
SENATE BILL 6463

State of Washington 53rd Legislature 1994 Regular Session

By Senator M. Rasmussen; by request of Department of Agriculture

Read first time 01/24/94. Referred to Committee on Agriculture.

1 AN ACT Relating to the department of agriculture; amending RCW
2 15.58.070, 15.58.080, 22.09.011, 22.09.050, 22.09.055, 22.09.830,
3 17.24.021, 16.57.020, 16.57.080, 16.57.350, 15.04.400, 15.04.402, and
4 15.36.110; creating a new section; and declaring an emergency.

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

6 **Sec. 1.** RCW 15.58.070 and 1989 c 380 s 6 are each amended to read
7 as follows:

8 (1) Except as provided in subsection (2) of this section, any
9 person desiring to register a pesticide with the department shall pay
10 to the director an annual registration fee for each pesticide
11 registered by the department for such person. The registration fee for
12 the registration of pesticides for any one person during a calendar
13 year shall be: One hundred five dollars for each of the first twenty-
14 five pesticides registered; one hundred dollars for each of the twenty-
15 sixth through one-hundredth pesticides registered; seventy-five dollars
16 for each of the one hundred first through one hundred fiftieth
17 pesticides registered; and fifty dollars for each additional pesticide
18 registered. In addition, the department may establish by rule a
19 registration fee not to exceed ten dollars for each registered product

1 labeled and intended for home and garden use only. The revenue
2 generated by the home and garden use only fees shall be deposited in
3 the agriculture--local fund, to be used to assist in funding activities
4 of the pesticide incident reporting and tracking review panel. All
5 pesticide registrations expire on December 31st of each year.

6 (2) A person desiring to register a label where a special local
7 need exists shall pay to the director a nonrefundable application fee
8 of two hundred dollars upon submission of the registration request. In
9 addition, a person desiring to renew an approved special local need
10 registration shall pay to the director an annual registration fee of
11 two hundred dollars for each special local needs label registered by
12 the department for such person. The revenue generated by the special
13 local needs application fees and the special local needs renewal fees
14 shall be deposited in the agricultural local fund to be used to assist
15 in funding the department's special local needs registration
16 activities. All special local needs registrations expire on December
17 31st of each year.

18 (3) Any registration approved by the director and in effect on the
19 31st day of December for which a renewal application has been made and
20 the proper fee paid, continues in full force and effect until the
21 director notifies the applicant that the registration has been renewed,
22 or otherwise denied in accord with the provision of RCW 15.58.110.

23 **Sec. 2.** RCW 15.58.080 and 1989 c 380 s 7 are each amended to read
24 as follows:

25 If the renewal of a pesticide registration or special needs
26 registration is not filed before January 1st of each year, an
27 additional fee of twenty-five dollars shall be assessed and added to
28 the original fee. The additional fee shall be paid by the applicant
29 before the registration renewal for that pesticide shall be issued
30 unless the applicant furnishes an affidavit certifying that the
31 applicant did not distribute the unregistered pesticide during the
32 period of nonregistration. The payment of the additional fee is not a
33 bar to any prosecution for doing business without proper registry.

34 **Sec. 3.** RCW 22.09.011 and 1989 c 354 s 44 are each amended to read
35 as follows:

36 The definitions set forth in this section apply throughout this
37 chapter unless the context clearly requires otherwise.

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

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

5 (3) "Person" means a natural person, individual, firm, partnership,
6 corporation, company, society, association, cooperative, two or more
7 persons having a joint or common interest, or any unit or agency of
8 local, state, or federal government.

9 (4) "Agricultural commodities," or "commodities," means: (a)
10 Grains for which inspection standards have been established under the
11 United States grain standards act; (b) pulses and similar commodities
12 for which inspection standards have been established under the
13 agricultural marketing act of 1946; and (c) other similar agricultural
14 products for which inspection standards have been established or which
15 have been otherwise designated by the department by rule for inspection
16 services or the warehousing requirements of this chapter.

17 (5) "Warehouse," also referred to as a public warehouse, means any
18 elevator, mill, subterminal grain warehouse, terminal warehouse,
19 country warehouse, or other structure or enclosure located in this
20 state that is used or useable for the storage of agricultural products,
21 and in which commodities are received from the public for storage,
22 handling, conditioning, or shipment for compensation. The term does
23 not include any warehouse storing or handling fresh fruits and/or
24 vegetables, any warehouse used exclusively for cold storage, or any
25 warehouse that conditions yearly less than three hundred tons of an
26 agricultural commodity for compensation.

27 (6) "Terminal warehouse" means any warehouse designated as a
28 terminal by the department, and located at an inspection point where
29 inspection facilities are maintained by the department and where
30 commodities are ordinarily received and shipped by common carrier.

31 (7) "Subterminal warehouse" means any warehouse that performs an
32 intermediate function in which agricultural commodities are customarily
33 received from dealers rather than producers and where the commodities
34 are accumulated before shipment to a terminal warehouse.

35 (8) "Station" means two or more warehouses between which
36 commodities are commonly transferred in the ordinary course of business
37 and that are (a) immediately adjacent to each other, or (b) located
38 within the corporate limits of any city or town and subject to the same
39 transportation tariff zone, or (c) at any railroad siding or switching

1 area and subject to the same transportation tariff zone, or (d) at one
2 location in the open country off rail, or (e) in any area that can be
3 reasonably audited by the department as a station under this chapter
4 and that has been established as such by the director by rule adopted
5 under chapter 34.05 RCW, or (f) within twenty miles of each other but
6 separated by the border between Washington and Idaho or Oregon when the
7 books and records for the station are maintained at the warehouse
8 located in Washington.

9 (9) "Inspection point" means a city, town, or other place wherein
10 the department maintains inspection and weighing facilities.

11 (10) "Warehouseman" means any person owning, operating, or
12 controlling a warehouse in the state of Washington.

13 (11) "Depositor" means (a) any person who deposits a commodity with
14 a Washington state licensed warehouseman for storage, handling,
15 conditioning, or shipment, or (b) any person who is the owner or legal
16 holder of a warehouse receipt, outstanding scale weight ticket, or
17 other evidence of the deposit of a commodity with a Washington state
18 licensed warehouseman or (c) any producer whose agricultural commodity
19 has been sold to a grain dealer through the dealer's place of business
20 located in the state of Washington, or any Washington producer whose
21 agricultural commodity has been sold to or is under the control of a
22 grain dealer, whose place of business is located outside the state of
23 Washington.

24 (12) "Historical depositor" means any person who in the normal
25 course of business operations has consistently made deposits in the
26 same warehouse of commodities produced on the same land. In addition
27 the purchaser, lessee, and/or inheritor of such land from the original
28 historical depositor with reference to the land shall be considered a
29 historical depositor with regard to the commodities produced on the
30 land.

31 (13) "Grain dealer" means any person who, through his place of
32 business located in the state of Washington, solicits, contracts for,
33 or obtains from a producer, title, possession, or control of any
34 agricultural commodity for purposes of resale, or any person who
35 solicits, contracts for, or obtains from a Washington producer, title,
36 possession, or control of any agricultural commodity for purposes of
37 resale.

38 (14) "Producer" means any person who is the owner, tenant, or
39 operator of land who has an interest in and is entitled to receive all

1 or any part of the proceeds from the sale of a commodity produced on
2 that land.

3 (15) "Warehouse receipt" means a negotiable or nonnegotiable
4 warehouse receipt as provided for in Article 7 of Title 62A RCW.

5 (16) "Scale weight ticket" means a load slip or other evidence of
6 deposit, serially numbered, not including warehouse receipts as defined
7 in subsection (15) of this section, given a depositor on request upon
8 initial delivery of the commodity to the warehouse and showing the
9 warehouse's name and state number, type of commodity, weight thereof,
10 name of depositor, and the date delivered.

11 (17) "Put through" means agricultural commodities that are
12 deposited in a warehouse for receiving, handling, conditioning, or
13 shipping, and on which the depositor has concluded satisfactory
14 arrangements with the warehouseman for the immediate or impending
15 shipment of the commodity.

16 (18) "Conditioning" means, but is not limited to, the drying or
17 cleaning of agricultural commodities.

18 (19) "Deferred price contract" means a contract for the sale of
19 commodities that conveys the title and all rights of ownership to the
20 commodities represented by the contract to the buyer, but allows the
21 seller to set the price of the commodities at a later date based on an
22 agreed upon relationship to a future month's price or some other
23 mutually agreeable method of price determination. Deferred price
24 contracts include but are not limited to those contracts commonly
25 referred to as delayed price, price later contracts, or open price
26 contracts.

27 (20) "Shortage" means that a warehouseman does not have in his
28 possession sufficient commodities at each of his stations to cover the
29 outstanding warehouse receipts, scale weight tickets, or other evidence
30 of storage liability issued or assumed by him for the station.

31 (21) "Failure" means:

32 (a) An inability to financially satisfy claimants in accordance
33 with this chapter and the time limits provided for in it;

34 (b) A public declaration of insolvency;

35 (c) A revocation of license and the leaving of an outstanding
36 indebtedness to a depositor;

37 (d) A failure to redeliver any commodity to a depositor or to pay
38 depositors for commodities purchased by a licensee in the ordinary

1 course of business and where a bona fide dispute does not exist between
2 the licensee and the depositor;

3 (e) A failure to make application for license renewal within sixty
4 days after the annual license renewal date; or

5 (f) A denial of the application for a license renewal.

6 (22) "Original inspection" means an initial, official inspection of
7 a grain or commodity.

8 (23) "Reinspection" means an official review of the results of an
9 original inspection service by an inspection office that performed that
10 original inspection service. A reinspection may be performed either on
11 the basis of the official file sample or a new sample obtained by the
12 same means as the original if the lot remains intact.

13 (24) "Appeal inspection" means, for commodities covered by federal
14 standards, a review of original inspection or reinspection results by
15 an authorized United States department of agriculture inspector. For
16 commodities covered under state standards, an appeal inspection means
17 a review of original or reinspection results by a supervising
18 inspector. An appeal inspection may be performed either on the basis
19 of the official file sample or a new sample obtained by the same means
20 as the original if the lot remains intact.

21 (25) "Exempt grain dealer" means a grain dealer who purchases less
22 than one hundred thousand dollars of covered commodities annually from
23 producers, and operates under the provisions of RCW 22.09.060.

24 **Sec. 4.** RCW 22.09.050 and 1991 c 109 s 25 are each amended to read
25 as follows:

26 Any application for a license to operate a warehouse shall be
27 accompanied by a license fee of (~~four~~) twelve hundred dollars for a
28 terminal warehouse, (~~three~~) nine hundred dollars for a subterminal
29 warehouse, and (~~one~~) three hundred and fifty dollars for a country
30 warehouse. If a licensee operates more than one warehouse under one
31 state license as provided for in RCW 22.09.030, the license fee shall
32 be computed either by multiplying the number of physically separated
33 warehouses within the station by the applicable terminal, subterminal,
34 or country warehouse license fee or the director may provide for a fee
35 based upon the total licensed capacity of the licensee. Capacity
36 license fees to operate a warehouse shall be based on the total
37 licensed capacity of the warehouse company and shall follow the
38 following fee schedule:

<u>1</u> Bushels of Licensed Capacity	<u>Fee</u>
<u>2</u> <u>1</u> to 500,000	\$ <u>500</u>
<u>3</u> <u>500,001</u> to 1,000,000	<u>1,000</u>
<u>4</u> <u>1,000,001</u> to 1,500,000	<u>1,500</u>
<u>5</u> <u>1,500,001</u> to 2,000,000	<u>2,000</u>
<u>6</u> <u>2,000,001</u> to 2,500,000	<u>2,500</u>
<u>7</u> <u>2,500,001</u> to 3,000,000	<u>3,000</u>
<u>8</u> <u>3,000,001</u> to 3,500,000	<u>3,500</u>
<u>9</u> <u>3,500,001</u> to 4,000,000	<u>4,000</u>
<u>10</u> <u>4,000,001</u> to 4,500,000	<u>4,500</u>
<u>11</u> <u>4,500,001</u> to 5,000,000	<u>5,000</u>
<u>12</u> <u>5,000,001</u> to 6,000,000	<u>5,500</u>
<u>13</u> <u>6,000,001</u> to 7,000,000	<u>6,000</u>
<u>14</u> <u>7,000,001</u> to 8,000,000	<u>6,500</u>
<u>15</u> <u>8,000,001</u> to 9,000,000	<u>7,000</u>
<u>16</u> <u>9,000,001</u> to 10,000,000	<u>7,500</u>
<u>17</u> <u>10,000,001 and Over</u>	<u>8,000</u>

18 If an application for renewal of a warehouse license or licenses is
19 not received by the department prior to the renewal date or dates
20 established by the director by rule, a penalty of fifty dollars for the
21 first week and one hundred dollars for each week thereafter shall be
22 assessed and added to the original fee and shall be paid by the
23 applicant before the renewal license may be issued. This penalty does
24 not apply if the applicant furnishes an affidavit certifying that he
25 has not acted as a warehouseman subsequent to the expiration of his or
26 her prior license.

27 **Sec. 5.** RCW 22.09.055 and 1991 c 109 s 26 are each amended to read
28 as follows:

29 An application for a license to operate as a grain dealer shall be
30 accompanied by a license fee of (~~three~~) six hundred dollars unless
31 the applicant is also a licensed warehouseman, in which case the fee
32 for a grain dealer license shall be (~~one~~) three hundred (~~fifty~~)
33 dollars. The license fee for exempt grain dealers (~~exempted from~~
34 ~~bonding under RCW 22.09.060~~) shall be (~~seventy-five~~) one hundred
35 fifty dollars.

36 If an application for renewal of a grain dealer license is not
37 received by the department before the renewal date or dates established

1 by the director by rule, a penalty of fifty dollars for the first week
2 and one hundred dollars for each week thereafter shall be assessed and
3 added to the original fee and shall be paid by the applicant before the
4 renewal license may be issued. This penalty does not apply if the
5 applicant furnishes an affidavit certifying that he has not acted as a
6 grain dealer after the expiration of his or her prior license.

7 **Sec. 6.** RCW 22.09.830 and 1989 c 354 s 52 are each amended to read
8 as follows:

9 (1) All moneys collected as (~~warehouse license fees,~~) fees for
10 weighing, grading, and inspecting commodities and all other fees
11 collected under the provisions of this chapter, except as provided in
12 subsections (2) and (3) of this section, shall be deposited in the
13 grain inspection revolving fund, which is hereby established. The
14 state treasurer is the custodian of the revolving fund. Disbursements
15 from the revolving fund shall be on authorization of the director of
16 the department of agriculture. The revolving fund is subject to the
17 allotment procedure provided in chapter 43.88 RCW, but no appropriation
18 is required for disbursements from the fund. The fund shall be used
19 for all expenses directly incurred by the (~~commodity inspection~~
20 ~~division~~) grain inspection program in carrying out the provisions of
21 this chapter. The department may use so much of such fund not
22 exceeding five percent thereof as the director of agriculture may
23 determine necessary for research and promotional work, including rate
24 studies, relating to wheat and wheat products.

25 (2) All fees collected for the inspection, grading, and testing of
26 hops shall be deposited into the hop inspection fund, which is hereby
27 established, and shall be retained by the department for the purpose of
28 inspecting, grading, and testing hops. Any moneys in any fund retained
29 by the department on July 1, 1963, and derived from hop inspection and
30 grading shall be deposited to this hop inspection fund. For the
31 purposes of research which would contribute to the development of
32 superior hop varieties and to improve hop production and harvest
33 practices, the department may expend up to twenty percent of the moneys
34 deposited in the hop inspection fund during the fiscal year ending June
35 30th immediately preceding the year in which such expenditures are to
36 be made. No expenditures shall be made under the provisions of this
37 subsection when the hop inspection fund is, or the director may
38 reasonably anticipate that it will be, reduced below twenty thousand

1 dollars as the result of such expenditure or other necessary
2 expenditures made to carry out the inspection, grading, and testing of
3 hops.

4 (3) All moneys collected by the grain warehouse audit program shall
5 be deposited by the director into the grain warehouse audit account,
6 hereby created within the agricultural local fund established in RCW
7 43.23.230. Moneys collected shall be used to support the grain
8 warehouse audit program.

9 **Sec. 7.** RCW 17.24.021 and 1991 c 257 s 6 are each amended to read
10 as follows:

11 (1) The director may intercept and hold or order held for
12 inspection, or cause to be inspected while in transit or after arrival
13 at their destination, all plants, plant products, bees, or other
14 articles likely to carry plant pests, bee pests, or noxious weeds being
15 moved into this state from another state, territory, or a foreign
16 country or within or through this state for plant and bee pests and
17 disease.

18 (2) The director may enter upon public and private premises at
19 reasonable times for the purpose of carrying out this chapter. If the
20 director be denied access, the director may apply to any court of
21 competent jurisdiction for a search warrant authorizing access to such
22 premises. The court may upon such application issue the search warrant
23 for the purposes requested.

24 (3) The director may adopt rules, including a schedule of fees for
25 necessary inspections, in accordance with chapter 34.05 RCW as may be
26 necessary to carry out the purposes and provisions of this chapter.
27 The fees shall, as closely as practicable, cover the costs of the
28 services rendered.

29 **Sec. 8.** RCW 16.57.020 and 1971 ex.s. c 135 s 1 are each amended to
30 read as follows:

31 The director shall be the recorder of livestock brands and such
32 brands shall not be recorded elsewhere in this state. Any person
33 desiring to register a livestock brand shall apply on a form prescribed
34 by the director. Such application shall be accompanied by a facsimile
35 of the brand applied for and a (~~twenty-five~~) thirty-five dollar
36 recording fee. The director shall, upon his or her satisfaction that
37 the application and brand facsimile meet(~~s~~) the requirements of this

1 chapter and/or rules (~~and regulations~~) adopted hereunder, record such
2 brand.

3 **Sec. 9.** RCW 16.57.080 and 1993 c 354 s 5 are each amended to read
4 as follows:

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

29 **Sec. 10.** RCW 16.57.350 and 1959 c 54 s 35 are each amended to read
30 as follows:

31 The director(~~(, but not his duly appointed representatives,)~~) may
32 adopt such rules (~~and/or regulations~~) as are necessary to carry out
33 the purposes of this chapter. It shall be the duty of the director to
34 enforce and carry out the provisions of this chapter and/or rules (~~and~~
35 ~~regulations~~) adopted hereunder. No person shall interfere with the
36 director when he or she is performing or carrying out duties imposed on

1 him or her by this chapter and/or rules ((~~and regulations~~)) adopted
2 hereunder.

3 **Sec. 11.** RCW 15.04.400 and 1991 c 280 s 1 are each amended to read
4 as follows:

5 The history, economy, culture, and the future of Washington state
6 to a large degree all involve agriculture, which is vital to the
7 economic well-being of the state. The legislature finds that farmers
8 and ranchers are responsible stewards of the land, but are increasingly
9 subjected to complaints and unwarranted restrictions that encourage,
10 and even force, the premature removal of lands from agricultural uses.

11 The legislature further finds that it is now in the overriding
12 public interest that support for agriculture be clearly expressed and
13 that adequate protection be given to agricultural lands, uses,
14 activities, and operations.

15 The legislature further finds that the department of agriculture
16 has a duty to promote and protect agriculture and its dependent rural
17 community in Washington state however, the duty shall not be construed
18 as to diminish the responsibility of the department to fully carry out
19 its assigned regulatory responsibilities to protect the public health
20 and welfare.

21 **Sec. 12.** RCW 15.04.402 and 1991 c 280 s 2 are each amended to read
22 as follows:

23 The department shall seek to enhance, protect, and perpetuate the
24 ability of the private sector to produce food and fiber. Additionally,
25 the department shall seek, consistent with its regulatory
26 responsibilities, to maintain the economic well-being of the
27 agricultural industry and its dependent rural community in Washington
28 state.

29 **Sec. 13.** RCW 15.36.110 and 1989 c 354 s 17 are each amended to
30 read as follows:

31 During each six months period at least four samples of milk and
32 cream from each dairy farm and each milk plant shall be taken on
33 separate days and examined in a laboratory approved by the director:
34 PROVIDED, That in the case of raw milk for pasteurization the director
35 may accept the results of nonofficial laboratories which have been
36 officially checked periodically and found satisfactory. Samples of

1 other milk products may be taken and examined in a laboratory approved
2 by the director as often as he or she deems necessary. Samples of milk
3 and milk products from stores, cafes, soda fountains, restaurants, and
4 other places where milk or milk products are sold shall be examined as
5 often as the director may require. Bacterial plate counts, direct
6 microscopic counts, coliform determinations, phosphatase tests and
7 other laboratory tests shall conform to the procedures in the current
8 edition of "Standard Methods For The Examination Of Dairy Products,"
9 recommended by the American public health association. Examinations
10 may include such other chemical and physical determinations as the
11 director may deem necessary for the detection of adulteration. Samples
12 may be taken by the director at any time prior to the final delivery of
13 the milk or milk products. All proprietors of cafes, stores,
14 restaurants, soda fountains, and other similar places shall furnish the
15 director, upon his request, with the name of all distributors from whom
16 their milk and milk products are obtained. Bio-assays of the vitamin
17 D content of vitamin D milk shall be made when required by the director
18 in a laboratory approved by him or her for such examinations.

19 If two of the last four consecutive bacterial counts, somatic cell
20 counts, coliform determinations, or cooling temperatures, taken on
21 separate days, exceed the standard for milk or milk products, the
22 director shall send written notice thereof to the person concerned.
23 This notice shall remain in effect so long as two of the last four
24 consecutive samples exceed the limit of the standard. An additional
25 sample shall be taken within twenty-one days of the sending of the
26 notice, but not before the lapse of three days, except sixty days must
27 lapse before an official somatic cell count can be taken. The director
28 shall degrade or suspend the grade A permit whenever the standard is
29 again violated so that three of the last five consecutive samples
30 exceed the limit of the standard. A grade A permit shall subsequently
31 be reinstated in notice status upon receipt of sample results that are
32 within the standard for which the suspension occurred.

33 In case of violation of the phosphatase test requirements, the
34 cause of underpasteurization shall be determined and removed before
35 milk or milk products from this plant can again be sold as pasteurized
36 milk or milk products.

37 NEW SECTION. **Sec. 14.** Fees enacted in RCW 16.57.080, 16.57.090,
38 16.57.140, 16.57.220, 16.57.400, 16.57.410(1), 16.58.050, 16.58.130,

1 16.65.030 (3) and (4), and 16.65.090 are hereby authorized as of the
2 effective date of this act.

3 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and shall take
6 effect immediately.

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