

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1955**

52nd Legislature  
1991 Regular Session

Passed by the House March 19, 1991  
Yeas 98 Nays 0

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**Speaker of the  
House of Representatives**

Passed by the Senate April 9, 1991  
Yeas 47 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1955** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

Secretary of State  
State of Washington



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HOUSE BILL 1955

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Passed Legislature - 1991 Regular Session

State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Rayburn, Nealey, Kremen, McLean, Roland, Inslee, Rasmussen, Basich and Brekke; by request of Department of Agriculture.

Read first time February 15, 1991.                      Referred to Committee on Agriculture & Rural Development.

1            AN ACT Relating to the uniform Washington food, drug, and cosmetic  
2 act; amending RCW 69.04.001, 69.04.110, 69.04.120, 69.04.398, and  
3 69.04.780; adding a new section to chapter 69.04 RCW; and prescribing  
4 penalties.

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

6            **Sec. 1.** RCW 69.04.001 and 1945 c 257 s 2 are each amended to read  
7 as follows:

8            This chapter is intended to enact state legislation (1) which  
9 safeguards the public health and promotes the public welfare by  
10 protecting the consuming public from ~~((injury by product use))~~ (a)  
11 potential injury by product use; (b) products that are adulterated; or  
12 (c) products that have been produced under unsanitary conditions, and  
13 the purchasing public from injury by merchandising deceit~~((  ))~~ flowing  
14 from intrastate commerce in food, drugs, devices, and cosmetics; and  
15 (2) which is uniform, as provided in this chapter, with the federal

1 food, drug, and cosmetic act; and with the federal trade commission  
2 act, to the extent it expressly outlaws the false advertisement of  
3 food, drugs, devices, and cosmetics; and (3) which thus promotes  
4 uniformity of such law and its administration and enforcement, in and  
5 throughout the United States.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 69.04 RCW  
7 to read as follows:

8 Whenever the director finds that a person has committed a violation  
9 of a provision of this chapter, the director may impose upon and  
10 collect from the violator a civil penalty not exceeding one thousand  
11 dollars per violation per day. Each and every such violation shall be  
12 a separate and distinct offense. Imposition of the civil penalty shall  
13 be subject to a hearing in conformance with chapter 34.05 RCW.

14 **Sec. 3.** RCW 69.04.110 and 1975 1st ex.s. c 7 s 25 are each amended  
15 to read as follows:

16 Whenever the director shall find, or shall have probable cause to  
17 believe, that an article subject to this chapter is in intrastate  
18 commerce in violation of this chapter, and that its embargo under this  
19 section is required to protect the consuming or purchasing public, due  
20 to its being adulterated or misbranded, or to otherwise protect the  
21 public from injury, or possible injury, he or she is hereby authorized  
22 to affix to such article a notice of its embargo and against its sale  
23 in intrastate commerce, without permission given under this chapter.  
24 But if, after such article has been so embargoed, the director shall  
25 find that such article does not involve a violation of this chapter,  
26 such embargo shall be forthwith removed.

1       **Sec. 4.** RCW 69.04.120 and 1983 c 95 s 8 are each amended to read  
2 as follows:

3       When the director has embargoed an article, he or she shall,  
4 forthwith and without delay and in no event later than (~~twenty~~)  
5 thirty days after the affixing of notice of its embargo, petition the  
6 superior court for an order affirming the embargo. The court then has  
7 jurisdiction, for cause shown and after prompt hearing to any claimant  
8 of the embargoed article, to issue an order which directs the removal  
9 of the embargo or the destruction or the correction and release of the  
10 article. An order for destruction or correction and release shall  
11 contain such provision for the payment of pertinent court costs and  
12 fees and administrative expenses as is equitable and which the court  
13 deems appropriate in the circumstances. An order for correction and  
14 release may contain such provision for a bond as the court finds  
15 indicated in the circumstances.

16       **Sec. 5.** RCW 69.04.398 and 1986 c 203 s 18 are each amended to read  
17 as follows:

18       (1) The purpose of RCW 69.04.110, 69.04.392, 69.04.394, and  
19 69.04.396 is to promote uniformity of state legislation and  
20 (~~regulations~~) rules with the Federal Food, Drug and Cosmetic Act 21  
21 USC 301 et seq. and regulations adopted thereunder. In accord with  
22 such declared purpose any regulation adopted under said federal food,  
23 drug and cosmetic act concerning food in effect on July 1, 1975, and  
24 not adopted under any other specific provision of RCW 69.04.110,  
25 69.04.392, 69.04.394, and 69.04.396 are hereby deemed to have been  
26 adopted under the provision hereof. Further, to promote such uniformity  
27 any regulation adopted hereafter under the provisions of the federal  
28 food, drug and cosmetic act concerning food and published in the  
29 federal register shall be deemed to have been adopted under the

1 provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 in  
2 accord with chapter 34.05 RCW as enacted or hereafter amended. The  
3 director may, however, within thirty days of the publication of the  
4 adoption of any such regulation under the federal food, drug and  
5 cosmetic act give public notice that a hearing will be held to  
6 determine if such regulation shall not be applicable under the  
7 provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396. Such  
8 hearing shall be in accord with the requirements of chapter 34.05 RCW  
9 as enacted or hereafter amended.

10 (2) The provisions of subsection (1) of this section do not apply  
11 to rules adopted by the director as necessary to permit the production  
12 of kosher food products as defined in RCW 69.90.010.

13 (3) Notwithstanding the provisions of subsections (1) and (2) of  
14 this section the director may adopt rules necessary to carry out the  
15 provisions of this chapter.

16 **Sec. 6.** RCW 69.04.780 and 1945 c 257 s 96 are each amended to read  
17 as follows:

18 The director shall cause the investigation and examination of food,  
19 drugs, devices, and cosmetics subject to this chapter. The director  
20 shall have the right (1) to take a sample or specimen of any such  
21 article, for examination under this chapter, upon tendering the market  
22 price therefor to the person having such article in custody; and (2) to  
23 enter any place or establishment within this state, at reasonable  
24 times, for the purpose of taking a sample or specimen of any such  
25 article, for such examination.

26 The director and the director's deputies, assistants, and  
27 inspectors are authorized to do all acts and things necessary to carry  
28 out the provisions of this chapter, including the taking of verified  
29 statements. Such department personnel are empowered to administer

1 oaths of verification on the statements.