

CHAPTER 232.

[H. B. 264.]

AGRICULTURE—COMMISSION MERCHANTS—
BENEFICIAL INSECTS—PUBLIC
LIVESTOCK MARKETS.

AN ACT relating to agriculture; amending sections 1, 17, 37 and 38, chapter 139, Laws of 1959 and RCW 20.01.010, 20.01.170, 20.01.370 and 20.01.380; repealing and re-enacting section 21, chapter 139, Laws of 1959 and RCW 20.01.210; and adding new sections to chapter 139, Laws of 1959 and to chapter 20.01 RCW; amending section 6, chapter 182, Laws of 1961 and RCW 16.65.420; and adding six new sections to Title 15 RCW and adding new sections to chapter 107, Laws of 1959 and to chapter 16.65 RCW; and providing penalties.

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

SECTION 1. Section 1, chapter 139, Laws of 1959 and RCW 20.01.010 are each amended to read as follows:

RCW 20.01.010
amended.

For the purpose of this chapter:

Commission
merchants.
Definitions.

(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 horticultural, viticultural, berry, poultry, poultry products, grain, livestock, bee or other agricultural product.

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

(5) "Consignor" means any producer or person 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 process-

Commission
merchants.
Definitions.

ing 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.

(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.

Proviso.

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

(10) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, receives, contracts for or solicits any agricul-

tural 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.

(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.

Proviso.

(12) "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.

SEC. 2. Section 17, chapter 139, Laws of 1959 and RCW 20.01.170 are each amended to read as follows:

RCW 20.01.170
amended.

Commission
merchants.
Licensing
proceedings—
Subpoenas,
witnesses,
testimony.

The director may issue subpoenas to compel the attendance of witnesses, and/or the production of books or documents, anywhere in the state. The licensee or applicant 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 administered by the director. Testimony shall be recorded and may be taken by deposition under such rules as the director may prescribe. Witnesses, except complaining witnesses, shall be entitled to fees for attendance and travel, as provided for in chapter 2.40 RCW, as enacted or hereafter amended.

RCW 20.01.370
amended.

SEC. 3. Section 37, chapter 139, Laws of 1959 and RCW 20.01.370 are each amended to read as follows:

Commission
merchant's
records—
Contents—
Inspection.

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:

- (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) 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 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.

(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.

SEC. 4. Section 38, chapter 139, Laws of 1959 and RCW 20.01.380 are each amended to read as follows:

RCW 20.01.380 amended.

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

Dealer's records—Copy to consignor.

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

(4) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.

(5) An itemized statement of any charges paid by the dealer or cash buyer for the account of the consignor.

A copy of such record containing the above matters shall be forwarded to the consignor forthwith.

SEC. 5. Section 21, chapter 139, Laws of 1959 and RCW 20.01.210 are each repealed and reenacted to read as follows:

RCW 20.01.210 amended.

Before the license is issued to any commission merchant and/or dealer the applicant shall execute

Commission merchants, dealers. Bonds.

Commission
merchants,
dealers.
Bonds.

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 seven thousand five hundred dollars for a commission merchant or any dealer handling livestock, hay, grain, or straw and a bond in the sum of three thousand dollars for any other 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 chapter 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 upon the bond shall be limited to the face of such 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. All such sureties on a bond, as provided herein, shall only be released and discharged from all liability to the state accruing on such bond upon compliance with the provisions of RCW 19.72.110 concerning notice and proof of service, as enacted or hereafter amended, but this 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 period provided for in RCW 19.72.110 concerning notice and proof of service as enacted or hereafter amended, and unless the principal shall before the expiration of such period, file a new bond, the director shall forthwith cancel the principal's license.

SEC. 6. There is hereby added to chapter 139, Laws of 1959 and to chapter 20.01 RCW the following new section: New section.

If an applicant for a commission merchant's and/or dealer's license is bonded as a livestock dealer under the provisions of the Packers and Stockyards Act of 1921 (7 U.S.C. 181) as amended on the effective date of this act, and acts as a commission merchant and/or a dealer only in livestock as defined in said Packers and Stockyards Act of 1921 (7 U.S.C. 181), the director may accept such bond in lieu of the bond required in section 5 of this amendatory act as good and sufficient and issue the applicant a license limited solely to dealing in livestock: *Provided*, That the applicant shall furnish the director with a bond approved by the United States secretary of agriculture naming the director as trustee. Such bond shall be in a sum equal to or greater than the sum of the bond required in section 5 of this amendatory act, and subject to the same requirements for notice and cancellation of a bond in said section 5 of this amendatory act. It shall be a misdemeanor for the licensee to act as a commission merchant and/or dealer in any other agricultural commodity without first having notified the director and furnishing him with a bond as required under the provisions of section 5 of this amendatory act and failure to furnish the director with such bond shall be cause for the immediate suspension of the licensee's license, and revocation subject to a hearing. Bond under federal act in lieu of commission merchant or dealer's bond—Requisites.

SEC. 7. There is hereby added to chapter 139, Laws of 1959 and to chapter 20.01 RCW the following new section: New section.

Upon any bond claim being denied by the director the claimant must appeal such action to the superior court in the county where this claimant resides within sixty days after receipt of written Appeal upon denial of bond claim.

notice of such rejection or such rejection shall become final and binding upon the claimant.

New section.

SEC. 8. There is hereby added to chapter 139, Laws of 1959 and to chapter 20.01 RCW the following new section:

Vehicle weights to be obtained.

Every dealer and commission merchant dealing in hay or straw shall obtain a certified vehicle tare weight notwithstanding RCW 15.80.160, and a certified vehicle gross weight for each load hauled.

New section.

SEC. 9. There is hereby added to chapter 139, Laws of 1959 and to chapter 20.01 RCW the following new section:

Dealers in livestock, hay, grain or straw to be licensed.

Any person who deals in livestock, hay, grain or straw, other than the producer or grower thereof, shall license as a dealer or commission merchant and shall be subject to all the provisions of this chapter regulating such a licensee.

Beneficial insects. Declaration of—Regulation of movement.

SEC. 10. The director of agriculture in order to protect the production of native and/or domestic plants or their products in this state, may declare ladybugs or any other insects to be beneficial insects and necessary to maintain a beneficial biological balance over insects which are detrimental to such native and/or domestic plants or their products. Such declaration shall be made only after a hearing as prescribed in the Administrative Procedure Act, chapter 34.04 RCW.

Upon declaring ladybugs or other insects to be beneficial insects the director of agriculture may regulate or prohibit the commercial movement of such beneficial insects from this state.

Cooperation with other governmental agencies.

SEC. 11. The director of agriculture may cooperate and enter into agreements with governmental agencies, other states, and agencies of the federal government to carry out the purposes and provisions of sections 10 through 15 of this act or rules adopted hereunder.

SEC. 12. The director of agriculture may bring an action to enjoin the violation of any provision of sections 10 through 15 of this act or rule adopted pursuant to said sections in the county where such violation has occurred, notwithstanding the existence of any other remedies at law.

Injunctive process available.

SEC. 13. The provisions of sections 10 through 15 of this act shall not apply to honey bees or to those beneficial insects used for research purposes.

Exceptions.

SEC. 14. Any person violating the provisions of sections 10 through 15 of this act or rules adopted hereunder is guilty of a misdemeanor and guilty of a gross misdemeanor for any subsequent offense, however, any offense committed more than five years after a previous conviction shall be considered a first offense.

Violations, penalty.

SEC. 15. If any provision of this 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.

Severability.

SEC. 16. Section 6, chapter 182, Laws of 1961 and RCW 16.65.420 are each amended to read as follows:

RCW 16.65.420 amended.

(1) Any application for a sales day or days for a new salesyard, and any application for a change of sales day or days or additional sales day or days for an existing yard shall be subject to approval by the director, subsequent to a hearing as provided for in this chapter and the director is hereby authorized to allocate these dates and type and class of livestock which may be sold on these dates. In considering the allocation of such sales days, the director shall give appropriate consideration, among other relevant factors, to the following:

Public live-stock markets. Sale dates, special sales, application for.

- (a) The geographical area which will be affected;

Public live-stock markets. Sale dates, special sales, application for.

- (b) The conflict, if any, with sales days already allocated in the area;
- (c) The amount and class of livestock available for marketing in the area;
- (d) Buyers available to such market;
- (e) Any other conditions affecting the orderly marketing of livestock.

(2) No special sale shall be conducted by the licensee unless the licensee has applied to the director in writing fifteen days prior to such proposed sale and such sale date shall be approved at the discretion of the director.

New section.

SEC. 17. There is hereby added to chapter 107, Laws of 1959 and to chapter 16.65 RCW a new section to read as follows:

Sales of purebred livestock, application for.

A producer of purebred livestock may, upon obtaining a permit from the director, conduct a public sale of the purebred livestock on an occasional or seasonal basis on premises other than his own farm. Application for such special sale shall be in writing to the director for his approval at least fifteen days before the proposed public sale is scheduled to be held by such producer.

New section.

SEC. 18. There is hereby added to chapter 107, Laws of 1959 and to chapter 16.65 RCW a new section to read as follows:

Sales of horses and/or mules, license for.

The director shall have the authority to issue a license pursuant to the provisions of this chapter limited to the sale of horses and/or mules and to allocate a sales day or days to such licensee. The director is hereby authorized and directed to adopt regulations for facilities and sanitation applicable to such a license. The facility requirements of RCW 16.65-.360 shall not be applicable to such licensee's operation as provided for in this section.

SEC. 19. There is hereby added to chapter 107, Laws of 1959 and to chapter 16.65 RCW a new section to read as follows:

The director shall have the authority to grant a licensee an additional sales day or days limited to the sale of horses and/or mules and may if requested grant the licensee, by permit, the authority to have the sale at premises other than at his public live-stock market if the facilities are approved by the director as being adequate for the protection of the health and safety of such horses and/or mules. For the purpose of such limited sale the facility requirements of RCW 16.65.360 shall not be applicable.

Passed the House March 14, 1963.

Passed the Senate March 14, 1963.

Approved by the Governor March 26, 1963.

CHAPTER 233.

[H. B. 389.]

STATE PUBLICATIONS DISTRIBUTION CENTER.

AN ACT relating to the publication of printed matter by state agencies; and making an effective date.

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

SECTION 1. As used in this act:

(1) "Print" includes all forms of printing and duplicating, regardless of format or purpose, with the exception of correspondence and interoffice memoranda.

(2) "Public document" means the annual and biennial reports required by law or by the governor which are bound in sets and titled Washington public documents.

(3) "State agency" includes every state office, officer, department, division, bureau, board, commis-

New section.

Sales of horses and/or mules, additional days limited to.

Publications distribution center. Definitions.