

HOUSE BILL REPORT

HB 1955

*As Passed House
March 19, 1991*

Title: An act relating to the uniform Washington food, drug, and cosmetic act.

Brief Description: Changing provisions regarding misbranded or adulterated food.

Sponsor(s): Representatives Rayburn, Nealey, Kremen, McLean, Roland, Inslee, Rasmussen, Basich and Brekke; by request of Department of Agriculture.

Brief History:

Reported by House Committee on:

Agriculture & Rural Development, February 19, 1991, DP;
Passed House, March 19, 1991, 98-0.

**HOUSE COMMITTEE ON
AGRICULTURE & RURAL DEVELOPMENT**

Majority Report: *Do pass.* Signed by 11 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Chandler; Grant; R. Johnson; Lisk; McLean; Rasmussen; and Roland.

Staff: Kenneth Hirst (786-7105).

Background: The state's Uniform Food, Drug and Cosmetic Act permits the director of the Department of Agriculture to embargo articles of trade which are injurious or potentially injurious to the consuming or purchasing public. The director has 20 days in which to petition the Superior Court to affirm the embargo.

Rules adopted by the federal government under the Federal Food, Drug and Cosmetic Act are adopted by reference under the state's laws. These rules apply, and therefore limit the director's authority to adopt different rules, unless the director holds a hearing of nonapplicability within 30 days of the date the federal rules are adopted.

Most violations of the act are misdemeanors.

Summary of Bill: Civil Penalties. The director is empowered to impose civil penalties for violations of the Uniform Food, Drug and Cosmetic Act. The maximum civil penalty is \$1000 per violation per day.

Embargoes. The director may embargo an article under the act for being adulterated or misbranded without having also to find that the embargo is necessary to protect the public from injury or possible injury. The director now has 30 days (rather than 20 days, as under current law) to petition the Superior Court for an order affirming the director's embargo of an article.

Uniformity; Statements. Federal rules adopted under the Federal Food, Drug and Cosmetic Act no longer limit the director's authority to adopt rules under the state's act. The employees of the Department of Agriculture are authorized to take verified statements in enforcing the state's act.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Taken from testimony on the parent bill, HB 1483.) (1) The bill permits the Department of Agriculture to take actions to prevent contamination of food, rather than just responding to incidents of contamination. In its inspections, the department is finding pathogens which require immediate response. (2) Civil penalties will provide more timely and effective penalties for violations. (3) Enforcement will be enhanced by the ability of field investigators to take verified statements from witnesses.

Testimony Against: None.

Witnesses: (Taken from testimony on the parent bill, HB 1483.) Mike Schwisow and John Daly, Department of Agriculture (in favor).