

SENATE BILL REPORT

SSB 5315

As Passed Senate, March 15, 1995

Title: An act relating to agriculture and marketing.

Brief Description: Modifying agriculture regulations.

Sponsors: Senate Committee on Agriculture & Agricultural Trade & Development (originally sponsored by Senators Rasmussen, Morton, Loveland, Newhouse and Roach; by request of Department of Agriculture).

Brief History:

Committee Activity: Agriculture & Agricultural Trade & Development: 1/24/95, 2/14/95 [DPS].

Ways & Means: 3/2/95 [DPS (AG)].

Passed Senate, 3/15/95, 45-2.

SENATE COMMITTEE ON AGRICULTURE & AGRICULTURAL TRADE & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5315 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rasmussen, Chair; Loveland, Vice Chair; Bauer, Morton and Snyder.

Staff: Bob Lee (786-7404)

Background: Milk and Milk Products. The current milk assessment on milk received at dairy processing plants is scheduled to expire on June 30, 1995.

Presently, the department may revoke only the license of milk distributors when milk products fail to meet the grade. Additional consumer protection is sought by also allowing the department to revoke the license or degrade a product of a milk processing plant or producer who fails to meet Grade A milk requirements.

Food Safety Inspection. The Department of Agriculture administers the state Food, Drug and Cosmetic Act to protect the public from contaminated food products. Currently, food storage warehouses are not licensed and are infrequently inspected.

The monetary penalties have not been changed since they were established in 1945.

Flour, White Bread and Rolls. State statutes relating to flour, white bread and rolls no longer conform to federal statutes and regulations.

Eggs and Egg Products. The proliferation of salmonella declines when eggs are kept at 45 degrees or below. Currently, egg graders are required to refrigerate eggs at 45 degrees and

when transported more than two hours. Distributors and retailers are not required to have refrigeration equipment.

Eggs produced from flocks of less than 3,000 hens are exempt from the Wholesome Egg Products Act.

Commercial Feed. The state's commercial feed law was adopted in 1965 patterned after the Model Feed Bill developed by the Association of American Feed Control Officials. The purpose of the Model Feed Bill is to establish a national standard to facilitate interstate marketing of feeds. No substantial revisions of the state law have been made since 1982, while significant changes have been made to the Model Feed Bill.

Livestock Inspection. Generally, cattle sold in the state or transported out of the state are required to be brand inspected. Ways to reduce the cost of brand inspection involving small numbers of cattle sold between private parties is proposed.

Commodity Commissions. The Office of Financial Management and the State Auditor disagree as to whether all commodity commissions are exempt from the State Budget and Accounting Act.

When there is only one nominee submitted for a position on the Dairy Products Commission, current law requires that the Director of Agriculture nominate an additional candidate prior to holding an election.

Collection Procedures. Some, but not all, programs administered by the Department of Agriculture contain specific statutory authority to charge interest and to recover costs associated with civil judgments when businesses do not pay bills on time.

Summary of Bill: Milk and Milk Products. The current \$0.0054 per hundredweight assessment on milk is extended to June 30, 2000.

The director's authority is expanded to allow for the revocation of the license or to degrade a product of a milk processing plant or producer who fails to meet the Grade A milk requirements.

Food Safety Inspection. The department is required to inspect food storage warehouses once a year for compliance with the Food, Drug and Cosmetic Act.

Food storage warehouses are required to be licensed and annual license fees are based on gross annual sales. The fee ranges between \$55 and \$825.

Food storage warehouses are provided the option of being inspected by an independent sanitation consultant or by the department. Independent sanitation consultants are required to meet certain qualifications and be approved by the director. Inspection reports prepared by independent sanitation consultants are forwarded to the department within 60 days of the inspection. Food storage warehouses that utilize independent consultants are exempt from the regular license fee, but are subject to a \$25 license fee to pay for tracking and recordkeeping.

Fruit and vegetable storage warehouses are excluded from the definition of food storage warehouse.

Monies collected from licenses and fees under the Food, Drug and Cosmetic Act are placed in the agricultural local fund.

The department is authorized to suspend or revoke a food storage warehouse license for failure to comply with licensing provisions, failure to maintain necessary records or for failure to comply with the Food, Drug and Cosmetic Act.

The fee for sanitary certificates issued to food processors is increased from \$20 to \$50.

Flour, White Bread and Rolls. Current state statutes regarding flour, white bread and rolls is repealed.

Eggs and Egg Products. In addition to egg graders, the refrigeration requirement for eggs is extended to distributors and retailers.

The egg dealer license is increased from \$10 to \$30, and the egg dealer branch license is increased from \$5 to \$15. The director is authorized to assess a civil penalty not to exceed \$1,000 in lieu of seeking criminal prosecution.

The director is provided authority to establish by rule procedures to exempt flocks of 3,000 hens from some provisions of the Wholesome Egg and Egg Products Act.

Commercial Feed. The current procedure of registering commercial feeds is changed to require licensing of any person who manufactures feed that is to be distributed in this state. Registration requirements continue to apply to pet foods.

Several amendments are made to commercial feed labeling requirements, inspection fee payment and inspection procedures.

Livestock Inspection. The department may allow by rule cattle owners to use self-inspection certificates as an option to mandatory brand inspections conducted by the department.

Commodity Commissions. It is clarified that commodity commissions are exempt from the State Budget and Accounting Act.

An election is unnecessary if there is only one nominee for a position on the Dairy Products Commission.

Pesticide Registrations. Revenue generated by pesticide registration fees are to be deposited in the agricultural local fund rather than in the state general fund. Registrants may elect to pay for a two-year period rather than annually.

Collection Procedures. The director is provided authority to retain collection agencies, and to add charges paid to collection agencies and banks to the costs owed to the department. It authorizes a 10 percent handling charge to cover the agency's cost to recover unpaid bills. The department is allowed to bring civil actions for unpaid debts and to recover all costs and

attorney fees associated with obtaining legal judgments. The department is also allowed to charge 1 percent per month on monies owed to the department.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Most provisions of the act are to take effect on June 30, 1995.

Testimony For: The current 1/2 cent per hundredweight of milk expires on June 30, 1995. Extension of the fee is necessary to retain the viability of the milk inspection program.

Food storage warehouses are not currently being inspected on a regular basis. To assure that food is stored in a sanitary condition, inspection of these warehouses is needed.

Refrigeration of eggs retards the reproduction of dangerous bacteria and preserves freshness. Requirements to refrigerate eggs need to be more comprehensive.

The Commercial Feed Act has not been amended since 1982. However, the Model Feed Law has been amended since that time. Amendments to the state feed law are needed to bring it into conformance with the model to aid in the interstate shipment of feed.

Testimony Against: Concern was expressed regarding inspection of fruit and vegetable warehouses where department inspectors are already present conducting inspection of produce.

Some food storage warehouses are being inspected by private sanitation consultants. Concern exists about duplicate inspections and requiring fees by the department when warehouses already have private sanitation consultants inspecting the premises.

The proposed requirement that egg containers with broken eggs be returned to the packing facility for repacking is overly burdensome and not practical.

Testified: John Daly, Dept. of Ag (pro); Roger Lowell, FDA (pro); Dick Ducharme, Yakima Growers and Shippers (pro); Rod Smart, WPIA; Jonathan Schlueter, WA Poultry Industry Assn.; Gerald Wigren, National Food Corp. (pro); David Allan, Tree Fruit Research Commission; Rick Herndon, WA State Mint Commission; Lisa Thatcher, WA State Food Dealers; Bernard Gamache, WA Hop Commission; Doug McGreevy, Pacific NW Grain & Feed Assn.; Mike Schwisow, WA Dairy Processors Assn.; Kent Lebsack, WA Cattlemen; Karen Van Dusen, DOH (pro); Bill Fritz, WA Food Processors Council; Dan Coyne, Dairy Fed. (pro).

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5315 as recommended by Committee on Agriculture & Agricultural Trade & Development be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Drew, Fraser, Hargrove, Hochstatter, Moyer, Pelz, Sheldon, Snyder, Spanel, Winsley and Wojahn.

Staff: Susan Lucas (786-7711)

Testimony For: The department and industry worked together on the bill, and there is general support for provisions in the bill. Food storage warehouses are not adequately inspected now, and if problems are found, corrective action cannot always be taken within the appropriate time frame. The bill will require licensing and inspection. The livestock inspection provision in the bill allows self-inspection of livestock. Industry supports these provisions.

Testimony Against: None.

Testified: Mary Beth Lang, Dept.of Agriculture; Kent Lebsack, WA Cattlemen's Assn.

House Amendment(s): Retained are provisions of the Senate bill relating to milk products; food processing plants; refrigeration of eggs; adopting rules allowing self-inspection of cattle for brands; recodification of feed inspection laws; fees for processing new public livestock market license applications; election of uncontested commodity commission members; collection of unpaid fees and penalties owed to the Department of Agriculture; and the repeal of statutes relating to flour, bread and rolls.

Deleted was a section in the Senate bill that extended the assessment on fluid milk that was contained in another bill already passed by the Legislature.

Added is a provision that provides the Director of Agriculture the discretion to sell a horse or other animal at public sale. The provision has a December 1, 1994 effective date and has no expiration date.

An agricultural fair that received a funding allocation as a county fair but now has reorganized itself as an area fair continues to be eligible to receive a funding allocation.

The State Noxious Weed Control Board shall conduct a study of the cost of controlling weeds on state-owned or managed lands and state-owned rights of way. The study is to identify and prioritize those species of weeds that are practical to control and should be controlled. The board may exclude those species that due to high cost or impracticality cannot be controlled. Washington State University is to select and test biological control agents for the control of knapweed. State agencies are to control weeds in accordance with standards of the state weed control law. The House and Senate committees with jurisdiction over agriculture are to jointly study land leasing practices relating to weed control of state agencies prior to the 1996 legislative session.

The graduated license fee schedule based upon volume of sales proposed in the Senate bill for the food storage warehouse inspection program was deleted and replaced by a flat fee of \$50. The new requirement that the Department of Agriculture shall annually inspect food storage warehouses was changed to "may" in the House version.

The original version passed by the House did not provide for licensure of food storage warehouses that have been inspected annually by federal or state agencies. The second version passed by the House includes licensing of food storage warehouses that are inspected by federal or state agencies. As in the original House version, food storage warehouses inspected by independent sanitation consultants approved by the department and who submit the results of the annual inspections to the department are not subject to licensure or license fees. Such warehouses would continue to be subject to random inspection by the department and if food products were found to be contaminated, such products could be embargoed.

The second House version clarifies that civil fines are to be deposited in the state general fund rather in the agricultural local fund. Civil penalties are intended to be used to obtain compliance and are not to be collected if the firm and the department successfully complete a mutually agreed upon compliance agreement that may include reimbursement of the department for the cost of inspection and laboratory analyses.