

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5190**

59th Legislature  
2005 Regular Session

Passed by the Senate March 8, 2005  
YEAS 48 NAYS 0

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**President of the Senate**

Passed by the House April 5, 2005  
YEAS 93 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5190** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5190**

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Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

**By** Senate Committee on Agriculture & Rural Economic Development  
(originally sponsored by Senators Fraser, Schoesler, Rasmussen and Swecker)

READ FIRST TIME 02/17/05.

1            AN ACT Relating to adulteration of commercial feed; amending RCW  
2 15.53.902 and 15.53.904; and prescribing penalties.

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

4            **Sec. 1.** RCW 15.53.902 and 1995 c 374 s 39 are each amended to read  
5 as follows:

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

8            (1) If it bears or contains any poisonous or deleterious substance  
9 which may render it injurious to health; but in case the substance is  
10 not an added substance, such commercial feed shall not be considered  
11 adulterated under this subsection if the quantity of such substance in  
12 such commercial feed does not ordinarily render it injurious to health;  
13 or

14            (2) If it bears or contains any added poisonous, added deleterious,  
15 or added nonnutritive substance which is unsafe within the meaning of  
16 section 406 of the federal food, drug, and cosmetic act (other than one  
17 which is (a) a pesticide chemical in or on a raw agricultural  
18 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 section 409 of the federal food, drug, and  
3 cosmetic act (21 U.S.C. Sec. 348); or

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

8 (5) If it is a raw agricultural commodity and it bears or contains  
9 a pesticide chemical which is unsafe within the meaning of section  
10 408(a) of the federal food, drug, and cosmetic act: PROVIDED, That  
11 where a pesticide chemical has been used in or on a raw agricultural  
12 commodity in conformity with an exemption granted or a tolerance  
13 prescribed under section 408 of the Federal Food, Drug, and Cosmetic  
14 Act and such raw agricultural commodity has been subjected to  
15 processing such as canning, cooking, freezing, dehydrating, or milling,  
16 the residue of such pesticide chemical remaining in or on such  
17 processed feed shall not be deemed unsafe if such residue in or on the  
18 raw agricultural commodity has been removed to the extent possible in  
19 good manufacturing practice and the concentration of such residue in  
20 the processed feed is not greater than the tolerance prescribed for the  
21 raw agricultural commodity unless the feeding of such processed feed  
22 will result or is likely to result in a pesticide residue in the edible  
23 product of the animal, which is unsafe within the meaning of section  
24 408(a) of the federal food, drug, and cosmetic act; or

25 ((+5)) (6) If it is, or it bears or contains any color additive  
26 which is unsafe within the meaning of section 706 of the federal food,  
27 drug, and cosmetic act; or

28 ((+6)) (7) If it is, or it bears or contains any new animal drug  
29 that is unsafe within the meaning of section 512 of the federal food,  
30 drug, and cosmetic act (21 U.S.C. Sec. 360b); or

31 ((+7)) (8) If any valuable constituent has been in whole or in  
32 part omitted or abstracted therefrom or any less valuable substance  
33 substituted therefor; or

34 ((+8)) (9) If its composition or quality falls below or differs  
35 from that which it is purported or is represented to possess by its  
36 labeling; or

37 ((+9)) (10) If it contains a drug and the methods used in or the  
38 facilities or controls used for its manufacture, processing, or

1 packaging do not conform to current good manufacturing practice rules  
2 adopted by the department to assure that the drug meets the  
3 requirements of this chapter as to safety and has the identity and  
4 strength and meets the quality and purity characteristics that it  
5 purports or is represented to possess. In adopting such rules, the  
6 department shall adopt the current good manufacturing practice  
7 regulations for type A medicated articles and type B and type C  
8 medicated feeds established under authority of the federal food, drug,  
9 and cosmetic act, unless the department determines that they are not  
10 appropriate to the conditions that exist in this state; or

11 ~~((+10+))~~ (11) If it contains viable, prohibited (primary) noxious  
12 weed seeds in excess of one per pound, or if it contains viable,  
13 restricted (secondary) noxious weed seeds in excess of twenty-five per  
14 pound. The primary and secondary noxious weed seeds shall be those as  
15 named pursuant to the provisions of chapter 15.49 RCW and rules adopted  
16 thereunder.

17 **Sec. 2.** RCW 15.53.904 and 1965 ex.s. c 31 s 17 are each amended to  
18 read as follows:

19 (1) Any person convicted of violating any of the provisions of this  
20 chapter or the rules and regulations issued thereunder or who shall  
21 impede, obstruct, hinder, or otherwise prevent or attempt to prevent  
22 the department in the performance of its duty in connection with the  
23 provisions of this chapter, shall be adjudged guilty of a misdemeanor  
24 ~~((and shall be fined not less than fifty dollars nor more than one  
25 hundred dollars for the first violation, and not less than two hundred  
26 dollars nor more than five hundred dollars for a subsequent violation))~~  
27 as provided in RCW 9A.20.021. In all prosecutions under this chapter  
28 involving the composition of a lot of commercial feed, a certified copy  
29 of the official analysis signed by the department shall be accepted as  
30 prima facie evidence of the composition.

31 (2) Any person convicted of intentionally violating RCW  
32 15.53.902(4) or the rules issued thereunder is guilty of a gross  
33 misdemeanor as provided in RCW 9A.20.021.

34 (3) Nothing in this chapter shall be construed as requiring the  
35 department to report for prosecution or for the institution of seizure  
36 proceedings as a result of minor violations of this chapter when it

1 believes that the public interest will be best served by a suitable  
2 notice of warning in writing.

3 ((+3)) (4) It shall be the duty of each prosecuting attorney to  
4 whom any violation is reported to cause appropriate proceedings to be  
5 instituted and prosecuted in a court of competent jurisdiction without  
6 delay. Before the department reports a violation for such prosecution,  
7 an opportunity shall be given the distributor to present ((his)) the  
8 distributor's view in writing or orally to the department.

9 ((+4)) (5) The department is hereby authorized to apply for and  
10 the court to grant a temporary or permanent injunction restraining any  
11 person from violating or continuing to violate any of the provisions of  
12 this chapter or any rule or regulation promulgated under this chapter  
13 notwithstanding the existence of other remedies at law. Said  
14 injunction to be issued without bond.

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