

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 2132**

Chapter 188, Laws of 1996

54th Legislature  
1996 Regular Session

DEPARTMENT OF AGRICULTURE GRANTS OF RULE-MAKING  
AUTHORITY--REVISIONS

EFFECTIVE DATE: 6/6/96

Passed by the House March 4, 1996  
Yeas 94 Nays 0

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Passed by the Senate March 1, 1996  
Yeas 47 Nays 0

JOEL PRITCHARD  
**President of the Senate**

Approved March 28, 1996

MIKE LOWRY  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2132** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

March 28, 1996 - 3:58 p.m.

**Secretary of State  
State of Washington**

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ENGROSSED HOUSE BILL 2132

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AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington                      54th Legislature                      1996 Regular Session

By Representatives Chandler, Chappell, Grant, Mastin, Regala and Johnson; by request of Department of Agriculture

Read first time 01/08/96. Referred to Committee on Agriculture & Ecology.

1            AN ACT Relating to the department of agriculture grants of rule-  
2 making authority; amending RCW 15.17.020, 15.36.021, 15.58.040, and  
3 16.70.040; adding a new section to chapter 15.17 RCW; and adding a new  
4 section to chapter 42.17 RCW.

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

6            **Sec. 1.** RCW 15.17.020 and 1963 c 122 s 2 are each amended to read  
7 as follows:

8            For the purpose of this chapter:

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

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

13            (3) "Person" means a natural person, individual, or firm,  
14 partnership, corporation, company, society, and association, and every  
15 officer, agent, or employee thereof. This term shall import either the  
16 singular or plural, as the case may be.

17            (4) "Horticultural plant or product" includes, but is not limited  
18 to, any horticultural, floricultural, viticultural, and olericultural

1 plant, growing or otherwise, and their products whether grown above or  
2 below the ground's surface.

3 (5) "Horticultural facilities" means, but is not limited to, the  
4 premises where horticultural plants and products are grown, stored,  
5 handled, or delivered for sale or transportation, records required by  
6 rule under this chapter, and all vehicles and equipment, whether aerial  
7 or surface, used to transport such horticultural plants or products.

8 (6) "Deceptive pack" means the pack of any container which has in  
9 the outer layer or any exposed surface, horticultural plants or  
10 products which are in quality, size, condition, or any other respect so  
11 superior to those in the interior of the container in the unexposed  
12 portion as to materially misrepresent the contents. Such pack is  
13 deceptive when the outer or exposed surface is composed of  
14 horticultural plants or products whose size is not an accurate  
15 representation of the variation of the size of such horticultural  
16 plants or products in the entire container, even though such  
17 horticultural plants or products in the container are virtually uniform  
18 in size or comply with the specific horticultural plant or product for  
19 which the director in prescribing standards for grading and classifying  
20 has prescribed size variations or if such size variations are  
21 prescribed by law.

22 (7) "Deceptive arrangement or display" of any horticultural plants  
23 or products, means any bulk lot or load, arrangement or display of such  
24 horticultural plants or products which has in the exposed surface,  
25 horticultural plants or products which are so superior in quality,  
26 size, condition, or any other respect to those which are concealed, or  
27 the unexposed portion, as to materially misrepresent any part of such  
28 bulk lot or load, arrangement, or display.

29 (8) "Mislabel" means the placing or presence of any false or  
30 misleading statement, design, or device upon any container, or upon the  
31 label or lining of any such container, or upon the wrapper of any  
32 horticultural plants or products, or upon any such horticultural plants  
33 or products, or any placard used in connection therewith and having  
34 reference to such horticultural plants or products. A statement,  
35 design, or device is false or misleading when the horticultural plant  
36 or product or container to which it refers does not conform to such  
37 statement.

38 (9) "Container" means any container, subcontainer used within a  
39 container, or any type of a container used to prepackage any

1 horticultural plants or products: PROVIDED, That this does not include  
2 containers used by a retailer to package such horticultural plants or  
3 products sold from a bulk display to a consumer.

4 (10) "Agent" means broker, commission merchant, auctioneer,  
5 solicitor, seller, or consignor, and any other person acting upon the  
6 actual or implied authority of another.

7 (11) "Inspection and certification" means, but is not limited to,  
8 the inspection of any horticultural plant or product at any time prior  
9 to, during, or subsequent to harvest, by the director, and the issuance  
10 by him of a written permit to move or sell or a written certificate  
11 stating the grade, classification, and if such horticultural plants or  
12 products are free of plant pests and/or other defects.

13 (12) "Plant pests" means, but is not limited to, any living stage  
14 of any insects, mites, nematodes, slugs, snails, protozoa, or other  
15 invertebrate animals, bacteria, fungi, other parasitic plants or  
16 reproductive parts thereof, viruses, or any organisms similar to or  
17 allied with any of the foregoing, or any infectious substance, which  
18 can directly or indirectly injure or cause disease or damage in any  
19 plant or parts thereof, or any processed, manufactured, or other  
20 products of plants.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 15.17 RCW  
22 to read as follows:

23 The director shall, by rule, establish either grades or  
24 classifications, or both, for American ginseng (*Panax quinquefolius*  
25 L.). In establishing grades or classifications, the director shall  
26 take into account the factors of place of origin, whether the ginseng  
27 is wild or cultivated, weight, and date of harvest.

28 The director shall, by rule, require the registration of ginseng  
29 dealers who purchase and/or sell American ginseng for the purpose of  
30 foreign export. After determining that an applicant or registered  
31 ginseng dealer has violated this chapter and complying with the notice  
32 and hearing requirements and all other provisions of chapter 34.05 RCW  
33 concerning adjudicative proceedings, the director may deny, suspend, or  
34 revoke any dealer registration or application for registration issued  
35 under this chapter.

36 The director shall adopt rules requiring that records be maintained  
37 by dealers who purchase or sell American ginseng for the purpose of  
38 foreign export.

1 The director may adopt any other rules necessary to comply with the  
2 requirements of the Convention on International Trade in Endangered  
3 Species of Wild Fauna and Flora, (27 U.S.T. 108); the Endangered  
4 Species Act of 1973, as amended (16 U.S.C. 1531 et seq.); and 50  
5 C.F.R., Part 23 (1995), as they existed on the effective date of this  
6 act, or such subsequent date as may be provided by rule, consistent  
7 with the purposes of this section.

8 It is unlawful for a person to sell, offer for sale, hold for sale,  
9 or ship or transport American ginseng for foreign export in violation  
10 of this chapter or rules adopted under this chapter.

11 The department shall not disclose information obtained under this  
12 section regarding the purchases, sales, or production of an individual  
13 American ginseng dealer, except for providing reports to the United  
14 States fish and wildlife service. This information is exempt from  
15 public disclosure required by chapter 42.17 RCW.

16 **Sec. 3.** RCW 15.36.021 and 1994 c 143 s 103 are each amended to  
17 read as follows:

18 The director of agriculture (~~may~~) is authorized to:

19 (1) Adopt rules necessary to carry out the purposes of chapters  
20 15.36 and 15.38 RCW, which includes rules governing the farm storage  
21 tank and bulk milk tanker requirements, however the rules may not  
22 restrict the display or promotion of products covered under this  
23 section.

24 (2) By rule, establish, amend, or both, definitions and standards  
25 for milk and milk products. Such definitions and standards established  
26 by the director shall conform, insofar as practicable, with the  
27 definitions and standards for milk and milk products adopted by the  
28 federal food and drug administration. The director of agriculture, by  
29 rule, may likewise establish, amend, or both, definitions and standards  
30 for products whether fluid, powdered or frozen, compounded or  
31 manufactured to resemble or in semblance or imitation of genuine dairy  
32 products as defined under the provisions of this chapter. Such  
33 products made to resemble or in semblance or imitation of genuine dairy  
34 products shall conform with all the provisions of chapter 15.38 RCW and  
35 be made wholly of nondairy products.

36 All such products compounded or manufactured to resemble or in  
37 semblance or imitation of a genuine dairy product shall set forth on

1 the container or labels the specific generic name of each ingredient  
2 used.

3 In the event any product compounded or manufactured to resemble or  
4 in semblance or imitation of a genuine dairy product contains vegetable  
5 fat or oil, the generic name of such fat or oil shall be set forth on  
6 the label. If a blend or variety of oils is used, the ingredient  
7 statement shall contain the term "vegetable oil" in the appropriate  
8 place in the ingredient statement, with the qualifying phrase following  
9 the ingredient statement, such as "vegetable oils are soybean,  
10 cottonseed and coconut oils" or "vegetable oil, may be cottonseed,  
11 coconut or soybean oil."

12 The labels or containers of such products compounded or  
13 manufactured to resemble or in semblance or imitation of genuine dairy  
14 products shall not use dairy terms or words or designs commonly  
15 associated with dairying or genuine dairy products, except as to the  
16 extent that such words or terms are necessary to meet legal  
17 requirements for labeling. The term "nondairy" may be used as an  
18 informative statement.

19 (3) By rule adopt the PMO, DMO, and supplemental documents by  
20 reference to establish requirements for grade A pasteurized and grade  
21 A raw milk.

22 (4) Adopt rules establishing standards for grade A pasteurized and  
23 grade A raw milk that are more stringent than the PMO based upon  
24 current industry or public health information for the enforcement of  
25 this chapter whenever he or she determines that any such rules are  
26 necessary to carry out the purposes of this section and RCW 15.36.481.  
27 The adoption of rules under this chapter, or the holding of a hearing  
28 in regard to a license issued or that may be issued under this chapter  
29 are subject to the applicable provisions of chapter 34.05 RCW, the  
30 administrative procedure act.

31 (5) By rule, certify an officially designated laboratory to analyze  
32 milk for standard of quality, adulteration, contamination, and  
33 unwholesomeness.

34 **Sec. 4.** RCW 15.58.040 and 1991 c 264 s 2 are each amended to read  
35 as follows:

36 (1) The director shall administer and enforce the provisions of  
37 this chapter and rules adopted under this chapter. All the authority  
38 and requirements provided for in chapter 34.05 RCW (Administrative

1 Procedure Act) and chapter 42.30 RCW shall apply to this chapter in the  
2 adoption of rules including those requiring due notice and a hearing  
3 for the adoption of permanent rules.

4 (2) The director is authorized to adopt appropriate rules for  
5 carrying out the purpose and provisions of this chapter, including but  
6 not limited to rules providing for:

7 (a) Declaring as a pest any form of plant or animal life or virus  
8 which is injurious to plants, people, animals (domestic or otherwise),  
9 land, articles, or substances;

10 (b) Determining that certain pesticides are highly toxic to people.  
11 For the purpose of this chapter, highly toxic pesticide means any  
12 pesticide that conforms to the criteria in 40 C.F.R. Sec. 162.10 for  
13 toxicity category I due to oral inhalation or dermal toxicity. The  
14 director shall publish a list of all pesticides, determined to be  
15 highly toxic, by their common or generic name and their trade or brand  
16 name if practical. Such list shall be kept current and shall, upon  
17 request, be made available to any interested party;

18 (c) Determining standards for denaturing pesticides by color,  
19 taste, odor, or form;

20 (d) The collection and examination of samples of pesticides or  
21 devices;

22 (e) The safe handling, transportation, storage, display,  
23 distribution, and disposal of pesticides and their containers;

24 (f) Restricting or prohibiting the use of certain types of  
25 containers or packages for specific pesticides. These restrictions may  
26 apply to type of construction, strength, and/or size to alleviate  
27 danger of spillage, breakage, misuse, or any other hazard to the  
28 public. The director shall be guided by federal regulations concerning  
29 pesticide containers;

30 (g) Procedures in making of pesticide recommendations;

31 (h) Adopting a list of restricted use pesticides for the state or  
32 for designated areas within the state if the director determines that  
33 such pesticides may require rules restricting or prohibiting their  
34 distribution or use. The director may include in the rule the time and  
35 conditions of distribution or use of such restricted use pesticides and  
36 may, if it is found necessary to carry out the purpose and provisions  
37 of this chapter, require that any or all restricted use pesticides  
38 shall be purchased, possessed, or used only under permit of the  
39 director and under the director's direct supervision in certain areas

1 and/or under certain conditions or in certain quantities or  
2 concentrations. The director may require all persons issued such  
3 permits to maintain records as to the use of all the restricted use  
4 pesticides;

5 (i) Label requirements of all pesticides required to be registered  
6 under provisions of this chapter;

7 (j) Regulating the labeling of devices; (~~and~~)

8 (k) The establishment of criteria governing the conduct of a  
9 structural pest control inspection; and

10 (l) Declaring crops, when grown to produce seed specifically for  
11 crop reproduction purposes, to be nonfood and/or nonfeed sites of  
12 pesticide application. The director may include in the rule any  
13 restrictions or conditions regarding: (i) The application of  
14 pesticides to the designated crops; and (ii) the disposition of any  
15 portion of the treated crop.

16 (3) For the purpose of uniformity and to avoid confusion  
17 endangering the public health and welfare the director may adopt rules  
18 in conformity with the primary pesticide standards, particularly as to  
19 labeling, established by the United States environmental protection  
20 agency or any other federal agency.

21 **Sec. 5.** RCW 16.70.040 and 1971 c 72 s 4 are each amended to read  
22 as follows:

23 (1) The secretary, with the advice and concurrence of the director  
24 of the department of agriculture, shall be authorized to develop rules  
25 (~~and regulations~~) for proposed adoption by the board relating to the  
26 importation, movement, sale, transfer, or possession of pet animals as  
27 defined (~~herein~~) in RCW 16.70.020 which are reasonably necessary for  
28 the protection and welfare of the people of this state.

29 (2) The director of the department of agriculture shall also be  
30 authorized to adopt rules to allow administration of permits for those  
31 pet animals under subsection (1) of this section by the state  
32 veterinarian.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 42.17 RCW  
34 to read as follows:

35 Except under section 3 of this act, information obtained regarding  
36 the purchases, sales, or production of an individual American ginseng  
37 dealer is exempt from disclosure under this chapter.



Passed the House March 4, 1996.  
Passed the Senate March 1, 1996.  
Approved by the Governor March 28, 1996.  
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