

Exemptions Criteria Worksheet

1. **Exemption:** RCW 22.09.040 and .045

2. **Session Law:** 1987, chapter 393

3. **Category:** Agriculture

4. **Cross-ref.:**

5. **Date Enacted:** 1987

6. **(Text of exemption)** All financial statement information required by this subsection shall be confidential information not subject to public disclosure.

7. **Exemption protects:** ☐ Safety ☐ Privacy ☒ Financial ☐ Other (explain):

8. **Purpose (including purpose of accompanying legislation if applicable):**

Warehouse operators and grain dealers must be licensed by the Department of Agriculture, and must submit financial statements to the Department.

9. **Information covered:** ☐ About gov't function ☒ Collected/held by gov't

☐ Public funds ☐ Public official ☐ Vital gov't Interest ☐ Confidential/private ☐ Other

Describe: Regulation of these businesses protects the owners of products who use the services of warehouses and grain dealers. The law requires these businesses have a minimum net worth as shown in financial statements.

10. **Stakeholders:**

1. Department of Agriculture

Contacted: ☒ yes ☐ no

2.

Contacted: ☐ yes ☐ no

3.

Contacted: ☐ yes ☐ no

4.

Contacted: ☐ yes ☐ no

11. **Add'l bill**

Information: Floor debate: ☐ yes ☒ no

Bill Reports: ☒ yes ☐ no

12. **Comments (including significant court decisions; related WACs sections, or other).**

RCW 22.09.040
Application for warehouse license.

Application for a license to operate a warehouse under the provisions of this chapter shall be on a form prescribed by the department and shall include:

- (1) The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation, or other entity;
- (2) The full name of each member of the firm or partnership, or the names of the officers of the company, society, cooperative association, or corporation;
- (3) The principal business address of the applicant in the state and elsewhere;
- (4) The name or names of the person or persons authorized to receive and accept service of summons and legal notices of all kinds for the applicant;
- (5) Whether the applicant has also applied for or has been issued a grain dealer license under the provisions of this chapter;
- (6) The location of each warehouse the applicant intends to operate and the location of the headquarters or main office of the applicant;
- (7) The bushel storage capacity of each such warehouse to be licensed;
- (8) The schedule of fees to be charged at each warehouse for the handling, conditioning, storage, and shipment of all commodities during the licensing period;
- (9) A financial statement to determine the net worth of the applicant to determine whether or not the applicant meets the minimum net worth requirements established by the director pursuant to chapter 34.05 RCW. All financial statement information required by this subsection shall be confidential information not subject to public disclosure;
- (10) Whether the application is for a terminal, subterminal, or country warehouse license;
- (11) Whether the applicant has previously been denied a grain dealer or warehouseman license or whether the applicant has had either license suspended or revoked by the department;
- (12) Any other reasonable information the department finds necessary to carry out the purpose and provisions of this chapter.

[1987 c 393 § 17; 1983 c 305 § 20; 1979 ex.s. c 238 § 13; 1975 1st ex.s. c 7 § 21; 1963 c 124 § 4.]

Notes:

Severability – 1983 c 305: See note following RCW 20.01.010.

RCW 22.09.045**Application for grain dealer license.**

Application for a license to operate as a grain dealer under the provisions of this chapter shall be on a form prescribed by the department and shall include:

- (1) The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation, or other entity;
- (2) The full name of each member of the firm or partnership, or the names of the officers of the company, society, cooperative association, or corporation;
- (3) The principal business address of the applicant in the state and elsewhere;
- (4) The name or names of the person or persons in this state authorized to receive and accept service of summons and legal notices of all kinds for the applicant;
- (5) Whether the applicant has also applied for or has been issued a warehouse license under this chapter;
- (6) The location of each business location from which the applicant intends to operate as a grain dealer in the state of Washington whether or not the business location is physically within the state of Washington, and the location of the headquarters or main office of the application;
- (7) A financial statement to determine the net worth of the applicant to determine whether or not the applicant meets the minimum net worth requirements established by the director under chapter 34.05 RCW. However, if the applicant is a subsidiary of a larger company, corporation, society, or cooperative association, both the parent company and the subsidiary company must submit a financial statement to determine whether or not the applicant meets the minimum net worth requirements established by the director under chapter 34.05 RCW. All financial statement information required by this subsection shall be confidential information not subject to public disclosure;
- (8) Whether the applicant has previously been denied a grain dealer or warehouseman license or whether the applicant has had either license suspended or revoked by the department;
- (9) Any other reasonable information the department finds necessary to carry out the purpose and provisions of this chapter.

[1987 c 393 § 18; 1983 c 305 § 21.]

Notes:

Severability – 1983 c 305: See note following RCW 20.01.010.

due or refusal to pay for audit costs may be cause for a summary suspension of an egg handler's or dealer's license and a charge of one percent per month, or fraction thereof shall be added to the sum due the director, for each remittance not received by the director when due. The conditions and charges applicable to egg handlers and dealers set forth herein shall also be applicable to payments due the director for facsimiles of seals placed on egg containers.

Sec. 17. Section 4, chapter 124, Laws of 1963 as last amended by section 20, chapter 305, Laws of 1983 and RCW 22.09.040 are each amended to read as follows:

Application for a license to operate a warehouse under the provisions of this chapter shall be on a form prescribed by the department and shall include:

- (1) The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation, or other entity;
- (2) The full name of each member of the firm or partnership, or the names of the officers of the company, society, cooperative association, or corporation;
- (3) The principal business address of the applicant in the state and elsewhere;
- (4) The name or names of the person or persons authorized to receive and accept service of summons and legal notices of all kinds for the applicant;
- (5) Whether the applicant has also applied for or has been issued a grain dealer license under the provisions of this chapter;
- (6) The location of each warehouse the applicant intends to operate and the location of the headquarters or main office of the applicant;
- (7) The bushel storage capacity of each such warehouse to be licensed;
- (8) The schedule of fees to be charged at each warehouse for the handling, conditioning, storage, and shipment of all commodities during the licensing period;
- (9) A financial statement to determine the net worth of the applicant to determine whether or not the applicant meets the minimum net worth requirements established by the director pursuant to chapter 34.04 RCW.

All financial statement information required by this subsection shall be confidential information not subject to public disclosure;

(10) Whether the application is for a terminal, subterminal, or country warehouse license;

(11) Whether the applicant has previously been denied a grain dealer or warehouseman license or whether the applicant has had either license suspended or revoked by the department;

(12) Any other reasonable information the department finds necessary to carry out the purpose and provisions of this chapter.

Sec. 18. Section 21, chapter 305, Laws of 1983 and RCW 22.09.045 are each amended to read as follows:

Application for a license to operate as a grain dealer under the provisions of this chapter shall be on a form prescribed by the department and shall include:

(1) The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation, or other entity;

(2) The full name of each member of the firm or partnership, or the names of the officers of the company, society, cooperative association, or corporation;

(3) The principal business address of the applicant in the state and elsewhere;

(4) The name or names of the person or persons in this state authorized to receive and accept service of summons and legal notices of all kinds for the applicant;

(5) Whether the applicant has also applied for or has been issued a warehouse license under this chapter;

(6) The location of each business location from which the applicant intends to operate as a grain dealer in the state of Washington whether or not the business location is physically within the state of Washington, and the location of the headquarters or main office of the application;

(7) A financial statement to determine the net worth of the applicant to determine whether or not the applicant meets the minimum net worth requirements established by the director under chapter 34.04 RCW. However, if the applicant is a subsidiary of a larger company, corporation, society, or cooperative association, both the parent company and the subsidiary company must submit a financial statement to determine whether or not the applicant meets the minimum net worth requirements established by the director under chapter 34.04 RCW. All financial statement information required by this subsection shall be confidential information not subject to public disclosure;

(8) Whether the applicant has previously been denied a grain dealer or warehouseman license or whether the applicant has had either license suspended or revoked by the department;

(9) Any other reasonable information the department finds necessary to carry out the purpose and provisions of this chapter.

Sec. 19. Section 16, chapter 305, Laws of 1983 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.

FINAL BILL REPORT

SHB 353

C 393 L 87

BY House Committee on Agriculture & Rural Development (originally sponsored by Representatives Rayburn, Nealey, Kremen, Rasmussen and Doty; by request of Department of Agriculture)

Modifying provisions relating to the department of agriculture.

House Committee on Agriculture & Rural Development

Senate Committee on Agriculture

SYNOPSIS AS ENACTED

BACKGROUND:

GRAIN DEALER AND WAREHOUSE LAWS. The state's agricultural warehouse laws require grain dealers and agricultural warehouses to be licensed by the Department of Agriculture. Those laws provide a person who deposits a commodity in such a warehouse or who sells it to a grain dealer with a first priority lien. The department has the authority to take certain specified actions in the event of the financial failure of a grain dealer or warehouseman.

APPLE ADVERTISING COMMISSION. The state's Apple Advertising Commission is created. The commission is required to provide a comprehensive research, advertising, and educational campaign.

1961 AGRICULTURAL ENABLING ACT. The 1961 Agricultural Enabling Act is one of two enabling acts under which the producers of an agricultural commodity may establish a marketing agreement for the commodity. A marketing agreement is administered by a commodity commission or board. The members of the commission or board are elected under elections supervised by the Department of Agriculture.

COMMISSION MERCHANT STATUTES. The state's commission merchant statutes require agricultural commission merchants, dealers and limited dealers, brokers, cash buyers, agents, and boom loaders to be licensed. The fees for such licenses are specified in law.

ORGANIC FOODS. Foods offered for sale may be advertised or labeled as being organic foods only if they satisfy certain

requirements of state law. The laws regulating the sale of such foods are administered by the Department of Agriculture.

LIVESTOCK LIENS. The department administers a lien filing system for statements of security interest in livestock. The filing system is used under state law to determine whether a person registered under the Federal Packers and Stockyard Act takes livestock free of a security interest created by the seller of the livestock. The filing system does not satisfy the criteria established by the federal Food Security Act of 1985 for state lien filing systems used to protect such security interests.

OTHER. State law specifies the official chemists of the department and the procedures to be used in collecting assessments for the Beef Commission.

SUMMARY:

GRAIN DEALER AND WAREHOUSE LAWS. A civil penalty of not more than \$1,000 is established for a violation of the laws governing agricultural warehouses and grain dealers. The termination date for certain liens provided by those laws is based upon the date the title to the commodity passes, rather than being based upon the time of the sale of the commodity. Evidence of an obligation which is based upon the storage of a commodity, rather than the sale of the commodity, may be provided by certain scale tickets.

The responsibility of the department to take possession of commodities in a warehouse upon the failure of a warehouse or grain dealer as a means of satisfying claims is expanded to include taking possession of commodities owned by the warehouseman or grain dealer that are in the warehouse. Certain provisions of the laws regarding commodity sales to grain dealers also apply to sales by a Washington producer to a grain dealer whose place of business is located outside the state. The financial information submitted with an application for a grain dealer or warehouse license is confidential and is not subject to public disclosure.

APPLE ADVERTISING COMMISSION. The Apple Advertising Commission is authorized to borrow money and incur indebtedness. The obligations incurred by the commission and other liabilities or claims against it can be enforced only against its assets. No liability for the debts or actions of the commission exists against the state or its subdivision or instrumentality or a member, employee, or agent of the commission in his or her individual capacity. The liability of the members of the commission will be several and not joint.

1961 AGRICULTURAL ENABLING ACT. An alternative procedure is authorized for nominating members of commodity boards created under the the 1961 Agricultural Enabling Act. Under certain circumstances, the director of the Department of Agriculture must give notice by mail of a vacancy to all affected producers or handlers and call for nominations in accordance with the marketing order.

The director must designate financial institutions which are qualified as public depositaries, under laws administered by the State Finance Committee, to receive monies for marketing act revolving funds. A commodity assessment under the act may be expressed as a percentage of the receipt price at the first point of sale. A provision of law establishing the maximum assessment on wheat as one-fourth cent per bushel is repealed.

ORGANIC FOODS. The director may adopt rules establishing a certification program for producers of organic food. The rules may govern the number and scheduling of on-farm visits, the submission of samples for analysis, and other subjects. The rules may also include a fee schedule that will provide for the recovery of the full cost of the certification program. The fees must be deposited in an account within the agricultural local fund that is not subject to appropriation and will be used solely for carrying out this program.

COMMISSION MERCHANT STATUTES. Licensing fees for commission merchants, dealers and limited dealers, brokers, cash buyers, agents, and boom loaders may be established by the director by rule.

LIVESTOCK LIEN. State laws are repealed which establish a procedure for filing statements of security interest in livestock with the Department of Agriculture and which specify the circumstances under which a person registered under the Federal Packers and Stockyard Act selling livestock for others takes the livestock free of any security interest created by the seller.

OTHER. The chief chemist of the Department of Agriculture's dairy and food laboratory replaces the Dean of the College of Fisheries at the University of Washington as one of the official chemists of the department. While the federal order for the national beef promotion program is in effect, assessments levied for the Beef Commission will be collected as required by that order.

Retail sales of fresh or frozen lamb products imported from another country, including products from live lambs imported for slaughter in this country, must be labelled as to the country of origin.

The Department of Agriculture is authorized to develop an informational guide to state and federal programs which would be of assistance to farm families.

The director of the Department of Agriculture may establish the frequency of the audits to be conducted regarding the payment of assessments by egg handlers or dealers.

Removed from law is a requirement that 25 percent of the total salary of an at-large horticultural inspector be paid by warrants drawn upon the state treasurer.

VOTES ON FINAL PASSAGE:

House	86	0	
Senate	47	0	(Senate amended)
House			(House insisted)

Free Conference Committee

Senate	48	0
House	98	0

EFFECTIVE: May 15, 1987