

Chapter 15.88 RCW
WINE COMMISSION

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RCW 15.88.010 Legislative declaration. The legislature declares that:

- (1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy.
- (2) The sale in the state and export to other states and abroad of wine made in the state contribute substantial benefits to the economy of the state, provide a large number of jobs and sizeable tax revenues, and have an important stabilizing effect on prices received by agricultural producers. Development of exports of these commodities abroad will contribute favorably to the balance of trade of the United States and of the state. The sale and export are therefore affected with the public interest.
- (3) The production of wine grapes in the state is a new and important segment of Washington agriculture which has potential for greater contribution to the economy of the state if it undergoes healthy development.
- (4) The general welfare of the people of the state will be served by healthy development of the activities of growing and processing

wine grapes, which development will improve the tax bases of local communities in which agricultural land and processing facilities are located, and obviate the need for state and federal funding of local services. The industries are therefore affected with the public interest.

(5) Creation of a commission for the public purpose of administering the revenue of the commission under RCW 66.24.210(3) for the enhancement of production of wine grapes and wine and the marketing of Washington wine will materially advance the industries of growing and processing wine grapes and thereby the interests of the citizens of the state. [1987 c 452 § 1.]

RCW 15.88.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commission" means the Washington wine commission.

(2) "Director" means the director of agriculture or the director's duly appointed representative.

(3) "Department" means the department of agriculture.

(4) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.

(5) "Grower" means a person who has at least five acres in production of vinifera grapes.

(6) "Growers' association" means a nonprofit association of Washington producers of vinifera grapes, whether or not incorporated, which the director finds to comprise the interested persons affected by appointment of members of the commission or, if the director finds that no such association exists, a group of growers of vinifera grapes within the state identified by the director as fairly representing growers of vinifera grapes within the state.

(7) "Vinifera grapes" means the agricultural product commonly known as VITIS VINIFERA and those hybrid of VITIS VINIFERA which have predominantly the character of VITIS VINIFERA.

(8) "Producer" means any person or other entity which grows within the state vinifera grapes or any person or other entity licensed under Title 66 RCW to produce within the state wine made predominantly from vinifera grapes.

(9) "Wine producer" means any person or other entity licensed under Title 66 RCW to produce within the state wine from vinifera grapes.

(10) "Eastern Washington" means that portion of the state lying east of the Cascade mountain range.

(11) "Western Washington" means that portion of the state lying west of the Cascade mountain range.

(12) "Wine" for the purposes of this section shall be as defined in RCW 66.04.010.

(13) "Wine institute" means a nonprofit association of Washington wine producers, whether or not incorporated, which the director finds to comprise interested persons affected by appointment of members of the commission or, if the director finds that no such association exists, a group composed of all such producers identified as actively engaged in the production of wine within the state.

(14) "Handler" means any Washington winery, or processor, juicer, grape broker, agent, or person buying or receiving vinifera grapes to

be passed on or exported either as grapes, juice, or wine. [1988 c 257 § 6; 1987 c 452 § 2.]

RCW 15.88.025 Regulating wine grapes and wine—Existing comprehensive scheme—Applicable laws. The history, economy, culture, and future of Washington state's agriculture involves the wine industry. In order to develop and promote wine grapes and wine as part of an existing comprehensive scheme to regulate those products the legislature declares:

(1) That it is vital to the continued economic well-being of the citizens of this state and their general welfare that its wine grapes and wine be properly promoted by (a) enabling the wine industry to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing of wine grapes and wines they produce; and (b) working to stabilize the wine industry by increasing markets for wine grapes and wine within the state, the nation, and internationally;

(2) That wine grape growers and wine producers operate within a regulatory environment that imposes burdens on them for the benefit of society and the citizens of the state and includes restrictions on marketing autonomy. Those restrictions may impair the wine grape growers' and wine producers' ability to compete in local, domestic, and foreign markets;

(3) That it is in the overriding public interest that support for the wine industry be clearly expressed; that adequate protection be given to agricultural commodities, uses, activities, and operations; and that wine grapes and wine be promoted individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's agriculture industry;

(b) Increase the sale and use of wine grapes and wine in local, domestic, and foreign markets;

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of wine grapes and wine;

(d) Increase the knowledge of the qualities and value of Washington's wine grapes and wine; and

(e) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of wine grapes and wine;

(4) That this chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state; and

(5) That the production and marketing of wine grapes and wine is a highly regulated industry and that the provisions of this chapter and the rules adopted under it are only one aspect of the regulated industry. Other regulations and restraints applicable to the wine grape and wine industry include:

(a) Organic products act under chapter 15.86 RCW;

(b) Horticultural pests and diseases under chapter 15.08 RCW;

(c) Horticultural plants, Christmas trees, and facilities—
Inspection and licensing under chapter 15.13 RCW;

(d) Planting stock under chapter 15.14 RCW;

(e) Washington pesticide control act under chapter 15.58 RCW;

(f) Food safety and security act under chapter 15.130 RCW;

(g) Insect pests and plant diseases under chapter 17.24 RCW;

(h) Wholesale distributors and suppliers of wine and malt beverages under chapter 19.126 RCW;
(i) Weights and measures under chapter 19.94 RCW;
(j) Title 66 RCW, alcoholic beverage control;
(k) Chapter 69.07 RCW, Washington food processing act;
(l) 27 U.S.C., Secs. 201 through 211, 213 through 219a, and 122A;
(m) 27 C.F.R., Parts 1, 6, 9, 10, 12, 16, 240, 251, 252; and
(n) Rules under Titles 16 and 314 WAC, and rules adopted under chapter 15.88 RCW. [2018 c 236 § 708; 2011 c 103 § 30; 2002 c 313 § 110.]

Purpose—2011 c 103: See note following RCW 15.26.120.

Effective dates—2002 c 313: See note following RCW 15.65.020.

RCW 15.88.030 Wine commission created—Composition. (1) There is created an agricultural commodity commission to be known and designated as the Washington wine commission. The commission shall be composed of twelve voting members and one nonvoting member; five voting members shall be growers, five voting members shall be wine producers, one voting member shall be the director, and one voting member shall be a wine distributor licensed under RCW 66.24.200. 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) 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.

(3) 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. This subsection does not apply to the director. [2003 c 396 § 38; 1997 c 321 § 40; 1988 c 254 § 12; 1987 c 452 § 3.]

Effective date—2003 c 396: See note following RCW 15.66.030.

Effective date—1997 c 321: See note following RCW 66.24.010.

RCW 15.88.040 Designation of commission members—Terms. The appointed 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; the wine wholesaler shall be position eleven; and the director shall be position number thirteen. 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 for position thirteen, 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. [2003 c 396 § 39; 1988 c 254 § 13; 1987 c 452 § 4.]

Effective date—2003 c 396: See note following RCW 15.66.030.

RCW 15.88.050 Appointment of members—Travel expenses. (1) The director shall appoint the members of the commission. In making such appointments, the director shall take into consideration recommendations made by the growers' association and the wine institute as the persons recommended for appointment as members of the commission. In appointing persons to the commission, the director shall seek to ensure as nearly as possible a balanced representation on the commission which would reflect the composition of the growers and wine producers throughout the state as to number of acres cultivated and amount of wine produced.

(2) The appointment shall be carried out immediately subsequent to July 1, 1987, and members so appointed as set forth in this chapter shall serve for the periods set forth for the original members of the commission under RCW 15.88.040.

(3) In the event a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the unexpired term of the position shall immediately be filled by appointment by the director.

(4) Each member or employee of the commission shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter as defined by the commission in rule. Otherwise if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060. [2003 c 396 § 40; 2002 c 313 § 111; 1987 c 452 § 5.]

Effective date—2003 c 396: See note following RCW 15.66.030.

Effective dates—2002 c 313: See note following RCW 15.65.020.

RCW 15.88.060 Enforcement of commission obligations against commission assets—Liability of commission members and employees.

Obligations incurred by the commission and liabilities or claims against the commission shall be enforced only against the assets of the commission in the same manner as if it were a corporation and no liability for the debts or actions of the commission shall exist against either the state of Washington or any subdivision or instrumentality thereof or against any member, officer, employee, or agent of the commission in his or her individual capacity. The members of the commission, including employees of the commission, shall not be held responsible individually or any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employees, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other members of the commission. [1987 c 452 § 6.]

RCW 15.88.070 Commission powers and duties. The powers and duties of the commission include:

(1) To elect a chair and such officers as the commission deems advisable. The officers shall include a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties shall be guaranteed by a bond at the sole expense of the commission. The commission shall adopt rules for its own governance, which shall provide for the holding of an annual meeting for the election of officers and transaction of other business and for such other meetings as the commission may direct;

(2) To do all things reasonably necessary to effect the purposes of this chapter. However, the commission shall have no legislative power;

(3) At the pleasure of the commission, to employ and discharge managers, secretaries, agents, attorneys, and employees and to engage the services of independent contractors as the commission deems necessary, to prescribe their duties, and to fix their compensation;

(4) To receive donations of wine from wineries for promotional purposes;

(5) To engage directly or indirectly in the promotion of Washington wine, including without limitation the acquisition in any lawful manner and the dissemination without charge of wine, which dissemination shall not be deemed a sale for any purpose and in which dissemination the commission shall not be deemed a wine producer, supplier, or manufacturer of any kind or the clerk, servant, or agent of a producer, supplier, or manufacturer of any kind. Such dissemination shall be for agricultural development or trade promotion, which may include promotional hosting and shall in the good faith judgment of the commission be in aid of the marketing, advertising, or sale of wine, or of research related to such marketing, advertising, or sale;

(6) To acquire and transfer personal and real property, establish offices, incur expense, enter into contracts (including contracts for creation and printing of promotional literature, which contracts shall not be subject to chapter 43.19 RCW, but which shall be cancelable by

the commission unless performed under conditions of employment which substantially conform to the laws of this state and the rules of the department of labor and industries). The commission may create such debt and other liabilities as may be reasonable for proper discharge of its duties under this chapter;

(7) To maintain such account or accounts with one or more qualified public depositaries as the commission may direct, to cause moneys to be deposited therein, and to expend moneys for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(8) To cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(9) To create and maintain a list of producers and to disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(10) To employ, designate as agent, act in concert with, and enter into contracts with any person, council, commission or other entity for the purpose of promoting the general welfare of the vinifera grape industry and particularly for the purpose of assisting in the sale and distribution of Washington wine in domestic and foreign commerce, expending moneys as it may deem necessary or advisable for such purpose and for the purpose of paying its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington wine in domestic or foreign commerce, employing and paying for vendors of professional services of all kinds; and

(11) To sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter. [2015 c 225 § 12; 2010 c 8 § 6114; 1987 c 452 § 7.]

**RCW 15.88.073 Commission's plans, programs, and projects—
Director's approval required.** (1) The commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising, promotion, and education of the affected commodities; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing and utilization of the affected commodities may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review the commission's advertising or promotion program to ensure that no false claims are being made concerning the affected commodities.

(3) The commission, prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner. [2003 c 396 § 42.]

Effective date—2003 c 396: See note following RCW 15.66.030.

RCW 15.88.075 Commission speaks for state—Director's oversight.

The commission exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges the commission, with oversight by the director, to speak on behalf of the Washington state government with regard to wine grapes and wine. [2003 c 396 § 43.]

Effective date—2003 c 396: See note following RCW 15.66.030.

RCW 15.88.080 Research, promotional, and educational campaign.

The commission shall create, provide for, and conduct a comprehensive and extensive research, promotional, and educational campaign as crop, sales, and market conditions reasonably require. It shall investigate and ascertain the needs of producers, conditions of markets, and degree of public awareness of products, and take into account the information adduced thereby in the discharge of its duties under this chapter. [1987 c 452 § 8.]

RCW 15.88.090 Campaign goals. The commission shall adopt as major objectives of its research, promotional, and educational campaign such goals as will serve the needs of producers, which may include, without limitation, efforts to:

- (1) Establish Washington wine as a major factor in markets everywhere;
- (2) Promote Washington wineries as tourist attractions;
- (3) Encourage favorable reporting of Washington wine and wineries in the press throughout the world;
- (4) Establish the state in markets everywhere as a major source of premium wine;
- (5) Encourage favorable legislative and regulatory treatment of Washington wine in markets everywhere;
- (6) Foster economic conditions favorable to investment in the production of vinifera grapes and Washington wine;
- (7) Advance knowledge and practice of production of wine grapes in this state;
- (8) Discover and develop new and improved vines for the reliable and economical production of wine grapes in the state; and
- (9) Advance knowledge and practice of the processing of wine grapes in the state. [1987 c 452 § 9.]

RCW 15.88.100 Commission members' votes weighted—Exception.

(1) Except as provided in subsection (2) 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 twelve votes. The vote of position one shall be equal to the lesser of the following: Six 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 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 subsection (1) of this section shall cease to be effective. In that case, the voting shall be based on one vote per position. [2003 c 396 § 41; 1988 c 254 § 14; 1987 c 452 § 10.]

Effective date—2003 c 396: See note following RCW 15.66.030.

Effective date—1988 c 254 § 14: "Section 14 of this act shall take effect July 1, 1989." [1988 c 254 § 15.]

RCW 15.88.120 List of growers of vinifera grapes—Reporting system. (1) The commission shall cause a list to be prepared of all Washington growers from any information available from the department, growers' association, or wine producers. This list shall contain the names and addresses of all persons who grow vinifera grapes for sale or use by wine producers within this state and the amount (by tonnage) of vinifera grapes produced during the period designated by the commission. A qualified person may, at any time, have his or her name placed upon the list by delivering or mailing the information to the commission. This list shall be corrected and brought up-to-date in accordance with evidence and information available to the commission on or before December 31st of each year. For all purposes of giving notice and holding referendums, the list on hand, corrected up to the day next preceding the date for issuing notices or ballots as the case may be, is, for purposes of this chapter, deemed to be the list of all growers entitled to notice or to assent or dissent or to vote.

(2) The commission shall develop a reporting system to document that the vinifera grape growers in this state are reporting quantities of vinifera grapes grown and subject to the assessment as provided in RCW 15.88.130. [1988 c 257 § 1.]

RCW 15.88.130 Annual assessment on harvested vinifera grapes—Approval by referendum—Rules. (1) Pursuant to approval by referendum in accordance with RCW 15.88.140, commencing on July 1, 1989, there shall be levied, and the commission shall collect, upon all vinifera grapes grown within this state an annual assessment of three dollars per ton of vinifera grapes harvested to be paid by the grower of the grapes.

(2) The commission shall recommend rules to the director prescribing the time, place, and method for payment and collection of this assessment. For such purpose, the commission may recommend that the director, by rule, require the wine producers or handlers within this state to collect the grower assessments from growers whose vinifera grapes they purchase or accept delivery and remit the assessments to the commission, and provide for collecting assessments from growers who ship directly out of state.

(3) After considering any recommendations made under subsection (2) of this section, the director shall adopt rules, in accordance with chapter 34.05 RCW, prescribing the time, place, and method for

the payment and collection of the assessment levied under this section and approved under RCW 15.88.140. [1988 c 257 § 2.]

RCW 15.88.140 Referendum determining grower participation—

Effect. (1) For purposes of determining grower participation in the commission and assessment under RCW 15.88.130, the director shall conduct a referendum among all vinifera grape growers within the state. The requirements of assent or approval of the referendum will be held to be complied with if: (a) At least fifty-one percent by numbers of growers replying in the referendum vote affirmatively or at least fifty-one percent by acreage of those growers replying in the referendum vote affirmatively; and (b) thirty percent of all vinifera grape growers and thirty percent by acreage have been represented in the referendum to determine assent or approval of participation and assessment. The referendum shall be conducted on or before September 15, 1988.

(2) If the director determines that the requisite assent has been given, the director shall direct the commission to put into force the assessment in RCW 15.88.130.

(3) If the director determines that the requisite assent has not been given, the director shall direct the commission not to levy the assessment provided in RCW 15.88.130. If the requisite assent has not been given, the commission shall not continue to specifically foster the interests of vinifera grape growers. [1988 c 257 § 3.]

RCW 15.88.150 Deposit of moneys. The commission shall deposit moneys collected under RCW 15.88.130 in a separate account in the name of the commission in any bank that is a state depository. All expenditures and disbursements made from this account under this chapter may be made without the necessity of a specific legislative appropriation. None of the provisions of RCW 43.01.050 apply to this account or to the moneys received, collected, or expended as provided in RCW 15.88.120 through 15.88.160. [1988 c 257 § 4.]

RCW 15.88.160 Assessment constitutes debt—Penalty for nonpayment—Civil action. A due and payable assessment levied in such specified amount as determined by the commission under RCW 15.88.130 constitutes a personal debt of every person so assessed or who otherwise owes the assessment, and the assessment is due and payable to the commission when payment is called for by the commission. If a person fails to pay the commission the full amount of the assessment by the date due, the commission may add to the unpaid assessment an amount not exceeding ten percent of the assessment to defray the cost of enforcing its collection. If the person fails to pay any such due and payable assessment or other such sum, the commission may bring a civil action for collection against the person or persons in a court of competent jurisdiction. The action shall be tried and judgment rendered as in any other cause of action for a debt due and payable. [1988 c 257 § 5.]

RCW 15.88.170 Certain records exempt from public disclosure—Exceptions—Actions not prohibited by chapter. (1) Under RCW

42.56.380, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving any provision of this chapter or a marketing order.

(3) This chapter does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person. [2005 c 274 § 219; 2002 c 313 § 70.]

Effective dates—2002 c 313: See note following RCW 15.65.020.

RCW 15.88.180 Funding staff support—Rules—Costs of implementing RCW 15.88.073. (1) The director may provide by rule for a method to fund staff support for all commodity boards or commissions in accordance with RCW 43.23.033 if a position is not directly funded by the legislature and costs related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

(2) The costs incurred by the department associated with the implementation of RCW 15.88.073 shall be paid for by the commission. [2003 c 396 § 44; 2002 c 313 § 76.]

Effective date—2003 c 396: See note following RCW 15.66.030.

Effective dates—2002 c 313: See note following RCW 15.65.020.

RCW 15.88.190 Commission must assist legislative gift center—Selection of Washington wines. The commission must assist the legislative gift center in selecting the Washington wines the legislative gift center will sell as provided in RCW 44.73.015. [2009 c 228 § 4.]

Findings—Intent—2009 c 228: See note following RCW 66.12.195.

RCW 15.88.900 Construction—1987 c 452. This act shall be liberally construed to effectuate its purposes. [1987 c 452 § 19.]

RCW 15.88.901 Effective dates—1987 c 452. (1) Sections 1 through 9 and 11 through 20 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987.

(2) Section 10 of this act shall take effect July 1, 1989. [1987
c 452 § 21.]