
SUBSTITUTE SENATE BILL 5315

State of Washington**54th Legislature****1995 Regular Session**

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

Read first time 02/16/95.

1 AN ACT Relating to agriculture and marketing; amending RCW
2 15.36.012, 15.36.071, 15.36.171, 15.36.221, 15.36.411, 15.36.441,
3 15.36.551, 69.07.100, 69.07.085, 69.25.020, 69.25.050, 69.25.150,
4 69.25.170, 69.25.250, 69.25.310, 69.25.320, 69.25.340, 15.53.901,
5 15.53.9012, 15.53.9014, 15.53.9016, 15.53.9018, 15.53.902, 15.53.9022,
6 15.53.9024, 15.53.9038, 15.53.9042, 15.53.9053, 16.57.220, 16.57.230,
7 16.57.240, 16.57.280, 16.57.290, 16.65.030, 15.44.033, 43.88.240, and
8 15.58.070; reenacting and amending RCW 69.07.040 and 16.57.220;
9 reenacting RCW 15.36.431; adding a new section to chapter 69.04 RCW;
10 adding a new section to chapter 15.53 RCW; adding new sections to
11 chapter 16.65 RCW; adding new sections to chapter 43.23 RCW; adding a
12 new section to chapter 15.58 RCW; adding a new chapter to Title 69 RCW;
13 repealing RCW 69.08.010, 69.08.020, 69.08.030, 69.08.040, 69.08.045,
14 69.08.050, 69.08.060, 69.08.070, 69.08.080, 69.08.090, 69.25.330,
15 15.53.9036, 15.53.905, 15.53.9052, and 15.58.410; repealing 1994 c 46
16 s 21; prescribing penalties; providing effective dates; providing an
17 expiration date; and declaring an emergency.

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

1 **Sec. 1.** RCW 15.36.012 and 1994 c 143 s 102 are each amended to
2 read as follows:

3 For the purpose of this chapter:

4 "Adulterated milk" means milk that is deemed adulterated under
5 appendix L of the PMO.

6 "Aseptic processing" means the process by which milk or milk
7 products have been subjected to sufficient heat processing and packaged
8 in a hermetically sealed container so as to meet the standards of the
9 PMO.

10 "Colostrum milk" means milk produced within ten days before or
11 until practically colostrum free after parturition.

12 "DMO" means supplement I, the recommended sanitation ordinance for
13 grade A condensed and dry milk products and condensed and dry whey, to
14 the PMO published by the United States public health service, food and
15 drug administration.

16 "Dairy farm" means a place or premises where one or more cows,
17 goats, or other mammals are kept, a part or all of the milk or milk
18 products from which is sold or offered for sale to a milk processing
19 plant, transfer station, or receiving station.

20 "Dairy technician" means any person who takes samples of milk or
21 cream or fluid derivatives thereof, on which sample tests are to be
22 made as a basis of payment, or who grades, weighs, or measures milk or
23 cream or the fluid derivatives thereof, the grade, weight, or measure
24 to be used as a basis of payment, or who operates equipment wherein
25 milk or products thereof are pasteurized.

26 "Department" means the state department of agriculture.

27 "Director" means the director of agriculture of the state of
28 Washington or the director's duly authorized representative.

29 "Distributor" means a person other than a producer who offers for
30 sale or sells to another, milk or milk products.

31 "Grade A milk processing plant" means any milk processing plant
32 that meets all of the standards of the PMO to process grade A
33 pasteurized milk or milk products.

34 "Grade A pasteurized milk" means grade A raw milk that has been
35 pasteurized.

36 "Grade A raw milk" means raw milk produced upon dairy farms
37 conforming with all of the items of sanitation contained in the PMO, in
38 which the bacterial plate count does not exceed twenty thousand per

1 milliliter and the coliform count does not exceed ten per milliliter as
2 determined in accordance with RCW ((15.36.110)) 15.36.201.

3 "Grade A raw milk for pasteurization" means raw milk produced upon
4 dairy farms conforming with all of the same items of sanitation
5 contained in the PMO of grade A raw milk, and the bacterial plate
6 count, as delivered from the farm, does not exceed eighty thousand per
7 milliliter as determined in accordance with RCW ((15.36.110))
8 15.36.201.

9 "Grade C milk" is milk that violates any of the requirements for
10 grade A milk but that is not deemed to be adulterated.

11 "Homogenized" means milk or milk products which have been treated
12 to ensure breakup of the fat globules to an extent consistent with the
13 requirements outlined in the PMO.

14 "Milk" means the lacteal secretion, practically free of colostrum,
15 obtained by the complete milking of one or more healthy cows, goats, or
16 other mammals.

17 "Milk hauler" means a person who transports milk or milk products
18 in bulk to or from a milk processing plant, receiving station, or
19 transfer station.

20 "Milk processing" means the handling, preparing, packaging, or
21 processing of milk in any manner in preparation for sale as food, as
22 defined in chapter 69.04 RCW. Milk processing does not include milking
23 or producing milk on a dairy farm that is shipped to a milk processing
24 plant for further processing.

25 "Milk processing plant" means a place, premises, or establishment
26 where milk or milk products are collected, handled, processed, stored,
27 bottled, pasteurized, aseptically processed, bottled, or prepared for
28 distribution, except an establishment ((whose activity is limited to
29 retail sales)) that merely receives the processed milk products and
serves them or sells them at retail.

31 "Milk products" means the product of a milk manufacturing process.

32 "Misbranded milk" means milk or milk products that carries a grade
33 label unless such grade label has been awarded by the director and not
34 revoked, or that fails to conform in any other respect with the
35 statements on the label.

36 "Official brucellosis adult vaccinated cattle" means those cattle,
37 officially vaccinated over the age of official calfhood vaccinated
38 cattle, that the director has determined have been commingled with, or
39 kept in close proximity to, cattle identified as brucellosis reactors,

1 and have been vaccinated against brucellosis in a manner and under the
2 conditions prescribed by the director after a hearing and under rules
3 adopted under chapter 34.05 RCW, the administrative procedure act.

4 "Official laboratory" means a biological, chemical, or physical
5 laboratory that is under the direct supervision of the state or a local
6 regulatory agency.

7 "Officially designated laboratory" means a commercial laboratory
8 authorized to do official work by the department, or a milk industry
9 laboratory officially designated by the department for the examination
10 of grade A raw milk for pasteurization and commingled milk tank truck
11 samples of raw milk for antibiotic residues and bacterial limits.

12 "PMO" means the grade "A" pasteurized milk ordinance published by
13 the United States public health service, food and drug administration.

14 "Pasteurized" means the process of heating every particle of milk
15 or milk product in properly designed and operated equipment to the
16 temperature and time standards specified in the PMO.

17 "Person" means an individual, partnership, firm, corporation,
18 company, trustee, or association.

19 "Producer" means a person or organization who operates a dairy farm
20 and provides, sells, or offers milk for sale to a milk processing
21 plant, receiving station, or transfer station.

22 "Receiving station" means a place, premises, or establishment where
23 raw milk is received, collected, handled, stored, or cooled and
24 prepared for further transporting.

25 "Sale" means selling, offering for sale, holding for sale,
26 preparing for sale, trading, bartering, offering a gift as an
27 inducement for sale of, and advertising for sale in any media.

28 "Transfer station" means any place, premises, or establishment
29 where milk or milk products are transferred directly from one milk tank
30 truck to another.

31 "Ultrapasteurized" means the process by which milk or milk products
32 have been thermally processed in accordance with the time and
33 temperature standards of the PMO, so as to produce a product which has
34 an extended shelf life under refrigerated conditions.

35 "Ungraded processing plant" means a milk processing plant that
36 meets all of the standards of the PMO to produce milk products other
37 than grade A milk or milk products.

38 "Wash station" means a place, facility, or establishment where milk
39 tanker trucks are cleaned in accordance with the standards of the PMO.

1 All dairy products mentioned in this chapter mean those fit or used
2 for human consumption.

3 **Sec. 2.** RCW 15.36.071 and 1994 c 143 s 205 are each amended to
4 read as follows:

5 A milk hauler must obtain a milk hauler's license to conduct the
6 operation under this chapter. A milk hauler's license is not
7 transferable with respect to persons or locations or both. The
8 license, issued by the director upon approval of an application for the
9 license and compliance with the provisions of this chapter, shall
10 contain the license number, name, residence, and place of business, if
11 any, of the licensee. A milk hauler's license shall also contain
endorsements for individual milk transport vehicles. The license plate
number and registration number for each milk transport vehicle shall be
listed on the endorsement.

15 **Sec. 3.** RCW 15.36.171 and 1994 c 143 s 301 are each amended to
16 read as follows:

17 No milk or milk products shall be sold to the final consumer or to
18 restaurants, soda fountains, grocery stores, or similar establishments
19 except grade A pasteurized milk, or grade A raw milk. The director may
20 revoke the license of any milk distributor ((failing)), milk processing
plant, or producer whose product fails to qualify as grade A
22 pasteurized or grade A raw, or in lieu thereof may degrade his or her
23 product to grade C and permit its sale as other than fluid milk or
24 grade A milk products during a period not exceeding thirty days. In
25 the event of an emergency, the director may permit the sale of grade C
26 milk for more than thirty days.

27 **Sec. 4.** RCW 15.36.221 and 1984 c 226 s 5 are each amended to read
28 as follows:

29 Milk and milk products for consumption in the raw state or for
30 pasteurization shall be cooled within two hours of completion of
31 milking to forty degrees Fahrenheit or less and maintained at that
32 temperature until picked up, in accordance with RCW ((15.36.110))
33 15.36.201, so long as the blend temperature after the first and
34 following milkings does not exceed fifty degrees Fahrenheit.

1 **Sec. 5.** RCW 15.36.411 and 1994 c 143 s 502 are each amended to
2 read as follows:

3 The director may, subsequent to a hearing on the license, suspend
4 or revoke a license issued under this chapter if the director
5 determines that an applicant has committed any of the following acts:

6 (1) Refused, neglected, or failed to comply with the provisions of
7 this chapter, the rules adopted under this chapter, or a lawful order
8 of the director.

9 (2) Refused, neglected, or failed to keep and maintain records
10 required by this chapter, or to make the records available if requested
11 under the provisions of this chapter.

12 (3) Refused the department access to a portion or area of a
13 facility regulated under this chapter, for the purpose of carrying out
14 the provisions of this chapter.

15 (4) Refused the department access to records required to be kept
16 under the provisions of this chapter.

17 (5) Refused, neglected, or failed to comply with the applicable
18 provisions of chapter 69.04 RCW, Washington food, drug, and cosmetic
19 act, or rules adopted under chapter 69.04 RCW.

20 The provisions of this section requiring that a hearing be
21 conducted before an action may be taken against a license do not apply
22 to an action taken under RCW 15.36.111, 15.36.201, or 15.36.421.

23 Whenever a milk transport vehicle is found in violation of this
24 chapter or rules adopted under this chapter, the endorsement for that
25 milk transport vehicle contained on a milk hauler's license shall be
26 suspended or revoked. The suspension or revocation does not apply to
27 any other milk transport vehicle operated by the milk hauler.

28 **Sec. 6.** RCW 15.36.431 and 1994 c 143 s 504 are each reenacted to
29 read as follows:

30 No person shall employ a tester, sampler, weigher, grader, or
31 pasteurizer who is not licensed as a dairy technician.

32 A person who violates the provisions of this section may be fined
33 not less than two hundred fifty nor more than one thousand dollars, and
34 his or her license issued under this chapter revoked or suspended
35 subject to a hearing as provided under chapter 34.05 RCW.

36 **Sec. 7.** RCW 15.36.441 and 1994 c 143 s 505 are each amended to
37 read as follows:

1 (1) If the results of an antibiotic, pesticide, or other drug
2 residue test under RCW ((15.36.110)) 15.36.201 are above the actionable
3 level established in the PMO and determined using procedures set forth
4 in the PMO, a person holding a milk producer's license is subject to a
5 civil penalty. The penalty shall be in an amount equal to one-half the
6 value of the sum of the volumes of milk equivalent produced under the
7 license on the day prior to and the day of the adulteration. The value
8 of the milk shall be computed by the weighted average price for the
9 federal market order under which the milk is delivered.

10 (2) The penalty is imposed by the department giving a written
11 notice which is either personally served upon or transmitted by
12 certified mail, return receipt requested, to the person incurring the
13 penalty. The notice of the civil penalty shall be a final order of the
14 department unless, within fifteen days after the notice is received,
15 the person incurring the penalty appeals the penalty by filing a notice
16 of appeal with the department. If a notice of appeal is filed in a
17 timely manner, a hearing shall be conducted on behalf of the department
18 by the office of administrative hearings in accordance with chapters
19 34.05 and 34.12 RCW. At the conclusion of the hearing, the department
20 shall determine whether the penalty should be affirmed, and, if so,
21 shall issue a final order setting forth the civil penalty assessed, if
22 any. The order may be appealed to superior court in accordance with
23 chapter 34.05 RCW. Tests performed for antibiotic, pesticide, or other
24 drug residues by an official laboratory or an officially designated
25 laboratory of a milk sample drawn by a department official or a
26 licensed dairy technician shall be admitted as *prima facie* evidence of
27 the presence or absence of an antibiotic, pesticide, or other drug
28 residue.

29 (3) Any penalty imposed under this section is due and payable upon
30 the issuance of the final order by the department. The penalty shall
31 be deducted by the violator's marketing organization from the
32 violator's final payment for the month following the issuance of the
33 final order. The department shall promptly notify the violator's
34 marketing organization of any penalties contained in the final order.

35 (4) All penalties received or recovered from violations of this
36 section shall be remitted monthly by the violator's marketing
37 organization to the Washington state dairy products commission and
38 deposited in a revolving fund to be used solely for the purposes of

1 education and research. No appropriation is required for disbursements
2 from this fund.

3 (5) In case of a violation of the antibiotic, pesticide, or other
4 drug residue test requirements, an investigation shall be made to
5 determine the cause of the residue which shall be corrected. Follow-up
6 sampling and testing must be done in accordance with the requirements
7 of the PMO.

8 **Sec. 8.** RCW 15.36.551 and 1994 c 34 s 1 are each amended to read
9 as follows:

10 There is levied on all milk processed in this state an assessment
11 not to exceed fifty-four one-hundredths of one cent per hundredweight.
12 The director shall determine, by rule, an assessment, that with
13 contribution from the general fund, will support an inspection program
14 to maintain compliance with the provisions of the pasteurized milk
15 ordinance of the national conference on interstate milk shipment. All
16 assessments shall be levied on the operator of the first milk plant
17 receiving the milk for processing. This shall include milk plants that
18 produce their own milk for processing and milk plants that receive milk
19 from other sources. All moneys collected under this section shall be
20 paid to the director by the twentieth day of the succeeding month for
21 the previous month's assessments. The director shall deposit the funds
22 into the dairy inspection account hereby created within the
23 agricultural local fund established in RCW 43.23.230. The funds shall
24 be used only to provide inspection services to the dairy industry. If
25 the operator of a milk plant fails to remit any assessments, that sum
26 shall be a lien on any property owned by him or her, and shall be
27 reported by the director and collected in the manner and with the same
28 priority over other creditors as prescribed for the collection of
29 delinquent taxes under chapters 84.60 and 84.64 RCW.

30 This section shall expire June 30, ((1995)) 2000.

31 NEW SECTION. **Sec. 9.** For the purpose of this chapter:

32 (1) "Food storage warehouse" means any premises, establishment,
33 building, room area, facility, or place, in whole or in part, where
34 food is stored, kept, or held for wholesale distribution to other
35 wholesalers or to retail outlets, restaurants, and any such other
36 facility selling or distributing to the ultimate consumer. Food
37 storage warehouses include, but are not limited to, facilities where

1 food is kept or held refrigerated or frozen and include facilities
2 where food is stored to the account of another firm and/or is owned by
3 the food storage warehouse. "Food storage warehouse" does not include
4 grain elevators or fruit and vegetable storage and packing houses that
5 store, pack, and ship fresh fruit and vegetables even though they may
6 use refrigerated or controlled atmosphere storage practices in their
7 operation. However, this chapter applies to multiple food storage
8 operations that also distribute or ripen fruits and vegetables.

9 (2) "Department" means the Washington department of agriculture.

10 (3) "Director" means the director of the Washington department of
11 agriculture.

12 (4) "Food" means the same as defined in RCW 69.04.008.

13 (5) "Independent sanitation consultant" means an individual,
14 partnership, cooperative, or corporation that by reason of education,
15 certification, and experience has satisfactorily demonstrated expertise
16 in food and dairy sanitation and is approved by the director to advise
17 on such areas including, but not limited to: Principles of cleaning
18 and sanitizing food processing plants and equipment; rodent, insect,
19 bird, and other pest control; principals of hazard analysis critical
20 control point; basic food product labeling; principles of proper food
21 storage and protection; proper personnel work practices and attire;
22 sanitary design, construction, and installation of food plant
23 facilities, equipment, and utensils; and other pertinent food safety
24 issues.

25 NEW SECTION. **Sec. 10.** The director or his or her representative
26 shall make annual inspections of each food storage warehouse for
27 compliance with the provisions of chapter 69.04 RCW and the rules
28 adopted under chapter 69.04 RCW, except food storage warehouses
29 inspected by a private person under the provisions of section 12 of
30 this act shall be inspected by the department as deemed necessary by
31 the director. Any food storage warehouse found to not be in
32 substantial compliance with chapter 69.04 RCW and the rules adopted
33 under chapter 69.04 RCW will be reinspected as deemed necessary by the
34 director to determine compliance. This does not preclude the director
35 from using any other remedies as provided under chapter 69.04 RCW to
36 gain compliance or to embargo products as provided under RCW 69.04.110
37 to protect the public from adulterated foods.

1 **NEW SECTION.** **Sec. 11.** It shall be unlawful for any person to
2 operate a food storage warehouse in the state without first having
3 obtained an annual license from the department, which shall expire on
4 a date set by rule by the director. License fees shall be prorated
5 where necessary to accommodate staggering of expiration dates.
6 Application for a license shall be on a form prescribed by the director
7 and accompanied by the license fee. The license fee is determined by
8 computing the gross annual sales for the accounting year immediately
9 preceding the license year. If the license is for a new operator, the
10 license fee shall be based on an estimated gross annual sales for the
11 initial license period.

12	If gross annual sales are:	The license fee is:
13	\$0 to \$50,000	\$55.00
14	\$50,001 to \$500,000	\$110.00
15	\$500,001 to \$1,000,000	\$220.00
16	\$1,000,001 to \$5,000,000	\$385.00
17	\$5,000,001 to \$10,000,000	\$550.00
18	Greater than \$10,000,000	\$825.00

19 The application shall include the full name of the applicant for
20 the license and the location of the food storage warehouse he or she
21 intends to operate. If such applicant is an individual, receiver,
22 trustee, firm, partnership, association, or corporation, the full name
23 of each member of the firm or partnership, or names of the officers of
24 the association or corporation must be given on the application. The
25 application shall further state the principal business address of the
26 applicant in the state and elsewhere and the name of a person domiciled
27 in this state authorized to receive and accept service of summons of
28 legal notices of all kinds for the applicant. Upon the approval of the
29 application by the director and compliance with the provisions of this
30 chapter, including the applicable regulations adopted under this
31 chapter by the department, the applicant shall be issued a license or
32 renewal thereof. The director may waive licensure under this chapter
33 for firms that are licensed under the provisions of chapter 69.07 or
34 15.36 RCW.

35 **NEW SECTION.** **Sec. 12.** A food storage warehouse that is inspected
36 for compliance with the current good manufacturing practices (Title 21
37 C.F.R. part 110) on at least an annual basis by an independent

1 sanitation consultant approved by the department shall be exempted from
2 the license fee schedule as stipulated in section 11 of this act.

3 A complete report listing the violations noted on such inspection
4 shall be forwarded to the department by the food storage warehouse
5 within sixty working days of the completion of the inspection. Food
6 storage warehouses so complying shall pay an annual fee of twenty-five
7 dollars for their license.

8 In the event a food storage warehouse indicates their intention to
9 be inspected by an independent sanitation consultant but does not
10 forward a copy of an inspection report within a year of issuance of the
11 license the food storage warehouse shall submit to annual inspections
12 by the department for a period of two years.

13 **NEW SECTION.** **Sec. 13.** If the application for renewal of any
14 license provided for under this chapter is not filed prior to the
15 expiration date as established by rule by the director, an additional
16 fee of ten percent of the cost of the license shall be assessed and
17 added to the original fee and must be paid by the applicant before the
18 renewal license is issued.

19 **NEW SECTION.** **Sec. 14.** The director may, subsequent to a hearing
20 thereon, deny, suspend, or revoke any license provided for in this
21 chapter if he or she determines that an applicant has committed any of
22 the following acts:

23 (1) Refused, neglected, or failed to comply with the provisions of
24 this chapter, the rules adopted under this chapter, or any lawful order
25 of the director;

26 (2) Refused, neglected, or failed to keep and maintain records
27 required by this chapter, or to make such records available if
28 requested pursuant to the provisions of this chapter;

29 (3) Refused the department access to any portion or area of the
30 food storage warehouse for the purpose of carrying out the provisions
31 of this chapter;

32 (4) Refused the department access to any records required to be
33 kept under the provisions of this chapter;

34 (5) Refused, neglected, or failed to comply with any provisions of
35 chapter 69.04 RCW, Washington food, drug, and cosmetic act, or any
36 rules adopted under chapter 69.04 RCW.

1 The provisions of this section requiring that a hearing be
2 conducted before an action may be taken against a license do not apply
3 to an action taken under section 15 of this act.

4 NEW SECTION. **Sec. 15.** (1) Whenever the director finds a food
5 storage warehouse operating under conditions that constitute an
6 immediate danger to public health or whenever the licensee or any
7 employee of the licensee actively prevents the director or the
8 director's representative, during an on-site inspection, from
9 determining whether such a condition exists, the director may summarily
10 suspend, pending a hearing, a license provided for in this chapter.

11 (2) Whenever a license is summarily suspended, the holder of the
12 license shall be notified in writing that the license is, upon service
13 of the notice, immediately suspended and that prompt opportunity for a
14 hearing will be provided.

15 (3) Whenever a license is summarily suspended, food distribution
16 operations shall immediately cease. However, the director may
17 reinstate the license if the condition that caused the suspension has
18 been abated to the director's satisfaction.

19 NEW SECTION. **Sec. 16.** It is unlawful to sell, offer for sale, or
20 distribute in intrastate commerce food stored in a food storage
21 warehouse that has not obtained a license, as provided for in this
22 chapter, once notification by the director has been given to the
23 persons selling, offering, or distributing food for sale, that the food
24 is from an unlicensed food storage warehouse.

25 NEW SECTION. **Sec. 17.** All moneys received by the department under
26 provisions of this chapter shall be paid into an account created in the
27 agricultural local fund established in RCW 43.23.230 and shall be used
28 solely to carry out provisions of this chapter and chapter 69.04 RCW.

29 NEW SECTION. **Sec. 18.** The department may use all the civil
30 remedies provided under chapter 69.04 RCW in carrying out and enforcing
31 the provisions of this chapter.

32 NEW SECTION. **Sec. 19.** (1) The department shall enforce and carry
33 out the provisions of this chapter and may adopt the necessary rules to
34 carry out its purpose.

1 (2) The adoption of rules under the provisions of this chapter are
2 subject to the applicable provisions of chapter 34.05 RCW, the
3 administrative procedure act.

4 NEW SECTION. **Sec. 20.** The director or director's deputies,
5 assistants, and inspectors are authorized to do all acts and things
6 necessary to carry out the provisions of this chapter, including the
7 taking of verified statements. The department personnel are empowered
8 to administer oaths of verification on the statement.

9 NEW SECTION. **Sec. 21.** A new section is added to chapter 69.04 RCW
10 to read as follows:

11 The director need not petition the superior court as provided for
12 in RCW 69.04.120 if the owner or claimant of such food or food products
13 agrees in writing to the disposition of such food or food products as
14 the director may order.

15 **Sec. 22.** RCW 69.07.040 and 1993 sp.s. c 19 s 11 and 1993 c 212 s
16 2 are each reenacted and amended to read as follows:

17 It shall be unlawful for any person to operate a food processing
18 plant or process foods in the state without first having obtained an
19 annual license from the department, which shall expire on a date set by
20 rule by the director. License fees shall be prorated where necessary
21 to accommodate staggering of expiration dates. Application for a
22 license shall be on a form prescribed by the director and accompanied
23 by the license fee. The license fee is determined by computing the
24 gross annual sales for the accounting year immediately preceding the
25 license year. If the license is for a new operator, the license fee
26 shall be based on an estimated gross annual sales for the initial
27 license period.

If gross annual sales are:	The license fee is:
\$0 to \$50,000	\$55.00
\$50,001 to \$500,000	\$110.00
\$500,001 to \$1,000,000	\$220.00
\$1,000,001 to \$5,000,000	\$385.00
\$5,000,001 to \$10,000,000	\$550.00
Greater than \$10,000,000	\$825.00

1 Such application shall include the full name of the applicant for the
2 license and the location of the food processing plant he or she intends
3 to operate. If such applicant is an individual, receiver, trustee,
4 firm, partnership, association or corporation, the full name of each
5 member of the firm or partnership, or names of the officers of the
6 association or corporation shall be given on the application. Such
7 application shall further state the principal business address of the
8 applicant in the state and elsewhere and the name of a person domiciled
9 in this state authorized to receive and accept service of summons of
10 legal notices of all kinds for the applicant. The application shall
11 also specify the type of food to be processed and the method or nature
12 of processing operation or preservation of that food and any other
13 necessary information. Upon the approval of the application by the
14 director and compliance with the provisions of this chapter, including
15 the applicable regulations adopted hereunder by the department, the
16 applicant shall be issued a license or renewal thereof.

17 Lenses shall be issued to cover only those products, processes,
18 and operations specified in the license application and approved for
19 licensing. Wherever a license holder wishes to engage in processing a
20 type of food product that is different than the type specified on the
21 application supporting the licensee's existing license and processing
22 that type of food product would require a major addition to or
23 modification of the licensee's processing facilities or has a high
24 potential for harm, the licensee shall submit an amendment to the
25 current license application. In such a case, the licensee may engage
26 in processing the new type of food product only after the amendment has
27 been approved by the department.

28 If upon investigation by the director, it is determined that a
29 person is processing food for retail sale and is not under permit,
30 license, or inspection by a local health authority, then that person
31 may be considered a food processor and subject to the provisions of
32 this chapter. The director may waive the licensure requirements of
33 this chapter for a person's operations at a facility if the person ((is
34 licensed under chapter 15.32 RCW or has a permit)) has obtained a milk
35 processing plant license under chapter 15.36 RCW to conduct the same or
36 a similar operation at the facility.

37 **Sec. 23.** RCW 69.07.100 and 1988 c 5 s 4 are each amended to read
38 as follows:

1 The provisions of this chapter shall not apply to establishments
2 issued a permit or licensed under the provisions of:

3 (1) ~~((Chapter 15.32 RCW, the Dairies and dairy products act;~~

4 (2)) Chapter 69.25 RCW, the Washington wholesome eggs and egg
5 products act;

6 ((+3))) (2) Chapter 69.28 RCW, the Washington state honey act;

7 ((+4))) (3) Chapter 16.49 RCW, the Meat inspection act;

8 ((+5))) (4) Title 66 RCW, relating to alcoholic beverage control;

9 and

10 ((+6))) (5) Chapter 69.30 RCW, the Sanitary control of shellfish
11 act: PROVIDED, That if any such establishments process foods not
12 specifically provided for in the above entitled acts, such
13 establishments shall be subject to the provisions of this chapter.

14 The provisions of this chapter shall not apply to restaurants or
15 food service establishments.

16 **Sec. 24.** RCW 69.07.085 and 1988 c 254 s 9 are each amended to read
17 as follows:

18 The department may issue sanitary certificates to food processors
19 under this chapter subject to such requirements as it may establish by
20 rule. The fee for issuance shall be ((twenty)) fifty dollars per
21 certificate. Fees collected under this section shall be deposited in
22 the agricultural local fund.

23 NEW SECTION. **Sec. 25.** The following acts or parts of acts are
24 each repealed:

25 (1) RCW 69.08.010 and 1971 c 27 s 1 & 1945 c 192 s 1;

26 (2) RCW 69.08.020 and 1945 c 192 s 4;

27 (3) RCW 69.08.030 and 1985 c 25 s 1 & 1945 c 192 s 2;

28 (4) RCW 69.08.040 and 1985 c 25 s 2 & 1945 c 192 s 3;

29 (5) RCW 69.08.045 and 1988 c 5 s 5 & 1971 c 27 s 2;

30 (6) RCW 69.08.050 and 1945 c 192 s 5;

31 (7) RCW 69.08.060 and 1945 c 192 s 6;

32 (8) RCW 69.08.070 and 1945 c 192 s 7;

33 (9) RCW 69.08.080 and 1945 c 192 s 8; and

34 (10) RCW 69.08.090 and 1945 c 192 s 9.

35 **Sec. 26.** RCW 69.25.020 and 1982 c 182 s 42 are each amended to
36 read as follows:

1 When used in this chapter the following terms shall have the
2 indicated meanings, unless the context otherwise requires:

3 (1) "Department" means the department of agriculture of the state
4 of Washington.

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

7 (3) "Person" means any natural person, firm, partnership, exchange,
8 association, trustee, receiver, corporation, and any member, officer,
9 or employee thereof, or assignee for the benefit of creditors.

10 (4) "Adulterated" applies to any egg or egg product under one or
11 more of the following circumstances:

12 (a) If it bears or contains any poisonous or deleterious substance
13 which may render it injurious to health; but in case the substance is
14 not an added substance, such article shall not be considered
15 adulterated under this clause if the quantity of such substance in or
16 on such article does not ordinarily render it injurious to health;

17 (b) If it bears or contains any added poisonous or added
18 deleterious substance (other than one which is: (i) A pesticide
19 chemical in or on a raw agricultural commodity; (ii) a food additive;
20 or (iii) a color additive) which may, in the judgment of the director,
21 make such article unfit for human food;

22 (c) If it is, in whole or in part, a raw agricultural commodity and
23 such commodity bears or contains a pesticide chemical which is unsafe
24 within the meaning of RCW 69.04.392, as enacted or hereafter amended;

25 (d) If it bears or contains any food additive which is unsafe
26 within the meaning of RCW 69.04.394, as enacted or hereafter amended;

27 (e) If it bears or contains any color additive which is unsafe
28 within the meaning of RCW 69.04.396, as enacted or hereafter amended:
29 PROVIDED, That an article which is not otherwise deemed adulterated
30 under subsection (4)(c), (d), or (e) of this section shall nevertheless
31 be deemed adulterated if use of the pesticide chemical, food additive,
32 or color additive, in or on such article, is prohibited by regulations
33 of the director in official plants;

34 (f) If it consists in whole or in part of any filthy, putrid, or
35 decomposed substance, or if it is otherwise unfit for human food;

36 (g) If it consists in whole or in part of any damaged egg or eggs
37 to the extent that the egg meat or white is leaking, or it has been
38 contacted by egg meat or white leaking from other eggs;

1 (h) If it has been prepared, packaged, or held under insanitary
2 conditions whereby it may have become contaminated with filth, or
3 whereby it may have been rendered injurious to health;

4 ((h)) (i) If it is an egg which has been subjected to incubation
5 or the product of any egg which has been subjected to incubation;

6 ((i)) (j) If its container is composed, in whole or in part, of
7 any poisonous or deleterious substance which may render the contents
8 injurious to health;

9 ((j)) (k) If it has been intentionally subjected to radiation,
10 unless the use of the radiation was in conformity with a regulation or
11 exemption in effect pursuant to RCW 69.04.394; or

12 ((k)) (l) If any valuable constituent has been in whole or in
13 part omitted or abstracted therefrom; or if any substance has been
14 substituted, wholly or in part therefor; or if damage or inferiority
15 has been concealed in any manner; or if any substance has been added
16 thereto or mixed or packed therewith so as to increase its bulk or
17 weight, or reduce its quality or strength, or make it appear better or
18 of greater value than it is.

19 (5) "Capable of use as human food" shall apply to any egg or egg
20 product unless it is denatured, or otherwise identified, as required by
21 regulations prescribed by the director, to deter its use as human food.

22 (6) "Intrastate commerce" means any eggs or egg products in
23 intrastate commerce, whether such eggs or egg products are intended for
24 sale, held for sale, offered for sale, sold, stored, transported, or
25 handled in this state in any manner and prepared for eventual
26 distribution in this state, whether at wholesale or retail.

27 (7) "Container" or "package" includes any box, can, tin, plastic,
28 or other receptacle, wrapper, or cover.

29 (8) "Immediate container" means any consumer package, or any other
30 container in which egg products, not consumer-packaged, are packed.

31 (9) "Shipping container" means any container used in packaging a
32 product packed in an immediate container.

33 (10) "Egg handler" or "dealer" means any person who produces,
34 contracts for or obtains possession or control of any eggs for the
35 purpose of sale to another dealer or retailer, or for processing and
36 sale to a dealer, retailer or consumer: PROVIDED, That for the purpose
37 of this chapter, "sell" or "sale" includes the following: Offer for
38 sale, expose for sale, have in possession for sale, exchange, barter,
39 trade, or as an inducement for the sale of another product.

1 (11) "Egg product" means any dried, frozen, or liquid eggs, with or
2 without added ingredients, excepting products which contain eggs only
3 in a relatively small proportion, or historically have not been, in the
4 judgment of the director, considered by consumers as products of the
5 egg food industry, and which may be exempted by the director under such
6 conditions as he may prescribe to assure that the egg ingredients are
7 not adulterated and such products are not represented as egg products.

8 (12) "Egg" means the shell egg of the domesticated chicken, turkey,
9 duck, goose, or guinea, or any other specie of fowl.

10 (13) "Check" means an egg that has a broken shell or crack in the
11 shell but has its shell membranes intact and contents not leaking.

12 (14) "Clean and sound shell egg" means any egg whose shell is free
13 of adhering dirt or foreign material and is not cracked or broken.

14 (15) "Dirty egg" means an egg that has a shell that is unbroken and
15 has adhering dirt or foreign material.

16 (16) "Incubator reject" means an egg that has been subjected to
17 incubation and has been removed from incubation during the hatching
18 operations as infertile or otherwise unhatchable.

19 (17) "Inedible" means eggs of the following descriptions: Black
20 rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs,
21 eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs,
22 eggs showing blood rings, and eggs containing embryo chicks (at or
23 beyond the blood ring stage).

24 (18) "Leaker" means an egg that has a crack or break in the shell
25 and shell membranes to the extent that the egg contents are exposed or
26 are exuding or free to exude through the shell.

27 (19) "Loss" means an egg that is unfit for human food because it is
28 smashed or broken so that its contents are leaking; or overheated,
29 frozen, or contaminated; or an incubator reject; or because it contains
30 a bloody white, large meat spots, a large quantity of blood, or other
31 foreign material.

32 (20) "Restricted egg" means any check, dirty egg, incubator reject,
33 inedible, leaker, or loss.

34 (21) "Inspection" means the application of such inspection methods
35 and techniques as are deemed necessary by the director to carry out the
36 provisions of this chapter.

37 (22) "Inspector" means any employee or official of the department
38 authorized to inspect eggs or egg products under the authority of this
39 chapter.

1 (23) "Misbranded" shall apply to egg products which are not labeled
2 and packaged in accordance with the requirements prescribed by
3 regulations of the director under RCW 69.25.100.

4 (24) "Official certificate" means any certificate prescribed by
5 regulations of the director for issuance by an inspector or other
6 person performing official functions under this chapter.

7 (25) "Official device" means any device prescribed or authorized by
8 the director for use in applying any official mark.

9 (26) "Official inspection legend" means any symbol prescribed by
10 regulations of the director showing that egg products were inspected in
11 accordance with this chapter.

12 (27) "Official mark" means the official inspection legend or any
13 other symbol prescribed by regulations of the director to identify the
14 status of any article under this chapter.

15 (28) "Official plant" means any plant which is licensed under the
16 provisions of this chapter, at which inspection of the processing of
17 egg products is maintained by the United States department of
18 agriculture or by the state under cooperative agreements with the
19 United States department of agriculture or by the state.

20 (29) "Official standards" means the standards of quality, grades,
21 and weight classes for eggs, adopted under the provisions of this
22 chapter.

23 (30) "Pasteurize" means the subjecting of each particle of egg
24 products to heat or other treatments to destroy harmful, viable micro-
25 organisms by such processes as may be prescribed by regulations of the
26 director.

27 (31) "Pesticide chemical", "food additive", "color additive", and
28 "raw agricultural commodity" shall have the same meaning for purposes
29 of this chapter as prescribed in chapter 69.04 RCW.

30 (32) "Plant" means any place of business where egg products are
31 processed.

32 (33) "Processing" means manufacturing egg products, including
33 breaking eggs or filtering, mixing, blending, pasteurizing,
34 stabilizing, cooling, freezing, drying, or packaging egg products.

35 (34) "Retailer" means any person in intrastate commerce who sells
36 eggs to a consumer.

37 (35) "At retail" means any transaction in intrastate commerce
38 between a retailer and a consumer.

1 (36) "Consumer" means any person who purchases eggs for his or her
2 own family use or consumption; or any restaurant, hotel, boarding
3 house, bakery, or other institution or concern which purchases eggs for
4 serving to guests or patrons thereof, or for its own use in cooking or
5 baking.

6 (37) "Candling" means the examination of the interior of eggs by
7 the use of transmitted light used in a partially dark room or place.

8 (38) "Master license system" means the mechanism established by
9 chapter 19.02 RCW by which master licenses, endorsed for individual
10 state-issued licenses, are issued and renewed utilizing a master
11 application and a master license expiration date common to each
12 renewable license endorsement.

13 (39) "Ambient temperature" means the atmospheric temperature
14 surrounding or encircling shell eggs.

15 **Sec. 27.** RCW 69.25.050 and 1982 c 182 s 43 are each amended to
16 read as follows:

17 No person shall act as an egg handler or dealer without first
18 obtaining an annual license and permanent dealer's number from the
19 department; such license shall expire on the master license expiration
20 date. Application for an egg dealer license or egg dealer branch
21 license, shall be made through the master license system. The annual
22 egg dealer license fee shall be ((ten)) thirty dollars and the annual
23 egg dealer branch license fee shall be ((five)) fifteen dollars. A
24 copy of the master license shall be posted at each location where such
25 licensee operates. Such application shall include the full name of the
26 applicant for the license and the location of each facility he intends
27 to operate. If such applicant is an individual, receiver, trustee,
28 firm, partnership, association or corporation, the full name of each
29 member of the firm or partnership or the names of the officers of the
30 association or corporation shall be given on the application. Such
31 application shall further state the principal business address of the
32 applicant in the state and elsewhere and the name of a person domiciled
33 in this state authorized to receive and accept service of summons of
34 legal notices of all kinds for the applicant and any other necessary
35 information prescribed by the director. Upon the approval of the
36 application and compliance with the provisions of this chapter,
37 including the applicable regulations adopted hereunder by the
38 department, the applicant shall be issued a license or renewal thereof.

1 Such license and permanent egg handler or dealer's number shall be
2 nontransferable.

3 **Sec. 28.** RCW 69.25.150 and 1992 c 7 s 47 are each amended to read
4 as follows:

5 (1) ~~((Any person who commits any offense prohibited by RCW~~
6 ~~69.25.110 shall upon conviction be guilty of a gross misdemeanor.)) (a)~~
7 Any person violating any provision of this chapter or any rule adopted
8 under this chapter is guilty of a misdemeanor and guilty of a gross
9 misdemeanor for any second and subsequent violation. Any offense
10 committed more than five years after a previous conviction shall be
11 considered a first offense. A misdemeanor under this section is
12 punishable to the same extent that a misdemeanor is punishable under
13 RCW 9A.20.021 and a gross misdemeanor under this section is punishable
14 to the same extent that a gross misdemeanor is punishable under RCW
15 9A.20.021.

16 (b) Whenever the director finds that a person has committed a
17 violation of any of the provisions of this chapter, and that violation
18 has not been punished pursuant to (a) of this subsection, the director
19 may impose upon and collect from the violator a civil penalty not
20 exceeding one thousand dollars per violation per day. Each violation
21 shall be a separate and distinct offense.

22 When construing or enforcing the provisions of RCW 69.25.110, the
23 act, omission, or failure of any person acting for or employed by any
24 individual, partnership, corporation, or association within the scope
25 of the person's employment or office shall in every case be deemed the
26 act, omission, or failure of such individual, partnership, corporation,
27 or association, as well as of such person.

28 (2) No carrier or warehouseman shall be subject to the penalties of
29 this chapter, other than the penalties for violation of RCW 69.25.140,
30 or subsection (3) of this section, by reason of his or her receipt,
31 carriage, holding, or delivery, in the usual course of business, as a
32 carrier or warehouseman of eggs or egg products owned by another person
33 unless the carrier or warehouseman has knowledge, or is in possession
34 of facts which would cause a reasonable person to believe that such
35 eggs or egg products were not eligible for transportation under, or
36 were otherwise in violation of, this chapter, or unless the carrier or
37 warehouseman refuses to furnish on request of a representative of the
38 director the name and address of the person from whom he or she

1 received such eggs or egg products and copies of all documents, if
2 there be any, pertaining to the delivery of the eggs or egg products
3 to, or by, such carrier or warehouseman.

4 (3) Notwithstanding any other provision of law any person who
5 forcibly assaults, resists, impedes, intimidates, or interferes with
6 any person while engaged in or on account of the performance of his or
7 her official duties under this chapter shall be punished by a fine of
8 not more than five thousand dollars or imprisonment in a state
9 correctional facility for not more than three years, or both. Whoever,
10 in the commission of any such act, uses a deadly or dangerous weapon,
11 shall be punished by a fine of not more than ten thousand dollars or by
12 imprisonment in a state correctional facility for not more than ten
13 years, or both.

14 **Sec. 29.** RCW 69.25.170 and 1975 1st ex.s. c 201 s 18 are each
15 amended to read as follows:

16 (1) The director may, by regulation and under such conditions and
17 procedures as he may prescribe, exempt from specific provisions of this
18 chapter:

19 (a) The sale, transportation, possession, or use of eggs which
20 contain no more restricted eggs than are allowed by the tolerance in
21 the official state standards for consumer grades for shell eggs;

22 (b) The processing of egg products at any plant where the
23 facilities and operating procedures meet such sanitary standards as may
24 be prescribed by the director, and where the eggs received or used in
25 the manufacture of egg products contain no more restricted eggs than
26 are allowed by the official standards of the state consumer grades for
27 shell eggs, and the egg products processed at such plant;

28 (c) The sale of eggs by any poultry producer from his own flocks
29 directly to a household consumer exclusively for use by such consumer
30 and members of his household and his nonpaying guests and employees,
31 and the transportation, possession, and use of such eggs in accordance
32 with this subsection;

33 (d) The sale of eggs by shell egg packers on his own premises
34 directly to household consumers for use by such consumer and members of
35 his household and his nonpaying guests and employees, and the
36 transportation, possession, and use of such eggs in accordance with
37 this subsection;

1 (e) The sale of eggs by any egg producer with an annual egg
2 production from a flock of three thousand hens or less.

3 (2) The director may modify or revoke any regulation granting
4 exemption under this chapter whenever he deems such action appropriate
5 to effectuate the purposes of this chapter.

6 **Sec. 30.** RCW 69.25.250 and 1993 sp.s. c 19 s 12 are each amended
7 to read as follows:

8 There is hereby levied an assessment not to exceed three mills per
9 dozen eggs entering intrastate commerce, as prescribed by rules and
10 regulations issued by the director. Such assessment shall be
11 applicable to all eggs entering intrastate commerce except as provided
12 in RCW 69.25.170 and 69.25.290. Such assessment shall be paid to the
13 director on a monthly basis on or before the tenth day following the
14 month such eggs enter intrastate commerce. The director may require
15 reports by egg handlers or dealers along with the payment of the
16 assessment fee. Such reports may include any and all pertinent
17 information necessary to carry out the purposes of this chapter. The
18 director may, by regulations, require egg container manufacturers to
19 report on a monthly basis all egg containers sold to any egg handler or
20 dealer and bearing such egg handler or dealer's ((license)) permanent
21 number.

22 **Sec. 31.** RCW 69.25.310 and 1975 1st ex.s. c 201 s 32 are each
23 amended to read as follows:

24 (1) All containers used by an egg handler or dealer to package eggs
25 shall bear the name and address or the permanent number issued by the
26 director to said egg handler or dealer. Such permanent number shall be
27 displayed in a size and location prescribed by the director. ((It
28 shall constitute a gross misdemeanor for any egg handler or dealer to
29 reuse a container which bears the permanent number of another egg
30 handler or dealer unless such number is totally obliterated prior to
31 reuse.)) It shall be a violation for any egg handler or dealer to use
32 a container that bears the permanent number of another egg handler or
33 dealer unless such number is totally obliterated prior to use. The
34 director may in addition require the obliteration of any or all
35 markings that may be on any container which will be ((reused)) used for
36 eggs by an egg handler or dealer.

1 (2) Notwithstanding subsection (1) of this section and following
2 written notice to the director, licensed egg handlers and dealers may
3 use new containers bearing another dealer's permanent number on a
4 temporary basis, in any event not longer than one year, for the purpose
5 of using up existing container stocks. Sale of container stock shall
6 constitute agreement by the parties to use the permanent number.

7 **Sec. 32.** RCW 69.25.320 and 1975 1st ex.s. c 201 s 33 are each
8 amended to read as follows:

9 (1) In addition to any other records required to be kept and
10 furnished the director under the provisions of this chapter, the
11 director may require any person who sells to any retailer, or to any
12 restaurant, hotel, boarding house, bakery, or any institution or
13 concern which purchases eggs for serving to guests or patrons thereof
14 or for its use in preparation of any food product for human
15 consumption, candled or graded eggs other than those of his own
16 production sold and delivered on the premises where produced, to
17 furnish that retailer or other purchaser with an invoice covering each
18 such sale, showing the exact grade or quality, and the size or weight
19 of the eggs sold, according to the standards prescribed by the
20 director, together with the name and address of the person by whom the
21 eggs were sold. The person selling and the retailer or other purchaser
22 shall keep a copy of said invoice on file at his place of business for
23 a period of thirty days, during which time the copy shall be available
24 for inspection at all reasonable times by the director: PROVIDED, That
25 no retailer or other purchaser shall be guilty of a violation of this
26 chapter if he can establish a guarantee from the person from whom the
27 eggs were purchased to the effect that they, at the time of purchase,
28 conformed to the information required by the director on such invoice:
29 PROVIDED FURTHER, That if the retailer or other purchaser having
30 labeled any such eggs in accordance with the invoice keeps them for
31 such a time after they are purchased as to cause them to deteriorate to
32 a lower grade or standard, and sells them under the label of the
33 invoice grade or standard, he shall be guilty of a violation of this
34 chapter.

35 (2) Due to the perishable nature of shell eggs and their
36 susceptibility to contamination by bacteria, chemicals, and other
37 adulterants, every precaution must be taken to prevent contamination

1 and to provide adequate protection at all times from breakage and
2 temperature abuse.

3 (3) Retailers/distributors are responsible to take every precaution
4 to prevent adulteration by storing shell eggs awaiting sale or
5 displaying eggs under clean and sanitary conditions in areas free from
6 rodents and insects. Shell eggs must be stored up off the floor away
7 from strong odors, pesticides, and cleaners.

8 (4) After being received at the point of first purchase, all graded
9 shell eggs packed in containers for the purpose of sale to consumers
10 shall be held and transported under refrigeration at ambient
11 temperatures no greater than forty-five degrees Fahrenheit (seven and
12 two-tenths degrees Celsius). This provision shall apply without
13 limitation to retailers, institutional users, dealer/wholesalers, food
14 handlers, transportation firms, or any person who handles eggs after
15 the point of first purchase.

16 (5) No invoice shall be required on eggs when packed for sale to
17 the United States department of defense, or a component thereof, if
18 labeled with grades promulgated by the United States secretary of
19 agriculture.

20 NEW SECTION. **Sec. 33.** RCW 69.25.330 and 1975 1st ex.s. c 201 s 34
21 are each repealed.

22 **Sec. 34.** RCW 69.25.340 and 1975 1st ex.s. c 201 s 36 are each
23 amended to read as follows:

24 Any person violating any provision of this chapter or regulations
25 for which a penalty is not specifically provided for in this chapter,
26 shall be guilty of a misdemeanor and guilty of a gross misdemeanor for
27 any subsequent violation or can be assessed a civil penalty as the
28 director deems appropriate: PROVIDED, That any offense committed more
29 than five years after a previous conviction shall be considered a first
30 offense.

31 **Sec. 35.** RCW 15.53.901 and 1982 c 177 s 1 are each amended to read
32 as follows:

33 The definitions set forth in this section apply ((through
34 {throughout})) throughout this chapter.

35 ((1) "Department" means the department of agriculture of the state
36 of Washington or its duly authorized representative.

1 (2) "Person" means a natural person, individual, firm, partnership,
2 corporation, company, society, or association.

3 (3) "Distribute" means to import, consign, manufacture, produce,
4 compound, mix, or blend commercial feed, or to offer for sale, sell,
5 barter, or otherwise supply commercial feed in this state.

6 (4) "Distributor" means any person who distributes.

7 (5) "Sell" or "sale" includes exchange.

8 (6) "Commercial feed" means all materials including customer-
9 formula feed which are distributed for use as feed or for mixing in
10 feed, for animals other than man.

11 (7) "Feed ingredient" means each of the constituent materials
12 making up a commercial feed.

13 (8) "Customer formula feed" means a mixture of commercial feed
14 and/or materials each batch of which is mixed according to the specific
15 instructions of the final purchaser or contract feeder.

16 (9) "Brand" means the term, design, trademark, or other specific
17 designation under which an individual commercial feed is distributed in
18 this state.

19 (10) "Product" means the name of the commercial feed that
20 identifies it as to kind, class, or specific use.

21 (11) "Label" means a display of written, printed, or graphic matter
22 upon or affixed to the container in which a commercial feed is
23 distributed, or on the invoice or delivery slip with which a commercial
24 feed is distributed.

25 (12) "Labeling" means all labels and other written, printed, or
26 graphic matter upon a commercial feed or any of its containers or
27 wrappers, or otherwise accompanying such commercial feed.

28 (13) "Ton" means a net weight of two thousand pounds avoirdupois.

29 (14) "Percent" or "percentage" means percentage by weight.

30 (15) "Official sample" means any sample of feed taken by the
31 department, obtained and analyzed as provided in RCW 15.53.9024.

32 (16) "Contract feeder" means an independent contractor, or any
33 other person who feeds commercial feed to animals pursuant to an oral
34 or written agreement whereby such commercial feed is supplied,
35 furnished or otherwise provided to such person by any distributor and
36 whereby such person's remuneration is determined all or in part by feed
37 consumption, mortality, profits, or amount or quality of product:
38 PROVIDED, That it shall not include a bona fide employee of a
39 manufacturer or distributor of commercial feed.

1 (17) "Retail" means to distribute to the ultimate consumer.))

2 (1) "Brand name" means a word, name, symbol, or device, or any
3 combination thereof, identifying the commercial feed of a distributor
4 or registrant and distinguishing it from that of others.

5 (2) "Commercial feed" means all materials or combination of
6 materials that are distributed or intended for distribution for use as
7 feed or for mixing in feed, unless such materials are specifically
8 exempted. Unmixed whole seeds and physically altered entire unmixed
9 seeds, when such whole seeds or physically altered seeds are not
10 chemically changed or not adulterated within the meaning of RCW
11 15.53.902, are exempt. The department by rule may exempt from this
12 definition, or from specific provisions of this chapter, commodities
13 such as hay, straw, stover, silage, cobs, husks, hulls, and individual
14 chemical compounds or substances when such commodities, compounds, or
15 substances are not intermixed with other materials, and are not
16 adulterated within the meaning of RCW 15.53.902.

17 (3) "Contract feeder" means a person who is an independent
18 contractor and feeds commercial feed to animals pursuant to a contract
19 whereby such commercial feed is supplied, furnished, or otherwise
20 provided to such person and whereby such person's remuneration is
21 determined all or in part by feed consumption, mortality, profits, or
22 amount or quality of product.

23 (4) "Customer-formula feed" means commercial feed that consists of
24 a mixture of commercial feeds or feed ingredients, or both, each batch
25 of which is manufactured according to the instructions of the final
26 purchaser.

27 (5) "Department" means the department of agriculture of the state
28 of Washington or its duly authorized representative.

29 (6) "Director" means the director of the department or a duly
30 authorized representative.

31 (7) "Distribute" means to offer for sale, sell, exchange or barter,
32 commercial feed; or to supply, furnish, or otherwise provide commercial
33 feed to a contract feeder.

34 (8) "Distributor" means a person who distributes.

35 (9) "Drug" means an article intended for use in the diagnosis,
36 cure, mitigation, treatment, or prevention of disease in animals other
37 than people and articles, other than feed intended to affect the
38 structure or a function of the animal body.

1 (10) "Exempt buyer" means a licensee who has agreed to be
2 responsible for reporting tonnage and paying inspection fees for all
3 commercial feeds they distribute. An exempt buyer must apply for
4 exempt buyer status with the department. The department shall maintain
5 a list of all exempt buyers and make the list available on request.

6 (11) "Feed ingredient" means each of the constituent materials
7 making up a commercial feed.

8 (12) "Final purchaser" means a person who purchases commercial feed
9 to feed to animals in his or her care.

10 (13) "Initial distributor" means a person who first distributes a
11 commercial feed in or into this state.

12 (14) "Label" means a display of written, printed, or graphic matter
13 upon or affixed to the container in which a commercial feed is
14 distributed, or on the invoice or delivery slip with which a commercial
15 feed is distributed.

16 (15) "Labeling" means all labels and other written, printed, or
17 graphic matter: (a) Upon a commercial feed or any of its containers or
18 wrappers; or (b) accompanying such commercial feed.

19 (16) "Licensee" means a person who holds a commercial feed license
20 as prescribed in this chapter.

21 (17) "Manufacture" means to grind, mix or blend, or further process
22 a commercial feed for distribution.

23 (18) "Medicated feed" means a commercial feed containing a drug or
24 other medication.

25 (19) "Mineral feed" means a commercial feed intended to supply
26 primarily mineral elements or inorganic nutrients.

27 (20) "Official sample" means a sample of feed taken by the
28 department, obtained and analyzed as provided in RCW 15.53.9024 (3),
29 (5), or (6).

30 (21) "Percent" or "percentage" means percentage by weight.

31 (22) "Person" means an individual, firm, partnership, corporation,
32 or association.

33 (23) "Pet" means a domesticated animal normally maintained in or
34 near the household of the owner of the pet.

35 (24) "Pet food" means a commercial feed prepared and distributed
36 for consumption by pets.

37 (25) "Product name" means the name of the commercial feed that
38 identifies it as to kind, class, or specific use.

39 (26) "Retail" means to distribute to the final purchaser.

1 (27) "Sell" or "sale" includes exchange.

2 (28) "Specialty pet" means a domesticated animal pet normally
3 maintained in a cage or tank, such as, but not limited to, gerbils,
4 hamsters, canaries, psittacine birds, mynahs, finches, tropical fish,
5 goldfish, snakes, and turtles.

6 (29) "Specialty pet food" means a commercial feed prepared and
7 distributed for consumption by specialty pets.

8 (30) "Ton" means a net weight of two thousand pounds avoirdupois.

9 (31) "Quantity statement" means the net weight (mass), net volume
10 (liquid or dry), or count.

11 **Sec. 36.** RCW 15.53.9012 and 1965 ex.s. c 31 s 3 are each amended
12 to read as follows:

13 (1) The department shall administer, enforce and carry out the
14 provisions of this chapter and may adopt rules necessary to carry out
15 its purpose. In adopting such rules, the director shall consider (a)
16 the official definitions of feed ingredients and official feed terms
17 adopted by the association of American feed control officials and
18 published in the official publication of that organization; and (b) any
19 regulation adopted pursuant to the authority of the Federal Food, Drug,
20 and Cosmetic Act (21 U.S.C. Sec. 301, et seq.), if the department would
21 have the authority under this chapter to adopt the regulations. The
22 adoption of rules shall be subject to a public hearing and all other
23 applicable provisions of chapter 34.05 RCW (Administrative Procedure
24 Act)((, as enacted or hereafter amended)).

25 (2) The director when adopting rules in respect to the feed
26 industry shall consult with affected parties, such as manufacturers and
27 distributors of commercial feed and any final rule adopted shall be
28 designed to promote orderly marketing and shall be reasonable and
29 necessary and based upon the requirements and condition of the industry
30 and shall be for the purpose of promoting the well-being of the members
31 of the feed industry as well as the well-being of the purchasers and
32 users of feed and for the general welfare of the people of the state.

33 NEW SECTION. **Sec. 37.** A new section is added to chapter 15.53 RCW
34 to read as follows:

35 (1) Beginning January 1, 1996, a person who manufactures a
36 commercial feed, is an initial distributor of a commercial feed, or
37 whose name appears as the responsible party on a commercial feed label

1 to be distributed in or into this state shall first obtain from the
2 department a commercial feed license for each facility. Sale of food
3 processing byproducts from fruit, vegetable, or potato processing
4 plants, freezing or dehydrating facilities, or juice or jelly
5 preserving plants, bona fide experimental feed on which accurate
6 records and experimental programs are maintained, and pet food and
7 specialty pet food are exempt from the requirement of a commercial feed
8 license. Byproducts or products of sugar refineries are not exempt
9 from the requirement of a commercial feed license.

10 (2) Application for a commercial feed license shall be made on
11 forms provided by the department and shall be accompanied by a fee of
12 fifty dollars, except that for the period beginning January 1, 1996,
13 and ending June 30, 1996, the fee shall be twenty-five dollars. The
14 commercial feed license shall expire on June 30th of each year.

15 (3) An application for license shall include the following:

- 16 (a) The name and address of the applicant;
17 (b) Other information required by the department by rule.

18 (4) After January 1, 1996, application for license renewal is due
19 July 1st of each year. If an application for license renewal provided
20 for in this section is not filed with the department prior to July
21 15th, a delinquency fee of fifty dollars shall be assessed and added to
22 the original fee and must be paid by the applicant before the renewal
23 license is issued. The assessment of the delinquency fee shall not
24 prevent the department from taking other action as provided for in this
25 chapter. The penalty does not apply if the applicant furnishes an
26 affidavit that he or she has not distributed a commercial feed
27 subsequent to the expiration of his or her prior license.

28 (5) The department may deny a license application if the applicant
29 is not in compliance with this chapter or applicable rules, and may
30 revoke a license if the licensee is not in compliance with this chapter
31 or applicable rules. Prior to denial or revocation of a license, the
32 department shall provide notice and an opportunity to correct
33 deficiencies. If an applicant or licensee fails to correct the
34 deficiency, the department shall deny or revoke the license. If
35 aggrieved by the decision, the applicant or licensee may request a
36 hearing as authorized under chapter 34.05 RCW.

37 (6) Notwithstanding the payment of a delinquency fee, it is a
38 violation to distribute a commercial feed by an unlicensed person, and

1 nothing in this chapter shall prevent the department from imposing a
2 penalty authorized by this chapter for the violation.

3 (7) The department may under conditions specified by rule, request
4 copies of labels and labeling in order to determine compliance with the
5 provisions of this chapter.

6 **Sec. 38.** RCW 15.53.9014 and 1993 sp.s. c 19 s 2 are each amended
7 to read as follows:

8 (1) Each ((commercial feed)) pet food and specialty pet food shall
9 be registered with the department and such registration shall be
10 renewed annually before such commercial feed may be distributed in this
11 state((: PROVIDED, That sales of food processing byproducts from
12 fruit, vegetable, or potato processing plants, freezing or dehydrating
13 facilities, or juice or jelly preserving plants; unmixed seed, whole or
14 processed, made directly from the entire seed; unground hay, straw,
15 stover, silage, cobs, husks, and hulls, when not mixed with other
16 material; bona fide experimental feeds on which accurate records and
17 experimental programs are maintained; and customer formula feeds are
18 exempt from such registration. The exemption for byproducts provided
19 by this subsection does not apply to byproducts or products of sugar
20 refineries or to materials used in the preparation of pet foods.

21 (a) Beginning July 1, 1993, each registration for a commercial feed
22 product distributed in packages of ten pounds or more shall be
23 accompanied by a fee of eleven dollars. If such commercial feed is
24 also distributed in packages of less than ten pounds it shall be
25 registered under subsection (b) of this section.

26 (b) Beginning July 1, 1993, each registration for a commercial feed
27 product distributed in packages of less than ten pounds shall be
28 accompanied by an annual registration fee of forty five dollars on each
29 such commercial feed so distributed, but no inspection fee may be
30 collected on packages of less than ten pounds of the commercial feed so
31 registered)).

32 (2) The application for registration of pet food and specialty pet
33 food shall be on forms provided by the department and shall be
34 accompanied by the fees in subsection (3) of this section.
35 Registrations expire on June 30th of each year.

36 (3) Pet food and specialty pet food registration fees are as
37 follows:

1 (a) Each pet food and specialty pet food distributed in packages of
2 ten pounds or more shall be accompanied by a fee of eleven dollars,
3 except that for the period beginning January 1, 1996, and ending June
4 30, 1996, the fee shall be five dollars and fifty cents. If such
5 commercial feed is also distributed in packages of less than ten pounds
6 it shall be registered under (b) of this subsection.

7 (b) Each pet food and specialty pet food distributed in packages of
8 less than ten pounds shall be accompanied by a fee of forty-five
9 dollars, except that for the period beginning January 1, 1996, and
10 ending June 30, 1996, the fee shall be twenty-two dollars and fifty
11 cents. No inspection fee may be collected on pet food and specialty
12 pet food distributed in packages of less than ten pounds.

13 (4) The department may require that ((such)) the application for
14 registration of pet food and specialty pet food be accompanied by a
15 label and/or other printed matter describing the product. ((All
16 registrations expire on December 31st of each year, and are renewable
17 unless such registration is canceled by the department or it has called
18 for a new registration, or unless canceled by the registrant.

19 (4) The application shall include the information required by RCW
20 15.53.9016(1)(b) through (1)(e).)

21 (5) A distributor shall not be required to register ((any
22 commercial feed brand or product which)) a pet food or specialty pet
23 food that is already registered under the provisions of this chapter,
24 as long as it is distributed with the original label.

25 (6) Changes in the guarantee of either chemical or ingredient
26 composition of a ((commercial feed)) pet food or specialty pet food
27 registered under the provisions of this chapter may be permitted if
28 there is satisfactory evidence that such changes would not result in a
29 lowering of the feed value of the product for the purpose for which it
30 was designed.

31 (7) The department is ((empowered)) authorized to refuse
32 registration of any application not in compliance with the provisions
33 of this chapter and any rule adopted under this chapter and to cancel
34 any registration subsequently found to be not in compliance with any
35 provisions of this chapter((, but a registration shall not be refused
36 or canceled until the registrant has been given opportunity to be heard
37 before the department and to amend his application in order to comply
38 with the requirements of)) and any rule adopted under this chapter.
39 Prior to refusal or cancellation of a registration, the applicant or

1 registrant of an existing registered pet food or specialty pet food
2 shall be notified of the reasons and given an opportunity to amend the
3 application to comply. If the applicant does not make the necessary
4 corrections, the department shall refuse to register the feed. The
5 applicant or registrant of an existing registered pet food or specialty
6 pet food may request a hearing as provided for in chapter 34.05 RCW.

7 (8) After January 1, 1996, application for renewal of registration
8 is due July 1st of each year. If an application for renewal of the
9 registration provided for in this section is not filed prior to
10 ((January 1st)) July 15th of any one year, a penalty of ten dollars per
11 product shall be assessed and added to the original fee and shall be
12 paid by the applicant before the renewal registration may be issued,
13 unless the applicant furnishes an affidavit that he has not distributed
14 this feed subsequent to the expiration of his or her prior
15 registration.

16 (9) Notwithstanding the payment of a delinquency fee, it is a
17 violation of this chapter to distribute an unregistered pet food or
18 specialty pet food and nothing in this chapter shall prevent the
19 department from imposing a penalty authorized by this chapter for the
20 violation.

21 **Sec. 39.** RCW 15.53.9016 and 1965 ex.s. c 31 s 5 are each amended
22 to read as follows:

23 (1) Any commercial feed ((registered with the department and)),
24 except a customer-formula feed, distributed in this state shall be
25 accompanied by a legible label bearing the following information:

26 (a) ((The net weight as required under chapter 19.94 RCW as enacted
27 or hereinafter amended.

28 (b)) The product name ((or)) and the brand name, if any, under
29 which the commercial feed is distributed.

30 ((c)) The guaranteed analysis of the commercial feed, listing the
31 minimum percentage of crude protein, minimum percentage of crude fat,
32 and maximum percentage of crude fiber. For mineral feeds the list
33 shall include the following if added: Minimum and maximum percentages
34 of calcium (Ca), minimum percentage of phosphorus (P), minimum
35 percentage of iodine (I), and minimum and maximum percentages of salt
36 (NaCl). Other substances or elements, determinable by laboratory
37 methods, may be guaranteed by permission of the department. When any
38 items are guaranteed, they shall be subject to inspection and analysis

1 in accordance with the methods and regulations that may be prescribed
2 by the department. Products distributed solely as mineral and/or
3 vitamin supplements and guaranteed as specified in this section need
4 not show guarantees for protein, fat, and fiber.

5 (d)) (b) The guaranteed analysis stated in such terms as the
6 department by rule determines is required to advise the user of the
7 composition of the feed or to support claims made in the labeling. In
8 all cases the substances or elements must be determinable by laboratory
9 methods such as the methods published by the association of official
10 analytical chemists.

11 (c) The common or usual name of each ingredient used in the
12 manufacture of the commercial feed, except as the department may, by
13 regulation, permit the use of a collective term for a group of
14 ingredients all of which perform the same function. An ingredient
15 statement is not required for single standardized ingredient feeds
16 which are officially defined.

17 ((e))) (d) The name and principal mailing address of the person
18 responsible for distributing the commercial feed.

19 (e) Adequate directions for use for all commercial feeds containing
20 drugs and for all such other commercial feeds as the department may
21 require by rule as necessary for their safe and effective use.

22 (f) Precautionary statements as the department by rule determines
23 are necessary for the safe and effective use of the commercial feed.

24 (g) The net weight as required under chapter 19.94 RCW.

25 (2) When a commercial feed, except a customer-formula feed, is
26 distributed in this state in bags or other containers, the label shall
27 be placed on or affixed to the container; when a commercial feed,
28 except a customer-formula feed, is distributed in bulk the label shall
29 accompany delivery and be furnished to the purchaser at time of
30 delivery.

31 (3) A customer-formula feed shall be labeled by ((invoice))
32 shipping document. The ((invoice)) shipping document, which is to
33 accompany delivery and be supplied to the purchaser at the time of
34 delivery, shall bear the following information:

35 (a) Name and address of the ((mixer)) manufacturer;

36 (b) Name and address of the purchaser;

37 (c) Date of ((sale; and)) delivery;

1 (d) ((Brand name and number of pounds of each registered commercial
2 feed used in the mixture and the name and number of pounds of each
3 other feed ingredient added.

4 (4) If a commercial feed contains a nonnutritive substance which is
5 intended for use in the diagnosis, cure, mitigation, treatment, or
6 prevention of disease or which is intended to affect the structure or
7 any function of the animal body, the department may require the label
8 to show the amount present, directions for use, and/or warnings against
9 misuse of the feed.

10 (5) A customer formula feed shall be considered to be in violation
11 of this chapter if it does not conform to the invoice labeling. Upon
12 request of the department it shall be the duty of the person
13 distributing the customer formula feed to supply the department with a
14 copy of the invoice which represents that particular feed: PROVIDED,
15 That such person shall not be required to keep such invoice for a
16 period of longer than six months)) Product name and the net weight as
required under chapter 19.94 RCW;

17 (e) Adequate directions for use for all customer-formula feeds
18 containing drugs and for such other feeds as the department may require
19 by rule as necessary for their safe and effective use;

20 (f) The directions for use and precautionary statements as required
21 by subsection (1) (e) and (f) of this section; and

22 (g) If a drug containing product is used:

23 (i) The purpose of the medication (claim statement);

24 (ii) The established name of each active drug ingredient and the
25 level of each drug used in the final mixture expressed in accordance
26 with rules established by the department.

27 (4) The product name and quantity statement of each commercial feed
28 and each other ingredient used in the customer formula feed must be on
29 file at the plant producing the product. These records must be kept on
30 file for one year after the last sale. This information shall be made
31 available to the purchaser, the dealer making the sale, and the
32 department on request.

33 **Sec. 40.** RCW 15.53.9018 and 1982 c 177 s 3 are each amended to
34 read as follows:

35 (1) ((On or after June 30, 1981,)) Except as provided in subsection
36 (4) of this section, each initial distributor of a commercial feed in
37 this state shall pay to the department an inspection fee on all

1 commercial feed sold by such person during the year. The fee shall be
2 not less than four cents nor more than ((fourteen)) twelve cents per
3 ton as prescribed by the director by rule: PROVIDED, That such fees
4 shall be used for routine enforcement ((of RCW 15.53.9022 and for
5 analysis for contaminants only when the department has reasonable cause
6 to believe any lot of feed or any feed ingredient is adulterated)) and
7 administration of this chapter and rules adopted under this chapter.

8 (2) ((In computing the tonnage on which the inspection fee must be
9 paid, sales of: (a) Commercial feed to other feed registrants;)) An
10 inspection fee is not required for: (a) Commercial feed distributed by
11 a person having proof that inspection fees have been paid by his or her
12 supplier (manufacturer); (b) commercial feed in packages weighing less
13 than ten pounds; (c) commercial feed for shipment to points outside
14 this state; (d) food processing byproducts from fruit, vegetable, or
15 potato processing plants, freezing or dehydrating facilities, or juice
16 or jelly preserving plants; and (e) ((unmixed seed, whole or processed,
17 made directly from the entire seed; (f) unground hay, straw, stover,
18 silage, cobs, husks, and hulls, when not mixed with other material; and
19 (g))) bona fide experimental feeds on which accurate records and
20 experimental programs are maintained ((may be excluded. The exemption
21 for byproducts provided by this subsection does not apply to byproducts
22 or products of sugar refineries or to materials used in the preparation
23 of pet foods)).

24 (3) Tonnage will be reported and inspection fees will be paid on
25 (a) byproducts or products of sugar refineries; (b) materials used in
26 the preparation of pet foods and specialty pet food.

27 (4) When more than one distributor is involved in the distribution
28 of a commercial feed, the ((last registrant or)) initial distributor
29 ((who distributes to a nonregistrant (dealer or consumer))) is
30 responsible for reporting the tonnage and paying the inspection fee,
31 unless ((the reporting and paying of fees have been made by a prior
32 distributor of the feed)) this sale or transaction is made to an exempt
33 buyer.

34 ((+4))) (5) Each person made responsible by this chapter for the
35 payment of inspection fees for commercial feed sold in this state shall
36 file a report with the department on January 1st and July 1st of each
37 year showing the number of tons of such commercial feed sold during the
38 six calendar months immediately preceding the date the report is due.
39 The proper inspection fee shall be remitted with the report. The

1 person required to file the report and pay the fee shall have a thirty-
2 day period of grace immediately following the day the report and
3 payment are due to file the report, and pay the fee. Upon permission
4 of the department, an annual statement under oath may be filed by any
5 person distributing within the state less than one hundred tons for
6 each six-month period during any year, and upon filing such statement
7 such person shall pay the inspection fee at the rate provided for in
8 subsection (1) of this section. The minimum inspection fee shall be
9 twelve dollars and fifty cents for each six-month reporting period or
10 twenty-five dollars if reporting annually.

11 ((5) Each distributor shall keep such reasonable and practical
12 records as may be necessary or required by the department to indicate
13 accurately the tonnage of commercial feed distributed in this state,
14 and the department has the right to examine such records to verify
15 statements of tonnage. Failure to make an accurate statement of
16 tonnage or to pay the inspection fee or comply as provided herein
17 constitutes a violation of this chapter, and may result in the issuance
18 of an order for "withdrawal from distribution" on any commercial feed
19 being subsequently distributed.

20 (6) Inspection fees which are due and owing and have not been
21 remitted to the department within thirty days following the due date
22 shall have a collection fee of ten percent, but not less than ten
23 dollars, added to the amount due when payment is finally made. The
24 assessment of this collection fee shall not prevent the department from
25 taking other actions as provided for in this chapter.

26 (7)) (6) For the purpose of determining accurate tonnage of
27 commercial feed distributed in this state or to identify or verify
28 semiannual tonnage reports, the department may require each registrant
29 or licensee, or both, to maintain records or file additional reports.

30 (7) The department may examine at reasonable times the records
31 maintained under this section. Records shall be maintained in usable
32 condition by the registrant or licensee for a period of two years
33 unless by rule this retention period is extended.

34 (8) The registrant or licensee shall maintain records required
35 under this section and submit these records to the department upon
36 request.

37 (9) Any person responsible for reporting tonnage or paying
38 inspection fees who fails to do so before the thirty-first day
39 following the last day of each reporting period, shall pay a penalty

1 equal to fifteen percent of the inspection fee due or fifty dollars,
2 whichever is greater. The penalty, together with any delinquent
3 inspection fee is due before the forty-first day following the last day
4 of each reporting period. The department may cancel registration of a
5 registrant or may revoke a license of a licensee who fails to pay the
6 penalty and delinquent inspection fees within that time period. The
7 applicant or licensee may request a hearing as authorized under chapter
8 34.05 RCW.

9 (10) The report required by subsection ((4)) (5) of this section
10 shall not be a public record, and it is a misdemeanor for any person to
11 divulge any information given in such report which would reveal the
12 business operation of the person making the report: PROVIDED, That
13 nothing contained in this subsection shall be construed to prevent or
14 make unlawful the use of information concerning the business operation
15 of a person if any action, suit, or proceeding instituted under the
16 authority of this chapter, including any civil action for collection of
17 unpaid inspection fees, which action is hereby authorized and which
18 shall be as an action at law in the name of the director of the
19 department.

20 ((+8)) (11) Any commercial feed purchased by a consumer or
21 contract feeder outside the jurisdiction of this state and brought into
22 this state for use is subject to all the provisions of this chapter,
23 including inspection fees.

24 **Sec. 41.** RCW 15.53.902 and 1982 c 177 s 4 are each amended to read
25 as follows:

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

28 (1) If it bears or contains any poisonous or deleterious substance
29 which may render it injurious to health; but in case the substance is
30 not an added substance, such commercial feed shall not be considered
31 adulterated under this subsection if the quantity of such substance in
32 such commercial feed does not ordinarily render it injurious to health;
33 or

34 (2) If it bears or contains any added poisonous, added deleterious,
35 or added nonnutritive substance which is unsafe within the meaning of
36 section 406 of the Federal Food, Drug, and Cosmetic Act (other than one
37 which is (a) a pesticide chemical in or on a raw agricultural
38 commodity; or (b) a food additive); or

1 (3) If it is, or it bears, or contains any food additive which is
2 unsafe within the meaning of 21 U.S.C. section 409 of the Federal Food,
3 Drug, and Cosmetic Act; or

4 (4) If it is a raw agricultural commodity and it bears or contains
5 a pesticide chemical which is unsafe within the meaning of section
6 408(a) of the Federal Food, Drug, and Cosmetic Act: PROVIDED, That
7 where a pesticide chemical has been used in or on a raw agricultural
8 commodity in conformity with an exemption granted or a tolerance
9 prescribed under section 408 of the Federal Food, Drug, and Cosmetic
10 Act and such raw agricultural commodity has been subjected to
11 processing such as canning, cooking, freezing, dehydrating, or milling,
12 the residue of such pesticide chemical remaining in or on such
13 processed feed shall not be deemed unsafe if such residue in or on the
14 raw agricultural commodity has been removed to the extent possible in
15 good manufacturing practice and the concentration of such residue in
16 the processed feed is not greater than the tolerance prescribed for the
17 raw agricultural commodity unless the feeding of such processed feed
18 will result or is likely to result in a pesticide residue in the edible
19 product of the animal, which is unsafe within the meaning of section
20 408(a) of the Federal Food, Drug, and Cosmetic Act; or

21 (5) If it is, or it bears or contains any color additive which is
22 unsafe within the meaning of section 706 of the Federal Food, Drug, and
23 Cosmetic Act; or

24 (6) If it is, or it bears or contains any new animal drug that is
25 unsafe within the meaning of 21 U.S.C. section 512 of the Federal Food,
26 Drug, and Cosmetic Act; or

27 (7) If any valuable constituent has been in whole or in part
28 omitted or abstracted therefrom or any less valuable substance
29 substituted therefor; or

30 ((+7)) (8) If its composition or quality falls below or differs
31 from that which it is purported or is represented to possess by its
32 labeling; or

33 ((+8)) (9) If it contains a drug and the methods used in or the
34 facilities or controls used for its manufacture, processing, or
35 packaging do not conform to current good manufacturing practice rules
36 adopted by the department to assure that the drug meets the
37 requirements of this chapter as to safety and has the identity and
38 strength and meets the quality and purity characteristics that it
39 purports or is represented to possess. In adopting such rules, the

1 department shall adopt the current good manufacturing practice
2 regulations for type A medicated articles and type B and type C
3 medicated feeds established under authority of the Federal Food, Drug,
4 and Cosmetic Act, unless the department determines that they are not
5 appropriate to the conditions that exist in this state; or

6 (10) If it contains viable, prohibited (primary) noxious weed seeds
7 in excess of one per pound, or if it contains viable, restricted
8 (secondary) noxious weed seeds in excess of twenty-five per pound. The
9 primary and secondary noxious weed seeds shall be those as named
10 pursuant to the provisions of chapter 15.49 RCW ((as enacted or
11 hereafter amended)) and rules adopted thereunder.

12 **Sec. 42.** RCW 15.53.9022 and 1965 ex.s. c 31 s 8 are each amended
13 to read as follows:

14 It shall be unlawful for any person to distribute misbranded feed.
15 A commercial feed shall be deemed to be misbranded:

16 (1) If its labeling is false or misleading in any particular;
17 (2) If it is distributed under the name of another commercial feed;
18 (3) If it is not labeled as required in RCW 15.53.9016 and in
19 ((regulations)) rules prescribed under this chapter;

20 (4) If it purports to be or is represented as a commercial feed
21 ((ingredient)), or if it purports to contain or is represented as
22 containing a commercial feed or feed ingredient, unless such commercial
23 feed or feed ingredient conforms to the definition of identity, if any,
24 prescribed by ((regulation)) rule of the department. In the adopting
25 of such ((regulations)) rules the department may consider commonly
26 accepted definitions such as those issued by nationally recognized
27 associations or groups of feed control officials;

28 (5) If any word, statement, or other information required by or
29 under authority of this chapter to appear on the label or labeling is
30 not prominently placed thereon with such conspicuously (as compared
31 with other words, statements, designs, or devices, in the labeling) and
32 in such terms as to render it likely to be read and understood by the
33 ordinary individual under customary conditions of purchase and use;

34 (6) If its composition or quality falls below or differs from that
35 which it is purported or is represented to possess by its labeling.

36 **Sec. 43.** RCW 15.53.9024 and 1965 ex.s. c 31 s 9 are each amended
37 to read as follows:

1 (1) ((It shall be the duty of the department to sample, inspect,
2 make analysis of, and test commercial feed distributed within this
3 state at such time and place and to such an extent as it may deem
4 necessary to determine whether such feeds are in compliance with the
5 provisions of this chapter. The department is authorized to stop any
6 commercial vehicle transporting feed on the public highways and direct
7 it to the nearest scales approved by the department to check weights of
8 feeds being delivered. The department is also authorized, upon
9 presentation of proper identification, to enter any distributor's
10 premises including any vehicle of transport at all reasonable times in
11 order to have access to commercial feed and to records relating to
12 their distribution. This includes the determining of the weight of
13 packages and bulk shipments.

14 (2) The methods of sampling and analysis shall be those adopted by
15 the department from officially recognized sources.

16 (3)) For the purpose of enforcement of this chapter, and in order
17 to determine whether its provisions have been complied with, including
18 whether an operation is subject to such provisions, inspectors duly
19 designated by the director, upon presenting appropriate credentials,
20 and a written notice to the owner, operator, or agent in charge, are
21 authorized (a) to enter, during normal business hours, a factory,
22 warehouse, or establishment within the state in which commercial feeds
23 are manufactured, processed, packed, or held for distribution, or to
24 enter a vehicle being used to transport or hold such feeds; and (b) to
25 inspect at reasonable times and within reasonable limits and in a
26 reasonable manner, such factory, warehouse, establishment, or vehicle
27 and all pertinent equipment, finished and unfinished materials,
28 containers, and labeling. The inspection may include the verification
29 of only such records, and production and control procedures as may be
30 necessary to determine compliance with the current good manufacturing
31 practice regulations established under RCW 15.53.902(9) and rules
32 adopted under good manufacturing practices for feeds to include
33 nonmedicated feeds.

34 (2) A separate notice shall be given for each such inspection, but
35 a notice is not required for each entry made during the period covered
36 by the inspection. Each such inspection shall be commenced and
37 completed with reasonable promptness. Upon completion of the
38 inspection, the person in charge of the facility or vehicle shall be so
39 notified.

1 (3) If the inspector or employee making such inspection of a
2 factory, warehouse, or other establishment has obtained a sample in the
3 course of the inspection, upon completion of the inspection and prior
4 to leaving the premises, he or she shall give to the owner, operator,
5 or agent in charge, a receipt describing the samples obtained.

6 (4) If the owner of a factory, warehouse, or establishment
7 described in subsection (1) of this section, or his or her agent,
8 refuses to admit the director or his or her agent to inspect in
9 accordance with subsections (1) and (2) of this section, the director
10 or his or her agent is authorized to obtain from any court of competent
11 jurisdiction a warrant directing such owner or his or her agent to
12 submit the premises described in the warrant to inspection.

13 (5) For the enforcement of this chapter, the director or his or her
14 duly assigned agent is authorized to enter upon any public or private
15 premises including any vehicle of transport during regular business
16 hours to have access to, and to obtain samples, and to examine records
17 relating to distribution of commercial feeds.

18 (6) Sampling and analysis shall be conducted in accordance with
19 methods published by the association of official analytical chemists,
20 or in accordance with other generally recognized methods.

21 (7) The results of all analyses of official samples shall be
22 forwarded by the department to the person named on the label and to the
23 purchaser, if known. If the inspection and analysis of an official
24 sample indicates a commercial feed has been adulterated or misbranded
25 and upon request within thirty days following the receipt of the
26 analysis, the department shall furnish to the registrant or licensee a
27 portion of the sample concerned. If referee analysis is requested, a
28 portion of the official sample shall be furnished by the department and
29 shall be sent directly to an independent lab agreed to by all parties.

30 (8) The department, in determining for administrative purposes
31 whether a feed is deficient in any component, shall be guided solely by
32 the official sample as defined in RCW 15.53.901((+13)) (20) and
33 obtained and analyzed as provided for in this section.

34 ((+4)) When the inspection and analysis of an official sample has
35 been made the results of analysis shall be forwarded by the department
36 to the distributor and to the purchaser if known. Upon request and
37 within thirty days the department shall furnish to the distributor a
38 portion of the sample concerned.

1 (5))) (9) Analysis of an official sample by the department shall be
2 accepted as prima facie evidence by any court of competent
3 jurisdiction.

4 **Sec. 44.** RCW 15.53.9038 and 1982 c 177 s 5 are each amended to
5 read as follows:

6 (1) When the department has reasonable cause to believe that any
7 lot of commercial feed is adulterated or misbranded or is being
8 distributed in violation of this chapter or any ((regulations)) rules
9 hereunder it may issue and enforce a written or printed "withdrawal
10 from distribution" order, or "stop sale" order, warning the distributor
11 not to dispose of the lot of feed in any manner until written
12 permission is given by the department ((or a court of competent
13 jurisdiction)). The department shall release the lot of commercial
14 feed so withdrawn when the provisions and ((regulations)) rules have
15 been complied with. If compliance is not obtained within thirty days,
16 parties may agree to an alternative disposition in writing or the
17 department may ((begin)) institute condemnation proceedings ((for
18 condemnation)) in a court of competent jurisdiction.

19 (2) Any lot of commercial feed not in compliance with the
20 provisions and ((regulations)) rules is subject to seizure on complaint
21 of the department to a court of competent jurisdiction in the area in
22 which the commercial feed is located. If the court finds the
23 commercial feed to be in violation of this chapter and orders the
24 condemnation of the commercial feed, it shall be disposed of in any
25 manner consistent with the quality of the commercial feed and the laws
26 of the state. The court shall first give the claimant an opportunity
27 to apply to the court for release of the commercial feed or for
28 permission to process or relabel the commercial feed to bring it into
29 compliance with this chapter.

30 **Sec. 45.** RCW 15.53.9042 and 1965 ex.s. c 31 s 18 are each amended
31 to read as follows:

32 The department shall publish at least annually, in such forms as it
33 may deem proper, information concerning the distribution of commercial
34 feed, together with such data on their production and use as it may
35 consider advisable, and a report of the results of the analyses of
36 official samples of commercial feed within the state as compared with
37 the analyses guaranteed ((in the registration and)) on the label or as

1 calculated from the invoice data for customer-formula feeds: PROVIDED,
2 That the information concerning production and use of commercial feeds
3 shall not disclose the operations of any person.

4 **Sec. 46.** RCW 15.53.9053 and 1975 1st ex.s. c 257 s 12 are each
5 amended to read as follows:

6 ((1) The following acts or parts of acts are each repealed:

7 (a) Section 10, chapter 31, Laws of 1965 ex. sess., section 33,
8 chapter 240, Laws of 1967 and RCW 15.53.9026; and

9 (b) Sections 11 through 14, chapter 31, Laws of 1965 ex. sess. and
10 RCW 15.53.9028 through 15.53.9034.

11 (2) The enactment of this act and the repeal of the sections listed
12 in subsection (1) of this section shall not have the effect of
13 terminating, or in any way modify any liability, civil or criminal,
14 which shall already be in existence on July 1, 1975.

15 (3)) All licenses and registrations in effect on July 1, ((1975))
16 1995, shall continue in full force and effect until their regular
17 expiration date, December 31, ((1975)) 1995. No registration or
18 license that has already been paid under the requirements of prior law
19 shall be refunded.

20 NEW SECTION. **Sec. 47.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 15.53.9036 and 1989 c 175 s 51, 1975 1st ex.s. c 257 s 6,
23 & 1965 ex.s. c 31 s 15;

24 (2) RCW 15.53.905 and 1965 ex.s. c 31 s 25; and

25 (3) RCW 15.53.9052 and 1965 ex.s. c 31 s 22.

26 **Sec. 48.** RCW 16.57.220 and 1994 c 46 s 19 are each amended to read
27 as follows:

28 The director shall cause a charge to be made for all brand
29 inspection of cattle and horses required under this chapter and rules
30 adopted hereunder. Such charges shall be paid to the department by the
31 owner or person in possession unless requested by the purchaser and
32 then such brand inspection shall be paid by the purchaser requesting
33 such brand inspection. Except as provided by rule, such inspection
34 charges shall be due and payable at the time brand inspection is
35 performed and shall be paid upon billing by the department and if not
36 shall constitute a prior lien on the cattle or cattle hides or horses

1 or horse hides brand inspected until such charge is paid. The director
2 in order to best utilize the services of the department in performing
3 brand inspection may establish schedules by days and hours when a brand
4 inspector will be on duty to perform brand inspection at established
5 inspection points. The fees for brand inspection shall be not less
6 than fifty cents nor more than seventy-five cents per head for cattle
7 and not less than two dollars nor more than three dollars per head for
8 horses as prescribed by the director by rule subsequent to a hearing
9 under chapter 34.05 RCW and in conformance with RCW 16.57.015. Fees
10 for brand inspection of cattle and horses ((performed by the director))
11 at points other than those designated by the director or not in accord
12 with the schedules established by the director shall be based on a fee
13 schedule not to exceed actual net cost to the department of performing
14 the brand inspection service. For the purpose of this section, actual
15 costs shall mean fifteen dollars per hour and the current mileage rate
16 set by the office of financial management.

17 **Sec. 49.** RCW 16.57.220 and 1994 c 46 s 25 and 1994 c 46 s 19 are
18 each reenacted and amended to read as follows:

19 The director shall cause a charge to be made for all brand
20 inspection of cattle and horses required under this chapter and rules
21 adopted hereunder. Such charges shall be paid to the department by the
22 owner or person in possession unless requested by the purchaser and
23 then such brand inspection shall be paid by the purchaser requesting
24 such brand inspection. Except as provided by rule, such inspection
25 charges shall be due and payable at the time brand inspection is
26 performed and shall be paid upon billing by the department and if not
27 shall constitute a prior lien on the cattle or cattle hides or horses
28 or horse hides brand inspected until such charge is paid. The director
29 in order to best utilize the services of the department in performing
30 brand inspection may establish schedules by days and hours when a brand
31 inspector will be on duty to perform brand inspection at established
32 inspection points. The fees for brand inspection performed at
33 inspection points according to schedules established by the director
34 shall be sixty cents per head for cattle and not more than two dollars
35 and forty cents per head for horses as prescribed by the director
36 subsequent to a hearing under chapter 34.05 RCW and in conformance with
37 RCW 16.57.015. Fees for brand inspection of cattle and horses
38 ((performed by the director)) at points other than those designated by

1 the director or not in accord with the schedules established by the
2 director shall be based on a fee schedule not to exceed actual net cost
3 to the department of performing the brand inspection service. For the
4 purpose of this section, actual costs shall mean fifteen dollars per
5 hour and the current mileage rate set by the office of financial
6 management.

7 **Sec. 50.** RCW 16.57.230 and 1959 c 54 s 23 are each amended to read
8 as follows:

9 No person shall collect or make a charge for brand inspection of
10 livestock unless there has been an actual brand inspection of such
11 livestock ((by the director)).

12 **Sec. 51.** RCW 16.57.240 and 1991 c 110 s 4 are each amended to read
13 as follows:

14 Any person purchasing, selling, holding for sale, trading,
15 bartering, transferring title, slaughtering, handling, or transporting
16 cattle shall keep a record on forms prescribed by the director. Such
17 forms shall show the number, specie, brand or other method of
18 identification of such cattle and any other necessary information
19 required by the director. The original shall be kept for a period of
20 three years or shall be furnished to the director upon demand or as
21 prescribed by rule, one copy shall accompany the cattle to their
22 destination and shall be subject to inspection at any time by the
23 director or any peace officer or member of the state patrol: PROVIDED,
24 That in the following instances only, cattle may be moved or
25 transported within this state without being accompanied by ((a)) an
26 official certificate of permit ((or an official)), a brand inspection
27 certificate ((or)), a bill of sale, or self-inspection slip:

28 (1) When such cattle are moved or transported upon lands under the
29 exclusive control of the person moving or transporting such cattle;

30 (2) When such cattle are being moved or transported for temporary
31 grazing or feeding purposes and have the registered brand of the person
32 having or transporting such cattle.

33 **Sec. 52.** RCW 16.57.280 and 1991 c 110 s 5 are each amended to read
34 as follows:

35 No person shall knowingly have unlawful possession of any livestock
36 marked with a recorded brand or tattoo of another person unless:

1 (1) Such livestock lawfully bears the person's own healed recorded
2 brand~~((—))~~; or
3 (2) Such livestock is accompanied by a certificate of permit from
4 the owner of the recorded brand or tattoo~~((—))~~; or
5 (3) Such livestock is accompanied by a brand inspection
6 certificate~~((—))~~; or
7 (4) Such cattle is accompanied by a self-inspection slip; or
8 (5) Such livestock is accompanied by a bill of sale from the
9 previous owner or other satisfactory proof of ownership.

10 A violation of this section constitutes a gross misdemeanor
11 punishable to the same extent as a gross misdemeanor that is punishable
12 under RCW 9A.20.021.

13 **Sec. 53.** RCW 16.57.290 and 1989 c 286 s 23 are each amended to
14 read as follows:

15 All unbranded cattle and horses and those bearing brands not
16 recorded, in the current edition of this state's brand book, which are
17 not accompanied by a certificate of permit, and those bearing brands
18 recorded, in the current edition of this state's brand book, which are
19 not accompanied by a certificate of permit signed by the owner of the
20 brand when presented for inspection by the director, shall be sold by
21 the director or the director's representative, unless other
22 satisfactory proof of ownership is presented showing the person
23 presenting them to be lawfully in possession. Upon the sale of such
24 cattle or horses, the director or the director's representative shall
25 give the purchasers a bill of sale therefor, or, if theft is suspected,
26 the cattle or horses may be impounded by the director or the director's
27 representative.

28 **Sec. 54.** RCW 16.65.030 and 1994 c 46 s 12 are each amended to read
29 as follows:

30 (1) On and after June 10, 1959, no person shall operate a public
31 livestock market without first having obtained a license from the
32 director. Application for such license ((or renewal thereof)) shall be
33 in writing on forms prescribed by the director, and shall include the
34 following:

35 (a) A nonrefundable original license application fee of fifteen
36 hundred dollars.

1 (b) A legal description of the property upon which the public
2 livestock market shall be located.

3 ((+b)) (c) A complete description and blueprints or plans of the
4 public livestock market physical plant, yards, pens, and all facilities
5 the applicant proposes to use in the operation of such public livestock
6 market.

7 ((+c)) (d) A detailed statement showing all the assets and
8 liabilities of the applicant which must reflect a sufficient net worth
9 to construct or operate a public livestock market.

10 ((+d)) (e) The schedule of rates and charges the applicant
11 proposes to impose on the owners of livestock for services rendered in
12 the operation of such livestock market.

13 ((+e)) (f) The weekly or monthly sales day or days on which the
14 applicant proposes to operate his or her public livestock market sales.

15 ((+f)) (g) Projected source and quantity of livestock, by county,
16 anticipated to be handled.

17 ((+g)) (h) Projected income and expense statements for the first
18 year's operation.

19 ((+h)) (i) Facts upon which are based the conclusion that the
20 trade area and the livestock industry will benefit because of the
21 proposed market.

22 ((+i)) (j) Such other information as the director may reasonably
23 require.

24 (2) The director shall, after public hearing as provided by chapter
25 34.05 RCW, grant or deny an application for original license for a
26 public livestock market after considering evidence and testimony
27 relating to all of the requirements of this section and giving
28 reasonable consideration at the same hearing to:

29 (a) Benefits to the livestock industry to be derived from the
30 establishment and operation of the public livestock market proposed in
31 the application; and

32 (b) The present market services elsewhere available to the trade
33 area proposed to be served.

34 (3) ((Such application shall be accompanied by a license fee based
35 on the average gross sales volume per official sales day of that
36 market:)

37 (a) Markets with an average gross sales volume up to and including
38 ten thousand dollars, a fee of no less than one hundred dollars or more
39 than one hundred fifty dollars;

1 (b) Markets with an average gross sales volume over ten thousand
2 dollars and up to and including fifty thousand dollars, a fee of no
3 less than two hundred dollars or more than three hundred fifty dollars;
4 and

5 (c) Markets with an average gross sales volume over fifty thousand
6 dollars, a fee of no less than three hundred dollars or more than four
7 hundred fifty dollars.

8 The fees for public livestock market licensees shall be set by the
9 director by rule subsequent to a hearing under chapter 34.05 RCW and in
10 conformance with RCW 16.57.015.

11 (4) Any applicant operating more than one public livestock market
12 shall make a separate application for a license to operate each such
13 public livestock market, and each such application shall be accompanied
14 by the appropriate license fee.

15 (5) Upon the approval of the application by the director and
16 compliance with the provisions of this chapter, the applicant shall be
17 issued a license or renewal thereof. Any license issued under the
18 provisions of this chapter shall only be valid at location and for the
19 sales day or days for which the license was issued)) Applications for
20 renewal under RCW 16.65.040 shall include all information under
21 subsection (1) of this section, except subsection (1)(a) of this
22 section.

23 NEW SECTION. **Sec. 55.** 1994 c 46 s 21 is repealed.

24 NEW SECTION. **Sec. 56.** A new section is added to chapter 16.65 RCW
25 to read as follows:

26 (1) Upon the approval of the application by the director and
27 compliance with the provisions of this chapter, the applicant shall be
28 issued a license or renewal thereof. Any license issued under the
29 provisions of this chapter shall only be valid at location and for the
30 sales day or days for which the license was issued.

31 (2) The license fee shall be based on the average gross sales
32 volume per official sales day of that market:

33 (a) Markets with an average gross sales volume up to and including
34 ten thousand dollars, a fee of no less than one hundred dollars or more
35 than one hundred fifty dollars;

36 (b) Markets with an average gross sales volume over ten thousand
37 dollars and up to and including fifty thousand dollars, a fee of no

1 less than two hundred dollars or more than three hundred fifty dollars;
2 and

3 (c) Markets with an average gross sales volume over fifty thousand
4 dollars, a fee of no less than three hundred dollars or more than four
5 hundred fifty dollars.

6 The fees for public livestock market licenses shall be set by the
7 director by rule subsequent to a hearing under chapter 34.05 RCW and in
8 conformance with RCW 16.57.015.

9 (3) Any applicant operating more than one public livestock market
10 shall make a separate application for a license to operate each such
11 public livestock market, and each such application shall be accompanied
12 by the appropriate application fee.

13 **NEW SECTION.** **Sec. 57.** A new section is added to chapter 16.65 RCW
14 to read as follows:

15 (1) Upon the approval of the application by the director and
16 compliance with the provisions of this chapter, the applicant shall be
17 issued a license or renewal thereof. Any license issued under the
18 provisions of this chapter shall only be valid at location and for the
19 sales day or days for which the license was issued.

20 (2) The license fee shall be based on the average gross sales
21 volume per official sales day of that market:

22 (a) Markets with an average gross sales volume up to and including
23 ten thousand dollars, a one hundred twenty dollar fee;

24 (b) Markets with an average gross sales volume over ten thousand
25 dollars and up to and including fifty thousand dollars, a two hundred
26 forty dollar fee; and

27 (c) Markets with an average gross sales volume over fifty thousand
28 dollars, a three hundred sixty dollar fee.

29 The fees for public market licenses shall be set by the director by
30 rule subsequent to a hearing under chapter 34.05 RCW and in conformance
31 with RCW 16.57.015.

32 (3) Any applicant operating more than one public livestock market
33 shall make a separate application for a license to operate each such
34 public livestock market, and each such application shall be accompanied
35 by the appropriate application fee.

36 **NEW SECTION.** **Sec. 58.** (1) Sections 49 and 57 of this act shall
37 take effect July 1, 1997.

1 (2) Sections 48 and 56 of this act shall expire July 1, 1997.

2 **Sec. 59.** RCW 15.44.033 and 1967 c 240 s 30 are each amended to
3 read as follows:

4 Producer members of the commission shall be nominated and elected
5 by producers within the district that such producer members represent
6 in the year in which a commission member's term shall expire. Such
7 producer members receiving the largest number of the votes cast in the
8 respective districts which they represent shall be elected. The
9 election shall be by secret mail ballot and under the supervision of
10 the director.

11 Nomination for candidates to be elected to the commission shall be
12 conducted by mail by the director. Such nomination forms shall be
13 mailed by the director to each producer in a district where a vacancy
14 is about to occur. Such mailing shall be made on or after April 1st,
15 but not later than April 10th of the year the commission vacancy will
16 occur. The nomination form shall provide for the name of the producer
17 being nominated and the names of five producers nominating such
18 nominee. The producers nominating such nominee shall affix their
19 signatures to such form and shall further attest that the said nominee
20 meets the qualifications for a producer member to serve on the
21 commission and that he or she will be willing to serve on the
22 commission if elected.

23 All nominations as provided for herein shall be returned to the
24 director by April 30th, and the director shall not accept any
25 nomination postmarked later than midnight April 30th, nor place the
26 candidate thereon on the election ballot.

27 Ballots for electing members to the commission will be mailed by
28 the director to all eligible producers no later than May 15th, in
29 districts where elections are to be held and such ballots to be valid
30 shall be returned postmarked no later than May 31st of the year mailed,
31 to the director in Olympia.

32 ((Whenever producers fail to file any nominating petitions, the
33 director shall nominate at least two, but not more than three,
34 qualified producers and place their names on the secret mail election
35 ballot as nominees: PROVIDED, That any qualified producer may be
36 elected by a write-in ballot, even though said producer's name was not
37 placed in nomination for such election.)) If only one nominee is
38 nominated for a position on the board, the director shall deem that the

1 nominee satisfies the requirements of the position and then the
2 director shall deem that the nominee has been duly elected.

3 **Sec. 60.** RCW 43.88.240 and 1981 c 225 s 3 are each amended to read
4 as follows:

5 ~~Unless otherwise directed in the commodity commission enabling~~
6 ~~statute, this chapter shall not apply to the Washington state ((apple~~
7 ~~advertising commission, the Washington state fruit commission, the~~
8 ~~Washington tree fruit research commission, the Washington state beef~~
9 ~~commission, the Washington state dairy products commission, or any~~
10 ~~agricultural)) commodity commissions either created under separate~~
11 ~~statute or~~ the provisions of chapters 15.65 and 15.66 RCW: PROVIDED,

12 That all such commissions shall submit estimates and such other
13 necessary information as may be required for the development of the
14 budget and shall also be subject to audit by the appropriate state
15 auditing agency or officer.

16 NEW SECTION. **Sec. 61.** A new section is added to chapter 43.23 RCW
17 to read as follows:

18 For purposes of this chapter:

19 (1) "Department" means department of agriculture;

20 (2) "Person" means any individual, partnership, association,
21 corporation, or organized group of persons whether or not incorporated.

22 NEW SECTION. **Sec. 62.** A new section is added to chapter 43.23 RCW
23 to read as follows:

24 Except as otherwise specified by law, the director or his or her
25 designee has the authority to retain collection agencies licensed under
26 chapter 19.16 RCW for the purposes of collecting unpaid penalties,
27 assessments, and other debts owed to the department.

28 The director or his or her designee may include as costs moneys
29 paid to the collection agency as charges, or in the case of credit
30 cards or financial instruments, such as checks returned for nonpayment,
31 moneys paid to financial institutions.

32 NEW SECTION. **Sec. 63.** A new section is added to chapter 43.23 RCW
33 to read as follows:

34 Except as otherwise specified by law, any due and payable
35 assessment levied under the authority of the director or his or her

1 designee in such specified amount as may be determined by the
2 department shall constitute a personal debt of every person so assessed
3 or who otherwise owes the same, and the same shall be due and payable
4 to the department when payment is called for by the department. In the
5 event any person fails to pay the department the full amount of such
6 assessment or such other sum on or before the date due, the department
7 may, and is hereby authorized to, add to such unpaid assessment or
8 other sum an amount not exceeding ten percent of the same to defray the
9 cost of enforcing the collecting of the same. In the event of failure
10 of such person or persons to pay any such due and payable assessment or
11 other sum, the department may bring a civil action against such person
12 or persons in a court of competent jurisdiction for the collections
13 thereof, including all costs and reasonable attorneys' fees together
14 with the above specified ten percent, and such action shall be tried
15 and judgment rendered as in any other cause of action for debt due and
16 payable.

17 **NEW SECTION.** **Sec. 64.** A new section is added to chapter 43.23 RCW
18 to read as follows:

19 Except as otherwise specified by law, the department is authorized
20 to charge interest at the rate authorized under RCW 43.17.240 for all
21 unpaid balances for moneys owed to the department.

22 **NEW SECTION.** **Sec. 65.** A new section is added to chapter 43.23 RCW
23 to read as follows:

24 Except as otherwise specified by law, in the event a check or
25 negotiable instrument as defined by RCW 62A.3-104 is dishonored by
26 nonacceptance or nonpayment, the department is entitled to collect a
27 reasonable handling fee for each instrument. If the check or
28 instrument is not paid within fifteen days and proper notice is sent,
29 the department is authorized to recover the assessment, the handling
30 fee, and any other charges allowed by RCW 62A.3-515.

31 **Sec. 66.** RCW 15.58.070 and 1994 c 46 s 1 are each amended to read
32 as follows:

33 (1) Except as provided in subsection ((2)) (4) of this section,
34 any person desiring to register a pesticide with the department shall
35 pay to the director an annual registration fee for each pesticide
36 registered by the department for such person. The registration fee for

1 the registration of pesticides for any one person during a calendar
2 year shall be: One hundred five dollars for each of the first twenty-
3 five pesticides registered; one hundred dollars for each of the twenty-
4 sixth through one-hundredth pesticides registered; seventy-five dollars
5 for each of the one hundred first through one hundred fiftieth
6 pesticides registered; and fifty dollars for each additional pesticide
7 registered. In addition, the department may establish by rule a
8 registration fee not to exceed ten dollars for each registered product
9 labeled and intended for home and garden use only.

10 (2) The revenue generated by the pesticide registration fees shall
11 be deposited in the agriculture local fund to support the activities of
12 the pesticide program within the department. The revenue generated by
13 the home and garden use only fees shall be deposited in the
14 agriculture local fund, to be used to assist in funding activities of
15 the pesticide incident reporting and tracking review panel.

16 (3) All pesticide registrations expire on December 31st of each
17 year. A registrant may elect to register a pesticide for a two-year
18 period by prepaying for a second year at the time of registration.

19 ((+2)) (4) A person desiring to register a label where a special
20 local need exists shall pay to the director a nonrefundable application
21 fee of two hundred dollars upon submission of the registration request.
22 In addition, a person desiring to renew an approved special local need
23 registration shall pay to the director an annual registration fee of
24 two hundred dollars for each special local needs label registered by
25 the department for such person. The revenue generated by the special
26 local needs application fees and the special local needs renewal fees
27 shall be deposited in the agricultural local fund to be used to assist
28 in funding the department's special local needs registration
29 activities. All special local needs registrations expire on December
30 31st of each year.

31 ((+3)) (5) Any registration approved by the director and in effect
32 on the 31st day of December for which a renewal application has been
33 made and the proper fee paid, continues in full force and effect until
34 the director notifies the applicant that the registration has been
35 renewed, or otherwise denied in accord with the provision of RCW
36 15.58.110.

37 NEW SECTION. Sec. 67. A new section is added to chapter 15.58 RCW
38 to read as follows:

1 All license fees collected under this chapter shall be paid to the
2 director for use exclusively in the enforcement of this chapter.

3 NEW SECTION. **Sec. 68.** RCW 15.58.410 and 1971 ex.s. c 190 s 41 are
4 each repealed.

5 NEW SECTION. **Sec. 69.** Sections 9 through 20 of this act shall
6 constitute a new chapter in Title 69 RCW.

7 NEW SECTION. **Sec. 70.** Sections 1 through 47, 50 through 53, and
8 59 through 69 of this act are necessary for the immediate preservation
9 of the public peace, health, or safety, or support of the state
10 government and its existing public institutions, and shall take effect
11 June 30, 1995.

--- END ---