

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1538

Chapter 204, Laws of 2011

(partial veto)

62nd Legislature
2011 Regular Session

ANIMAL DISEASE TRACEABILITY

EFFECTIVE DATE: 07/22/11

Passed by the House April 13, 2011
Yeas 95 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 7, 2011
Yeas 43 Nays 4

BRAD OWEN

President of the Senate

Approved April 29, 2011, 3:51 p.m., with
the exception of Section 5 which was
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is
SUBSTITUTE HOUSE BILL 1538 as
passed by the House of
Representatives and the Senate on
the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 29, 2011

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1538

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Buys, Blake, Chandler, Taylor, Orcutt, Hinkle, Haler, Johnson, and Warnick)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to animal health inspections; amending RCW
2 16.36.025, 16.58.100, 43.23.230, 16.36.040, 16.36.050, 16.36.060,
3 16.36.113, 16.36.140, 16.57.160, and 16.57.360; reenacting and amending
4 RCW 16.36.005; adding new sections to chapter 16.36 RCW; adding a new
5 section to chapter 16.57 RCW; and prescribing penalties.

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

7 **Sec. 1.** RCW 16.36.025 and 1998 c 8 s 19 are each amended to read
8 as follows:

9 The director may collect moneys to recover the reasonable costs of
10 purchasing, printing, and distributing ((certificates)) official
11 individual identification devices or methods, regulatory forms, and
12 other supplies ((to veterinarians)). All funds received under this
13 section must be deposited in the animal disease traceability account in
14 the agricultural local fund created in RCW 43.23.230 to cover the costs
15 associated with this chapter.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 16.36 RCW
17 to read as follows:

18 (1) The director shall adopt by rule a fee per head on cattle sold

1 or slaughtered in the state or transported out of the state to
2 administer animal disease traceability activities for cattle. The fee
3 must be paid by:

4 (a) Sellers of cattle sold in the state, without exception;

5 (b) Owners of cattle that are transported out of Washington, unless
6 an exception is provided by rule; and

7 (c) Owners of cattle slaughtered in the state.

8 (2) The fee adopted by the department may not exceed forty cents
9 per head of cattle.

10 (3)(a) Except where the seller presents proof that the fee has been
11 paid by a meat processor under (c) of this subsection, the fee required
12 in this section must be paid by the owner of cattle receiving a
13 livestock inspection issued by the department under chapter 16.57 RCW
14 in the same manner as livestock inspection fees are collected under RCW
15 16.57.220.

16 (b) The fee required in this section must be paid from the owner of
17 cattle not receiving a livestock inspection issued by the department
18 under chapter 16.57 RCW by the fifteenth day of the month following the
19 month the sale or transportation out of state occurred, or at a
20 different time as designated by rule.

21 (c) When cattle are slaughtered, the fee required by this section
22 must be collected from the seller of the cattle by the meat processor.
23 The meat processor must transmit the fee to the department by the
24 fifteenth day of the month following the month the transaction
25 occurred, or at a different time as designated by rule. When cattle
26 owned by a meat processor are slaughtered, the fee must be paid by the
27 meat processor.

28 (4) All fees received by the department under this section must be
29 deposited in the animal disease traceability account in the
30 agricultural local fund created in RCW 43.23.230 to carry out animal
31 disease traceability activities for cattle and to compensate the
32 livestock identification program for data and fee collection.

33 (5) Any person failing to pay the fee established in this section
34 has committed a class 1 civil infraction punishable as provided in RCW
35 7.80.120. Each violation is a separate and distinct offense.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 16.36 RCW
37 to read as follows:

1 By December 1st of each year, the department shall submit an
2 activity report and financial statement on the implementation of the
3 animal disease traceability activities to the animal disease
4 traceability advisory committee created in section 5 of this act.

5 **Sec. 4.** RCW 16.58.100 and 2003 c 326 s 54 are each amended to read
6 as follows:

7 (1) The director shall conduct audits of the cattle received, fed,
8 handled, and shipped by the licensee at each certified feed lot. These
9 audits shall be for the purpose of determining if the cattle correlate
10 with the inspection certificates issued in their behalf and that the
11 certificate of assurance furnished the director by the licensee
12 correlates with his or her assurance that inspected cattle were not
13 commingled with uninspected cattle.

14 (2) The department shall conduct an audit to determine compliance
15 with section 2 of this act at the time of conducting audits under
16 subsection (1) of this section.

17 ***NEW SECTION.** **Sec. 5.** **A new section is added to chapter 16.36 RCW**
18 **to read as follows:**

19 **(1) The director shall establish an animal disease traceability**
20 **advisory committee that will serve in an advisory capacity to the**
21 **director and must meet at least twice a year.**

22 **(2) The animal disease traceability advisory committee is composed**
23 **of eight members appointed by the director. Two members must represent**
24 **cow-calf producers, and one member must represent each of the following**
25 **groups: Cattle feeders, dairy farmers, public livestock markets, meat**
26 **processors, and a statewide agricultural association. The director or**
27 **the director's designee must also serve on the animal disease**
28 **traceability advisory committee. In making appointments, the director**
29 **shall solicit nominations from organizations representing these groups**
30 **statewide. The animal disease traceability advisory committee shall**
31 **elect a member to serve as chair of the animal disease traceability**
32 **advisory committee.**

33 **(3) Membership of the animal disease traceability advisory**
34 **committee may be expanded by a unanimous vote of its members.**

35 **(4) The animal disease traceability advisory committee must work**

1 with the director to develop a plan to implement as quickly as
2 practicable the electronic transfer of traceability data.

3 (5) Animal disease traceability advisory committee members must
4 also work with the director to:

5 (a) Communicate effectively to their respective industry
6 associations as to the progress of the animal disease traceability
7 activities and to encourage the state's cattle industry to participate
8 in the animal disease traceability program;

9 (b) Utilize new technology within the department and industry that
10 enhances the animal disease traceability program within existing
11 funding;

12 (c) Study national industry trends in traceability of animal
13 movements and related animal health issues; and

14 (d) Discuss other matters as mutually agreed upon by the director
15 and the animal disease traceability advisory committee for the benefit
16 of the animal disease traceability program.

17 (6) Animal disease traceability advisory committee members serve
18 three-year terms. However, the director shall by rule provide shorter
19 initial terms for some of the members of the animal disease
20 traceability advisory committee to stagger the expiration of the
21 initial terms. The members serve without compensation.

*Sec. 5 was vetoed. See message at end of chapter.

22 **Sec. 6.** RCW 16.36.005 and 2010 c 66 s 1 are each reenacted and
23 amended to read as follows:

24 The definitions in this section apply throughout this chapter
25 unless the context clearly requires otherwise.

26 (1) "Animal" means all members of the animal kingdom except humans,
27 fish, and insects. However, "animal" does not mean noncaptive wildlife
28 as defined in RCW 77.08.010, except as used in RCW 16.36.050(1) and
29 16.36.080 (1), (2), (3), and (5).

30 (2) "Animal reproductive product" means sperm, ova, fertilized ova,
31 and embryos from animals.

32 (3) "Certificate of veterinary inspection" means a legible
33 veterinary health inspection certificate on an official electronic or
34 paper form from the state of origin or from the animal and plant health
35 inspection service (APHIS) of the United States department of
36 agriculture, executed by a licensed and accredited veterinarian or a

1 veterinarian approved by the animal and plant health inspection
2 service. "Certificate of veterinary inspection" is also known as an
3 "official health certificate."

4 (4) "Communicable disease" means a disease due to a specific
5 infectious agent or its toxic products transmitted from an infected
6 person, animal, or inanimate reservoir to a susceptible host, either
7 directly or indirectly through an intermediate plant or animal host,
8 vector, or the environment.

9 (5) "Contagious disease" means a communicable disease that is
10 capable of being easily transmitted from one animal to another animal
11 or a human.

12 (6) "Department" means the department of agriculture of the state
13 of Washington.

14 (7) "Deputized state veterinarian" means a Washington state
15 licensed and accredited veterinarian appointed and compensated by the
16 director according to state law and department policies.

17 (8) "Director" means the director of the department or his or her
18 authorized representative.

19 (9) "Farm-raised fish" means fish raised by aquaculture as defined
20 in RCW 15.85.020. Farm-raised fish are considered to be a part of
21 animal agriculture; however, disease inspection, prevention, and
22 control programs and related activities for farm-raised fish are
23 administered by the department of fish and wildlife under chapter
24 77.115 RCW.

25 (10) "Garbage" means the solid animal and vegetable waste and offal
26 together with the natural moisture content resulting from the handling,
27 preparation, or consumption of foods in houses, restaurants, hotels,
28 kitchens, markets, meat shops, packing houses and similar
29 establishments or any other food waste containing meat or meat
30 products.

31 (11) "Herd or flock plan" means a written management agreement
32 between the owner of a herd or flock and the state veterinarian, with
33 possible input from a private accredited veterinarian designated by the
34 owner and the area veterinarian-in-charge of the United States
35 department of agriculture, animal and plant health inspection service,
36 veterinary services in which each participant agrees to undertake
37 actions specified in the herd or flock plan to control the spread of

1 infectious, contagious, or communicable disease within and from an
2 infected herd or flock and to work toward eradicating the disease in
3 the infected herd or flock.

4 (12) "Hold order" means an order by the director to the owner or
5 agent of the owner of animals or animal reproductive products which
6 restricts the animals or products to a designated holding location
7 pending an investigation by the director of the disease, disease
8 exposure, well-being, movement, or import status of the animals or
9 animal reproductive products.

10 (13) "Infectious agent" means an organism including viruses,
11 rickettsia, bacteria, fungi, protozoa, helminthes, or prions that is
12 capable of producing infection or infectious disease.

13 (14) "Infectious disease" means a clinical disease of humans or
14 animals resulting from an infection with an infectious agent that may
15 or may not be communicable or contagious.

16 (15) "Livestock" means horses, mules, donkeys, cattle, bison,
17 sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry,
18 waterfowl, game birds, and other species so designated by statute.
19 "Livestock" does not mean free ranging wildlife as defined in Title 77
20 RCW.

21 (16) "Person" means a person, persons, firm, or corporation.

22 (17) "Quarantine" means the placing and restraining of any animal
23 or its reproductive products by the owner or agent of the owner within
24 a certain described and designated enclosure or area within this state,
25 or the restraining of any animal or its reproductive products from
26 entering this state, as may be directed in an order by the director.

27 (18) "Reportable disease" means a disease designated by rule by the
28 director as reportable to the department by veterinarians and others
29 made responsible to report by statute.

30 (19) "Veterinary biologic" means any virus, serum, toxin, and
31 analogous product of natural or synthetic origin, or product prepared
32 from any type of genetic engineering, such as diagnostics, antitoxins,
33 vaccines, live microorganisms, killed microorganisms, and the antigenic
34 or immunizing components intended for use in the diagnosis, treatment,
35 or prevention of diseases in animals.

36 (20) "Meat processors" means a person licensed to operate a
37 slaughtering establishment under chapter 16.49 RCW or the federal meat
38 inspection act (21 U.S.C. Sec. 601 et seq.).

1 (21) "Sold" means sale, trade, gift, barter, or any other action
2 that constitutes a change of ownership.

3 **Sec. 7.** RCW 43.23.230 and 1988 c 254 s 1 are each amended to read
4 as follows:

5 (1) The agricultural local fund is hereby established in the
6 custody of the state treasurer. The fund shall consist of such money
7 as is directed by law for deposit in the fund, and such other money not
8 subject to appropriation that the department authorizes to be deposited
9 in the fund. Any money deposited in the fund, the use of which has
10 been restricted by law, may only be expended in accordance with those
11 restrictions. The department may make disbursements from the fund.
12 The fund is not subject to legislative appropriation.

13 (2) There is created within the agricultural local fund the animal
14 disease traceability account which must be used to account for the
15 costs associated with the implementation of chapter 16.36 RCW.

16 **Sec. 8.** RCW 16.36.040 and 1998 c 8 s 4 are each amended to read as
17 follows:

18 (1) The director may adopt and enforce rules necessary to carry out
19 the purpose and provisions of this chapter, and including:

20 (a) Preventing the introduction or spreading of infectious,
21 contagious, communicable, or dangerous diseases affecting animals in
22 this state;

23 (b) Governing the inspection and testing of all animals within or
24 about to be imported into this state; ~~((and))~~

25 (c) Designating any disease as a reportable disease; and

26 (d) Designating when a certificate of veterinary inspection, import
27 health papers, permits, or other transportation documents required by
28 law or rule must designate a destination with a physical address for
29 animals entering Washington and when those animals must be delivered or
30 transported directly to the physical address of that destination.

31 (2) Rules to prevent the introduction or spread of infectious,
32 contagious, communicable, or dangerous diseases affecting animals in
33 this state may differ from federal regulations by being more
34 restrictive.

1 **Sec. 9.** RCW 16.36.050 and 2010 c 66 s 2 are each amended to read
2 as follows:

3 (1) It is unlawful for a person to bring an animal into Washington
4 state without first securing a certificate of veterinary inspection,
5 reviewed by the state veterinarian of the state of origin, verifying
6 that the animal meets the Washington state animal health requirements.
7 This subsection does not apply to:

8 (a) ~~((Livestock, which are governed by))~~ Those animals that qualify
9 for an exemption in RCW 16.36.140; or

10 (b) Other animals exempted by the director by rule.

11 (2) For animals imported into Washington it is unlawful for a
12 person to transport or deliver an animal to any physical address other
13 than the physical address of the destination designated by a
14 certificate of veterinary inspection, import health papers, permits, or
15 other transportation documents required by law or rule. The director
16 may exempt animals from this requirement by rule.

17 (3) It is unlawful for a person to intentionally falsely make,
18 complete, alter, use, or sign a certificate of veterinary inspection or
19 official animal health document of the department.

20 ~~((+3))~~ (4) It is unlawful for a person to intentionally falsely
21 apply, alter, or remove an official animal health or official animal
22 identification tag, permanent mark, or other device.

23 ~~((+4))~~ (5) It is unlawful for a person to willfully hinder,
24 obstruct, or resist the director, or any peace officer or deputized
25 state veterinarian acting under him or her, when engaged in the
26 performance of their duties.

27 ~~((+5))~~ (6) It is unlawful for a person to willfully fail to comply
28 with or to violate any rule or order adopted by the director under this
29 chapter.

30 **Sec. 10.** RCW 16.36.060 and 2010 c 66 s 4 are each amended to read
31 as follows:

32 (1) The director has the authority to enter a property at any
33 reasonable time to:

34 (a) Conduct tests, examinations, or inspections to take samples,
35 and to examine and copy records when there is reasonable cause to
36 investigate whether animals on the property or that have been on the
37 property are infected with or have been exposed to disease; and

1 (b) Determine, when there is reasonable cause to investigate,
2 whether (~~livestock~~) animals on the property have been imported into
3 Washington state in violation of requirements of this chapter, and to
4 conduct tests, examinations, and inspections, take samples, and examine
5 and copy records during such investigations.

6 (2) It is unlawful for any person to interfere with investigations,
7 tests, inspections, or examinations, or to alter any segregation or
8 identification systems made in connection with tests, inspections, or
9 examinations conducted pursuant to subsection (1) of this section.

10 (3) If the director is denied access to a property or animals for
11 purposes of this chapter, or a person fails to comply with an order of
12 the director, the director may apply to a court of competent
13 jurisdiction for a search warrant. To show that access is denied, the
14 director shall file with the court an affidavit or declaration
15 containing a description of all attempts to notify and locate the owner
16 or owner's agent and secure consent. The court may issue a search
17 warrant authorizing access to any animal or property at reasonable
18 times to conduct investigations, tests, inspections, or examinations of
19 any animal or property, or to take samples, and examine and copy
20 records, and may authorize seizure or destruction of property.

21 **Sec. 11.** RCW 16.36.113 and 2007 c 71 s 4 are each amended to read
22 as follows:

23 (1) Any person in violation of this chapter or its rules may be
24 subject to a civil penalty in an amount of not more than one thousand
25 dollars for each violation. Each violation is a separate and distinct
26 offense. Every person who, through an act of commission or omission,
27 procures, aids, or abets in the violation is in violation of this
28 chapter or its rules and may be subject to the civil penalty provided
29 in this section. Moneys collected under this section must be deposited
30 in the state general fund.

31 (2) The department may charge a time and mileage fee for the cost
32 of an investigation including inspecting animals and related records
33 during an investigation of a proven violation of this chapter. The fee
34 may be up to eighty-five dollars per hour and the current mileage rate
35 set by the office of financial management. The director may increase
36 the hourly fee by rule as necessary to cover costs of investigations.

1 All fees collected pursuant to this subsection shall be deposited in an
2 account in the agricultural local fund and used to carry out the
3 purposes of this chapter.

4 **Sec. 12.** RCW 16.36.140 and 2010 c 66 s 3 are each amended to read
5 as follows:

6 (1) It is unlawful for a person to bring ((livestock)) an animal
7 into Washington state without first securing a certificate of
8 veterinary inspection, reviewed by the state veterinarian of the state
9 of origin, verifying that the ((livestock)) animal meets Washington
10 state animal health requirements. This subsection does not apply to
11 ((livestock)) animals that:

12 (a) Have been exempted by the director by rule; or
13 (b) Will be delivered within twelve hours after entry into
14 Washington state to:

15 (i) An approved, inspected feed lot for slaughter;
16 (ii) A federally inspected slaughter plant; or
17 (iii) A licensed public livestock market for sale and subsequent
18 delivery within twelve hours to:

19 (A) An approved, inspected feed lot for slaughter; or
20 (B) A federally inspected slaughter plant.

21 (2) The director may monitor ((livestock)) animals entering
22 Washington state. Persons importing, transporting, receiving, feeding,
23 or housing imported ((livestock)) animals shall:

24 (a) Comply with the requirement and any exemptions specified in
25 subsection (1) of this section; and

26 (b) Make the ((livestock)) animal and related records available for
27 inspection by the director.

28 ~~(3) ((The department may charge a time and mileage fee for~~
29 ~~inspecting livestock and related records during an investigation of a~~
30 ~~proven violation of this section. The fee is eighty five dollars per~~
31 ~~hour and the current mileage rate set by the office of financial~~
32 ~~management. The director may increase the hourly fee by rule as~~
33 ~~necessary to cover costs of investigations. All fees collected~~
34 ~~pursuant to this subsection shall be deposited in an account in the~~
35 ~~agricultural local fund and used to carry out the purposes of this~~
36 ~~chapter.~~

1 ~~(4))~~) The director may adopt and enforce rules necessary to carry
2 out the purpose and provisions of this section.

3 **Sec. 13.** RCW 16.57.160 and 2010 c 66 s 6 are each amended to read
4 as follows:

5 (1) The director may adopt rules:

6 (a) Designating any point for mandatory inspection of cattle or
7 horses or the furnishing of proof that cattle or horses passing or
8 being transported through the point have been inspected or identified
9 and are lawfully being transported;

10 (b) Providing for issuance of individual horse and cattle
11 identification certificates or other means of horse and cattle
12 identification; ~~((and))~~

13 (c) Designating the documents that constitute other satisfactory
14 proof of ownership for cattle and horses. A bill of sale may not be
15 designated as documenting satisfactory proof of ownership for cattle;
16 and

17 (d) Designating when inspection certificates, certificates of
18 permit, or other transportation documents required by law or rule must
19 designate a physical address of a destination. Cattle and horses must
20 be delivered or transported directly to the physical address of that
21 destination.

22 (2) A self-inspection certificate may be accepted as satisfactory
23 proof of ownership for cattle if the director determines that the self-
24 inspection certificate, together with other available documentation,
25 sufficiently establishes ownership. Self-inspection certificates
26 completed after June 10, 2010, are not satisfactory proof of ownership
27 for cattle.

28 NEW SECTION. **Sec. 14.** A new section is added to chapter 16.57 RCW
29 to read as follows:

30 It is unlawful for a person to transport or deliver cattle or
31 horses to any destination other than the physical address of the
32 destination designated on an inspection certificate, certificate of
33 permit, or other transportation document when required by law or rule.
34 The director may exempt cattle and horses from this requirement by
35 rule.

1 **Sec. 15.** RCW 16.57.360 and 2003 c 326 s 42 are each amended to
2 read as follows:

3 (1)(a) The department is authorized to issue notices of and enforce
4 civil infractions in the manner prescribed under chapter 7.80 RCW.

5 (b) The violation of any provision of this chapter and/or rules
6 adopted under this chapter shall constitute a class I civil infraction
7 as provided under chapter 7.80 RCW unless otherwise specified herein.

8 (2) The department may charge a time and mileage fee for the cost
9 of an investigation including inspecting animals and related records
10 during an investigation of a proven violation of this chapter. The fee
11 may be up to eighty-five dollars per hour and the current mileage rate
12 set by the office of financial management. The director may increase
13 the hourly fee by rule as necessary to cover costs of investigations.
14 All fees collected pursuant to this subsection shall be deposited in an
15 account in the agricultural local fund and used to carry out the
16 purposes of this chapter.

Passed by the House April 13, 2011.

Passed by the Senate April 7, 2011.

Approved by the Governor April 29, 2011, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 29, 2011.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 5,
Substitute House Bill 1538 entitled:

"AN ACT Relating to animal health inspections."

Section 5 of this bill establishes a formal Animal Disease
Traceability Advisory Committee to serve in an advisory capacity to
the Department of Agriculture for this program. I am vetoing Section
5 of this bill. I understand the importance of involving livestock
growers, feeders, farmers, and business interests in guiding this
disease traceability program, but that does not necessitate creating a
formal committee in statute. However, along with this veto, I am
directing the director of the Department of Agriculture to convene an
informal advisory group made up of key livestock industry
representatives to assist the department as it implements the animal
disease traceability program.

For these reasons, I have vetoed Section 5 of Substitute House Bill
1538.

With the exception of Section 5 Substitute House Bill 1538 is approved."