

Your
Apple Commission
Law

Including
Amendments and
Regulations



Washington State Apple
Commission

Wenatchee, Yakima, Washington

HOUSE BILL NO. 667

(State Apple Advertising Commission)

AN ACT relating to apples, declaring the public policy of this state to promote the consumption and sale of apples by providing for research and a publicity, advertising and sales promotion campaign to increase the consumption of Washington grown apples, levying an assessment and providing for its collection; creating an apple advertising commission and vesting in it the administration of this act, providing for the powers, duties and authority of said commission, providing penalties for the violation of this act, and providing that this act shall take effect immediately.

BE IT ENACTED BY THE LEGISLATURE
OF THE STATE OF WASHINGTON:

SECTION 1. That this act is passed:

(a) In the exercise of the police power of the state to protect the public health, to prevent fraudulent practices, to promote the welfare of the state, and to stabilize and protect the apple industry of the state;

(b) Because the apple crop grown in Washington comprises one of the major agricultural crops of Washington, and that therefore the business of selling and distributing such crop and the expanding and protection of its market is of public interest;

(c) Because it is necessary and expedient to enhance the reputation of Washington apples in domestic and foreign markets;

(d) Because it is necessary to discover the health-giving qualities and food and dietetic value of Washington apples, and to spread that knowledge throughout the world in order to increase the consumption of Washington apples;

(e) Because Washington grown apples are handicapped by high freight rates in competition with eastern and foreign grown apples in the markets of the world, and this disadvantage can only be overcome by education and advertising;

(f) Because the stabilizing of the apple industry, the enlarging of its markets, and the increasing of the consumption of apples are necessary to assure the payment of taxes to the state and its subdivisions, to alleviate unemployment within the state, and increase wages for agricultural labor;

(g) To disseminate information giving the public full knowledge of the manner of production, the cost and expense thereof, the care taken to produce and sell only apples of the finest quality, the methods and care used in preparing for market, and the methods of sale and distribution to increase the amount secured by the producer thereof, so that they can pay higher wages and pay their taxes, and by such information to reduce the cost of distribution so that the spread between the cost to the consumer and the

amount received by the producer will be reduced to the minimum absolutely necessary;

(h) To protect the general public by educating it in reference to the various varieties and grades of Washington apples, the time to use and consume each variety, and the uses to which each variety should be put.

SECTION 2. That as used in this act:

(a) The term "commission" shall mean the Washington State Apple Advertising Commission;

(b) The term "person" shall mean individuals, corporations, partnerships, associations, cooperatives, and any and all other business units, devices and arrangements;

(c) "Shipment" and "shipped" shall be deemed to take place when the apples are loaded in the car, boat, truck, wagon, or other conveyance to be transported; PROVIDED, That apples being moved from the orchard where grown, shall not be deemed a shipment or to be shipped;

(d) The terms "handle" or "handler" shall mean or indicate any person who ships or initiates the shipping operation, whether as owner, agent, or otherwise;

(e) The term "dealer" shall mean and include any person who handles, ships, buys, or sells apples, or who acts as sales or purchasing agent, broker, or factor of apples;

(f) The term "box" or "standard box" shall mean a standard box as defined by Remington's Revised Statutes, section 11638;

(g) The term "processor" or "processing plant" shall include every person and every place to whom or to which apples are delivered for the purpose of drying, dehydrating, canning, pressing, powdering, extracting, cooking, or for use in producing or manufacturing a product or manufactured article;

(h) "District No. 1" or "first district" shall be and include the counties of Chelan, Okanogan, Grant, and Douglas;

(i) "District No. 2" or "second district" shall be and include the counties of Kittitas, Yakima, Benton, Franklin, and Klickitat;

(j) "District No. 3" or "third district" shall comprise all of the State of Washington not included in the first and second districts.

SECTION 3. (As Amended 1949 Session). There is hereby created a Washington State Apple Advertising Commission to be thus known and designated. The commission shall be composed of seven practical apple producers and four practical apple dealers. The director of agriculture and supervisor of horticulture of the State of Washington shall be ex-officio members of the commission without vote. The seven producer members shall be citizens and residents

of this state, over the age of twenty-five years, each of whom is and has been actually engaged in growing and producing apples within the State of Washington for a period of five years, and has during that period derived the major portion of his income therefrom, and who is not engaged in business directly or indirectly as a dealer. The four dealer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association or cooperative organization, are and have been actively engaged as dealers in apples within the State of Washington, and are citizens and residents of this state. The qualifications of members of the commission as herein set forth must continue during their term of office.

Eleven men with the qualifications stated above shall be elected members of said commission; three of the grower members, being positions one, two and three, shall be from District No. 1, one of whom shall be from Okanogan county; three of the grower members, being positions four, five and six, from District No. 2; and one grower member, being position seven, from District No. 3. Two of the dealer members, being positions eight and nine, shall be from District No. 1; and two of the dealer members, being positions ten and eleven, shall be from District No. 2.

The regular term of office of the members of the commission shall be three years from the date of election and until their successors are elected and qualified, except, however, that the first terms of the members of the commission whose terms begin on July 1, 1949 shall be as follows: positions one and four shall terminate on March 1, 1951; positions two, five, eight and ten shall terminate on March 1, 1952; and positions three, six, seven, nine and eleven shall terminate on March 1, 1953.

The Director of Agriculture shall immediately after this act becomes effective call a meeting of apple growers in each of the three districts and meetings of apple dealers in District No. 1 and District No. 2 for the purpose of nominating their respective members of the commission who shall take office on July 1, 1949. Subsequent to December 1, 1950 district meetings of each group shall be called annually by the Director of Agriculture for the pur-

pose of nominating their respective members of the commission at times and places to be fixed by the commission. Said meetings shall be held annually not later than February 5th of each year commencing in 1951. Insofar as practicable, the said meetings of growers shall be held at the same time and place as the annual state and district meetings of the Washington State Horticultural Association and its affiliated clubs, but not while the same are in actual session. Public notice of such meetings shall be given by the commission in such manner as it may determine: PROVIDED, That non-receipt of the notice by any interested person shall not invalidate the proceedings. Any qualified person may be nominated orally for such positions at the said respective meetings. Nominations may also be made within five days after any such meeting by written petition filed in the Wenatche or Yakima office of the commission, signed by not less than five apple growers or dealers, as the case may be, residing within the district.

The members of the commission shall be elected by secret mail ballot under the supervision of the Director of Agriculture. Grower members of the commission shall be elected by a majority of the votes cast by the apple growers in the respective districts, each grower being entitled to one vote. Dealer members of the commission shall be elected by a majority of the votes cast by the apple dealers in the respective districts, each dealer being entitled to one vote. If a nominee does not receive a majority of the votes cast on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

In the event a position becomes vacant due to resignation, disqualification, death, or for any other reason, such position until the next annual election meeting shall be filled by vote of the remaining members of the commission. At such annual election a commissioner shall be elected to fill the balance of the unexpired term.

A majority of the voting members shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission.

No member of the commission shall receive any salary or other compensation, but each member shall receive the sum of ten dollars (\$10.00) per day for each day spent in actual attendance on or traveling to and from meetings of the commission, or on special assignment for the commission, together with actual expenses incurred in carrying out the provisions of this act.

SECTION 4. That the Washington State Apple Advertising Commission shall be, and it is, hereby declared and created a corporate body. It shall have power to sue and be sued; to contract and be contracted with; it shall have and possess all the powers of a corporation. The commission shall adopt a corporate seal. Copies of the proceedings, records, and acts of the commission, when certified by the secretary and authenticated by the corporate seal, shall be admissible in evidence in all courts of this state, and shall be prima facie evidence of the truth of all statements therein.

SECTION 5. The commission shall elect a secretary-manager, whose compensation shall be fixed by the commission.

SECTION 6. The commission shall appoint a treasurer. All monies received by the commission, or any other state official from the assessment hereinafter levied, shall be paid to the treasurer of the commission, (and) shall be deposited in such banks as the commission may designate, and shall be disbursed by order of the commission. The treasurer shall file with the commission a fidelity bond executed by a surety company authorized to do business in this state, in favor of the commission and the State of Washington, jointly and severally, conditioned for the faithful performance of his duties and the strict accounting of all funds of the commission, in the penal sum of fifty thousand dollars (\$50,000.00). None of the provisions of section 5501, Remington's Revised Statutes, shall be applicable to monies collected under this act.

SECTION 7. The State of Washington shall not be liable for the acts of said commission or its contracts. All persons shall be limited to the funds collected by the commission, and no member of the commission or any employee or agent thereof shall be liable on the contracts of the commission. All salaries, expenses, costs, obligations, and liabilities incurred by said commission shall be payable only from the funds collected by the commission under this act.

SECTION 8. The powers and duties of the commission shall include the following:

(1) To elect a chairman and from time to time such other officers as it may deem advisable, and to adopt and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations and orders for the exercise of its power and the

performance of its duties, which such rules, regulations and orders shall have the force and effect of the law when not inconsistent with existing laws;

(2) To administer and enforce this act, and do and perform all acts and exercise all powers reasonably necessary to effectuate the purpose of this act;

(3) To employ and at its pleasure discharge a manager and secretary, and such attorneys, clerks and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;

(4) To establish offices and incur any and all expense and to enter into any and all contracts and agreements and to create such liabilities as may be reasonable for the proper administration and enforcement of this act;

(5) To investigate and prosecute violations of this act;

(6) To conduct scientific research to develop and discover the health, food, therapeutic and dietetic value of apples and products thereof;

(7) To employ and at its pleasure discharge an advertising manager, agents, advertising agencies, and such other help as it deems necessary, and to outline their powers and duties and fix their compensation;

(8) To make in the name of the commission such advertising contracts and other agreements as may be necessary;

(9) To keep accurate books, records, and accounts of all of its dealings, which books, records and accounts shall be open to inspection and audit by the state auditor and the department of efficiency.

SECTION 9. (a) There is hereby levied and imposed upon all apples grown in 1937 and annually thereafter, an assessment of two cents (2c) on each one hundred (100) pounds gross billing weight of apples; payable when shipped, whether in bulk or loose in boxes or any other container, or packed in any style package; PROVIDED, That the provisions of this act shall not apply to apples shipped to any processing plant for processing or manufacturing purposes;

(b) All money levied and collected under this act shall be expended exclusively to advertise apples and to effectuate the purpose and objects of this act.

SECTION 10. Every dealer, handler, and processor shall keep a complete and accurate record of all apples handled, shipped or processed by him. Such record shall be in such form and contain such information as the commission shall by regulation or rule prescribe. Such records shall be preserved by such handler, dealer, and processor for a period of two (2) years, and shall be offered and submitted for inspection at any time upon written or oral request or demand by the commission or its duly authorized agent or employee.

SECTION 11. Every dealer, handler, and processor shall at such times as the commission may by rule or regulation require, file with the commission a return under oath on forms to be prescribed and furnished

by the commission, stating the quantity of apples handled, shipped or processed by him during the period or periods of time prescribed by the commission. Such return shall contain such further information as the commission may require.

SECTION 12. All assessments levied and imposed by this act shall be due and payable and shall be paid prior to shipment. No apples shall be carried, transported, or shipped by any person or by any carrier, railroad, truck, boat, or other conveyance until such assessment has been paid to the commission, and its official receipt issued. No apples shall be received by a processor (for fresh shipment) until such tax has been paid.

The commission shall by rule or regulation prescribe the method of collection, and for that purpose may require stamps to be known as "Apple Advertising Stamps" to be purchased from the commission and fixed or attached to the containers, invoices, shipping documents, inspection certificates, releases, or receiving receipts or tickets. Any such stamps shall be cancelled immediately upon being so attached or fixed, and the date of cancellation shall be placed on such stamps.

SECTION 13. That in order to adequately advertise Washington grown apples in the domestic and foreign markets, and to make such advertising as extensive as public interest and necessity require, and to put into force and effect the policy of the State of Washington by this act intended, it is the duty of the commission to provide for and conduct a comprehensive and extensive research, advertising and educational campaign, and to keep such advertising and education as continuous as the crop, sales, and market conditions reasonably require. The commission shall investigate and ascertain the needs of the apple producers, the conditions of the markets, and the extent to which public convenience and necessity require advertising and research to be conducted. If, upon such investigation, it shall appear that the revenue from the assessment levied and imposed under section 9 is inadequate to accomplish the purposes and objects of this act, it shall file a report with the director of agriculture showing the necessities of the industry, the extend (extent) and probable cost of the required research and advertising, the extent of the public convenience, interest and necessity, and the probable revenue from the assessment herein levied and imposed. If such probable revenue is less than the amount reasonably necessary to conduct the research and advertising that the public interest, convenience and necessity of the State of Washington requires to accomplish the objects and purposes of the act, the commission shall increase such assessment to a sum not exceeding the sum of six cents (6c) for each one hundred (100) pounds gross billing weight of apples, whether shipped in bulk, loose in boxes or any other container, or packed in any style package; PROVIDED, That no such increase shall be made prior to May, 1940; AND PROVIDED FURTHER, That no such increase shall be made until the commission shall have filed with the director of

agriculture a full report of such investigation and findings. Such increase shall be effective thirty (30) days after such report is so filed.

SECTION 14. (a) Any person who shall violate or aid in the violation of any provision of this act shall be guilty of a gross misdemeanor;

(b) Any person who shall violate or aid in the violation of any rule or regulation of the commission shall be guilty of a misdemeanor:

SECTION 15. (a) Any prosecution brought under this act may be instituted or brought in any county in this state in which the defendant or any of the defendants reside, or in which the violation was committed, or in which the defendant, or any of the defendants, has his principal place of business.

(b) The several superior courts of the State of Washington are hereby invested with jurisdiction to enforce this act and to prevent and restrain violations thereof, or any rule or regulation promulgated by the commission.

SECTION 16. That it shall be the duty of all state and county law enforcement officers and all employees and agents of the department of agriculture to enforce this act.

SECTION 17. This act shall be liberally construed. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this act.

The legislature hereby declares that it intended to pass each section and subsection of this act irrespective of every other section or subsection, sentence, clause, or phrase hereof, and instructs all courts that such is their intention, and that such intention shall be given effect.

SECTION 18. Every rule, regulation or order promulgated by the commission shall be filed with the director of agriculture of the State of Washington, and shall be published in a legal newspaper in Wenatchee and Yakima within five days after its promulgation. And such rules, orders or regulations shall become effective five (5) days after such filing and publication.

SECTION 19. The commission, through its authorized agents, shall have the right to inspect the premises, books, records, documents, and all other instruments of any carrier, railroad, truck, boat, handler, dealer, and processor for the purpose of enforcing this act and the collection of the excise tax.

SECTION 20. This act is necessary for the immediate preservation of public health, the preservation of the apple industry, the preservation of the apple producing areas, and for the support of the state government and its existing institutions, and shall take effect immediately.

Original act signed by the Governor March 17, 1937.
Amendment signed by the Governor March 19, 1949.

CLARIFICATION AND EXTENSION OF AUTHORITY BY 1947 LEGISLATURE

(Section 3, Chapter 280, Laws of 1947.) The Washington State Apple Advertising Commission is hereby empowered to employ, designate as agent, act in concert with, and enter into contracts with any person, firm, corporation, organization, council, association or commission for the purpose of promoting the general welfare of the apple industry and particularly for the purposes of assisting in the sale and distribution of apples in domestic or foreign commerce and to expend its funds or such portion thereof as it may deem necessary or advisable for such purposes 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 apples in domestic or foreign commerce, and for such purposes to employ and pay for legal counsel and to contract and pay for other professional services.

Signed by the Governor March 22, 1947.

WASHINGTON STATE APPLE ADVERTISING COMMISSION

RULES AND REGULATIONS

Under and by virtue of Chapter 195 of the Laws of 1937, the Washington State Apple Advertising Commission does hereby prescribe the following regulations:

REGULATION I

The assessment of two (2) cents on each 100 pounds gross weight of apples, whether in bulk or loose in boxes or any other container, or packed in any style package, levied by Section 9 of said act, shall be collected by the purchase from the Commission of Apple Advertising Stamps which shall be affixed, attached, and cancelled as follows:

(a) **Shipments by railroad.** Before any apples are shipped on any railroad, there shall be attached to the carrier's copy of the bill of lading Apple Advertising Stamps to the amount of the assessment on the apples to be shipped, and such stamps when so attached shall be immediately cancelled, and the date of cancellation written thereon.

(b) **Shipments by truck or other conveyance.** Before any apples are shipped on any truck or other conveyance, a release shall be obtained from the Department of Agriculture, Division of Horticulture, as provided in Chapter 204 of the Laws of 1937, and before such release is delivered there shall be attached to the Department's copy of such release Advertising Stamps equal to the amount of the assessment upon the apples covered by such release. Such stamps, when so attached, shall be immediately cancelled and the date of cancellation written thereon.

REGULATION II

Apple Advertising Stamps. All apple advertising

stamps shall be purchased from the commission or its authorized agent. Upon the sale of such stamps, the commission or its agent shall issue an official receipt to the purchaser showing the amount of money paid; the number of stamps delivered; and their denominations. Triplicate copies of the receipt shall be made, the original delivered to the purchaser, the second copy shall be sent to the Treasurer of the Commission with the funds collected, within twenty-four hours; the triplicate retained in the original receipt book. All receipt books shall be turned in to the Secretary-Manager on the first of each month.

REGULATION III

Bills of Lading and Releases. No bill of lading shall be issued by any railroad, and no release shall be issued by any agent of the Department of Agriculture until Apple Advertising Stamps shall have been purchased from the Commission, attached to the bill of lading or release, and cancelled as provided in Regulation I.

REGULATION VI

Seal. The seal of the Commission shall be circular in form and contain the following inscription: "WASHINGTON STATE APPLE ADVERTISING COMMISSION SEAL."

REGULATION V

Reports. Within twenty-four (24) hours after apples are shipped, the person who initiates the shipping operation, whether a farmer, dealer, handler, broker, processor, or the agent or employee of any such person, shall mail or deliver to the Commission at Wenatchee, Washington, a report of such shipment; which report will show (1) Shipper's file number; (2) Date of Shipment; (3) Variety; (4) Quantity and style of package, or whether bulk or loose in boxes; (5) Grade; (6) Sizes; (7) Destination.

REGULATION VI

Apple Advertising Stamps. The design of the official Apple Advertising Stamps shall be:

Rectangular in shape. Across the top in two lines the words, "WASHINGTON STATE APPLE ADVERTISING"; immediately below on the left hand side shall be a picture of George Washington; and in a circle around the picture the words "The State of Washington"; and immediately underneath the figures, "1889." In the right lower corner shall appear the denomination of the stamp. Each denomination shall be of a different color. Stamps shall be made only by the Commission and purchased only from the Commission.

The above regulations were duly adopted by the Washington State Apple Advertising Commission on the 30th day of July, 1937; were filed with the Director of Agriculture of the State of Washington on the 3d day of August, 1937, and published in the Wenatchee Daily World, Yakima Independent, and Yakima Morning Herald, legal newspapers, on August 4, 5,

and 6, 1937, and are effective five days after such filing and first publication.

WASHINGTON STATE APPLE ADVERTISING COMMISSION

By C. M. ZEDIKER, Chairman

Attest: C. E. CHASE, Secretary-Manager

(SEAL)

Approved:

WALTER J. ROBINSON

Director of Agriculture

REGULATION VII

By action taken by the members of the Washington State Apple Advertising Commission in accordance with the authority invested in said commission by House Bill No. 667, on July 10th, 1942, the assessment per one hundred (100) pounds gross billing weight on apples, whether in bulk or loose in boxes or any other container, or packed in any style package, levied by Section 9 of said act, shall be collected, is hereby changed from two (2) cents per hundred pounds gross billing weight to three (3) cents per hundred pounds gross billing weight.

REGULATION VIII

Upon the investigation made by the Washington State Apple Advertising Commission, and the report filed by it with the Director of Agriculture of the State of Washington, it is hereby ordered: That in pursuance to Section 13, Chapter 195, Laws of 1937, the assessment provided for by Section 9, Chapter 195, Laws of 1937, be and the same is hereby increased upon all apples grown in 1948 and thereafter, from three (3) cents on each 100 pounds gross billing weight of apples, to five (5) cents on each 100 pounds gross billing weight of apples, whether shipped in bulk, loose, or in boxes, or any other container, or packed in any style package. It is further ordered: That this increase in assessment shall be effective on June 21, 1948. Dated this 18th day of May, 1948.

WASHINGTON STATE APPLE ADVERTISING COMMISSION

By W. G. MARTIN, Chairman

Attest: HAROLD COPPLE, Secretary-Manager

(SEAL)

Approved:

FRED J. MARTIN

Director of Agriculture

COLUMBIA VALLEY PRINTING CO., WENATCHEE, WASH.