

2 SSB 5315 - H AMD
3 By Representative Chandler

4 ADOPTED AS AMENDED 4/13/95

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 15.36.012 and 1994 c 143 s 102 are each amended to
8 read as follows:

9 For the purpose of this chapter:

10 "Adulterated milk" means milk that is deemed adulterated under
11 appendix L of the PMO.

12 "Aseptic processing" means the process by which milk or milk
13 products have been subjected to sufficient heat processing and packaged
14 in a hermetically sealed container so as to meet the standards of the
15 PMO.

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

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

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

26 "Dairy technician" means any person who takes samples of milk or
27 cream or fluid derivatives thereof, on which sample tests are to be
28 made as a basis of payment, or who grades, weighs, or measures milk or
29 cream or the fluid derivatives thereof, the grade, weight, or measure
30 to be used as a basis of payment, or who operates equipment wherein
31 milk or products thereof are pasteurized.

32 "Department" means the state department of agriculture.

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

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

1 "Grade A milk processing plant" means any milk processing plant
2 that meets all of the standards of the PMO to process grade A
3 pasteurized milk or milk products.

4 "Grade A pasteurized milk" means grade A raw milk that has been
5 pasteurized.

6 "Grade A raw milk" means raw milk produced upon dairy farms
7 conforming with all of the items of sanitation contained in the PMO, in
8 which the bacterial plate count does not exceed twenty thousand per
9 milliliter and the coliform count does not exceed ten per milliliter as
10 determined in accordance with RCW (~~(15.36.110)~~) 15.36.201.

11 "Grade A raw milk for pasteurization" means raw milk produced upon
12 dairy farms conforming with all of the same items of sanitation
13 contained in the PMO of grade A raw milk, and the bacterial plate
14 count, as delivered from the farm, does not exceed eighty thousand per
15 milliliter as determined in accordance with RCW (~~(15.36.110)~~)
16 15.36.201.

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

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

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

25 "Milk hauler" means a person who transports milk or milk products
26 in bulk to or from a milk processing plant, receiving station, or
27 transfer station.

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

33 "Milk processing plant" means a place, premises, or establishment
34 where milk or milk products are collected, handled, processed, stored,
35 bottled, pasteurized, aseptically processed, bottled, or prepared for
36 distribution, except an establishment (~~(whose activity is limited to~~
37 ~~retail sales))~~ that merely receives the processed milk products and
38 serves them or sells them at retail.

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

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

5 "Official brucellosis adult vaccinated cattle" means those cattle,
6 officially vaccinated over the age of official calthood vaccinated
7 cattle, that the director has determined have been commingled with, or
8 kept in close proximity to, cattle identified as brucellosis reactors,
9 and have been vaccinated against brucellosis in a manner and under the
10 conditions prescribed by the director after a hearing and under rules
11 adopted under chapter 34.05 RCW, the administrative procedure act.

12 "Official laboratory" means a biological, chemical, or physical
13 laboratory that is under the direct supervision of the state or a local
14 regulatory agency.

15 "Officially designated laboratory" means a commercial laboratory
16 authorized to do official work by the department, or a milk industry
17 laboratory officially designated by the department for the examination
18 of grade A raw milk for pasteurization and commingled milk tank truck
19 samples of raw milk for antibiotic residues and bacterial limits.

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

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

25 "Person" means an individual, partnership, firm, corporation,
26 company, trustee, or association.

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

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

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

36 "Transfer station" means any place, premises, or establishment
37 where milk or milk products are transferred directly from one milk tank
38 truck to another.

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

5 "Ungraded processing plant" means a milk processing plant that
6 meets all of the standards of the PMO to produce milk products other
7 than grade A milk or milk products.

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

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

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

14 A milk hauler must obtain a milk hauler's license to conduct the
15 operation under this chapter. A milk hauler's license is not
16 transferable with respect to persons or locations or both. The
17 license, issued by the director upon approval of an application for the
18 license and compliance with the provisions of this chapter, shall
19 contain the license number, name, residence, and place of business, if
20 any, of the licensee. A milk hauler's license shall also contain
21 endorsements for individual milk transport vehicles. The license plate
22 number and registration number for each milk transport vehicle shall be
23 listed on the endorsement.

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

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

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

3 Milk and milk products for consumption in the raw state or for
4 pasteurization shall be cooled within two hours of completion of
5 milking to forty degrees Fahrenheit or less and maintained at that
6 temperature until picked up, in accordance with RCW ((15.36.110))
7 15.36.201, so long as the blend temperature after the first and
8 following milkings does not exceed fifty degrees Fahrenheit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) Any penalty imposed under this section is due and payable upon
38 the issuance of the final order by the department. The penalty shall

1 be deducted by the violator's marketing organization from the
2 violator's final payment for the month following the issuance of the
3 final order. The department shall promptly notify the violator's
4 marketing organization of any penalties contained in the final order.

5 (4) All penalties received or recovered from violations of this
6 section shall be remitted monthly by the violator's marketing
7 organization to the Washington state dairy products commission and
8 deposited in a revolving fund to be used solely for the purposes of
9 education and research. No appropriation is required for disbursements
10 from this fund.

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

16 NEW SECTION. **Sec. 8.** For the purpose of this chapter:

17 (1) "Food storage warehouse" means any premises, establishment,
18 building, room area, facility, or place, in whole or in part, where
19 food is stored, kept, or held for wholesale distribution to other
20 wholesalers or to retail outlets, restaurants, and any such other
21 facility selling or distributing to the ultimate consumer. Food
22 storage warehouses include, but are not limited to, facilities where
23 food is kept or held refrigerated or frozen and include facilities
24 where food is stored to the account of another firm and/or is owned by
25 the food storage warehouse. "Food storage warehouse" does not include
26 grain elevators or fruit and vegetable storage and packing houses that
27 store, pack, and ship fresh fruit and vegetables even though they may
28 use refrigerated or controlled atmosphere storage practices in their
29 operation. However, this chapter applies to multiple food storage
30 operations that also distribute or ripen fruits and vegetables.

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

32 (3) "Director" means the director of the Washington department of
33 agriculture.

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

35 (5) "Independent sanitation consultant" means an individual,
36 partnership, cooperative, or corporation that by reason of education,
37 certification, and experience has satisfactorily demonstrated expertise
38 in food and dairy sanitation and is approved by the director to advise

1 on such areas including, but not limited to: Principles of cleaning
2 and sanitizing food processing plants and equipment; rodent, insect,
3 bird, and other pest control; principals of hazard analysis critical
4 control point; basic food product labeling; principles of proper food
5 storage and protection; proper personnel work practices and attire;
6 sanitary design, construction, and installation of food plant
7 facilities, equipment, and utensils; and other pertinent food safety
8 issues.

9 NEW SECTION. **Sec. 9.** The director or his or her representative
10 may inspect food storage warehouses for compliance with the provisions
11 of chapter 69.04 RCW and the rules adopted under chapter 69.04 RCW as
12 deemed necessary by the director. Any food storage warehouse found to
13 not be in substantial compliance with chapter 69.04 RCW and the rules
14 adopted under chapter 69.04 RCW will be reinspected as deemed necessary
15 by the director to determine compliance. This does not preclude the
16 director from using any other remedies as provided under chapter 69.04
17 RCW to gain compliance or to embargo products as provided under RCW
18 69.04.110 to protect the public from adulterated foods.

19 NEW SECTION. **Sec. 10.** Except as provided in this section and
20 section 11 of this act, it shall be unlawful for any person to operate
21 a food storage warehouse in the state without first having obtained an
22 annual license from the department, which shall expire on a date set by
23 rule by the director. License fees shall be prorated where necessary
24 to accommodate staggering of expiration dates. Application for a
25 license or license renewal shall be on a form prescribed by the
26 director and accompanied by the license fee. The license fee is fifty
27 dollars.

28 The application shall include the full name of the applicant for
29 the license and the location of the food storage warehouse he or she
30 intends to operate. If such applicant is an individual, receiver,
31 trustee, firm, partnership, association, or corporation, the full name
32 of each member of the firm or partnership, or names of the officers of
33 the association or corporation must be given on the application. The
34 application shall further state the principal business address of the
35 applicant in the state and elsewhere and the name of a person domiciled
36 in this state authorized to receive and accept service of summons of
37 legal notices of all kinds for the applicant. Upon the approval of the

1 application by the director and compliance with the provisions of this
2 chapter, including the applicable regulations adopted under this
3 chapter by the department, the applicant shall be issued a license or
4 renewal thereof. The director shall waive licensure under this
5 chapter for firms that are licensed under the provisions of chapter
6 69.07 or 15.36 RCW.

7 NEW SECTION. **Sec. 11.** A food storage warehouse that is inspected
8 for compliance with the current good manufacturing practices (Title 21
9 C.F.R. part 110) on at least an annual basis by a state or federal
10 agency or by an independent sanitation consultant approved by the
11 department shall be exempted from licensure under this chapter.

12 A report identifying the inspector and the inspecting entity, the
13 date of the inspection, and any violations noted on such inspection
14 shall be forwarded to the department by the food storage warehouse
15 within sixty days of the completion of the inspection. An inspection
16 shall be conducted and an inspection report for a food storage
17 warehouse shall be filed with the department at least once every twelve
18 months or the warehouse shall be licensed under this chapter and
19 inspected by the department for a period of two years.

20 NEW SECTION. **Sec. 12.** If the application for renewal of any
21 license provided for under this chapter is not filed prior to the
22 expiration date as established by rule by the director, an additional
23 fee of ten percent of the cost of the license shall be assessed and
24 added to the original fee and must be paid by the applicant before the
25 renewal license is issued.

26 NEW SECTION. **Sec. 13.** The director may, subsequent to a hearing
27 thereon, deny, suspend, or revoke any license provided for in this
28 chapter if he or she determines that an applicant has committed any of
29 the following acts:

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

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

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

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

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

9 The provisions of this section requiring that a hearing be
10 conducted before an action may be taken against a license do not apply
11 to an action taken under section 14 of this act.

12 NEW SECTION. **Sec. 14.** (1) Whenever the director finds a food
13 storage warehouse operating under conditions that constitute an
14 immediate danger to public health or whenever the licensee or any
15 employee of the licensee actively prevents the director or the
16 director's representative, during an on-site inspection, from
17 determining whether such a condition exists, the director may summarily
18 suspend, pending a hearing, a license provided for in this chapter.

19 (2) Whenever a license is summarily suspended, the holder of the
20 license shall be notified in writing that the license is, upon service
21 of the notice, immediately suspended and that prompt opportunity for a
22 hearing will be provided.

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

27 NEW SECTION. **Sec. 15.** It is unlawful to sell, offer for sale, or
28 distribute in intrastate commerce food from or stored in a food storage
29 warehouse that is required to be licensed under this chapter but that
30 has not obtained a license, once notification by the director has been
31 given to the persons selling, offering, or distributing food for sale,
32 that the food is in or from such an unlicensed food storage warehouse.

33 NEW SECTION. **Sec. 16.** All moneys received by the department under
34 provisions of this chapter shall be paid into an account created in the
35 agricultural local fund established in RCW 43.23.230 and shall be used
36 solely to carry out provisions of this chapter and chapter 69.04 RCW.

1 NEW SECTION. **Sec. 17.** The department may use all the civil
2 remedies provided under chapter 69.04 RCW in carrying out and enforcing
3 the provisions of this chapter.

4 NEW SECTION. **Sec. 18.** (1) The department shall enforce and carry
5 out the provisions of this chapter and may adopt the necessary rules to
6 carry out its purpose.

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

10 NEW SECTION. **Sec. 19.** The director or director's deputies,
11 assistants, and inspectors are authorized to do all acts and things
12 necessary to carry out the provisions of this chapter, including the
13 taking of verified statements. The department personnel are empowered
14 to administer oaths of verification on the statement.

15 NEW SECTION. **Sec. 20.** A new section is added to chapter 69.04 RCW
16 to read as follows:

17 The director need not petition the superior court as provided for
18 in RCW 69.04.120 if the owner or claimant of such food or food products
19 agrees in writing to the disposition of such food or food products as
20 the director may order.

21 **Sec. 21.** RCW 69.07.040 and 1993 sp.s. c 19 s 11 and 1993 c 212 s
22 2 are each reenacted and amended to read as follows:

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

1	If gross annual sales are:	The license fee is:
2	\$0 to \$50,000	\$55.00
3	\$50,001 to \$500,000	\$110.00
4	\$500,001 to \$1,000,000	\$220.00
5	\$1,000,001 to \$5,000,000	\$385.00
6	\$5,000,001 to \$10,000,000	\$550.00
7	Greater than \$10,000,000	\$825.00

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

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

35 If upon investigation by the director, it is determined that a
36 person is processing food for retail sale and is not under permit,
37 license, or inspection by a local health authority, then that person
38 may be considered a food processor and subject to the provisions of
39 this chapter. The director may waive the licensure requirements of

1 this chapter for a person's operations at a facility if the person (~~is~~
2 ~~licensed under chapter 15.32 RCW or has a permit~~) has obtained a milk
3 processing plant license under chapter 15.36 RCW to conduct the same or
4 a similar operation at the facility.

5 **Sec. 22.** RCW 69.07.100 and 1988 c 5 s 4 are each amended to read
6 as follows:

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

9 (~~Chapter 15.32 RCW, the Dairies and dairy products act;~~
10 ~~(2)~~) Chapter 69.25 RCW, the Washington wholesome eggs and egg
11 products act;

12 (~~(3)~~) (2) Chapter 69.28 RCW, the Washington state honey act;

13 (~~(4)~~) (3) Chapter 16.49 RCW, the Meat inspection act;

14 (~~(5)~~) (4) Title 66 RCW, relating to alcoholic beverage control;
15 and

16 (~~(6)~~) (5) Chapter 69.30 RCW, the Sanitary control of shellfish
17 act: PROVIDED, That if any such establishments process foods not
18 specifically provided for in the above entitled acts, such
19 establishments shall be subject to the provisions of this chapter.

20 The provisions of this chapter shall not apply to restaurants or
21 food service establishments.

22 **Sec. 23.** RCW 69.07.085 and 1988 c 254 s 9 are each amended to read
23 as follows:

24 The department may issue sanitary certificates to food processors
25 under this chapter subject to such requirements as it may establish by
26 rule. The fee for issuance shall be (~~twenty~~) fifty dollars per
27 certificate. Fees collected under this section shall be deposited in
28 the agricultural local fund.

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

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

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

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

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

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

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

- 1 (7) RCW 69.08.060 and 1945 c 192 s 6;
2 (8) RCW 69.08.070 and 1945 c 192 s 7;
3 (9) RCW 69.08.080 and 1945 c 192 s 8; and
4 (10) RCW 69.08.090 and 1945 c 192 s 9.

5 **Sec. 25.** RCW 69.25.020 and 1982 c 182 s 42 are each amended to
6 read as follows:

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

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

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

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

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

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

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

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

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

33 (e) If it bears or contains any color additive which is unsafe
34 within the meaning of RCW 69.04.396, as enacted or hereafter amended:

35 PROVIDED, That an article which is not otherwise deemed adulterated
36 under subsection (4)(c), (d), or (e) of this section shall nevertheless
37 be deemed adulterated if use of the pesticide chemical, food additive,

1 or color additive, in or on such article, is prohibited by regulations
2 of the director in official plants;

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

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

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

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

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

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

19 (~~(k)~~) (l) If any valuable constituent has been in whole or in
20 part omitted or abstracted therefrom; or if any substance has been
21 substituted, wholly or in part therefor; or if damage or inferiority
22 has been concealed in any manner; or if any substance has been added
23 thereto or mixed or packed therewith so as to increase its bulk or
24 weight, or reduce its quality or strength, or make it appear better or
25 of greater value than it is.

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

29 (6) "Intrastate commerce" means any eggs or egg products in
30 intrastate commerce, whether such eggs or egg products are intended for
31 sale, held for sale, offered for sale, sold, stored, transported, or
32 handled in this state in any manner and prepared for eventual
33 distribution in this state, whether at wholesale or retail.

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

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

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

1 (10) "Egg handler" or "dealer" means any person who produces,
2 contracts for or obtains possession or control of any eggs for the
3 purpose of sale to another dealer or retailer, or for processing and
4 sale to a dealer, retailer or consumer: PROVIDED, That for the purpose
5 of this chapter, "sell" or "sale" includes the following: Offer for
6 sale, expose for sale, have in possession for sale, exchange, barter,
7 trade, or as an inducement for the sale of another product.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (28) "Official plant" means any plant which is licensed under the
24 provisions of this chapter, at which inspection of the processing of
25 egg products is maintained by the United States department of
26 agriculture or by the state under cooperative agreements with the
27 United States department of agriculture or by the state.

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

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

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

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

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

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

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

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

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

15 (38) "Master license system" means the mechanism established by
16 chapter 19.02 RCW by which master licenses, endorsed for individual
17 state-issued licenses, are issued and renewed utilizing a master
18 application and a master license expiration date common to each
19 renewable license endorsement.

20 (39) "Ambient temperature" means the atmospheric temperature
21 surrounding or encircling shell eggs.

22 **Sec. 26.** RCW 69.25.050 and 1982 c 182 s 43 are each amended to
23 read as follows:

24 No person shall act as an egg handler or dealer without first
25 obtaining an annual license and permanent dealer's number from the
26 department; such license shall expire on the master license expiration
27 date. Application for an egg dealer license or egg dealer branch
28 license, shall be made through the master license system. The annual
29 egg dealer license fee shall be (~~ten~~) thirty dollars and the annual
30 egg dealer branch license fee shall be (~~five~~) fifteen dollars. A
31 copy of the master license shall be posted at each location where such
32 licensee operates. Such application shall include the full name of the
33 applicant for the license and the location of each facility he intends
34 to operate. If such applicant is an individual, receiver, trustee,
35 firm, partnership, association or corporation, the full name of each
36 member of the firm or partnership or the names of the officers of the
37 association or corporation shall be given on the application. Such
38 application shall further state the principal business address of the

1 applicant in the state and elsewhere and the name of a person domiciled
2 in this state authorized to receive and accept service of summons of
3 legal notices of all kinds for the applicant and any other necessary
4 information prescribed by the director. Upon the approval of the
5 application and compliance with the provisions of this chapter,
6 including the applicable regulations adopted hereunder by the
7 department, the applicant shall be issued a license or renewal thereof.
8 Such license and permanent egg handler or dealer's number shall be
9 nontransferable.

10 **Sec. 27.** RCW 69.25.150 and 1992 c 7 s 47 are each amended to read
11 as follows:

12 (1) (~~Any person who commits any offense prohibited by RCW~~
13 ~~69.25.110 shall upon conviction be guilty of a gross misdemeanor.~~) (a)
14 Any person violating any provision of this chapter or any rule adopted
15 under this chapter is guilty of a misdemeanor and guilty of a gross
16 misdemeanor for any second and subsequent violation. Any offense
17 committed more than five years after a previous conviction shall be
18 considered a first offense. A misdemeanor under this section is
19 punishable to the same extent that a misdemeanor is punishable under
20 RCW 9A.20.021 and a gross misdemeanor under this section is punishable
21 to the same extent that a gross misdemeanor is punishable under RCW
22 9A.20.021.

23 (b) Whenever the director finds that a person has committed a
24 violation of any of the provisions of this chapter, and that violation
25 has not been punished pursuant to (a) of this subsection, the director
26 may impose upon and collect from the violator a civil penalty not
27 exceeding one thousand dollars per violation per day. Each violation
28 shall be a separate and distinct offense.

29 When construing or enforcing the provisions of RCW 69.25.110, the
30 act, omission, or failure of any person acting for or employed by any
31 individual, partnership, corporation, or association within the scope
32 of the person's employment or office shall in every case be deemed the
33 act, omission, or failure of such individual, partnership, corporation,
34 or association, as well as of such person.

35 (2) No carrier or warehouseman shall be subject to the penalties of
36 this chapter, other than the penalties for violation of RCW 69.25.140,
37 or subsection (3) of this section, by reason of his or her receipt,
38 carriage, holding, or delivery, in the usual course of business, as a

1 carrier or warehouseman of eggs or egg products owned by another person
2 unless the carrier or warehouseman has knowledge, or is in possession
3 of facts which would cause a reasonable person to believe that such
4 eggs or egg products were not eligible for transportation under, or
5 were otherwise in violation of, this chapter, or unless the carrier or
6 warehouseman refuses to furnish on request of a representative of the
7 director the name and address of the person from whom he or she
8 received such eggs or egg products and copies of all documents, if
9 there be any, pertaining to the delivery of the eggs or egg products
10 to, or by, such carrier or warehouseman.

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

21 **Sec. 28.** RCW 69.25.170 and 1975 1st ex.s. c 201 s 18 are each
22 amended to read as follows:

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

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

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

35 (c) The sale of eggs by any poultry producer from his own flocks
36 directly to a household consumer exclusively for use by such consumer
37 and members of his household and his nonpaying guests and employees,

1 and the transportation, possession, and use of such eggs in accordance
2 with this subsection;

3 (d) The sale of eggs by shell egg packers on his own premises
4 directly to household consumers for use by such consumer and members of
5 his household and his nonpaying guests and employees, and the
6 transportation, possession, and use of such eggs in accordance with
7 this subsection;

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

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

13 **Sec. 29.** RCW 69.25.250 and 1993 sp.s. c 19 s 12 are each amended
14 to read as follows:

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

29 **Sec. 30.** RCW 69.25.310 and 1975 1st ex.s. c 201 s 32 are each
30 amended to read as follows:

31 (1) All containers used by an egg handler or dealer to package eggs
32 shall bear the name and address or the permanent number issued by the
33 director to said egg handler or dealer. Such permanent number shall be
34 displayed in a size and location prescribed by the director. ~~((It~~
35 ~~shall constitute a gross misdemeanor for any egg handler or dealer to~~
36 ~~reuse a container which bears the permanent number of another egg~~
37 ~~handler or dealer unless such number is totally obliterated prior to~~

1 ~~reuse.~~) It shall be a violation for any egg handler or dealer to use
2 a container that bears the permanent number of another egg handler or
3 dealer unless such number is totally obliterated prior to use. The
4 director may in addition require the obliteration of any or all
5 markings that may be on any container which will be (~~reused~~) used for
6 eggs by an egg handler or dealer.

7 (2) Notwithstanding subsection (1) of this section and following
8 written notice to the director, licensed egg handlers and dealers may
9 use new containers bearing another handler's or dealer's permanent
10 number on a temporary basis, in any event not longer than one year,
11 with the consent of such other handler or dealer for the purpose of
12 using up existing container stocks. Sale of container stock shall
13 constitute agreement by the parties to use the permanent number.

14 **Sec. 31.** RCW 69.25.320 and 1975 1st ex.s. c 201 s 33 are each
15 amended to read as follows:

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

1 a lower grade or standard, and sells them under the label of the
2 invoice grade or standard, he shall be guilty of a violation of this
3 chapter.

4 (2) Each retailer and each distributor shall store shell eggs
5 awaiting sale or display eggs under clean and sanitary conditions in
6 areas free from rodents and insects. Shell eggs must be stored up off
7 the floor away from strong odors, pesticides, and cleaners.

8 (3) 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 (4) 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. 32. The following acts or parts of acts are
21 each repealed:

22 (1) RCW 69.25.330 and 1975 1st ex.s. c 201 s 34; and

23 (2) RCW 69.25.340 and 1975 1st ex.s. c 201 s 36.

24 **Sec. 33.** RCW 15.53.901 and 1982 c 177 s 1 are each amended to read
25 as follows:

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

28 ~~((1) "Department" means the department of agriculture of the state~~
29 ~~of Washington or its duly authorized representative.~~

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

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

35 ~~(4) "Distributor" means any person who distributes.~~

36 ~~(5) "Sell" or "sale" includes exchange.~~

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

4 ~~(7) "Feed ingredient" means each of the constituent materials~~
5 ~~making up a commercial feed.~~

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

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

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

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

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

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

22 ~~(14) "Percent" or "percentage" means percentage by weight.~~

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

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

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

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

37 ~~(2) "Commercial feed" means all materials or combination of~~
38 ~~materials that are distributed or intended for distribution for use as~~
39 ~~feed or for mixing in feed, unless such materials are specifically~~

1 exempted. Unmixed whole seeds and physically altered entire unmixed
2 seeds, when such whole seeds or physically altered seeds are not
3 chemically changed or not adulterated within the meaning of RCW
4 15.53.902, are exempt. The department by rule may exempt from this
5 definition, or from specific provisions of this chapter, commodities
6 such as hay, straw, stover, silage, cobs, husks, hulls, and individual
7 chemical compounds or substances when such commodities, compounds, or
8 substances are not intermixed with other materials, and are not
9 adulterated within the meaning of RCW 15.53.902.

10 (3) "Contract feeder" means a person who is an independent
11 contractor and feeds commercial feed to animals pursuant to a contract
12 whereby such commercial feed is supplied, furnished, or otherwise
13 provided to such person and whereby such person's remuneration is
14 determined all or in part by feed consumption, mortality, profits, or
15 amount or quality of product.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (18) "Medicated feed" means a commercial feed containing a drug or
17 other medication.

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

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

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

24 (22) "Person" means an individual, firm, partnership, corporation,
25 or association.

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

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

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

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

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

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

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

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

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

4 **Sec. 34.** RCW 15.53.9012 and 1965 ex.s. c 31 s 3 are each amended
5 to read as follows:

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

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

26 NEW SECTION. Sec. 35. A new section is added to chapter 15.53 RCW
27 to read as follows:

28 (1) Beginning January 1, 1996, a person who manufactures a
29 commercial feed, is an initial distributor of a commercial feed, or
30 whose name appears as the responsible party on a commercial feed label
31 to be distributed in or into this state shall first obtain from the
32 department a commercial feed license for each facility. Sale of food
33 processing byproducts from fruit, vegetable, or potato processing
34 plants, freezing or dehydrating facilities, or juice or jelly
35 preserving plants, bona fide experimental feed on which accurate
36 records and experimental programs are maintained, and pet food and
37 specialty pet food are exempt from the requirement of a commercial feed

1 license. The sale of byproducts or products of sugar refineries are
2 not exempt from the requirement of a commercial feed license.

3 (2) Application for a commercial feed license shall be made
4 annually on forms provided by the department and shall be accompanied
5 by a fee of fifty dollars, except that for the period beginning January
6 1, 1996, and ending June 30, 1996, the fee shall be twenty-five
7 dollars. The commercial feed license shall expire on June 30th of each
8 year.

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

10 (a) The name and address of the applicant;

11 (b) Other information required by the department by rule.

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

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

31 (6) Notwithstanding the payment of a delinquency fee, it is a
32 violation to distribute a commercial feed by an unlicensed person, and
33 nothing in this chapter shall prevent the department from imposing a
34 penalty authorized by this chapter for the violation.

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

1 **Sec. 36.** RCW 15.53.9014 and 1993 sp.s. c 19 s 2 are each amended
2 to read as follows:

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

16 (a) ~~Beginning July 1, 1993, each registration for a commercial feed~~
17 ~~product distributed in packages of ten pounds or more shall be~~
18 ~~accompanied by a fee of eleven dollars. If such commercial feed is~~
19 ~~also distributed in packages of less than ten pounds it shall be~~
20 ~~registered under subsection (b) of this section.~~

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

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

31 (3) Pet food and specialty pet food registration fees are as
32 follows:

33 (a) Each pet food and specialty pet food distributed in packages of
34 ten pounds or more shall be accompanied by a fee of eleven dollars,
35 except that for the period beginning January 1, 1996, and ending June
36 30, 1996, the fee shall be five dollars and fifty cents. If such
37 commercial feed is also distributed in packages of less than ten pounds
38 it shall be registered under (b) of this subsection.

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

7 ~~(4) The department may require that ((such)) the application for~~
8 ~~registration of pet food and specialty pet food be accompanied by a~~
9 ~~label and/or other printed matter describing the product. ((All~~
10 ~~registrations expire on December 31st of each year, and are renewable~~
11 ~~unless such registration is canceled by the department or it has called~~
12 ~~for a new registration, or unless canceled by the registrant.~~

13 ~~(4) The application shall include the information required by RCW~~
14 ~~15.53.9016(1)(b) through (1)(e).))~~

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

19 (6) Changes in the guarantee of either chemical or ingredient
20 composition of a ~~((commercial feed))~~ pet food or specialty pet food
21 registered under the provisions of this chapter may be permitted if
22 there is satisfactory evidence that such changes would not result in a
23 lowering of the feed value of the product for the purpose for which it
24 was designed.

25 (7) The department is ~~((empowered))~~ authorized to refuse
26 registration of any application not in compliance with the provisions
27 of this chapter and any rule adopted under this chapter and to cancel
28 any registration subsequently found to be not in compliance with any
29 provisions of this chapter ~~((, but a registration shall not be refused~~
30 ~~or canceled until the registrant has been given opportunity to be heard~~
31 ~~before the department and to amend his application in order to comply~~
32 ~~with the requirements of))~~ and any rule adopted under this chapter.
33 Prior to refusal or cancellation of a registration, the applicant or
34 registrant of an existing registered pet food or specialty pet food
35 shall be notified of the reasons and given an opportunity to amend the
36 application to comply. If the applicant does not make the necessary
37 corrections, the department shall refuse to register the feed. The
38 applicant or registrant of an existing registered pet food or specialty
39 pet food may request a hearing as provided for in chapter 34.05 RCW.

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

10 (9) It is a violation of this chapter to distribute an unregistered
11 pet food or specialty pet food. Payment of a delinquency fee shall not
12 prevent the department from imposing a penalty authorized by this
13 chapter for the violation.

14 **Sec. 37.** RCW 15.53.9016 and 1965 ex.s. c 31 s 5 are each amended
15 to read as follows:

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

19 (a) ~~((The net weight as required under chapter 19.94 RCW as enacted~~
20 ~~or hereinafter amended.~~

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

23 ~~((c) The guaranteed analysis of the commercial feed, listing the~~
24 ~~minimum percentage of crude protein, minimum percentage of crude fat,~~
25 ~~and maximum percentage of crude fiber. For mineral feeds the list~~
26 ~~shall include the following if added: Minimum and maximum percentages~~
27 ~~of calcium (Ca), minimum percentage of phosphorus (P), minimum~~
28 ~~percentage of iodine (I), and minimum and maximum percentages of salt~~
29 ~~(NaCl). Other substances or elements, determinable by laboratory~~
30 ~~methods, may be guaranteed by permission of the department. When any~~
31 ~~items are guaranteed, they shall be subject to inspection and analysis~~
32 ~~in accordance with the methods and regulations that may be prescribed~~
33 ~~by the department. Products distributed solely as mineral and/or~~
34 ~~vitamin supplements and guaranteed as specified in this section need~~
35 ~~not show guarantees for protein, fat, and fiber.~~

36 ~~(d))~~ (b) The guaranteed analysis stated in such terms as the
37 department by rule determines is required to advise the user of the
38 composition of the feed or to support claims made in the labeling. In

1 all cases the substances or elements must be determinable by laboratory
2 methods such as the methods published by the association of official
3 analytical chemists.

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

10 ((+e)) (d) The name and principal mailing address of the person
11 responsible for distributing the commercial feed.

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

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

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

18 (2) When a commercial feed, except a customer-formula feed, is
19 distributed in this state in bags or other containers, the label shall
20 be placed on or affixed to the container; when a commercial feed,
21 except a customer-formula feed, is distributed in bulk the label shall
22 accompany delivery and be furnished to the purchaser at time of
23 delivery.

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

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

29 (b) Name and address of the purchaser;

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

31 (d) ((Brand name and number of pounds of each registered commercial

32 feed used in the mixture and the name and number of pounds of each

33 other feed ingredient added.

34 (4) ~~If a commercial feed contains a nonnutritive substance which is~~
35 ~~intended for use in the diagnosis, cure, mitigation, treatment, or~~
36 ~~prevention of disease or which is intended to affect the structure or~~
37 ~~any function of the animal body, the department may require the label~~
38 ~~to show the amount present, directions for use, and/or warnings against~~
39 ~~misuse of the feed.~~

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

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

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

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

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

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

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

25 **Sec. 38.** RCW 15.53.9018 and 1982 c 177 s 3 are each amended to
26 read as follows:

27 ~~(1) ((On or after June 30, 1981,))~~ Except as provided in subsection
28 (4) of this section, each initial distributor of a commercial feed in
29 this state shall pay to the department an inspection fee on all
30 commercial feed sold by such person during the year. The fee shall be
31 not less than four cents nor more than ((fourteen)) twelve cents per
32 ton as prescribed by the director by rule: PROVIDED, That such fees
33 shall be used for routine enforcement ((of RCW 15.53.9022 and for
34 analysis for contaminants only when the department has reasonable cause
35 to believe any lot of feed or any feed ingredient is adulterated)) and
36 administration of this chapter and rules adopted under this chapter.

37 ~~(2) ((In computing the tonnage on which the inspection fee must be~~
38 ~~paid, sales of: (a) Commercial feed to other feed registrants;))~~ An

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

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

18 (4) When more than one distributor is involved in the distribution
19 of a commercial feed, the (~~last registrant or~~) initial distributor
20 (~~who distributes to a nonregistrant (dealer or consumer)~~) is
21 responsible for reporting the tonnage and paying the inspection fee,
22 unless (~~the reporting and paying of fees have been made by a prior~~
23 ~~distributor of the feed~~) this sale or transaction is made to an exempt
24 buyer.

25 (~~(4)~~) (5) Each person made responsible by this chapter for the
26 payment of inspection fees for commercial feed sold in this state shall
27 file a report with the department on January 1st and July 1st of each
28 year showing the number of tons of such commercial feed sold during the
29 six calendar months immediately preceding the date the report is due.
30 The proper inspection fee shall be remitted with the report. The
31 person required to file the report and pay the fee shall have a thirty-
32 day period of grace immediately following the day the report and
33 payment are due to file the report, and pay the fee. Upon permission
34 of the department, an annual statement under oath may be filed by any
35 person distributing within the state less than one hundred tons for
36 each six-month period during any year, and upon filing such statement
37 such person shall pay the inspection fee at the rate provided for in
38 subsection (1) of this section. The minimum inspection fee shall be

1 twelve dollars and fifty cents for each six-month reporting period or
2 twenty-five dollars if reporting annually.

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

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

18 ~~(7))~~ (6) For the purpose of determining accurate tonnage of
19 commercial feed distributed in this state or to identify or verify
20 semiannual tonnage reports, the department may require each registrant
21 or licensee, or both, to maintain records or file additional reports.

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

26 (8) The registrant or licensee shall maintain records required
27 under this section and submit these records to the department upon
28 request.

29 (9) Any person responsible for reporting tonnage or paying
30 inspection fees who fails to do so before the thirty-first day
31 following the last day of each reporting period, shall pay a penalty
32 equal to fifteen percent of the inspection fee due or fifty dollars,
33 whichever is greater. The penalty, together with any delinquent
34 inspection fee is due before the forty-first day following the last day
35 of each reporting period. The department may cancel registration of a
36 registrant or may revoke a license of a licensee who fails to pay the
37 penalty and delinquent inspection fees within that time period. The
38 applicant or licensee may request a hearing as authorized under chapter
39 34.05 RCW.

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

12 ~~((+8+))~~ (11) Any commercial feed purchased by a consumer or
13 contract feeder outside the jurisdiction of this state and brought into
14 this state for use is subject to all the provisions of this chapter,
15 including inspection fees.

16 **Sec. 39.** RCW 15.53.902 and 1982 c 177 s 4 are each amended to read
17 as follows:

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

20 (1) If it bears or contains any poisonous or deleterious substance
21 which may render it injurious to health; but in case the substance is
22 not an added substance, such commercial feed shall not be considered
23 adulterated under this subsection if the quantity of such substance in
24 such commercial feed does not ordinarily render it injurious to health;
25 or

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

31 (3) If it is, or it bears, or contains any food additive which is
32 unsafe within the meaning of section 409 of the Federal Food, Drug, and
33 Cosmetic Act (21 U.S.C. Sec. 348); or

34 (4) If it is a raw agricultural commodity and it bears or contains
35 a pesticide chemical which is unsafe within the meaning of section
36 408(a) of the Federal Food, Drug, and Cosmetic Act: PROVIDED, That
37 where a pesticide chemical has been used in or on a raw agricultural
38 commodity in conformity with an exemption granted or a tolerance

1 prescribed under section 408 of the Federal Food, Drug, and Cosmetic
2 Act and such raw agricultural commodity has been subjected to
3 processing such as canning, cooking, freezing, dehydrating, or milling,
4 the residue of such pesticide chemical remaining in or on such
5 processed feed shall not be deemed unsafe if such residue in or on the
6 raw agricultural commodity has been removed to the extent possible in
7 good manufacturing practice and the concentration of such residue in
8 the processed feed is not greater than the tolerance prescribed for the
9 raw agricultural commodity unless the feeding of such processed feed
10 will result or is likely to result in a pesticide residue in the edible
11 product of the animal, which is unsafe within the meaning of section
12 408(a) of the Federal Food, Drug, and Cosmetic Act; or

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

16 (6) If it is, or it bears or contains any new animal drug that is
17 unsafe within the meaning of section 512 of the Federal Food, Drug, and
18 Cosmetic Act (21 U.S.C. Sec. 360b); or

19 (7) If any valuable constituent has been in whole or in part
20 omitted or abstracted therefrom or any less valuable substance
21 substituted therefor; or

22 ((+7)) (8) If its composition or quality falls below or differs
23 from that which it is purported or is represented to possess by its
24 labeling; or

25 ((+8)) (9) If it contains a drug and the methods used in or the
26 facilities or controls used for its manufacture, processing, or
27 packaging do not conform to current good manufacturing practice rules
28 adopted by the department to assure that the drug meets the
29 requirements of this chapter as to safety and has the identity and
30 strength and meets the quality and purity characteristics that it
31 purports or is represented to possess. In adopting such rules, the
32 department shall adopt the current good manufacturing practice
33 regulations for type A medicated articles and type B and type C
34 medicated feeds established under authority of the Federal Food, Drug,
35 and Cosmetic Act, unless the department determines that they are not
36 appropriate to the conditions that exist in this state; or

37 (10) If it contains viable, prohibited (primary) noxious weed seeds
38 in excess of one per pound, or if it contains viable, restricted
39 (secondary) noxious weed seeds in excess of twenty-five per pound. The

1 primary and secondary noxious weed seeds shall be those as named
2 pursuant to the provisions of chapter 15.49 RCW (~~as enacted or~~
3 ~~hereafter amended~~) and rules adopted thereunder.

4 **Sec. 40.** RCW 15.53.9022 and 1965 ex.s. c 31 s 8 are each amended
5 to read as follows:

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

8 (1) If its labeling is false or misleading in any particular;

9 (2) If it is distributed under the name of another commercial feed;

10 (3) If it is not labeled as required in RCW 15.53.9016 and in
11 (~~regulations~~) rules prescribed under this chapter;

12 (4) If it purports to be or is represented as a commercial feed
13 (~~ingredient~~), or if it purports to contain or is represented as
14 containing a commercial feed or feed ingredient, unless such commercial
15 feed or feed ingredient conforms to the definition of identity, if any,
16 prescribed by (~~regulation~~) rule of the department. In the adopting
17 of such (~~regulations~~) rules the department may consider commonly
18 accepted definitions such as those issued by nationally recognized
19 associations or groups of feed control officials;

20 (5) If any word, statement, or other information required by or
21 under authority of this chapter to appear on the label or labeling is
22 not prominently placed thereon with such conspicuousness (as compared
23 with other words, statements, designs, or devices, in the labeling) and
24 in such terms as to render it likely to be read and understood by the
25 ordinary individual under customary conditions of purchase and use;

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

28 **Sec. 41.** RCW 15.53.9024 and 1965 ex.s. c 31 s 9 are each amended
29 to read as follows:

30 (~~It shall be the duty of the department to sample, inspect,~~
31 ~~make analysis of, and test commercial feed distributed within this~~
32 ~~state at such time and place and to such an extent as it may deem~~
33 ~~necessary to determine whether such feeds are in compliance with the~~
34 ~~provisions of this chapter. The department is authorized to stop any~~
35 ~~commercial vehicle transporting feed on the public highways and direct~~
36 ~~it to the nearest scales approved by the department to check weights of~~
37 ~~feeds being delivered. The department is also authorized, upon~~

1 presentation of proper identification, to enter any distributor's
2 premises including any vehicle of transport at all reasonable times in
3 order to have access to commercial feed and to records relating to
4 their distribution. This includes the determining of the weight of
5 packages and bulk shipments.

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

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

26 (2) A separate notice shall be given for each such inspection, but
27 a notice is not required for each entry made during the period covered
28 by the inspection. Each such inspection shall be commenced and
29 completed with reasonable promptness. Upon completion of the
30 inspection, the person in charge of the facility or vehicle shall be so
31 notified.

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

37 (4) If the owner of a factory, warehouse, or establishment
38 described in subsection (1) of this section, or his or her agent,
39 refuses to admit the director or his or her agent to inspect in

1 accordance with subsections (1) and (2) of this section, the director
2 or his or her agent is authorized to obtain from any court of competent
3 jurisdiction a warrant directing such owner or his or her agent to
4 submit the premises described in the warrant to inspection.

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

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

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

22 (8) The department, in determining for administrative purposes
23 whether a feed is deficient in any component, shall be guided solely by
24 the official sample as defined in RCW 15.53.901(~~(13)~~) (20) and
25 obtained and analyzed as provided for in this section.

26 ~~((4) When the inspection and analysis of an official sample has~~
27 ~~been made the results of analysis shall be forwarded by the department~~
28 ~~to the distributor and to the purchaser if known. Upon request and~~
29 ~~within thirty days the department shall furnish to the distributor a~~
30 ~~portion of the sample concerned.~~

31 ~~(5))~~ (9) Analysis of an official sample by the department shall be
32 accepted as prima facie evidence by any court of competent
33 jurisdiction.

34 **Sec. 42.** RCW 15.53.9038 and 1982 c 177 s 5 are each amended to
35 read as follows:

36 (1) When the department has reasonable cause to believe that any
37 lot of commercial feed is adulterated or misbranded or is being
38 distributed in violation of this chapter or any ~~((regulations))~~ rules

1 hereunder it may issue and enforce a written or printed "withdrawal
2 from distribution" order, or "stop sale" order, warning the distributor
3 not to dispose of the lot of feed in any manner until written
4 permission is given by the department (~~(or a court of competent~~
5 ~~jurisdiction)~~). The department shall release the lot of commercial
6 feed so withdrawn when the provisions and (~~(regulations)~~) rules have
7 been complied with. If compliance is not obtained within thirty days,
8 parties may agree to an alternative disposition in writing or the
9 department may (~~(begin)~~) institute condemnation proceedings (~~(for~~
10 ~~condemnation)~~) in a court of competent jurisdiction.

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

22 **Sec. 43.** RCW 15.53.9042 and 1965 ex.s. c 31 s 18 are each amended
23 to read as follows:

24 The department shall publish at least annually, in such forms as it
25 may deem proper, information concerning the distribution of commercial
26 feed, together with such data on their production and use as it may
27 consider advisable, and a report of the results of the analyses of
28 official samples of commercial feed within the state as compared with
29 the analyses guaranteed (~~(in the registration and)~~) on the label or as
30 calculated from the invoice data for customer-formula feeds: PROVIDED,
31 That the information concerning production and use of commercial feeds
32 shall not disclose the operations of any person.

33 **Sec. 44.** RCW 15.53.9053 and 1975 1st ex.s. c 257 s 12 are each
34 amended to read as follows:

35 (~~(1) The following acts or parts of acts are each repealed:~~
36 ~~(a) Section 10, chapter 31, Laws of 1965 ex. sess., section 33,~~
37 ~~chapter 240, Laws of 1967 and RCW 15.53.9026; and~~

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

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

7 ~~(3))~~ All licenses and registrations in effect on July 1, ~~((1975))~~
8 1995, shall continue in full force and effect until their regular
9 expiration date, December 31, ~~((1975))~~ 1995. No registration or
10 license that has already been paid under the requirements of prior law
11 shall be refunded.

12 NEW SECTION. Sec. 45. (1) The following acts or parts of acts are
13 each repealed:

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

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

18 (2) The enactment of chapter 257, Laws of 1975 1st ex. sess. and
19 the repeal of the sections listed in subsection (1) of this section
20 shall not have the effect of terminating, or in any way modify any
21 liability, civil or criminal, which shall already be in existence on
22 July 1, 1975.

23 NEW SECTION. Sec. 46. RCW 15.53.9036 and 1989 c 175 s 51, 1975
24 1st ex.s. c 257 s 6, & 1965 ex.s. c 31 s 15 are each repealed.

25 NEW SECTION. Sec. 47. RCW 15.53.905 and 15.53.9052 are each
26 decodified.

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

29 The director shall cause a charge to be made for all brand
30 inspection of cattle and horses required under this chapter and rules
31 adopted hereunder. Such charges shall be paid to the department by the
32 owner or person in possession unless requested by the purchaser and
33 then such brand inspection shall be paid by the purchaser requesting
34 such brand inspection. Except as provided by rule, such inspection
35 charges shall be due and payable at the time brand inspection is

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

19 **Sec. 49.** RCW 16.57.220 and 1994 c 46 s 25 and 1994 c 46 s 19 are
20 each reenacted and amended to read 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. Except as provided by rule, such inspection
27 charges shall be due and payable at the time brand inspection is
28 performed and shall be paid upon billing by the department and if not
29 shall constitute a prior lien on the cattle or cattle hides or horses
30 or horse hides brand inspected until such charge is paid. The director
31 in order to best utilize the services of the department in performing
32 brand inspection may establish schedules by days and hours when a brand
33 inspector will be on duty to perform brand inspection at established
34 inspection points. The fees for brand inspection performed at
35 inspection points according to schedules established by the director
36 shall be sixty cents per head for cattle and not more than two dollars
37 and forty cents per head for horses as prescribed by the director
38 subsequent to a hearing under chapter 34.05 RCW and in conformance with

1 RCW 16.57.015. Fees for brand inspection of cattle and horses
2 ((performed by the director)) at points other than those designated by
3 the director or not in accord with the schedules established by the
4 director shall be based on a fee schedule not to exceed actual net cost
5 to the department of performing the brand inspection service. For the
6 purpose of this section, actual costs shall mean fifteen dollars per
7 hour and the current mileage rate set by the office of financial
8 management.

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

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

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

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

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

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

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

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

3 (1) Such livestock lawfully bears the person's own healed recorded
4 brand((~~τ~~))i or

5 (2) Such livestock is accompanied by a certificate of permit from
6 the owner of the recorded brand or tattoo((~~τ~~))i or

7 (3) Such livestock is accompanied by a brand inspection
8 certificate((~~τ~~))i or

9 (4) Such cattle is accompanied by a self-inspection slip; or

10 (5) Such livestock is accompanied by a bill of sale from the
11 previous owner or other satisfactory proof of ownership.

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

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

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

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

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

1 (a) A nonrefundable original license application fee of fifteen
2 hundred dollars.

3 **(b)** A legal description of the property upon which the public
4 livestock market shall be located.

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

9 ~~((e))~~ **(d)** A detailed statement showing all the assets and
10 liabilities of the applicant which must reflect a sufficient net worth
11 to construct or operate a public livestock market.

12 ~~((d))~~ **(e)** The schedule of rates and charges the applicant
13 proposes to impose on the owners of livestock for services rendered in
14 the operation of such livestock market.

15 ~~((e))~~ **(f)** The weekly or monthly sales day or days on which the
16 applicant proposes to operate his or her public livestock market sales.

17 ~~((f))~~ **(g)** Projected source and quantity of livestock, by county,
18 anticipated to be handled.

19 ~~((g))~~ **(h)** Projected income and expense statements for the first
20 year's operation.

21 ~~((h))~~ **(i)** Facts upon which are based the conclusion that the
22 trade area and the livestock industry will benefit because of the
23 proposed market.

24 ~~((i))~~ **(j)** Such other information as the director may reasonably
25 require.

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

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

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

36 (3) ~~((Such application shall be accompanied by a license fee based~~
37 ~~on the average gross sales volume per official sales day of that~~
38 ~~market;~~

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

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

8 ~~(c) Markets with an average gross sales volume over fifty thousand~~
9 ~~dollars, a fee of no less than three hundred dollars or more than four~~
10 ~~hundred fifty dollars.~~

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

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

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

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

27 NEW SECTION. Sec. 56. A new section is added to chapter 16.65 RCW
28 to read as follows:

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

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

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

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

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

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

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

18 NEW SECTION. Sec. 57. A new section is added to chapter 16.65 RCW
19 to read as follows:

20 (1) Upon the approval of the application by the director and
21 compliance with the provisions of this chapter, the applicant shall be
22 issued a license or renewal thereof. Any license issued under the
23 provisions of this chapter shall only be valid at location and for the
24 sales day or days for which the license was issued.

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

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

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

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

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

37 (3) Any applicant operating more than one public livestock market
38 shall make a separate application for a license to operate each such

1 public livestock market, and each such application shall be accompanied
2 by the appropriate application fee.

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

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

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

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

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

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

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

36 ~~((Whenever producers fail to file any nominating petitions, the~~
37 ~~director shall nominate at least two, but not more than three,~~

1 ~~qualified producers and place their names on the secret mail election~~
2 ~~ballot as nominees: PROVIDED, That any qualified producer may be~~
3 ~~elected by a write-in ballot, even though said producer's name was not~~
4 ~~placed in nomination for such election.))~~ If only one person is
5 nominated for a position on the commission, the director shall
6 determine whether the person possesses the qualifications required by
7 statute for the position and, if the director determines that the
8 person possesses such qualifications, the director shall declare that
9 the person has been duly elected.

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

12 Unless otherwise directed in the commodity commission enabling
13 statute, this chapter shall not apply to the Washington state ((apple
14 advertising commission, the Washington state fruit commission, the
15 Washington tree fruit research commission, the Washington state beef
16 commission, the Washington state dairy products commission, or any
17 agricultural)) commodity commissions created either under separate
18 statute or under the provisions of chapters 15.65 and 15.66 RCW:
19 PROVIDED, That all such commissions shall submit estimates and such
20 other necessary information as may be required for the development of
21 the budget and shall also be subject to audit by the appropriate state
22 auditing agency or officer.

23 NEW SECTION. Sec. 61. A new section is added to chapter 43.23 RCW
24 to read as follows:

25 For purposes of this chapter:

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

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

29 NEW SECTION. Sec. 62. A new section is added to chapter 43.23 RCW
30 to read as follows:

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

35 The director or his or her designee may also collect as costs
36 moneys paid to the collection agency as charges, or in the case of

1 credit cards or financial instruments, such as checks returned for
2 nonpayment, moneys paid to financial institutions.

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

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

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

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

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

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

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

3 (1) Except as provided in subsection (~~((2))~~) (4) of this section,
4 any person desiring to register a pesticide with the department shall
5 pay to the director an annual registration fee for each pesticide
6 registered by the department for such person. The registration fee for
7 the registration of pesticides for any one person during a calendar
8 year shall be: One hundred five dollars for each of the first twenty-
9 five pesticides registered; one hundred dollars for each of the twenty-
10 sixth through one-hundredth pesticides registered; seventy-five dollars
11 for each of the one hundred first through one hundred fiftieth
12 pesticides registered; and fifty dollars for each additional pesticide
13 registered. In addition, the department may establish by rule a
14 registration fee not to exceed ten dollars for each registered product
15 labeled and intended for home and garden use only.

16 (2) The revenue generated by the pesticide registration fees shall
17 be deposited in the agricultural local fund to support the activities
18 of the pesticide program within the department. The revenue generated
19 by the home and garden use only fees shall be deposited in the
20 agriculture~~«~~local fund, to be used to assist in funding activities of
21 the pesticide incident reporting and tracking review panel.

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

25 (~~((2))~~) (4) A person desiring to register a label where a special
26 local need exists shall pay to the director a nonrefundable application
27 fee of two hundred dollars upon submission of the registration request.
28 In addition, a person desiring to renew an approved special local need
29 registration shall pay to the director an annual registration fee of
30 two hundred dollars for each special local needs label registered by
31 the department for such person. The revenue generated by the special
32 local needs application fees and the special local needs renewal fees
33 shall be deposited in the agricultural local fund to be used to assist
34 in funding the department's special local needs registration
35 activities. All special local needs registrations expire on December
36 31st of each year.

37 (~~((3))~~) (5) Any registration approved by the director and in effect
38 on the 31st day of December for which a renewal application has been
39 made and the proper fee paid, continues in full force and effect until

1 the director notifies the applicant that the registration has been
2 renewed, or otherwise denied in accord with the provision of RCW
3 15.58.110.

4 NEW SECTION. **Sec. 67.** A new section is added to chapter 15.58 RCW
5 to read as follows:

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

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

10 **Sec. 69.** RCW 16.24.130 and 1975 1st ex.s. c 7 s 16 are each
11 amended to read as follows:

12 The brand inspector shall cause to be published once in a newspaper
13 published in the county where the animal was found, a notice of the
14 impounding.

15 The notice shall state:

16 (1) A description of the animal, including brand, tattoo or other
17 identifying characteristics;

18 (2) When and where found;

19 (3) Where impounded; and

20 (4) That if unclaimed, the animal will be sold at a public
21 livestock market sale or other public sale, and the date of such sale:
22 PROVIDED, That if no newspaper shall be published in such county,
23 copies of the notice shall be posted at four commonly frequented places
24 therein.

25 If the animal is marked with a brand or tattoo which is registered
26 with the director of agriculture, the brand inspector, on or before the
27 date of publication or posting, shall send a copy of the notice to the
28 owner of record by registered mail.

29 **Sec. 70.** RCW 16.24.150 and 1975 1st ex.s. c 7 s 17 are each
30 amended to read as follows:

31 If no person shall claim the animal within ten days after the date
32 of publication or posting of the notice, it shall be sold at the next
33 succeeding public livestock market sale to be held at the sales yard
34 where impounded, provided that in the director's discretion the

1 department of agriculture may otherwise cause the animal to be sold at
2 public sale.

3 The legislature intends this to be a clarification of existing law;
4 therefore, this section shall have retroactive effect as of December 1,
5 1994.

6 **Sec. 71.** RCW 15.76.140 and 1965 ex.s. c 32 s 1 are each amended to
7 read as follows:

8 (1) Before any agricultural fair may become eligible for state
9 allocations it must have conducted two successful consecutive annual
10 fairs immediately preceding application for such allocations, and have
11 its application therefor approved by the director.

12 (2) Beginning January 1, 1994, and until June 30, 1997, the director
13 may waive this requirement for an agricultural fair that through itself
14 or its predecessor sponsoring organization has successfully operated at
15 least two years as a county fair, has received a funding allocation as
16 a county fair under this act for those two years, and that reorganizes
17 as an area fair.

18 NEW SECTION. **Sec. 72.** The legislature finds that in Washington,
19 the loss of state lands from productive use due to infestation by
20 noxious weeds is a major public concern.

21 It is the intent of the legislature that serious and fundamental
22 policy direction be given to state agencies to:

23 (1) Ensure that state lands set an example of excellence in noxious
24 weed control and eradication on state lands;

25 (2) Halt the spread of noxious weeds from state to private lands;

26 (3) Recognize that state agencies are ultimately responsible for
27 noxious weed control on state land, regardless of type, timing, or
28 amount of use;

29 (4) Recognize that the public is not well served by the spread of
30 noxious weeds on state lands, in part, because of the decrease in
31 wildlife habitat and loss of land productivity.

32 The legislature further finds that biological control agents
33 represent one of the only cost-effective control measures for existing,
34 widespread noxious weed infestations. Members of the genus *Centaurea*,
35 commonly referred to as knapweeds, currently infest and destroy the
36 productivity of hundreds of thousands of acres in Washington.

1 NEW SECTION. **Sec. 73.** The state noxious weed control board shall
2 develop a study to determine the cost of controlling weeds on state-
3 owned or managed lands, included along state-owned rights of way. The
4 board may conduct the study, or may contract with either public or
5 private agencies to conduct and complete the study. The departments of
6 natural resources, transportation, and fish and wildlife, and the parks
7 and recreation commission shall cooperate with the weed board or the
8 contractor in the study.

9 As part of the study, the state noxious weed control board shall
10 identify those weed species that are practical to control and should be
11 controlled. The board shall also identify the impacts and estimate the
12 costs of not controlling these weeds. The board may exclude from the
13 study those weeds that, due to high cost or impracticality, cannot be
14 controlled on private lands. The board shall develop a prioritized
15 list of weeds that are practical to control and that should be
16 controlled on state-owned and managed lands.

17 NEW SECTION. **Sec. 74.** The state noxious weed control board shall
18 study alternative funding mechanisms for Washington's noxious weed
19 control program. The departments of natural resources, transportation,
20 and fish and wildlife, and the parks and recreation commission shall
21 cooperate with the weed board in the study. As part of the study, the
22 state noxious weed control board shall identify the impacts and costs
23 of each alternative. Funding alternatives shall address weed control
24 needs of private citizens, local governments, county weed boards, state
25 agencies, the state noxious weed control board, and federal agencies.

26 NEW SECTION. **Sec. 75.** A new section is added to chapter 17.10 RCW
27 to read as follows:

28 All state agencies shall control noxious weeds on lands they own,
29 lease, or otherwise control. Agencies shall develop plans to control
30 noxious weeds in accordance with standards in this chapter. All state
31 agencies' lands must comply with this chapter, regardless of noxious
32 weed control efforts on adjacent lands. County noxious weed control
33 boards shall assist landowners to meet and exceed the standards on
34 state lands.

35 NEW SECTION. **Sec. 76.** (1) The standing committee on agriculture
36 and agricultural trade and development of the senate and the standing

1 committee on agriculture and ecology of the house of representatives
2 shall jointly study land leasing practices of state agencies in regard
3 to weed control and report their findings to the legislature in 1996.

4 (2) State agencies shall list noxious weed control projects in
5 their respective jurisdictions in order of priority, along with their
6 plans to control these infestations, and shall submit the lists and
7 plans to the legislative committees identified in subsection (1) of
8 this section before the beginning of the 1996 regular session of the
9 legislature.

10 **Sec. 77.** RCW 17.10.240 and 1987 c 438 s 31 are each amended to
11 read as follows:

12 The activated county noxious weed control board of each county
13 shall annually submit a budget to the county legislative authority for
14 the operating cost of the county's weed program for the ensuing fiscal
15 year: PROVIDED, That if the board finds the budget approved by the
16 legislative authority is insufficient for an effective county noxious
17 weed control program it shall petition the county legislative authority
18 to hold a hearing as provided in RCW 17.10.890. Control of weeds is a
19 special benefit to the lands within any such section. Funding for the
20 budget shall be derived from (~~either or both~~) any or all of the
21 following:

22 (1) The county legislative authority may, in lieu of a tax, levy an
23 assessment against the land for this purpose. Prior to the levying of
24 an assessment the county noxious weed control board shall hold a public
25 hearing at which it shall gather information to serve as a basis for
26 classification and shall then classify the lands into suitable
27 classifications, including but not limited to dry lands, range lands,
28 irrigated lands, nonuse lands, forest lands, or federal lands. The
29 board shall develop and forward to the county legislative authority, as
30 a proposed level of assessment for each class, such an amount as shall
31 seem just. The assessment rate shall be either uniform per acre in its
32 respective class or a flat rate per parcel rate plus a uniform rate per
33 acre: PROVIDED, That if no special benefits should be found to accrue
34 to a class of land, a zero assessment may be levied. The legislative
35 authority, upon receipt of the proposed levels of assessment from the
36 board, after a hearing, shall accept, modify, or refer back to the
37 board for its reconsideration all or any portion of the proposed levels
38 of assessment. The findings by the county legislative authority of

1 such special benefits, when so declared by resolution and spread upon
2 the minutes of said authority shall be conclusive as to whether or not
3 the same constitutes a special benefit to the lands within the section.
4 The amount of such assessment shall constitute a lien against the
5 property. The county legislative authority may by resolution or
6 ordinance require that notice of the lien be sent to each owner of
7 property for which the assessment has not been paid by the date it was
8 due and that each such lien created shall be collected by the treasurer
9 in the same manner as delinquent real property tax, if within thirty
10 days from the date the owner is sent notice of the lien, including the
11 amount thereof, the lien remains unpaid and an appeal has not been made
12 pursuant to RCW 17.10.180. Liens treated as delinquent taxes shall
13 bear interest at the rate of twelve percent per annum and such interest
14 shall accrue as of the date notice of the lien is sent to the owner:
15 PROVIDED FURTHER, That any collections for such lien shall not be
16 considered as tax; or

17 (2) The county legislative authority may appropriate money from the
18 county general fund necessary for the administration of the county
19 noxious weed control program. In addition the county legislative
20 authority may make emergency appropriations as it deems necessary for
21 the implementation of this chapter.

22 (3) Forest lands used solely for the planting, growing, or
23 harvesting of trees and which are typified, except during a single
24 period of five years following clear-cut logging, by canopies so dense
25 as to prohibit growth of an understory may be subject to an annual
26 noxious weed assessment levied by a county legislative authority that
27 shall not exceed one-tenth of the weighted average per acre noxious
28 weed assessment levied on all other lands in unincorporated areas
29 within the county that are subject to the weed assessment. This
30 assessment shall be computed in accordance with the formula in
31 subsection (4) of this section.

32 (4) The calculation of the "weighted average per acre noxious weed
33 assessment" shall be a ratio expressed as follows: (a) The numerator
34 shall be the total amount of funds estimated to be collected from the
35 per acre assessment on all lands except (i) forest lands as identified
36 in subsection (3) of this section, (ii) lands exempt from the noxious
37 weed assessment, and (iii) lands located in an incorporated area. (b)
38 The denominator shall be the total acreage from which funds in (a) of
39 this subsection are collected. For lands of less than one acre in

1 size, the denominator calculation may be based on the following
2 assumptions: (i) Unimproved lands shall be calculated as being one-
3 half acre in size on the average, and (ii) improved lands shall be
4 calculated as being one-third acre in size on the average. The county
5 legislative authority may choose to calculate the denominator for lands
6 of less than one acre in size using other assumptions about average
7 parcel size based on local information.

8 (5) For those counties that levy a per parcel assessment to help
9 fund noxious weed control programs, the per parcel assessment on forest
10 lands as defined in subsection (3) of this section shall not exceed
11 one-tenth of the per parcel assessment on nonforest lands.

12 NEW SECTION. **Sec. 78.** The sum of thirty thousand dollars, or as
13 much thereof as may be necessary, is appropriated from the general fund
14 for the biennium ending June 30, 1997, to Washington State University
15 for the use of the cooperative extension service in the selection,
16 testing, and production of biological control agents for knapweed
17 species on the state noxious weed list adopted under RCW 17.10.080,
18 with the intent of improving field availability of these agents.

19 NEW SECTION. **Sec. 79.** The sum of twenty thousand dollars, or as
20 much thereof as may be necessary, is appropriated from the general fund
21 for the biennium ending June 30, 1997, to the state noxious weed
22 control board to study, or contract for a study, on the cost of
23 controlling weeds on state-owned or managed lands.

24 NEW SECTION. **Sec. 80.** Sections 8 through 19 of this act shall
25 constitute a new chapter in Title 69 RCW.

26 NEW SECTION. **Sec. 81.** Sections 1 through 47, 50 through 53, and
27 59 through 68 of this act are necessary for the immediate preservation
28 of the public peace, health, or safety, or support of the state
29 government and its existing public institutions, and shall take effect
30 June 30, 1995.

31 NEW SECTION. **Sec. 82.** Sections 69, 70, and 72 through 79 of this
32 act are necessary for the immediate preservation of the public peace,
33 health, or safety, or support of the state government and its existing
34 public institutions, and shall take effect immediately."

1 **SSB 5315** - H AMD
2 By Representative Chandler

ADOPTED AS AMENDED 4/13/95

3
4 On page 1, line 1 of the title, after "marketing;" strike the
5 remainder of the title and insert "amending RCW 15.36.012, 15.36.071,
6 15.36.171, 15.36.221, 15.36.411, 15.36.441, 69.07.100, 69.07.085,
7 69.25.020, 69.25.050, 69.25.150, 69.25.170, 69.25.250, 69.25.310,
8 69.25.320, 15.53.901, 15.53.9012, 15.53.9014, 15.53.9016, 15.53.9018,
9 15.53.902, 15.53.9022, 15.53.9024, 15.53.9038, 15.53.9042, 15.53.9053,
10 16.57.220, 16.57.230, 16.57.240, 16.57.280, 16.57.290, 16.65.030,
11 15.44.033, 43.88.240, 15.58.070, 16.24.130, 16.24.150, 15.76.140, and
12 17.10.240; reenacting and amending RCW 69.07.040 and 16.57.220;
13 reenacting RCW 15.36.431; adding a new section to chapter 69.04 RCW;
14 adding a new section to chapter 15.53 RCW; adding new sections to
15 chapter 16.65 RCW; adding new sections to chapter 43.23 RCW; adding a
16 new section to chapter 15.58 RCW; adding a new section to chapter 17.10
17 RCW; adding a new chapter to Title 69 RCW; creating new sections;
18 decodifying RCW 15.53.905 and 15.53.9052; repealing RCW 69.08.010,
19 69.08.020, 69.08.030, 69.08.040, 69.08.045, 69.08.050, 69.08.060,
20 69.08.070, 69.08.080, 69.08.090, 69.25.330, 69.25.340, 15.53.9036, and
21 15.58.410; repealing 1994 c 46 s 21; prescribing penalties; making
22 appropriations; providing an effective date; providing an expiration
23 date; and declaring an emergency."

24 EFFECT: The amendment differs from the Agriculture and Ecology
25 Committee amendment as follows:
26 (1) The alternative livestock and related disease control sections
27 of the committee amendment have been deleted.
28 (2) A section postponing the termination of an assessment for dairy
29 inspections has been deleted.

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