges to be paid by the consignor as filed with the state of Washington.

(e) A provision that the consignor shall be paid for his pool contribution when the pool is in the process of being marketed in direct proportion, not less than eighty percent of his interest less expenses directly incurred, prior liens, and other advances on the ~~((growers))~~ grower's crop unless otherwise mutually agreed upon between grower and commission merchant.

~~((15))~~ (16) "Date of sale" means the date agricultural products are delivered to the person buying such products.

Sec. 2. Section 3, chapter 139, Laws of 1959 as last amended by section 2, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.030 are each amended to read as follows:

This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW or chapter 24.32 RCW, except as to that portion of the activities of such association or federation as involves the handling or dealing in the agricultural products of nonmembers of such organization: PROVIDED, That such associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: PROVIDED FURTHER, That if such cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets such processed agricultural crops on behalf of the grower or its own behalf, said association or federation shall be subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: PROVIDED FURTHER, That none of the foregoing exemptions in this subsection shall apply to any such cooperative

or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW.

(2) Any person who sells exclusively his own agricultural products as the producer thereof.

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of such public livestock market's obligation: PROVIDED, That any such market operating as a livestock dealer and/or order buyer shall be subject to all provisions of this chapter except for the payment of the license fee required in RCW 20.01.040 as now or hereafter amended.

(4) Any retail merchant having bona fide fixed or permanent place of business in this state.

(5) Any person buying farm products for his own use or consumption.

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act.

(7) Any nurseryman who is required to be licensed under the horticultural laws of the state with respect to his operations as such licensee.

(8) Any person licensed under the now existing dairy laws of the state with respect to his operations as such licensee.

(9) Any producer who purchases less than fifteen percent of his volume to ~~((fif))~~ complete orders.

Sec. 3. Section 4, chapter 139, Laws of 1959 as last amended by section 3, chapter 102, Laws of 1974 ex. sess. and RCW 20.01.040 are each amended to read as follows:

On or after ~~((the effective date of this chapter))~~ June 10, 1959, no person shall act as a commission merchant, dealer, broker, cash buyer or agent without a license. Any person applying for such a license shall file an application with the director on or before January 1st of each year. Such application shall be accompanied by the following license fee:

(1) Commission merchant, ~~((eighty))~~ one hundred forty-five dollars;

(2) Dealer, ~~((eighty))~~ one hundred forty-five dollars;

(3) Limited dealer, one hundred dollars;

(4) Broker, ((eighty)) one hundred dollars;

~~((4))~~ (5) Cash buyer, ((thirty)) forty dollars; and

~~((5))~~ (6) Agent, ((ten)) fifteen dollars.

Sec. 4. Section 6, chapter 139, Laws of 1959 as last amended by section 3, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.060 are each amended to read as follows:

Any person licensed as a commission merchant, dealer, or broker, in the manner ~~((herein))~~ prescribed in this chapter, may apply for and secure a license in any or all of the remaining such classifications upon payment of an additional fee of twenty-five dollars for each such additional classification:

PROVIDED, That the applicant's principal license shall be in that classification requiring the greatest license fee. Such applicant shall further comply with those parts of this chapter regulating the licensing of the other particular classifications involved.

Sec. 5. Section 37, chapter 139, Laws of 1959 as last amended by section 9, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.370 are each amended to read as follows:

Every commission merchant(~~(, before)~~) taking control of any agricultural products for sale as such commission merchant, (~~shall utilize the standard contract format provided for in RCW 20.01.445 as now or hereafter amended. The commission merchant~~) shall promptly make and keep for a period of one year, beginning on the day the sale of the product is complete, a correct record showing in detail the following with reference to the handling, sale, or storage of such agricultural products:

- (1) The name and address of the consignor.
- (2) The date received.
- (3) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.
- (4) Date of such sale for account of consignor.
- (5) The terms of the sale.
- (6) The terms of payment to the producer.
- (7) An itemized statement of the charges to be paid by consignor in connection with the sale. (~~(Such charges shall be accounted for as a per unit charge based upon the same unit of measure for which the selling price of such product was charged:)~~)
- (8) The names and addresses of all purchasers if said commission merchant has any financial interest in the business of said purchasers, or if said purchasers have any financial interest in the business of said commission merchant, directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise. Such interest shall be noted in said records following the name of any such purchaser.
- (9) A lot number or other identifying mark for each consignment, which number or mark shall appear on all sales tags and other essential records needed to show what the agricultural products actually sold for.
- (10) Any claim or claims which have been or may be filed by the commission merchant against any person for overcharges or for damages resulting from the injury or deterioration of such agricultural products by the act, neglect or failure of such person and such records shall be open to the inspection of the director and the consignor of agricultural products for whom such claim or claims are made.

Where a pooling arrangement is agreed to in writing between the consignor and commission merchant, the reporting requirements of subsections (4), (5), (6), (7), and (9) of this section shall apply to the pool rather than

to the individual consignor or consignment and the records of the pool shall be available for inspection by any consignor to that pool.

The commission merchant shall transmit a copy of the record required by this section to the consignor on the same day the final remittance is made to the consignor as required by RCW 20.01.430 as now or hereafter amended.

NEW SECTION. Sec. 6. Section 10, chapter 102, Laws of 1974 ex. sess., section 12, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.445 are each repealed.

Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder.

NEW SECTION. Sec. 7. If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 23, 1979.

Passed the Senate April 17, 1979.

Approved by the Governor May 2, 1979.

Filed in Office of Secretary of State May 2, 1979.

CHAPTER 116

[Substitute House Bill No. 280]

REGISTRATION OF CONTRACTORS—PENALTIES

AN ACT Relating to registration of contractors; amending section 10, chapter 77, Laws of 1963 and RCW 18.27.100; prescribing an effective date; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 10, chapter 77, Laws of 1963 and RCW 18.27.100 are each amended to read as follows:

Except as provided in RCW 18.27.020 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity of a contractor under any other name unless such name also is registered hereunder. All advertising and all contracts, correspondence, cards, signs, posters, papers and documents prepared by a contractor which show a contractor's name or address shall show the contractor's name ((or)), address, and current registration number as registered hereunder. No contractor shall advertise that he is bonded and insured because of the bond required to be filed and sufficiency of insurance as provided in this chapter. All individual contractors and all partners, associates, agents, salesmen, solicitors, officers and employees of contractors shall use their true names and addresses at all times