

the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 10, 1982.

Passed the House March 3, 1982.

Approved by the Governor March 10, 1982.

Filed in Office of Secretary of State March 10, 1982.

CHAPTER 20

[Substitute Senate Bill No. 4437]

COMMISSION MERCHANTS, DEALERS IN AGRICULTURAL PRODUCTS—
PAYMENT PERIOD—PROHIBITED ACTS, PENALTIES

AN ACT Relating to commission merchants; amending section 33, chapter 139, Laws of 1959 as last amended by section 32, chapter 296, Laws of 1981 and RCW 20.01.330; amending section 39, chapter 139, Laws of 1959 and RCW 20.01.390; amending section 43, chapter 139, Laws of 1959 as last amended by section 11, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.430; amending section 46, chapter 139, Laws of 1959 and RCW 20.01.460; and prescribing penalties.

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

Section 1. Section 33, chapter 139, Laws of 1959 as last amended by section 32, chapter 296, Laws of 1981 and RCW 20.01.330 are each amended to read as follows:

The director may refuse to grant a license or renew a license and may revoke or suspend a license or issue a conditional or probationary order if he is satisfied after a hearing, as herein provided, of the existence of any of the following facts, which are hereby declared to be a violation of this chapter:

(1) That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale or storage of, or for rendering of any service in connection with the handling, sale or storage of any agricultural product.

(2) That the applicant, or licensee, has failed or refused to render a true account of sales, or to make a settlement thereon, or to pay for agricultural products received, within the time and in the manner required by this chapter.

(3) That the applicant, or licensee, has made any false statement as to the condition, quality or quantity of agricultural products received, handled, sold or stored by him.

(4) That the applicant, or licensee, directly or indirectly has purchased for his own account agricultural products received by him upon consignment without prior authority from the consignor together with the price

fixed by consignor or without promptly notifying the consignor of such purchase. This shall not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of agricultural products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(5) That the applicant, or licensee, has intentionally made any false or misleading statement as to the conditions of the market for any agricultural products.

(6) That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the consignor.

(7) That a commission merchant to whom any consignment is made has reconsigned such consignment to another commission merchant and has received, collected, or charged by such means more than one commission for making the sale thereof, for the consignor, unless by written consent of such consignor.

(8) That the licensee was guilty of fraud or deception in the procurement of such license.

(9) That the licensee or applicant has failed or refused to file with the director a schedule of his charges for services in connection with agricultural products handled on account of or as an agent of another, or that the applicant, or licensee, has indulged in any unfair practice.

(10) That the licensee has rejected, without reasonable cause, or has failed or refused to accept, without reasonable cause, any agricultural product bought or contracted to be bought from a consignor by such licensee; or failed or refused, without reasonable cause, to furnish or provide boxes or other containers, or hauling, harvesting, or any other service contracted to be done by licensee in connection with the acceptance, harvesting, or other handling of said agricultural products bought or handled or contracted to be bought or handled; or has used any other device to avoid acceptance or unreasonably to defer acceptance of agricultural products bought or handled or contracted to be bought or handled.

(11) That the licensee has otherwise violated any provision of this chapter and/or rules and regulations adopted hereunder.

(12) That the licensee has knowingly employed an agent, as defined in this chapter, without causing said agent to comply with the licensing requirements of this chapter applicable to agents.

(13) That the applicant or licensee has, in the handling of any agricultural products, been guilty of fraud, deceit, or negligence.

(14) That the licensee has failed or refused, upon demand, to permit the director or his agents to make the investigations, examination or audits, as provided in this chapter, or that the licensee has removed or sequestered any books, records, or papers necessary to any such investigations, examination, or audits, or has otherwise obstructed the same.

(15) That the licensee, without reasonable cause, has failed or refused to execute or carry out a lawful contract with a consignor.

(16) That the licensee has failed or refused to keep and maintain the records as required by this chapter and/or rules and regulations adopted hereunder.

(17) That the licensee has attempted payment by a check (~~with insufficient~~) the licensee knows not to be backed by sufficient funds to cover such check.

(18) That the licensee has been guilty of fraud or deception in his dealings with purchasers including misrepresentation of goods as to grade, quality, weights, quantity, or any other essential fact in connection therewith.

(19) That the licensee has permitted an agent to in fact operate his own separate business under cover of the licensee's license and bond.

(20) That a commission merchant or dealer has failed to furnish additional bond coverage within fifteen days of when it was requested in writing by the director.

(21) That the licensee has discriminated in the licensee's dealings with consignors on the basis of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap.

Sec. 2. Section 39, chapter 139, Laws of 1959 and RCW 20.01.390 are each amended to read as follows:

(1) Every dealer must pay for agricultural products, except livestock, delivered to him at the time and in the manner specified in the contract with the producer, but if no time is set by such contract, or at the time of said delivery, then within thirty days from the delivery or taking possession of such agricultural products.

(2) Every dealer must pay for livestock delivered to him at the time and in the manner specified in the contract, but if no time is set by such contract, or at the time of said delivery, then within seven days from the delivery or taking possession of such livestock. Where payment for livestock is made by mail, payment is timely if mailed within seven days of the date of sale.

Sec. 3. Section 43, chapter 139, Laws of 1959 as last amended by section 11, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.430 are each amended to read as follows:

Every commission merchant shall remit to the consignor of any agricultural product the full price for which such agricultural product was sold within thirty days of the date of sale, or in the case of livestock within seven days of the date of sale unless otherwise mutually agreed between grower and commission merchant. The remittance to the consignor shall include all collections, overcharges, and damages, less the agreed commission and other charges and advances, and a complete account of the sale. Where payment for livestock is made by mail, payment is timely if mailed within seven days

of the date of sale unless otherwise specified in an agreement between the producer and the dealer in livestock.

Sec. 4. Section 46, chapter 139, Laws of 1959 and RCW 20.01.460 are each amended to read as follows:

~~(1) ((Any person is guilty of a gross misdemeanor who assumes or attempts to act or acts as a commission merchant, dealer, broker, cash buyer, or agent without a license, or any licensee who))~~ Except as provided in subsection (2) of this section, a person who violates the provisions of this chapter or fails to comply with the rules adopted under this chapter is guilty of a gross misdemeanor.

(2) Any commission merchant, dealer, or cash buyer, or any person assuming or attempting to act as a commission merchant, dealer, or cash buyer without a license is guilty of a class C felony who:

~~((1))~~ (a) Imposes false charges for handling or services in connection with agricultural products.

~~((2) Intentionally makes false or misleading statement or statements as to market conditions:~~

~~(3))~~ (b) Makes fictitious sales or is guilty of collusion to defraud the consignor.

~~((4) Directly or indirectly purchases, for his own account, goods received by him upon consignment without prior authority from the consignor, or fails promptly to notify the consignor of such purchases, if any, on his own account. This clause does not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant forthwith enters such transaction on his account of sales:~~

~~(5))~~ (c) Intentionally makes false statement or statements as to the grade, conditions, markings, quality, or quantity of goods shipped or packed in any manner.

~~((6) Fails to comply in every respect with the provisions of this chapter and/or rules and regulations adopted hereunder:))~~

(d) Intentionally fails to pay for agricultural products valued at more than two hundred fifty dollars within the time and in the manner required by this chapter, or attempts payment of an amount greater than two hundred fifty dollars by a check he or she knows not to be backed by sufficient funds to cover such check.

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Passed the House February 24, 1982.

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