

real estate in the full amount of the loan, or must have an abstract brought up to date of the loan and certified by a practicing attorney; also with fire insurance covering at least the interest of the credit union.

Passed the Senate March 5, 1959.

Passed the House March 4, 1959.

Approved by the Governor March 17, 1959.

CHAPTER 139.

[S. B. 318.]

AGRICULTURAL PRODUCTS—COMMISSION
MERCHANTS, BROKERS, ETC.

AN ACT relating to agricultural products; and repealing chapter 14, Laws of 1955 as amended by section 4, chapter 262, Laws of 1955, section 3, chapter 262, Laws of 1955, sections 1 and 2, chapter 262, Laws of 1955 and RCW 20.04.010 through 20.04.120, 20.08.010 through 20.08.110, 20.12.020 through 20.12.040, 20.16.010 through 20.16.040, 20.20.010 through 20.20.060, 20.24.010 through 20.24.070, and 20.98.010 through 20.98.060; and providing penalties.

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

Definitions.

SECTION 1. For the purpose of this act:

"Director."

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

"Person."

(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.

"Agricultural product."

(3) "Agricultural product" means any horticultural, viticultural, berry, poultry, poultry products, grain, livestock, bee or other agricultural product.

"Producer."

(4) "Producer" means any person engaged in the business of growing or producing any agricultural product.

"Consignor."

(5) "Consignor" means any producer or person who sells, ships or delivers to any commission mer-

chant or dealer 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. "Commission merchant."

(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. "Dealer."

(8) "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. "Broker."

(9) "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 "Cash buyer."

United States. However, a cashier's check, certified check or bank draft may be used for such payment.

"Agent."

(10) "Agent" means any person who, on behalf of any commission merchant, dealer, broker or cash buyer, 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.

"Retail merchant."

(11) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products: *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.

"Fixed or established place of business."

(12) "Fixed or established place of business" for the purpose of this act 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 act, and where specifically designed 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.

SEC. 2. The director, but not his duly authorized representative, may adopt such rules and regulations as are necessary to carry out the purpose of this act. It shall be the duty of the director to enforce and carry out the provisions of this act, rules and regulations adopted hereunder. No person shall interfere with the director when he is performing or carrying out duties imposed on him by this act, rules and regulations adopted hereunder.

Rules and
regulations—
Enforcement.

SEC. 3. This act does not apply to:

Excluded
under act.

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.56 RCW or chapter 24.32 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.

(4) Any retail merchant having a 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 with respect to his operation as such licensee.

(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.

SEC. 4. On or after the effective date of this act 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

License
required.

Application.

application with the director on or before January first of each year. Such application shall be accompanied by the following license fee:

Fees.

1. Commission merchant, fifty dollars
2. Dealer, fifty dollars
3. Broker, fifty dollars
4. Cash buyer, twenty-five dollars
5. Agent, five dollars.

Renewal license, application late—Penalty.

SEC. 5. If an application for renewal of a commission merchant, dealer, broker or cash buyer license is not filed prior to January first in any year, a penalty of ten dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: *Provided*, That such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not acted as a commission merchant, dealer, broker or cash buyer subsequent to the expiration of his prior license.

Licensee may secure other classification license free.

SEC. 6. Any person licensed as a commission merchant, dealer, broker or cash buyer, in the manner herein prescribed, may apply for and secure a license in any or all of the remaining such classifications without further payment of a fee: *Provided*, That a cash buyer shall accompany his application for a commission merchant, broker or dealer license with a fee of twenty-five dollars. Such applicant shall further comply with those parts of this act regulating the licensing of the other particular classifications involved.

License—Contents of application.

SEC. 7. Application for a license shall be on a form prescribed by the director and shall state the full name of the person applying for such license and if the applicant is an individual, receiver, trustee, firm, exchange, partnership, association or corporation, the full name of each member of the firm or partnership, or the names of the officers of the ex-

change, association or corporation shall be given in the application. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name or names of the person authorized to receive and accept service of summons and legal notices of all kinds for the applicant and any other necessary information prescribed by the director.

SEC. 8. Any person applying for a commission merchant's license shall include in his application a schedule of commissions, together with an itemized list of all charges for services rendered to a consignor. Such commissions and charges shall not be changed or varied for the license period except by written contract between the consignor or his agent and the licensee or thirty days after written notice to the director, and proper posting of such changes, as prescribed by the director, on the licensee's premises. Charges for services rendered and not listed on the schedule of commissions and charges filed with the director shall be rendered only on an actual cost to the licensee basis.

Commission
merchant's
license—
Information
required.

SEC. 9. Any person applying for an agent's license shall include the name and address of the principal licensee represented or sought to be represented by such agent and the written endorsement or nomination of such principal licensee.

Agent's license
—Information
required.

SEC. 10. The director, upon his satisfaction that the applicant has met the requirements of this act and rules and regulations adopted hereunder, shall issue a license entitling the applicant to carry on the business described on the application. Such license shall expire on December 31st following the issuance of the license, provided that it has not been revoked or suspended prior thereto, by the director, after due notice and hearing. Fraud and misrepresentation in

Issuance of
license—
Expiration.

Grounds for
revocation.

making an application for a license shall be cause for refusal to grant a license or revocation of license granted pursuant to a fraudulent application after due notice and hearing.

List published.

SEC. 11. The director may publish a list, as often as he deems necessary, of all persons licensed under this act together with all the necessary rules and regulations concerning the enforcement of this act. Each person licensed under provisions of this act shall post his license or a copy thereof in his place or places of business in plain view of the public.

License displayed.

License plates displayed.

SEC. 12. The licensee shall prominently display license plates issued by the director on the front and back of any vehicle used by the licensee to transport upon public highways unprocessed agricultural products which he has not produced as a producer of such agricultural products. If the licensee operates more than one vehicle to transport unprocessed agricultural products on public highways he shall apply to the director for license plates for each such additional vehicle. Such additional license plates shall be issued to the licensee at the actual cost to the department for such license plates and necessary handling charges. Such license plates are not transferrable to any other person and may be used only on the licensee's vehicle or vehicles. The display of such license plates on the vehicle or vehicles of a person whose license has been revoked, or the failure to surrender such license plates forthwith to the department after such revocation, shall be deemed a violation of this act.

Fee.

Display violation.

Disposition of license fees.

SEC. 13. All sums received by the department in license fees under the provisions of this act shall be paid to the state treasurer and be deposited in a special fund to be known as the commission merchants' account and shall be used solely for the pur-

pose of carrying out the provisions of this act and rules and regulations adopted hereunder.

SEC. 14. Any change in the organization of any firm, association, exchange, corporation, or partnership licensed under the provisions of this act shall be reported to the director and the licensee's surety or sureties.

Organizational
change
reported.

SEC. 15. The director is authorized to deny, suspend, or revoke a license or issue conditional or probationary orders in the manner prescribed herein, in any case in which he finds that there has been a failure and/or refusal to comply with the requirements of this act, rules or regulations adopted hereunder.

Grounds to
deny, revoke,
license.

SEC. 16. In all proceedings for revocation, suspension, or denial of a license, or the issuance of a conditional or probationary order, the licensee or applicant shall be given an opportunity to be heard and may be represented by counsel. The director shall give the licensee or applicant twenty days' notice in writing and such notice shall specify the charges or reasons for the hearing for such revocation, suspension, denial or the issuance of a conditional or probationary order. The notice shall also state the date, time and place where such hearing is to be held. A copy of such notice shall be mailed to the licensee's surety. Such hearings shall be held in the city of Olympia, unless a different place is fixed by the director.

Revocation,
denial, hear-
ings—Notice—
Place of.

SEC. 17. The director may issue subpoenas to compel the attendance of witnesses, and/or the production of books or documents, anywhere in the state. The accused shall have opportunity to make his defense, and may have such subpoenas issued as he desires. Subpoenas shall be served in the same manner as in civil cases in the superior court. Witnesses shall testify under oath which may be

Subpoenas—
Testimony.

administered by the director. Testimony shall be recorded and may be taken by deposition under such rules as the director may prescribe.

Findings and conclusions.

SEC. 18. The director shall hear and determine the charges, make findings and conclusions upon the evidence produced, and file them in his office, together with a record of all of the evidence, and serve upon the accused a copy of such findings and conclusions.

Appeal to superior court.

SEC. 19. The revocation, suspension or denial of a license, or the issuance of conditional or probationary orders, shall be in writing signed by the director, stating the grounds upon which such order is based and the aggrieved person shall have the right to appeal from such order within fifteen days after a copy thereof is served upon him, to the superior court of Thurston county or the county in which the hearing was held. A copy of such findings shall be mailed to the licensee's surety. In such appeal the entire record shall be certified by the director to the court, and the review on appeal shall be confined to the evidence adduced at the hearing before the director.

Appeal to supreme court.

SEC. 20. An appeal shall lie to the supreme court from the judgment of the superior court as provided in other civil cases.

Surety bond prerequisite to licensing—Conditions of.

SEC. 21. Before a license is issued to any commission merchant and/or dealer the applicant shall execute and deliver to the director a surety bond executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. Such bond shall be in the sum of five thousand dollars for a commission merchant and in the sum of three thousand dollars for a dealer. Such bond shall be of a standard form and approved by the director as to terms and conditions. Said bond shall be conditioned that the

principal will not commit any fraudulent act and will comply with the provisions of this act and the rules and regulations adopted hereunder. Said bond shall be to the state for the benefit of every consignor of an agricultural product. The total and aggregate liability of the surety for all claims which may arise during any one license period for which the bond shall remain in force shall be limited to the face of the bond. Every bond filed with and approved by the director shall without the necessity of periodic renewal remain in force and effect until such time as the license of the licensee is revoked for cause or otherwise canceled. The surety on a bond, as provided herein, shall be released and discharged from all liability to the state accruing on such bond after the expiration of thirty days from the date upon which such surety shall have lodged with the director a written request to be released and discharged, but this provision shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue (due and to become due hereunder) before the expiration of the thirty-day period. The director shall promptly upon receiving any such request notify the principal who furnished the bond; and unless the principal shall, on or before the expiration of the thirty-day period, file a new bond, the director shall forthwith cancel the principal's license.

SEC. 22. Any consignor of an agricultural product claiming to be injured by the fraud of any commission merchant and/or dealer may bring action upon said bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by such fraud.

Action on
bond for
fraud.

SEC. 23. The director or any consignor of an agricultural product may also bring action upon said bond against both principal and surety in any court of competent jurisdiction to recover the damages

Action on
bond for vio-
lation of act.

caused by any failure to comply with the provisions of this act or the rules and regulations adopted hereunder.

**Failure to pay
consignor—
Proceedings.**

SEC. 24. In case of failure by a commission merchant and/or dealer to pay a consignor for an agricultural product received from said consignor, the director shall proceed forthwith to ascertain the names and addresses of all consignor creditors of such commission merchant and/or dealer, together with the amounts due and owing to them by such commission merchant and/or dealer, and shall request all such consignor creditors to file a verified statement of their respective claims with the director. Such request shall be addressed to each known consignor creditor at his last known address.

**Statement of
claims filed.**

**Failure to file
claim, default.**

SEC. 25. If a consignor creditor so addressed fails, refuses or neglects to file in the office of the director his verified claim as requested by the director within sixty days from the date of such request, the director shall thereupon be relieved of further duty or action hereunder on behalf of said consignor creditor.

**Director's lia-
bility limited.**

SEC. 26. Where by reason of the absence of records, or other circumstances making it impossible or unreasonable for the director to ascertain the names and addresses of all said consignor creditors, the director after exerting due diligence and making reasonable inquiry to secure said information from all reasonable and available sources, may make demand on said bond on the basis of information then in his possession, and thereafter shall not be liable or responsible for claims or the handling of claims which may subsequently appear or be discovered.

**Demand upon
bond.**

SEC. 27. Upon ascertaining all claims and statements in the manner herein set forth, the director may then make demand upon the bond on behalf of those claimants whose statements have been filed, and shall have the power to settle or compromise

said claims with the surety company on the bond, and is empowered in such cases to execute and deliver a release and discharge of the bond involved.

SEC. 28. Upon the refusal of the surety company to pay the demand the director may thereupon bring an action on the bond in behalf of said consignor creditors. Upon any action being commenced on said bond the director may require the filing of a new bond and immediately upon the recovery in any action on such bond such commission merchant and/or dealer shall file a new bond and upon failure to file the same within ten days in either case such failure shall constitute grounds for the suspension or revocation of his license.

Action on bond—New bond to be filed.

SEC. 29. In any settlement or compromise by the director with a surety company as provided in section 27 of this act, where there are two or more consignor creditors that have filed claims, either fixed or contingent, against a licensee's bond, such creditors shall share pro rata in the proceeds of the bond to the extent of their actual damage.

Pro rata sharing by creditors on bond.

SEC. 30. For the purpose of enforcing the provisions of this act the director is authorized to receive verified complaints from any consignor against any commission merchant, dealer, broker, cash buyer, or agent or any person, assuming or attempting to act as such, and upon receipt of such verified complaint shall have full authority to make any and all necessary investigations relative to the said complaint.

Verified complaints to director.

SEC. 31. The director or his authorized agents are empowered to administer oaths of verification on said complaints. He shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas in the manner prescribed in section 17 of this act requiring attendance of witnesses before him, together with all books, memoranda,

Subpoenas—Testimony.

Contempt.**Departmental records as evidence.****Grounds for investigation.****Investigating authority.**

papers, and other documents, articles or instruments; to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation, and all parties disobeying the orders or subpoenas of said director shall be guilty of contempt and shall be certified to the superior court of the state for punishment for such contempt. Copies of records, audits and reports of audits, inspection certificates, certified reports, findings and all papers on file in the office of the director shall be prima facie evidence of the matters therein contained, and may be admitted into evidence in any hearing provided in this act.

SEC. 32. The director on his own motion or upon the verified complaint of any interested party may investigate, examine or inspect (1) any transaction involving solicitation, receipt, sale or attempted sale of agricultural products by any person or persons acting or assuming to act as a commission merchant, dealer, broker, cash buyer, or agent; (2) failure to make proper and true account of sales and settlement thereof as required under this act and/or rules and regulations adopted hereunder; (3) the intentional making of false statements as to conditions and quantity of any agricultural products received or in storage; (4) the intentional making of false statements as to market conditions; (5) the failure to make payment for products within the time required by this act; (6) any and all other injurious transactions. In furtherance of any such investigation, examination, or inspection, the director or his authorized representative, may examine that portion of the ledgers, books, accounts, memoranda and other documents, agricultural products, scales, measures and other articles and things used in connection with the business of such person relating to the transactions involved. For the purpose of such investigation the director shall at all times have free

and unimpeded access to all buildings, yards, warehouses, storage, and transportation facilities or any other place where agricultural products are kept, stored, handled or transported. The director may also, for the purpose of such investigation, issue subpoenas to compel the attendance of witnesses, as provided in section 17 of this act, and/or the production of books or documents, anywhere in the state.

SEC. 33. 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 act:

Grounds for refusal, revocation of licenses.

(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 act.

(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 agri-

Grounds for
refusal, rev-
ocation of
licenses.

cultural 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 intentionally 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 act and/or rules and regulations adopted hereunder.

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

(13) That the applicant or licensee has, in the handling of any agricultural products, been guilty of fraud, deceit, or willful 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 act, 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 act and/or rules and regulations adopted hereunder.

(17) That the licensee has attempted payment by check with insufficient 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.

SEC. 34. Previous violation by the applicant or licensee, or by any person connected with him, of any of the provisions of this act and/or rules and regulations adopted hereunder, shall be good and sufficient ground for denial, suspension or revoca-

Prior
violations
may affect
issuance,
duration,
of license.

tion of a license, or the issuance of a conditional or probationary order.

Existing contracts may affect issuance, duration, of license.

SEC. 35. The director, after hearing or investigation, may refuse to grant a license or renewal thereof and may revoke or suspend any license or issue a conditional or probationary order, as the case may require, when he is satisfied that the licensee has executory or executed contracts for the purchase of agricultural products, or for the handling of agricultural products on consignment.

In such cases, if the director is satisfied that to permit the dealer or commission merchant to continue to purchase or to receive further shipments or deliveries of agricultural products would be likely to cause serious and irreparable loss to said consignor-creditors, or to consignors with whom the said dealer or commission merchant has said contracts, then the director within his discretion may thereupon and forthwith shorten the time herein provided for hearing upon an order to show cause why the license of said dealer or commission merchant should not be forthwith suspended, or revoked: *Provided*, That the time of notice of said hearing, shall in no event be less than twenty-four hours, and the director shall, within that period, call a hearing at which the dealer or commission merchant proceeded against shall be ordered to show cause why the license should not be suspended, or revoked, or continued under such conditions and provisions, if any, as the director may consider just and proper and for the protection of the best interests of the producer-creditors involved. Said hearing, in the case of such emergency, may be called upon written notice, said notice to be served personally or by mail on the dealer or commission merchant involved, and may be held at the nearest office of the director or at such place as may be most convenient at the dis-

cretion of the director, for the attendance of all parties involved.

SEC. 36. Any order revoking or suspending a license may, within the discretion of the director, be made conditional upon the settlement, adjustment or satisfaction of the consequence of the violation or violations as specified, and the operation of such an order may be deferred for such purpose. Any such order may contain provisions for modification or dismissal thereof upon presentation to the director of evidence that the matter of complaint has been settled, adjusted or withdrawn at any time before such order becomes final.

Conditional
revocation of
license au-
thorized.

SEC. 37. Every commission merchant, having received any agricultural products for sale as such commission merchant, shall promptly make and keep a correct record showing in detail the following with reference to the handling, sale, or storage of such agricultural products:

Records to be
kept by com-
mission
merchant.

- (1) The name and address of the consignor.
- (2) The date received.
- (3) The condition and quantity upon arrival.
- (4) Date of such sale for account of consignor.
- (5) The terms of the sale.
- (6) An itemized statement of the charges to be paid by consignor in connection with the sale.
- (7) 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 co-partner, 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.

(8) 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.

(9) 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.

Records to be kept by dealer.

SEC. 38. Every dealer purchasing any agricultural products from the consignor thereof shall promptly make and keep for one year a correct record showing in detail the following:

- (1) The name and address of the consignor.
- (2) The date received.
- (3) The terms of the sale.

(4) An itemized statement of any charges paid by the dealer for the account of the consignor. A copy of such record shall be forwarded to the consignor.

Payment by dealer, when.

SEC. 39. Every dealer must pay for agricultural products 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.

Broker's memorandum of sale.

SEC. 40. Every broker, upon negotiating the sale of agricultural products, shall issue to both buyer and seller a written memorandum of sale, showing price, date of delivery, quality, and other details concerned in the transaction. A copy of this memorandum shall be retained by the broker for a period of one year.

SEC. 41. A copy of a manifest of cargo, on a form prescribed by the director, shall be carried on any vehicle transporting agricultural products purchased by a dealer or cash buyer, or consigned to or purchased by a commission merchant from the consignor thereof when prescribed by the director. The commission merchant, dealer or cash buyer shall issue a copy of such manifest to the consignor of such agricultural products and the original shall be retained by the licensee. Such manifest of cargo shall be valid only when signed by the licensee or his agent and the consignor of such agricultural products.

Manifest of cargo carried in transport.

SEC. 42. When requested by his consignor, a commission merchant shall, before the close of the next business day following the sale of any agricultural products consigned to him, transmit or deliver to the owner or consignor of the agricultural products a true written report of such sale, showing the amount sold, and the selling price.

Commission merchant's report of sale.

SEC. 43. Every commission merchant shall remit to the consignor of any agricultural product the full price for which such agricultural product was sold within ten days of said sale, unless otherwise agreed in writing. Such remittance shall include all collections, overcharges and damages, less the agreed commission and other charges and a complete account of the sale.

Price remittance by commission merchant.

SEC. 44. Every commission merchant shall retain a copy of all records covering each transaction for a period of one year from the date thereof, which copy shall at all times be available for, and open to, the confidential inspection of the director and the consignor, or authorized representative of either. In the event of any dispute or disagreement between a consignor and a commission merchant arising at the time of delivery as to condition, quality, grade, pack,

Commission merchant's records retained.

Departmental
certificate.

quantity, or weight of any lot, shipment or consignment of agricultural products, the department shall furnish, upon the payment of a reasonable fee therefor by the requesting party, a certificate establishing the condition, quality, grade, pack, quantity, or weight of such lot, shipment or consignment. Such certificate shall be prima facie evidence in all courts of this state as to the recitals thereof. The burden of proof shall be upon the commission merchant to prove the correctness of his accounting as to any transaction which may be questioned.

Certificate of
damage re-
quisite to
claim against
consignor.

SEC. 45. No claim may be made as against the seller of agricultural products by a dealer or cash buyer under this act, and no credit may be allowed to such dealer or cash buyer as against a consignor of agricultural products by reason of damage to, or loss, dumping, or disposal of agricultural products sold to said dealer or cash buyer, in any payment, accounting or settlement made by said dealer or cash buyer to said consignor, unless said dealer or cash buyer has secured and is in possession of a certificate, issued by an agricultural inspector, county health officer, director, a duly authorized officer of the state department of health, or by some other official now or hereafter authorized by law, to the effect that the agricultural products involved have been damaged, dumped, destroyed or otherwise disposed of as unfit for the purpose intended. Such certificate will not be valid as proof of proper claim, credit or offset unless issued within twenty-four hours, or a reasonable time as prescribed by the director, of the receipt by the dealer or cash buyer of the agricultural products involved.

Violations,
gross misde-
meanors.

SEC. 46. 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:

(1) 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) 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) 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 act and/or rules and regulations adopted hereunder.

SEC. 47. The director may bring an action to enjoin the violation or the threatened violation of any provision of this act or of any order made pursuant to this act in the superior court in the county in which such violation occurs or is about to occur. **Venue.**

SEC. 48. The provisions of this act shall be cumulative and nonexclusive and shall not affect any other remedy. **Cumulative remedy.**

SEC. 49. If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole, or any section, provision or part thereof, not adjudged invalid or unconstitutional. **Severability.**

Effective date.

SEC. 50. The effective date of this act shall be January 1, 1960.

Repeal.

SEC. 51. Chapter 14, Laws of 1955 as amended by section 4, chapter 262, Laws of 1955, section 3, chapter 262, Laws of 1955, sections 1 and 2, chapter 262, Laws of 1955 and RCW 20.04.010 through 20.04.120, 20.08.010 through 20.08.110, 20.12.020 through 20.12.040, 20.16.010 through 20.16.040, 20.20.010 through 20.20.060, 20.24.010 through 20.24.070 and 20.98.010 through 20.98.060 are hereby repealed.

Passed the Senate March 5, 1959.

Passed the House March 4, 1959.

Approved by the Governor March 17, 1959.

CHAPTER 140.

[S. B. 121.]

CRIMES—JUVENILES—TRANSFER TO OTHER FACILITIES.

AN ACT relating to the confinement of juveniles under the age of sixteen convicted of a felony; authorizing the director of the department of institutions to transfer such persons to facilities of the division of children and youth services of the department of institutions or other appropriate institution; and declaring an emergency.

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

Transfer of youthful felons authorized.

SECTION 1. Whenever any child under the age of sixteen is convicted in the courts of this state of a crime amounting to a felony, and is committed for a term of confinement in a correctional institution wherein adults are confined, the director of the department of institutions may transfer such child to a juvenile correctional institution under the supervision of the division of children and youth services of the department of institutions, or to such other institution as is now, or may hereafter be authorized