

CHAPTER 254

[Engrossed Substitute Senate Bill No. 6344]
 AGRICULTURE—REVISIONS

AN ACT Relating to agriculture; amending RCW 15.49.470, 15.54.480, 15.52.320, 15.53.9044, 15.30.040, 15.09.030, 69.04.930, 20.01.030, 22.09.011, 15.88.030, 15.88.040, 15.88.100, 20.01.080, 20.01.380, 20.01.370, 20.01.460, and 70.79.090; adding a new section to chapter 43.23 RCW; adding a new section to chapter 69.07 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.23 RCW to read as follows:

The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation.

Sec. 2. Section 47, chapter 63, Laws of 1969 as last amended by section 176, chapter 202, Laws of 1987 and RCW 15.49.470 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall be paid ~~((into the seed fund in the state treasury which is hereby established))~~ to the director and deposited in an account within the agricultural local fund. Such ~~((fund))~~ deposits shall be used only in the administration and enforcement of this chapter. ~~((All moneys collected under the provisions of chapter 15.49 RCW and remaining in such seed fund account on July 1, 1975, shall likewise be used only in the enforcement of this chapter. PROVIDED, That))~~ Any residual balance remaining in the seed fund on the effective date of this 1988 section shall be transferred to that account within the agricultural local fund. All fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 3. Section 36, chapter 22, Laws of 1967 ex. sess. as amended by section 11, chapter 257, Laws of 1975 1st ex. sess. and RCW 15.54.480 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall be paid ~~((into the fertilizer, agricultural mineral and lime fund in the state treasury which is hereby established))~~ to the director and deposited in an account within the agricultural local fund. Such ~~((fund))~~ deposits shall be used only

in the administration and enforcement of this chapter. ~~((All moneys collected under the provisions of chapter 15.54 RCW and remaining in such fertilizer, agricultural mineral and lime account in the state general fund on July 1, 1975, shall likewise be used only in the enforcement of this chapter.))~~ Any residual balance remaining in the fertilizer, agricultural mineral and lime fund on the effective date of this 1988 section shall be transferred to that account within the agricultural local fund.

Sec. 4. Section 15.52.320, chapter 11, Laws of 1961 as amended by section 2, chapter 57, Laws of 1985 and RCW 15.52.320 are each amended to read as follows:

All money collected as fees for brand registrations hereunder shall be paid to the director and deposited in ~~((a special))~~ an account ~~((in the state treasury known as the feed and fertilizer account, and))~~ within the agricultural local fund. Such deposits shall be used exclusively for the maintenance and enforcement of this chapter, except that not to exceed fifteen percent of said registration fees may, with the consent of the director, be used to purchase equipment and materials to facilitate testing and analyzing required herein. ~~((All earnings of investments of balances in the feed and fertilizer account shall be credited to the general fund.))~~ Any residual balance remaining in the feed and fertilizer account on the effective date of this 1988 section shall be transferred to the account within the agricultural local fund.

Sec. 5. Section 19, chapter 31, Laws of 1965 ex. sess. as amended by section 8, chapter 257, Laws of 1975 1st ex. sess. and RCW 15.53.9044 are each amended to read as follows:

All moneys collected under ~~((the provisions of))~~ this chapter shall be paid ~~((into the commercial feed fund in the state treasury which is hereby established))~~ to the director and deposited in an account within the agricultural local fund. Such ~~((fund))~~ deposits shall be used only in the administration and enforcement of this chapter. ~~((All moneys collected under the provisions of chapter 15.53 RCW and remaining in such commercial feed account in the state general fund on the effective date of this chapter, shall be used in enforcement of this chapter.))~~ Any residual balance remaining in the commercial feed fund on the effective date of this 1988 section shall be transferred to the account within the agricultural local fund.

Sec. 6. Section 4, chapter 29, Laws of 1961 and RCW 15.30.040 are each amended to read as follows:

The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee ~~((of five dollars))~~ prescribed by the director by rule.

Sec. 7. Section 3, chapter 113, Laws of 1969 and RCW 15.09.030 are each amended to read as follows:

Each horticultural pest and disease board shall be comprised of five voting members, four of whom shall be appointed by the board of county commissioners and one of whom shall be ~~((the inspector at large for the horticultural district in which the county is located))~~ appointed by the director. In addition, the chief county extension agent, or a county extension agent appointed by the chief agent, shall be a nonvoting member of the board.

Of the four members appointed by the board of county commissioners, one of such members shall have at least a practical knowledge of horticultural pests and diseases, and the other members shall be residents of the county, shall own land within the county and shall be engaged in the primary and commercial production of a horticultural product or products. Such appointed members shall serve a term of two years and shall serve without salary.

Sec. 8. Section 1, chapter 39, Laws of 1975 as amended by section 179, chapter 46, Laws of 1983 1st ex. sess. and RCW 69.04.930 are each amended to read as follows:

It shall be unlawful for any person to sell at retail or display for sale at retail any food fish or shellfish as defined in RCW 75.08.011, any meat capable of use as human food as defined in RCW 16.49A.150 as now or hereafter amended, or any meat food product as defined in RCW 16.49A.130 as now or hereafter amended which has been frozen ~~((subsequent to being offered for sale or distribution to the ultimate consumer))~~ at any time, without having the package or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such food fish or shellfish, meat or meat food product shall be sold unless in such a package or container bearing said label: PROVIDED, That this section shall not include any of the aforementioned food or food products that have been frozen prior to being smoked, cured, cooked or subjected to the heat of commercial sterilization.

NEW SECTION. Sec. 9. A new section is added to chapter 69.07 RCW to read as follows:

The department may issue sanitary certificates to food processors under this chapter subject to such requirements as it may establish by rule. The fee for issuance shall be twenty dollars per certificate. Fees collected under this section shall be deposited in the agricultural local fund.

Sec. 10. Section 3, chapter 139, Laws of 1959 as last amended by section 2, chapter 305, Laws of 1983 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 the association or federation that involve the handling or dealing in the agricultural products of nonmembers of the organization: PROVIDED, That the associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: PROVIDED FURTHER, That if the cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets the processed agricultural crops on behalf of the grower or its own behalf, the association or federation is 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 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 or her 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 the public livestock market's obligation. However, any such market operating as a livestock dealer or order buyer, or both, is subject to all provisions of this chapter except for the payment of the license fee required in RCW 20.01.040;

(4) Any retail merchant having a bona fide fixed or permanent place of business in this state, but only for the retail merchant's retail business conducted at such fixed or established place of business;

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

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act, chapter 22.09 RCW, with respect to his ((operations as a licensee under that act)) or her handling of any agricultural product as defined under that chapter;

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

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

(9) Any producer who purchases less than fifteen percent of his or her volume to complete orders;

(10) Any person, association, or corporation regulated under chapter 67.16 RCW and the rules adopted thereunder while performing acts regulated by that chapter and the rules adopted thereunder;

(11) Any boom loader who loads exclusively his or her own hay or straw as the producer thereof.

Sec. 11. Section 16, chapter 305, Laws of 1983 as amended by section 19, chapter 393, Laws of 1987 and RCW 22.09.011 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly authorized representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons having a joint or common interest, or any unit or agency of local, state, or federal government.

(4) "Agricultural commodities," (~~hereinafter referred to as~~) or "commodities," means(~~(, but is not limited to,)~~): (a) All the grains, peas, beans, lentils, corn, sorghums, malt, peanuts, and flax(;;); and (b) other ((similar)) agricultural products similar to those listed in (a) of this subsection which have been designated by the department by rule.

(5) "Warehouse," also referred to as a public warehouse, means any elevator, mill, subterminal grain warehouse, terminal warehouse, country warehouse, or other structure or enclosure located in this state that is used or useable for the storage of agricultural products, and in which commodities are received from the public for storage, handling, conditioning, or shipment for compensation. The term does not include any warehouse storing or handling fresh fruits and/or vegetables, any warehouse used exclusively for cold storage, or any warehouse that conditions yearly less than three hundred tons of an agricultural commodity for compensation.

(6) "Terminal warehouse" means any warehouse designated as a terminal by the department, and located at an inspection point where inspection facilities are maintained by the department and where commodities are ordinarily received and shipped by common carrier.

(7) "Subterminal warehouse" means any warehouse that performs an intermediate function in which agricultural commodities are customarily received from dealers rather than producers and where the commodities are accumulated before shipment to a terminal warehouse.

(8) "Station" means two or more warehouses between which commodities are commonly transferred in the ordinary course of business and that are (a) immediately adjacent to each other, or (b) located within the corporate limits of any city or town and subject to the same transportation tariff zone, or (c) at any railroad siding or switching area and subject to the same transportation tariff zone, or (d) at one location in the open country off rail, or (e) in any area that can be reasonably audited by the department as a station under this chapter and that has been established as such by the director by rule adopted under chapter 34.04 RCW, or (f) within twenty

miles of each other but separated by the border between Washington and Idaho or Oregon when the books and records for the station are maintained at the warehouse located in Washington.

(9) "Inspection point" means a city, town, or other place wherein the department maintains inspection and weighing facilities.

(10) "Warehouseman" means any person owning, operating, or controlling a warehouse in the state of Washington.

(11) "Depositor" means (a) any person who deposits a commodity with a Washington state licensed warehouseman for storage, handling, conditioning, or shipment, or (b) any person who is the owner or legal holder of a warehouse receipt, outstanding scale weight ticket, or other evidence of the deposit of a commodity with a Washington state licensed warehouseman or (c) any producer whose agricultural commodity has been sold to a grain dealer through the dealer's place of business located in the state of Washington, or any Washington producer whose agricultural commodity has been sold to or is under the control of a grain dealer, whose place of business is located outside the state of Washington.

(12) "Historical depositor" means any person who in the normal course of business operations has consistently made deposits in the same warehouse of commodities produced on the same land. In addition the purchaser, lessee, and/or inheritor of such land from the original historical depositor with reference to the land shall be considered a historical depositor with regard to the commodities produced on the land.

(13) "Grain dealer" means any person who, through his place of business located in the state of Washington, solicits, contracts for, or obtains from a producer, title, possession, or control of any agricultural commodity for purposes of resale, or any person who solicits, contracts for, or obtains from a Washington producer, title, possession, or control of any agricultural commodity for purposes of resale.

(14) "Producer" means any person who is the owner, tenant, or operator of land who has an interest in and is entitled to receive all or any part of the proceeds from the sale of a commodity produced on that land.

(15) "Warehouse receipt" means a negotiable or nonnegotiable warehouse receipt as provided for in Article 7 of Title 62A RCW.

(16) "Scale weight ticket" means a load slip or other evidence of deposit, serially numbered, not including warehouse receipts as defined in subsection (15) of this section, given a depositor on request upon initial delivery of the commodity to the warehouse and showing the warehouse's name and state number, type of commodity, weight thereof, name of depositor, and the date delivered.

(17) "Put through" means agricultural commodities that are deposited in a warehouse for receiving, handling, conditioning, or shipping, and on which the depositor has concluded satisfactory arrangements with the warehouseman for the immediate or impending shipment of the commodity.

(18) "Conditioning" means, but is not limited to, the drying or cleaning of agricultural commodities.

(19) "Deferred price contract" means a contract for the sale of commodities that conveys the title and all rights of ownership to the commodities represented by the contract to the buyer, but allows the seller to set the price of the commodities at a later date based on an agreed upon relationship to a future month's price or some other mutually agreeable method of price determination. Deferred price contracts include but are not limited to those contracts commonly referred to as delayed price, price later contracts, or open price contracts.

(20) "Shortage" means that a warehouseman does not have in his possession sufficient commodities at each of his stations to cover the outstanding warehouse receipts, scale weight tickets, or other evidence of storage liability issued or assumed by him for the station.

(21) "Failure" means:

(a) An inability to financially satisfy claimants in accordance with this chapter and the time limits provided for in it;

(b) A public declaration of insolvency;

(c) A revocation of license and the leaving of an outstanding indebtedness to a depositor;

(d) A failure to redeliver any commodity to a depositor or to pay depositors for commodities purchased by a licensee in the ordinary course of business and where a bona fide dispute does not exist between the licensee and the depositor;

(e) A failure to make application for license renewal within sixty days after the annual license renewal date; or

(f) A denial of the application for a license renewal.

Sec. 12. Section 3, chapter 452, Laws of 1987 and RCW 15.88.030 are each amended to read as follows:

(1) There is created an agricultural commodity commission to be known and designated as the Washington wine commission. Except as provided in RCW 15.88.100(2), the commission shall be composed of eleven voting members; five voting members shall be growers, five voting members shall be wine producers, and one voting member shall be a wine wholesaler licensed under RCW 6Ā 24.200. Of the grower members, at least one shall be a person who does not have over fifty acres of vinifera grapes in production, at least one shall be a person who has over one hundred acres of vinifera grapes in production, and two may be persons who produce and sell their own wine. Of the wine producer members, at least one shall be a person producing not more than twenty-five thousand gallons of wine annually, at least one shall be a person producing over one million gallons of wine annually, and at least two shall be persons who produce wine from their

own grapes. In addition, at least one member shall be a wine producer located in western Washington and at least two members shall be wine producers located in eastern Washington.

(2) In addition to the voting members identified in subsection (1) of this section, the commission shall have one nonvoting member who is a wine producer in this state whose principal wine or wines are produced from fruit other than vinifera grapes. The director of agriculture, or the director's designee, shall serve as an ex officio, nonvoting member.

(3) Except as provided in RCW 15.88.100(2), seven voting members of the commission constitute a quorum for the transaction of any business of the commission.

(4) Each voting member of the commission shall be a citizen and resident of this state and over the age of twenty-one years. Each voting member, except the member holding position eleven, must be or must have been engaged in that phase of the grower or wine producer industry that he or she is appointed to represent, and must during his or her term of office derive a substantial portion of income therefrom, or have a substantial investment in the growing of vinifera grapes or the production of wine from vinifera grapes as an owner, lessee, partner, or a stockholder owning at least ten percent of the voting stock in a corporation engaged in the growing of vinifera grapes or wine production from vinifera grapes; or the manager or executive officer of such a corporation. These qualifications apply throughout each member's term of office.

Sec. 13. Section 4, chapter 452, Laws of 1987 and RCW 15.88.040 are each amended to read as follows:

The appointive voting positions on the commission shall be designated as follows: The wine producers shall be designated positions one, two, three, four, and five; the growers shall be designated positions six, seven, eight, nine, and ten; and the wine wholesaler shall be position eleven. The nonvoting industry member shall be designated position number twelve. The member designated as filling position one shall be a person producing over one million gallons of wine annually. The member designated as position one shall be the sole representative, directly or indirectly, of the producer eligible to hold position one and in no event shall that producer directly or indirectly control more than fifty percent of the votes of the commission.

Except as provided in RCW 15.88.100(2), the regular terms of office shall be three years from the date of appointment and until their successors are appointed. However, the first terms of the members appointed upon July 1, 1987, shall be as follows: Positions one, six, and eleven shall terminate July 1, 1990; positions two, four, seven, and nine shall terminate July 1, 1989; and positions three, five, eight, and ten shall terminate July 1, 1988. The term of the initial nonvoting industry member shall terminate July 1, 1990.

Sec. 14. Section 10, chapter 452, Laws of 1987 and RCW 15.88.100 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the vote of each of the voting members of the commission shall be weighted as provided by this subsection for the transaction of any of the business of the commission. The total voting strength of the entire voting membership of the commission shall be eleven votes. The vote of position one shall be equal to the lesser of the following: Five and one-half votes; or eleven votes times the percentage of the wine produced in the state that is produced by the person filling position one. The percentage shall be based upon the amount of wine produced in the previous calendar year and shall be rounded to the nearest ten percent. The remaining votes of the membership of the commission shall be divided equally among the remaining members of the commission.

(2) In the event the assessment described in RCW 66.24.215(1)(b) is not effective on July 1, 1989, the positions designated for growers cease to exist. In such an event, the commission shall be composed of six voting members and ~~((one))~~ two nonvoting members. The nonvoting industry member shall be position seven. Four voting members of the commission constitute a quorum for the modified commission. Of the six votes of the entire voting membership of the modified commission, the vote of position one shall be the lesser of the following: Three votes; or six votes times the percentage of the wine produced in the state that is produced by the person filling position one. The percentage shall be based upon the amount of wine produced in the previous calendar year and shall be rounded to the nearest ten percent. The remaining votes of the membership of the commission shall be divided equally among the remaining members of the commission.

(3) In the event that the percentage of wine produced by the producer represented by position one falls below twenty-five percent of the wine produced in this state, the weighted voting mechanism provided for in subsections (1) and (2) of this section shall cease to be effective. In that case, the voting shall be based on one vote per position.

NEW SECTION. Sec. 15. Section 14 of this act shall take effect July 1, 1989.

Sec. 16. Section 8, chapter 139, Laws of 1959 as last amended by section 4, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.080 are each amended to read as follows:

Any person applying for a commission merchant's license shall include in his or her application a schedule of commissions, together with an itemized list of all charges for services to be rendered to a consignor and shall post a copy of such charges on his or her premises in a conspicuous place where it is clearly visible and available to consignors. In addition to the posting of the itemized list of charges, such list shall be distributed to each consignor along with each contract entered into between the consignor and

the commission merchant. Such commissions and charges shall not be changed or varied for the license period except by written contract between the consignor or his or her 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, or for increases in charges listed and filed which are directly caused by increases in labor rates or in cost of materials which occur after the signing of the contract by the grower, shall be rendered only on an actual cost to the licensee basis.

Sec. 17. Section 38, chapter 139, Laws of 1959 as last amended by section 33, chapter 296, Laws of 1981 and RCW 20.01.380 are each amended to read as follows:

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:

(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.

(6) The name and address of the purchaser: PROVIDED, That the name and address of the purchaser may be deleted from the record furnished to the consignor.

(7) A copy of the itemized list of charges required under RCW 20.01-.080 in effect on the date the terms of sale were agreed upon.

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

Livestock dealers must also maintain individual animal identification and disposition records as may be required by law, or regulation adopted by the director.

Sec. 18. Section 37, chapter 139, Laws of 1959 as last amended by section 5, chapter 115, Laws of 1979 ex. sess. and RCW 20.01.370 are each amended to read as follows:

Every commission merchant taking control of any agricultural products for sale as such 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)) An accounting of all sales, including dates, terms of sales, quality and quantity of agricultural products sold, and proof of payments received on behalf of the consignor.~~

~~(5) The terms of payment to the producer.~~

~~((7)) (6) An itemized statement of the charges to be paid by consignor in connection with the sale.~~

~~((8)) (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.~~

~~((9)) (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.~~

~~((10)) (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.~~

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))~~ (8) 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.

Sec. 19. Section 46, chapter 139, Laws of 1959 as last amended by section 13, chapter 178, Laws of 1986 and RCW 20.01.460 are each amended to read as follows:

(1) Any 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, except as provided in subsections (2) and (3) of this section.

(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:

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

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

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

(d) Fails to comply with the payment requirements set forth under RCW 20.01.010(10), 20.01.390 or 20.01.430.

(3) Any person who violates the provisions of RCW 20.01.040, 20.01-.080, 20.01.120, 20.01.125, 20.01.410 or 20.01.610 has committed a civil infraction.

Sec. 20. Section 9, chapter 32, Laws of 1951 as last amended by section 174, chapter 3, Laws of 1983 and RCW 70.79.090 are each amended to read as follows:

The following boilers and unfired pressure vessels shall be exempt from the requirements of RCW 70.79.220 and 70.79.240 through 70.79.330:

(1) Boilers or unfired pressure vessels located on farms and used solely for agricultural purposes;

(2) Unfired pressure vessels that are part of fertilizer applicator rigs designed and used exclusively for fertilization in the conduct of agricultural operations;

(3) Steam boilers used exclusively for heating purposes carrying a pressure of not more than fifteen pounds per square inch gauge and which are located in private residences or in apartment houses of less than six families;

~~((3))~~ (4) Hot water heating boilers carrying a pressure of not more than thirty pounds per square inch and which are located in private residences or in apartment houses of less than six families;

~~((4))~~ (5) Approved pressure vessels (hot water heaters listed by a nationally recognized testing agency), with approved safety devices including a pressure relief valve, with a nominal water containing capacity of one hundred twenty gallons or less having a heat input of two hundred thousand b.t.u.'s per hour or less, used for hot water supply at pressure of one hundred sixty pounds per square inch or less, and at temperatures of two hundred degrees Fahrenheit or less: PROVIDED, HOWEVER, That such pressure vessels are not installed in schools, child care centers, public and private hospitals, nursing and boarding homes, churches, public buildings owned or leased and maintained by the state or any political subdivision thereof, and assembly halls;

~~((5))~~ (6) Unfired pressure vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping systems, when located in private residences or in apartment houses of less than six families;

((6)) (7) Unfired pressure vessels containing liquified petroleum gases.

Passed the Senate March 9, 1988.

Passed the House March 6, 1988.

Approved by the Governor March 24, 1988.

Filed in Office of Secretary of State March 24, 1988.

CHAPTER 255

[Substitute Senate Bill No. 5333]

STATE BOARD OF EDUCATION—MEMBERSHIP AND VOTING REVISED

AN ACT Relating to the state board of education; and amending RCW 28A.04.010, 28A.04.020, and 28A.04.050.

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

Sec. 1. Section 28A.04.010, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 179, Laws of 1980 and RCW 28A.04.010 are each amended to read as follows:

The state board of education shall be comprised of two members from each congressional district of the state, not including any congressional district at large, elected by the members of the boards of directors of school districts thereof, as hereinafter in this chapter provided, the superintendent of public instruction and one ((nonvoting)) member elected at large, as hereinafter in this chapter provided, by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.02.201, as now or hereafter amended. The member representing private schools shall not vote on matters affecting public schools. If there is a dispute about whether or not an issue directly affects public schools, the dispute shall be settled by a majority vote of the other members of the board.

Sec. 2. Section 28A.04.020, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 38, Laws of 1981 and RCW 28A.04.020 are each amended to read as follows:

Not later than the twenty-fifth day of August of each year, the superintendent of public instruction shall call for the following elections to be held: An election in each congressional district within which resides a member of the state board of education whose term of membership will end on the second Monday of January next following, and an election of the ((nonvoting)) member of the state board of education representing private schools if the term of membership will end on the second Monday of January next following. The superintendent of public instruction shall give written notice thereof to each member of the board of directors of each common school district in such congressional district, and to the chairperson of the board of directors of each private school who shall distribute said notice to each member of the private school board. Such notice shall include the