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**SUBSTITUTE HOUSE BILL 2774**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Agriculture & Rural Development (originally sponsored by Representatives Chandler and Rayburn)

Read first time 02/04/94.

1 AN ACT Relating to the department of agriculture; amending RCW  
2 16.65.030, 16.65.090, 16.58.050, 16.58.130, and 16.57.220; reenacting  
3 and amending RCW 16.57.080 and 16.57.220; reenacting RCW 16.65.030,  
4 16.65.090, 16.58.050, 16.58.130, 16.57.090, 16.57.140, and 16.57.400;  
5 creating new sections; providing an effective date; and declaring an  
6 emergency.

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

8 **Sec. 1.** RCW 16.65.030 and 1993 c 354 s 1 are each reenacted to  
9 read as follows:

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

15 (a) A legal description of the property upon which the public  
16 livestock market shall be located.

17 (b) A complete description and blueprints or plans of the public  
18 livestock market physical plant, yards, pens, and all facilities the

1 applicant proposes to use in the operation of such public livestock  
2 market.

3 (c) A detailed statement showing all the assets and liabilities of  
4 the applicant which must reflect a sufficient net worth to construct or  
5 operate a public livestock market.

6 (d) The schedule of rates and charges the applicant proposes to  
7 impose on the owners of livestock for services rendered in the  
8 operation of such livestock market.

9 (e) The weekly or monthly sales day or days on which the applicant  
10 proposes to operate his or her public livestock market sales.

11 (f) Projected source and quantity of livestock, by county,  
12 anticipated to be handled.

13 (g) Projected income and expense statements for the first year's  
14 operation.

15 (h) Facts upon which are based the conclusion that the trade area  
16 and the livestock industry will benefit because of the proposed market.

17 (i) Such other information as the director may reasonably require.

18 (2) The director shall, after public hearing as provided by chapter  
19 34.05 RCW, grant or deny an application for original license for a  
20 public livestock market after considering evidence and testimony  
21 relating to all of the requirements of this section and giving  
22 reasonable consideration at the same hearing to:

23 (a) Benefits to the livestock industry to be derived from the  
24 establishment and operation of the public livestock market proposed in  
25 the application; and

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

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

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

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

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

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

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

8       (5) Upon the approval of the application by the director and  
9 compliance with the provisions of this chapter, the applicant shall be  
10 issued a license or renewal thereof. Any license issued under the  
11 provisions of this chapter shall only be valid at location and for the  
12 sales day or days for which the license was issued.

13       **Sec. 2.** RCW 16.65.090 and 1993 c 354 s 2 are each reenacted to  
14 read as follows:

15       The director shall provide for brand inspection. When such brand  
16 inspection is required the licensee shall collect from the consignor  
17 and pay to the department, as provided by law, a fee for brand  
18 inspection for each animal consigned to the public livestock market or  
19 special open consignment horse sale. The director shall set by rule,  
20 adopted after a hearing under chapter 34.05 RCW and in conformance with  
21 RCW 16.57.015, a minimum daily inspection fee that shall be paid to the  
22 department by the licensee. Such a fee shall be not less than sixty  
23 dollars and not more than ninety dollars.

24       **Sec. 3.** RCW 16.58.050 and 1993 c 354 s 3 are each reenacted to  
25 read as follows:

26       The application for an annual license to engage in the business of  
27 operating one or more certified feed lots shall be accompanied by a  
28 license fee of no less than five hundred dollars or no more than seven  
29 hundred fifty dollars. The actual license fee for a certified feed lot  
30 license shall be prescribed by the director by rule subsequent to a  
31 hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.  
32 Upon approval of the application by the director and compliance with  
33 the provisions of this chapter and rules adopted hereunder, the  
34 applicant shall be issued a license or a renewal thereof.

35       **Sec. 4.** RCW 16.58.130 and 1993 c 354 s 4 are each reenacted to  
36 read as follows:

1 Each licensee shall pay to the director a fee of no less than ten  
2 cents but no more than fifteen cents for each head of cattle handled  
3 through the licensee's feed lot. The fee shall be set by the director  
4 by rule after a hearing under chapter 34.05 RCW and in conformance with  
5 RCW 16.57.015. Payment of such fee shall be made by the licensee on a  
6 monthly basis. Failure to pay as required shall be grounds for  
7 suspension or revocation of a certified feed lot license. Further, the  
8 director shall not renew a certified feed lot license if a licensee has  
9 failed to make prompt and timely payments.

10 **Sec. 5.** RCW 16.57.080 and 1993 c 354 s 5 are each reenacted and  
11 amended to read as follows:

12 The director shall establish by rule a schedule for the renewal of  
13 registered brands. The fee for renewal of the brands shall be no less  
14 than twenty-five dollars for each two-year period of brand ownership,  
15 except that the director may, in adopting a renewal schedule, provide  
16 for the collection of renewal fees on a prorated basis and may by rule  
17 increase the registration and renewal fee for brands by no more than  
18 fifty percent subsequent to a hearing under chapter 34.05 RCW and in  
19 conformance with RCW 16.57.015. At least (~~one hundred twenty~~) sixty  
20 days before the expiration of a registered brand, the director shall  
21 notify by letter the owner of record of the brand that on the payment  
22 of the requisite application fee and application of renewal the  
23 director shall issue the proof of payment allowing the brand owner  
24 exclusive ownership and use of the brand for the subsequent  
25 registration period. The failure of the registered owner to pay the  
26 renewal fee by the date required by rule shall cause such owner's brand  
27 to revert to the department. The director may for a period of one year  
28 following such reversion, reissue such brand only to the prior  
29 registered owner upon payment of the registration fee and a late filing  
30 fee to be prescribed by the director by rule subsequent to a hearing  
31 under chapter 34.05 RCW and in conformance with RCW 16.57.015, for  
32 renewal subsequent to the regular renewal period. The director may at  
33 the director's discretion, if such brand is not reissued within one  
34 year to the prior registered owner, issue such brand to any other  
35 applicant.

36 **Sec. 6.** RCW 16.57.090 and 1993 c 354 s 6 are each reenacted to  
37 read as follows:

1 A brand is the personal property of the owner of record. Any  
2 instrument affecting the title of such brand shall be acknowledged in  
3 the presence of the recorded owner and a notary public. The director  
4 shall record such instrument upon presentation and payment of a  
5 recording fee not to exceed fifteen dollars to be prescribed by the  
6 director by rule subsequent to a hearing under chapter 34.05 RCW and in  
7 conformance with RCW 16.57.015. Such recording shall be constructive  
8 notice to all the world of the existence and conditions affecting the  
9 title to such brand. A copy of all records concerning the brand,  
10 certified by the director, shall be received in evidence to all intent  
11 and purposes as the original instrument. The director shall not be  
12 personally liable for failure of the director's agents to properly  
13 record such instrument.

14 **Sec. 7.** RCW 16.57.140 and 1993 c 354 s 7 are each reenacted to  
15 read as follows:

16 The owner of a brand of record may procure from the director a  
17 certified copy of the record of the owner's brand upon payment of a fee  
18 not to exceed seven dollars and fifty cents to be prescribed by the  
19 director by rule subsequent to a hearing under chapter 34.05 RCW and in  
20 conformance with RCW 16.57.015.

21 **Sec. 8.** RCW 16.57.220 and 1993 c 354 s 8 are each reenacted and  
22 amended to read as follows:

23 The director shall cause a charge to be made for all brand  
24 inspection of cattle and horses required under this chapter and rules  
25 adopted hereunder. Such charges shall be paid to the department by the  
26 owner or person in possession unless requested by the purchaser and  
27 then such brand inspection shall be paid by the purchaser requesting  
28 such brand inspection. Such inspection charges shall be due and  
29 payable at the time brand inspection is performed and shall be paid  
30 upon billing by the department and if not shall constitute a prior lien  
31 on the cattle or cattle hides or horses or horse hides brand inspected  
32 until such charge is paid. The director in order to best utilize the  
33 services of the department in performing brand inspection may establish  
34 schedules by days and hours when a brand inspector will be on duty to  
35 perform brand inspection at established inspection points. The fees  
36 for brand inspection shall be not less than fifty cents nor more than  
37 seventy-five cents per head for cattle and not less than two dollars

1 nor more than three dollars per head for horses as prescribed by the  
2 director by rule subsequent to a hearing under chapter 34.05 RCW and in  
3 conformance with RCW 16.57.015. Fees for brand inspection of cattle  
4 and horses performed by the director at points other than those  
5 designated by the director or not in accord with the schedules  
6 established by the director shall be based on a fee schedule not to  
7 exceed actual net cost to the department of performing the brand  
8 inspection service. (~~Such schedule of fees shall be established~~  
9 ~~subsequent to a hearing and all regulations concerning fees shall be~~  
10 ~~adopted in accord with the provisions of chapter 34.05 RCW, the~~  
11 ~~Administrative Procedure Act, concerning the adoption of rules as~~  
12 ~~enacted or hereafter amended.)) For the purpose of this section, actual  
13 costs shall mean fifteen dollars per hour and the current mileage rate  
14 set by the office of financial management.~~

15 **Sec. 9.** RCW 16.57.400 and 1993 c 354 s 9 are each reenacted to  
16 read as follows:

17 The director may provide by rules and regulations adopted pursuant  
18 to chapter 34.05 RCW for the issuance of individual horse and cattle  
19 identification certificates or other means of horse and cattle  
20 identification deemed appropriate. Such certificates or other means of  
21 identification shall be valid only for the use of the horse and cattle  
22 owner in whose name it is issued.

23 Horses and cattle identified pursuant to the provisions of this  
24 section and the rules and regulations adopted hereunder shall not be  
25 subject to brand inspection except when sold at points provided for in  
26 RCW 16.57.380. The director shall charge a fee for the certificates or  
27 other means of identification authorized pursuant to this section and  
28 no identification shall be issued until the director has received the  
29 fee. The schedule of fees shall be established in accordance with the  
30 provisions of chapter 34.05 RCW.

31 **Sec. 10.** RCW 16.65.030 and 1993 c 354 s 1 are each amended to read  
32 as follows:

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

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

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

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

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

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

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

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

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

21 (i) Such other information as the director may reasonably require.

22 (2) The director shall, after public hearing as provided by chapter  
23 34.05 RCW, grant or deny an application for original license for a  
24 public livestock market after considering evidence and testimony  
25 relating to all of the requirements of this section and giving  
26 reasonable consideration at the same hearing to:

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

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

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

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

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

1 ~~less than)) two hundred forty dollar((s or more than three hundred~~  
2 ~~fifty dollars)) fee; and~~

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

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

9 (4) 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 license fee.

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

18 **Sec. 11.** RCW 16.65.090 and 1993 c 354 s 2 are each amended to read  
19 as follows:

20 The director shall provide for brand inspection. When such brand  
21 inspection is required the licensee shall collect from the consignor  
22 and pay to the department, as provided by law, a fee for brand  
23 inspection for each animal consigned to the public livestock market or  
24 special open consignment horse sale: PROVIDED, That if in any one sale  
25 day the total fees collected for brand inspection do not exceed  
26 seventy-two dollars, then such licensee shall pay seventy-two dollars  
27 for such brand inspection or as much thereof as the director may  
28 prescribe. ~~((The director shall set by rule, adopted after a hearing~~  
29 ~~under chapter 34.05 RCW and in conformance with RCW 16.57.015, a~~  
30 ~~minimum daily inspection fee that shall be paid to the department by~~  
31 ~~the licensee. Such a fee shall be not less than sixty dollars and not~~  
32 ~~more than ninety dollars.))~~

33 **Sec. 12.** RCW 16.58.050 and 1993 c 354 s 3 are each amended to read  
34 as follows:

35 The application for an annual license to engage in the business of  
36 operating one or more certified feed lots shall be accompanied by a  
37 license fee of ~~((no less than five)) six hundred dollars ~~((or no more~~~~



1 than seven hundred fifty dollars. The actual license fee for a  
2 certified feed lot license shall be prescribed by the director by rule  
3 subsequent to a hearing under chapter 34.05 RCW and in conformance with  
4 RCW 16.57.015)). Upon approval of the application by the director and  
5 compliance with the provisions of this chapter and rules adopted  
6 hereunder, the applicant shall be issued a license or a renewal  
7 thereof.

8 **Sec. 13.** RCW 16.58.130 and 1993 c 354 s 4 are each amended to read  
9 as follows:

10 Each licensee shall pay to the director a fee of ((no less than  
11 ten)) twelve cents ((but no more than fifteen cents)) for each head of  
12 cattle handled through the licensee's feed lot. ((The fee shall be set  
13 by the director by rule after a hearing under chapter 34.05 RCW and in  
14 conformance with RCW 16.57.015.)) Payment of such fee shall be made by  
15 the licensee on a monthly basis. Failure to pay as required shall be  
16 grounds for suspension or revocation of a certified feed lot license.  
17 Further, the director shall not renew a certified feed lot license if  
18 a licensee has failed to make prompt and timely payments.

19 **Sec. 14.** RCW 16.57.220 and 1993 c 354 s 8 are each amended to read  
20 as follows:

21 The director shall cause a charge to be made for all brand  
22 inspection of cattle and horses required under this chapter and rules  
23 adopted hereunder. Such charges shall be paid to the department by the  
24 owner or person in possession unless requested by the purchaser and  
25 then such brand inspection shall be paid by the purchaser requesting  
26 such brand inspection. Such inspection charges shall be due and  
27 payable at the time brand inspection is performed and shall be paid  
28 upon billing by the department and if not shall constitute a prior lien  
29 on the cattle or cattle hides or horses or horse hides brand inspected  
30 until such charge is paid. The director in order to best utilize the  
31 services of the department in performing brand inspection may establish  
32 schedules by days and hours when a brand inspector will be on duty to  
33 perform brand inspection at established inspection points. The fees  
34 for brand inspection performed at inspection points according to  
35 schedules established by the director shall be ((not less than fifty))  
36 sixty cents ((nor more than seventy five cents)) per head for cattle  
37 and not ((less)) more than two dollars ((nor more than three dollars))

1 and forty cents per head for horses as prescribed by the director ((by  
2 rule)) subsequent to a hearing under chapter 34.05 RCW and in  
3 conformance with RCW 16.57.015. Fees for brand inspection of cattle  
4 and horses performed by the director at points other than those  
5 designated by the director or not in accord with the schedules  
6 established by the director shall be based on a fee schedule not to  
7 exceed actual net cost to the department of performing the brand  
8 inspection service. Such schedule of fees shall be established  
9 subsequent to a hearing and all regulations concerning fees shall be  
10 adopted in accord with the provisions of chapter 34.05 RCW, the  
11 Administrative Procedure Act, concerning the adoption of rules as  
12 enacted or hereafter amended.

13 NEW SECTION. **Sec. 15.** A task force on livestock brand inspection  
14 is hereby created. The task force shall be composed of: Two members  
15 of the house of representatives appointed by the speaker of the house  
16 of representatives, one from each political party caucus in the house  
17 of representatives; two members of the senate appointed by the  
18 president of the senate, one from each political party caucus in the  
19 senate; the director of agriculture or the director's designee; and  
20 citizen members appointed by the speaker of the house of  
21 representatives and the president of the senate representing the  
22 livestock industry including those who are beef cattle producers,  
23 horseowners, dairy cattle farmers, cattle feeders, public livestock  
24 market operators, and meat processors.

25 The task force shall examine means of providing a cost-efficient  
26 and effective livestock brand inspection program and shall report its  
27 recommendations regarding such a program to the legislature by December  
28 1, 1994.

29 This section shall expire on June 1, 1995.

30 NEW SECTION. **Sec. 16.** Sections 1 through 9, 15, and 17 of this  
31 act are necessary for the immediate preservation of the public peace,  
32 health, or safety, or support of the state government and its existing  
33 public institutions, and shall take effect immediately.

34 NEW SECTION. **Sec. 17.** The reenactment of sections 1 through 9 of  
35 this act constitutes approval of fee increases for which prior

1 legislative approval is required by RCW 43.135.055 (section 8, chapter  
2 2, Laws of 1994, Initiative Measure No. 601).

3 NEW SECTION. **Sec. 18.** Sections 10 through 14 of this act shall  
4 take effect July 1, 1997.

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