

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5631

Chapter 25, Laws of 2012

62nd Legislature
2012 Regular Session

DEPARTMENT OF AGRICULTURE--OBSOLETE PROVISIONS

EFFECTIVE DATE: 06/07/12

Passed by the Senate February 13, 2012
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House February 28, 2012
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 7, 2012, 2:26 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5631** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 7, 2012

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5631

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senators Swecker, Hatfield, Haugen, and Shin)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to removing obsolete provisions in statutes
2 administered by the department of agriculture; amending RCW 69.04.331,
3 15.53.902, and 15.58.150; reenacting and amending RCW 22.09.830 and
4 16.24.120; reenacting RCW 16.65.440; and repealing RCW 15.58.370 and
5 19.94.505.

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

7 **Sec. 1.** RCW 69.04.331 and 1986 c 203 s 17 are each amended to read
8 as follows:

9 (1) If a theater or other commercial food service establishment
10 prepares and sells popcorn for human consumption, the establishment, at
11 the point of sale, shall disclose by posting a sign in a conspicuous
12 manner to prospective consumers a statement as to whether the butter or
13 butter-like flavoring added to or attributed to the popcorn offered for
14 sale is butter (~~as defined in RCW 15.32.010~~) or is some other
15 product. If the flavoring is some other product, the establishment
16 shall also disclose the ingredients of the product.

17 The director of agriculture shall adopt rules prescribing the size
18 and content of the sign upon which the disclosure is to be made. Any
19 popcorn sold by or offered for sale by such an establishment to a

1 consumer in violation of this section or the rules of the director
2 implementing this section shall be deemed to be misbranded for the
3 purposes of this chapter.

4 (2) The provisions of subsection (1) of this section do not apply
5 to packaged popcorn labeled so as to disclose ingredients as required
6 by law for prepackaged foods.

7 (3) For purposes of this section, "butter" is defined as the food
8 product usually known as butter, and which is made exclusively from
9 milk or cream, or both, with or without common salt, and with or
10 without additional coloring matter, and containing not less than eighty
11 percent by weight or milkfat, all tolerance having been allowed for.

12 **Sec. 2.** RCW 15.53.902 and 2005 c 40 s 1 are each amended to read
13 as follows:

14 It is unlawful for any person to distribute an adulterated feed.
15 A commercial feed is deemed to be adulterated:

16 (1) If it bears or contains any poisonous or deleterious substance
17 which may render it injurious to health; but in case the substance is
18 not an added substance, such commercial feed shall not be considered
19 adulterated under this subsection if the quantity of such substance in
20 such commercial feed does not ordinarily render it injurious to health;
21 or

22 (2) If it bears or contains any added poisonous, added deleterious,
23 or added nonnutritive substance which is unsafe within the meaning of
24 section 406 of the federal food, drug, and cosmetic act (other than one
25 which is (a) a pesticide chemical in or on a raw agricultural
26 commodity; or (b) a food additive); or

27 (3) If it is, or it bears, or contains any food additive which is
28 unsafe within the meaning of section 409 of the federal food, drug, and
29 cosmetic act (21 U.S.C. Sec. 348); or

30 (4) If it is ruminant feed and is, bears, or contains any animal
31 protein prohibited in ruminant feed that is unsafe within the meaning
32 of federal regulations promulgated under section 409 of the federal
33 food, drug, and cosmetic act (21 U.S.C. Sec. 348); or

34 (5) If it is a raw agricultural commodity and it bears or contains
35 a pesticide chemical which is unsafe within the meaning of section
36 408(a) of the federal food, drug, and cosmetic act: PROVIDED, That
37 where a pesticide chemical has been used in or on a raw agricultural

1 commodity in conformity with an exemption granted or a tolerance
2 prescribed under section 408 of the federal food, drug, and cosmetic
3 act and such raw agricultural commodity has been subjected to
4 processing such as canning, cooking, freezing, dehydrating, or milling,
5 the residue of such pesticide chemical remaining in or on such
6 processed feed shall not be deemed unsafe if such residue in or on the
7 raw agricultural commodity has been removed to the extent possible in
8 good manufacturing practice and the concentration of such residue in
9 the processed feed is not greater than the tolerance prescribed for the
10 raw agricultural commodity unless the feeding of such processed feed
11 will result or is likely to result in a pesticide residue in the edible
12 product of the animal, which is unsafe within the meaning of section
13 408(a) of the federal food, drug, and cosmetic act; or

14 (6) If it is, or it bears or contains any color additive which is
15 unsafe within the meaning of section (~~706~~) 721 of the federal food,
16 drug, and cosmetic act (21 U.S.C. Sec. 379e); or

17 (7) If it is, or it bears or contains any new animal drug that is
18 unsafe within the meaning of section 512 of the federal food, drug, and
19 cosmetic act (21 U.S.C. Sec. 360b); or

20 (8) If any valuable constituent has been in whole or in part
21 omitted or abstracted therefrom or any less valuable substance
22 substituted therefor; or

23 (9) If its composition or quality falls below or differs from that
24 which it is purported or is represented to possess by its labeling; or

25 (10) If it contains a drug and the methods used in or the
26 facilities or controls used for its manufacture, processing, or
27 packaging do not conform to current good manufacturing practice rules
28 adopted by the department to assure that the drug meets the
29 requirements of this chapter as to safety and has the identity and
30 strength and meets the quality and purity characteristics that it
31 purports or is represented to possess. In adopting such rules, the
32 department shall adopt the current good manufacturing practice
33 regulations for type A medicated articles and type B and type C
34 medicated feeds established under authority of the federal food, drug,
35 and cosmetic act, unless the department determines that they are not
36 appropriate to the conditions that exist in this state; or

37 (11) If it contains viable, prohibited (primary) noxious weed seeds
38 in excess of one per pound, or if it contains viable, restricted

1 (secondary) noxious weed seeds in excess of twenty-five per pound. The
2 primary and secondary noxious weed seeds shall be those as named
3 pursuant to the provisions of chapter 15.49 RCW and rules adopted
4 thereunder.

5 **Sec. 3.** RCW 16.65.440 and 2003 c 326 s 89 and 2003 c 53 s 116 are
6 each reenacted to read as follows:

7 (1) Except as provided in subsection (2) of this section, any
8 person who violates any provisions or requirements of this chapter or
9 rules adopted by the director pursuant to this chapter is guilty of a
10 misdemeanor.

11 (2) A second or subsequent violation is a gross misdemeanor.

12 **Sec. 4.** RCW 22.09.830 and 1994 sp.s. c 6 s 901 and 1994 c 46 s 6
13 are each reenacted and amended to read as follows:

14 (1) All moneys collected as fees for weighing, grading, and
15 inspecting commodities and all other fees collected under the
16 provisions of this chapter, except as provided in subsections (2) and
17 (3) of this section, shall be deposited in the grain inspection
18 revolving fund, which is hereby established. The state treasurer is
19 the custodian of the revolving fund. Disbursements from the revolving
20 fund shall be on authorization of the director of the department of
21 agriculture. The revolving fund is subject to the allotment procedure
22 provided in chapter 43.88 RCW, but no appropriation is required for
23 disbursements from the fund. The fund shall be used for all expenses
24 directly incurred by the grain inspection program in carrying out the
25 provisions of this chapter (~~and for departmental administrative~~
26 ~~expenses during the 1993-95 biennium. The department may use so much~~
27 ~~of such fund not exceeding five percent thereof as the director of~~
28 ~~agriculture may determine necessary for research and promotional work,~~
29 ~~including rate studies, relating to wheat and wheat products)).~~

30 (2) All fees collected for the inspection, grading, and testing of
31 hops shall be deposited into the hop inspection fund, which is hereby
32 established, and shall be retained by the department for the purpose of
33 inspecting, grading, and testing hops. Any moneys in any fund retained
34 by the department on July 1, 1963, and derived from hop inspection and
35 grading shall be deposited to this hop inspection fund. For the
36 purposes of research which would contribute to the development of

1 superior hop varieties and to improve hop production and harvest
2 practices, the department may expend up to twenty percent of the moneys
3 deposited in the hop inspection fund during the fiscal year ending June
4 30th immediately preceding the year in which such expenditures are to
5 be made. No expenditures shall be made under the provisions of this
6 subsection when the hop inspection fund is, or the director may
7 reasonably anticipate that it will be, reduced below twenty thousand
8 dollars as the result of such expenditure or other necessary
9 expenditures made to carry out the inspection, grading, and testing of
10 hops.

11 (3) All moneys collected by the grain warehouse audit program,
12 including grain warehouse license fees pursuant to RCW 22.09.050 and
13 22.09.055, shall be deposited by the director into the grain warehouse
14 audit account, hereby created within the agricultural local fund
15 established in RCW 43.23.230. Moneys collected shall be used to
16 support the grain warehouse audit program.

17 **Sec. 5.** RCW 16.24.120 and 2011 c 336 s 419 and 2011 c 103 s 11 are
18 each reenacted and amended to read as follows:

19 Upon taking possession of any livestock at large contrary to the
20 provisions of this chapter (~~(16.24-RCW)~~), or any unclaimed livestock
21 submitted or impounded, by any person, at any public livestock market
22 or any other facility approved by the director, the sheriff or brand
23 inspector shall cause it to be transported to and impounded at the
24 nearest public livestock market licensed under chapter 16.65 RCW or at
25 such place as approved by the director. If the sheriff has impounded
26 an animal in accordance with this section, he or she shall forthwith
27 notify the nearest brand inspector of the department of agriculture,
28 who shall examine the animal and, by brand, tattoo, or other
29 identifying characteristic, shall attempt to ascertain the ownership
30 thereof.

31 **Sec. 6.** RCW 15.58.150 and 2003 c 212 s 3 are each amended to read
32 as follows:

33 (1) It is unlawful for any person to distribute within the state or
34 deliver for transportation or transport in intrastate commerce or
35 between points within this state through any point outside this state
36 any of the following:

1 (a) Any pesticide which has not been registered pursuant to the
2 provisions of this chapter;

3 (b) Any pesticide if any of the claims made for it or any of the
4 directions for its use or other labeling differs from the
5 representations made in connection with its registration, or if the
6 composition of a pesticide differs from its composition as represented
7 in connection with its registration: PROVIDED, That at the discretion
8 of the director, a change in the labeling or formula of a pesticide may
9 be made within a registration period without requiring reregistration
10 of the product;

11 (c) Any pesticide unless it is in the registrant's or the
12 manufacturer's unbroken immediate container and there is affixed to
13 such container, and to the outside container or wrapper of the retail
14 package, if there is one through which the required information on the
15 immediate container cannot be clearly read, a label bearing the
16 information required in this chapter and the rules adopted under this
17 chapter;

18 (d) Any pesticide (~~((including arsenicals, fluorides, fluosilicates,~~
19 ~~and/or any other white powdered pesticides))~~) unless (~~((they have))~~) it
20 has been distinctly denatured as to color, taste, odor, or form if so
21 required by rule;

22 (e) Any pesticide which is adulterated or misbranded, or any device
23 which is misbranded;

24 (f) Any pesticide in containers, violating rules adopted pursuant
25 to RCW 15.58.040(2)(f) or pesticides found in containers which are
26 unsafe due to damage.

27 (2) It shall be unlawful:

28 (a) To sell or deliver any pesticide to any person who is required
29 by law or rules promulgated under such law to be certified, licensed,
30 or have a permit to use or purchase the pesticide unless such person or
31 the person's agent, to whom sale or delivery is made, has a valid
32 certification, license, or permit to use or purchase the kind and
33 quantity of such pesticide sold or delivered: PROVIDED, That, subject
34 to conditions established by the director, such permit may be obtained
35 immediately prior to sale or delivery from any person designated by the
36 director;

37 (b) For any person to detach, alter, deface or destroy, wholly or
38 in part, any label or labeling provided for in this chapter or rules

1 adopted under this chapter, or to add any substance to, or take any
2 substance from, a pesticide in a manner that may defeat the purpose of
3 this chapter or the rules adopted thereunder;

4 (c) For any person to use or cause to be used any pesticide
5 contrary to label directions or to regulations of the director if those
6 regulations differ from or further restrict the label directions:
7 PROVIDED, The compliance to the term "contrary to label directions" is
8 enforced by the director consistent with the intent of this chapter;

9 (d) For any person to use for his or her own advantage or to
10 reveal, other than to the director or proper officials or employees of
11 the state, or to the courts of the state in response to a subpoena, or
12 to physicians, or in emergencies to pharmacists and other qualified
13 persons for use in the preparation of antidotes, any information
14 relative to formulas of products acquired by authority of RCW
15 15.58.060;

16 (e) For any person to make false, misleading, or erroneous
17 statements or reports concerning any pest during or after a pest
18 inspection or to fail to comply with criteria established by rule for
19 structural pest inspections;

20 (f) For any person to make false, misleading, or erroneous
21 statements or reports in connection with any pesticide complaint or
22 investigation;

23 (g) For any person to act as, or advertise that they perform the
24 services of, a structural pest inspector without having a license to
25 act as a structural pest inspector;

26 (h) For a business to conduct one or more complete wood destroying
27 organism inspections without first having obtained a structural pest
28 inspection company license from the department.

29 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
30 repealed:

31 (1) RCW 15.58.370 (Results of analyses to be published) and 1971
32 ex.s. c 190 s 37; and

33 (2) RCW 19.94.505 (Gasoline containing alcohol--Dispensing device
34 label required--Carbon monoxide nonattainment area--Penalty) and 2000
35 c 171 s 65, 1992 c 237 s 34, & 1984 c 61 s 1.

Passed by the Senate February 13, 2012.

Passed by the House February 28, 2012.

Approved by the Governor March 7, 2012.

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