

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5315

Chapter 374, Laws of 1995

54th Legislature
1995 Regular Session

REGULATION OF AGRICULTURE AND AGRICULTURAL MARKETING--REVISIONS

EFFECTIVE DATE: 7/23/95 - Except Sections 1 through 47, 50 through 53, and 59 through 68 which become effective 6/30/95; Sections 49 and 57 which become effective 7/1/97; and Sections 69, 70, 72 through 79 which become effective 5/16/95

Passed by the Senate April 21, 1995
YEAS 47 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House April 20, 1995
YEAS 94 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 16, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5315** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

May 16, 1995 - 11:24 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5315

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Senate Committee on Agriculture & Agricultural Trade & Development
(originally sponsored by Senators Rasmussen, Morton, Loveland, Newhouse
and Roach; by request of Department of Agriculture)

Read first time 02/16/95.

1 AN ACT Relating to agriculture and marketing; amending RCW
2 15.36.012, 15.36.071, 15.36.171, 15.36.221, 15.36.411, 15.36.441,
3 69.07.100, 69.07.085, 69.25.020, 69.25.050, 69.25.150, 69.25.170,
4 69.25.250, 69.25.310, 69.25.320, 15.53.901, 15.53.9012, 15.53.9014,
5 15.53.9016, 15.53.9018, 15.53.902, 15.53.9022, 15.53.9024, 15.53.9038,
6 15.53.9042, 15.53.9053, 16.57.220, 16.57.230, 16.57.240, 16.57.280,
7 16.57.290, 16.65.030, 15.44.033, 43.88.240, 15.58.070, 16.24.130,
8 16.24.150, 15.76.140, and 17.10.240; reenacting and amending RCW
9 69.07.040 and 16.57.220; reenacting RCW 15.36.431; adding a new section
10 to chapter 69.04 RCW; adding a new section to chapter 15.53 RCW; adding
11 new sections to chapter 16.65 RCW; adding new sections to chapter 43.23
12 RCW; adding a new section to chapter 15.58 RCW; adding a new section to
13 chapter 17.10 RCW; adding a new chapter to Title 69 RCW; creating new
14 sections; decodifying RCW 15.53.905 and 15.53.9052; repealing RCW
15 69.08.010, 69.08.020, 69.08.030, 69.08.040, 69.08.045, 69.08.050,
16 69.08.060, 69.08.070, 69.08.080, 69.08.090, 69.25.330, 69.25.340,
17 15.53.9036, and 15.58.410; repealing 1994 c 46 s 21; prescribing
18 penalties; making appropriations; providing effective dates; providing
19 an expiration date; and declaring an emergency.

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

1 **Sec. 1.** RCW 15.36.012 and 1994 c 143 s 102 are each amended to
2 read as follows:

3 For the purpose of this chapter:

4 "Adulterated milk" means milk that is deemed adulterated under
5 appendix L of the PMO.

6 "Aseptic processing" means the process by which milk or milk
7 products have been subjected to sufficient heat processing and packaged
8 in a hermetically sealed container so as to meet the standards of the
9 PMO.

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

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

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

20 "Dairy technician" means any person who takes samples of milk or
21 cream or fluid derivatives thereof, on which sample tests are to be
22 made as a basis of payment, or who grades, weighs, or measures milk or
23 cream or the fluid derivatives thereof, the grade, weight, or measure
24 to be used as a basis of payment, or who operates equipment wherein
25 milk or products thereof are pasteurized.

26 "Department" means the state department of agriculture.

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

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

31 "Grade A milk processing plant" means any milk processing plant
32 that meets all of the standards of the PMO to process grade A
33 pasteurized milk or milk products.

34 "Grade A pasteurized milk" means grade A raw milk that has been
35 pasteurized.

36 "Grade A raw milk" means raw milk produced upon dairy farms
37 conforming with all of the items of sanitation contained in the PMO, in
38 which the bacterial plate count does not exceed twenty thousand per

1 milliliter and the coliform count does not exceed ten per milliliter as
2 determined in accordance with RCW (~~(15.36.110)~~) 15.36.201.

3 "Grade A raw milk for pasteurization" means raw milk produced upon
4 dairy farms conforming with all of the same items of sanitation
5 contained in the PMO of grade A raw milk, and the bacterial plate
6 count, as delivered from the farm, does not exceed eighty thousand per
7 milliliter as determined in accordance with RCW (~~(15.36.110)~~)
8 15.36.201.

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

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

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

17 "Milk hauler" means a person who transports milk or milk products
18 in bulk to or from a milk processing plant, receiving station, or
19 transfer station.

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

25 "Milk processing plant" means a place, premises, or establishment
26 where milk or milk products are collected, handled, processed, stored,
27 bottled, pasteurized, aseptically processed, bottled, or prepared for
28 distribution, except an establishment (~~whose activity is limited to~~
29 ~~retail sales~~) that merely receives the processed milk products and
30 serves them or sells them at retail.

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

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

36 "Official brucellosis adult vaccinated cattle" means those cattle,
37 officially vaccinated over the age of official calthood vaccinated
38 cattle, that the director has determined have been commingled with, or
39 kept in close proximity to, cattle identified as brucellosis reactors,

1 and have been vaccinated against brucellosis in a manner and under the
2 conditions prescribed by the director after a hearing and under rules
3 adopted under chapter 34.05 RCW, the administrative procedure act.

4 "Official laboratory" means a biological, chemical, or physical
5 laboratory that is under the direct supervision of the state or a local
6 regulatory agency.

7 "Officially designated laboratory" means a commercial laboratory
8 authorized to do official work by the department, or a milk industry
9 laboratory officially designated by the department for the examination
10 of grade A raw milk for pasteurization and commingled milk tank truck
11 samples of raw milk for antibiotic residues and bacterial limits.

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

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

17 "Person" means an individual, partnership, firm, corporation,
18 company, trustee, or association.

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

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

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

28 "Transfer station" means any place, premises, or establishment
29 where milk or milk products are transferred directly from one milk tank
30 truck to another.

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

35 "Ungraded processing plant" means a milk processing plant that
36 meets all of the standards of the PMO to produce milk products other
37 than grade A milk or milk products.

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

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

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

5 A milk hauler must obtain a milk hauler's license to conduct the
6 operation under this chapter. A milk hauler's license is not
7 transferable with respect to persons or locations or both. The
8 license, issued by the director upon approval of an application for the
9 license and compliance with the provisions of this chapter, shall
10 contain the license number, name, residence, and place of business, if
11 any, of the licensee. A milk hauler's license shall also contain
12 endorsements for individual milk transport vehicles. The license plate
13 number and registration number for each milk transport vehicle shall be
14 listed on the endorsement.

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

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

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

29 Milk and milk products for consumption in the raw state or for
30 pasteurization shall be cooled within two hours of completion of
31 milking to forty degrees Fahrenheit or less and maintained at that
32 temperature until picked up, in accordance with RCW (~~((15.36.110))~~)
33 15.36.201, so long as the blend temperature after the first and
34 following milkings does not exceed fifty degrees Fahrenheit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (3) Any penalty imposed under this section is due and payable upon
30 the issuance of the final order by the department. The penalty shall
31 be deducted by the violator's marketing organization from the
32 violator's final payment for the month following the issuance of the
33 final order. The department shall promptly notify the violator's
34 marketing organization of any penalties contained in the final order.

35 (4) All penalties received or recovered from violations of this
36 section shall be remitted monthly by the violator's marketing
37 organization to the Washington state dairy products commission and
38 deposited in a revolving fund to be used solely for the purposes of

1 education and research. No appropriation is required for disbursements
2 from this fund.

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

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

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

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

24 (3) "Director" means the director of the Washington department of
25 agriculture.

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

27 (5) "Independent sanitation consultant" means an individual,
28 partnership, cooperative, or corporation that by reason of education,
29 certification, and experience has satisfactorily demonstrated expertise
30 in food and dairy sanitation and is approved by the director to advise
31 on such areas including, but not limited to: Principles of cleaning
32 and sanitizing food processing plants and equipment; rodent, insect,
33 bird, and other pest control; principals of hazard analysis critical
34 control point; basic food product labeling; principles of proper food
35 storage and protection; proper personnel work practices and attire;
36 sanitary design, construction, and installation of food plant
37 facilities, equipment, and utensils; and other pertinent food safety
38 issues.

1 NEW SECTION. **Sec. 9.** The director or his or her representative
2 may inspect food storage warehouses for compliance with the provisions
3 of chapter 69.04 RCW and the rules adopted under chapter 69.04 RCW as
4 deemed necessary by the director. Any food storage warehouse found to
5 not be in substantial compliance with chapter 69.04 RCW and the rules
6 adopted under chapter 69.04 RCW will be reinspected as deemed necessary
7 by the director to determine compliance. This does not preclude the
8 director from using any other remedies as provided under chapter 69.04
9 RCW to gain compliance or to embargo products as provided under RCW
10 69.04.110 to protect the public from adulterated foods.

11 NEW SECTION. **Sec. 10.** Except as provided in this section and
12 section 11 of this act, it shall be unlawful for any person to operate
13 a food storage warehouse in the state without first having obtained an
14 annual license from the department, which shall expire on a date set by
15 rule by the director. Application for a license or license renewal
16 shall be on a form prescribed by the director and accompanied by the
17 license fee. The license fee is fifty dollars.

18 For a food storage warehouse that has been inspected on at least an
19 annual basis for compliance with the provisions of the current good
20 manufacturing practices (Title 21 C.F.R. part 110) by a federal agency
21 or by a state agency acting on behalf of and under contract with a
22 federal agency and that is not exempted from licensure by section 11 of
23 this act, the annual license fee for the warehouse is twenty-five
24 dollars.

25 The application shall include the full name of the applicant for
26 the license and the location of the food storage warehouse he or she
27 intends to operate. If such applicant is an individual, receiver,
28 trustee, firm, partnership, association, or corporation, the full name
29 of each member of the firm or partnership, or names of the officers of
30 the association or corporation must be given on the application. The
31 application shall further state the principal business address of the
32 applicant in the state and elsewhere and the name of a person domiciled
33 in this state authorized to receive and accept service of summons of
34 legal notices of all kinds for the applicant. Upon the approval of the
35 application by the director and compliance with the provisions of this
36 chapter, including the applicable regulations adopted under this
37 chapter by the department, the applicant shall be issued a license or
38 renewal thereof. The director shall waive licensure under this

1 chapter for firms that are licensed under the provisions of chapter
2 69.07 or 15.36 RCW.

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

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

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

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

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

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

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

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

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

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

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

14 (2) Whenever a license is summarily suspended, the holder of the
15 license shall be notified in writing that the license is, upon service
16 of the notice, immediately suspended and that prompt opportunity for a
17 hearing will be provided.

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

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

28 NEW SECTION. **Sec. 16.** All moneys received by the department under
29 provisions of this chapter, except moneys collected for civil penalties
30 levied under this chapter, shall be paid into an account created in the
31 agricultural local fund established in RCW 43.23.230 and shall be used
32 solely to carry out provisions of this chapter and chapter 69.04 RCW.
33 All moneys collected for civil penalties levied under this chapter
34 shall be deposited in the state general fund.

1 NEW SECTION. **Sec. 17.** (1) Except as provided in subsection (2) of
2 this section, the department may use all the civil remedies provided
3 under chapter 69.04 RCW in carrying out and enforcing the provisions of
4 this chapter.

5 (2) Civil penalties are intended to be used to obtain compliance
6 and shall not be collected if a warehouse successfully completes a
7 mutually agreed upon compliance agreement with the department. A
8 warehouse that enters into a compliance agreement with the department
9 shall pay only for inspections conducted by the department and any
10 laboratory analyses as required by the inspections as outlined and
11 agreed to in the compliance agreement. In no event shall the fee for
12 these inspections and analyses exceed four hundred dollars per
13 inspection or one thousand dollars in total.

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

17 (2) The adoption of rules under the provisions of this chapter are
18 subject to the applicable provisions of chapter 34.05 RCW, the
19 administrative procedure act.

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

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

27 The director need not petition the superior court as provided for
28 in RCW 69.04.120 if the owner or claimant of such food or food products
29 agrees in writing to the disposition of such food or food products as
30 the director may order.

31 **Sec. 21.** RCW 69.07.040 and 1993 sp.s. c 19 s 11 and 1993 c 212 s
32 2 are each reenacted and amended to read as follows:

33 It shall be unlawful for any person to operate a food processing
34 plant or process foods in the state without first having obtained an
35 annual license from the department, which shall expire on a date set by

1 rule by the director. License fees shall be prorated where necessary
2 to accommodate staggering of expiration dates. Application for a
3 license shall be on a form prescribed by the director and accompanied
4 by the license fee. The license fee is determined by computing the
5 gross annual sales for the accounting year immediately preceding the
6 license year. If the license is for a new operator, the license fee
7 shall be based on an estimated gross annual sales for the initial
8 license period.

9	If gross annual sales are:	The license fee is:
10	\$0 to \$50,000	\$55.00
11	\$50,001 to \$500,000	\$110.00
12	\$500,001 to \$1,000,000	\$220.00
13	\$1,000,001 to \$5,000,000	\$385.00
14	\$5,000,001 to \$10,000,000	\$550.00
15	Greater than \$10,000,000	\$825.00

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

32 Licenses shall be issued to cover only those products, processes,
33 and operations specified in the license application and approved for
34 licensing. Wherever a license holder wishes to engage in processing a
35 type of food product that is different than the type specified on the
36 application supporting the licensee's existing license and processing
37 that type of food product would require a major addition to or
38 modification of the licensee's processing facilities or has a high

1 potential for harm, the licensee shall submit an amendment to the
2 current license application. In such a case, the licensee may engage
3 in processing the new type of food product only after the amendment has
4 been approved by the department.

5 If upon investigation by the director, it is determined that a
6 person is processing food for retail sale and is not under permit,
7 license, or inspection by a local health authority, then that person
8 may be considered a food processor and subject to the provisions of
9 this chapter. The director may waive the licensure requirements of
10 this chapter for a person's operations at a facility if the person (~~is~~
11 ~~licensed under chapter 15.32 RCW or has a permit~~) has obtained a milk
12 processing plant license under chapter 15.36 RCW to conduct the same or
13 a similar operation at the facility.

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

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

18 (~~(1) (Chapter 15.32 RCW, the Dairies and dairy products act;~~
19 ~~(2))~~) Chapter 69.25 RCW, the Washington wholesome eggs and egg
20 products act;

21 (~~(3))~~) (2) Chapter 69.28 RCW, the Washington state honey act;

22 (~~(4))~~) (3) Chapter 16.49 RCW, the Meat inspection act;

23 (~~(5))~~) (4) Title 66 RCW, relating to alcoholic beverage control;

24 and

25 (~~(6))~~) (5) Chapter 69.30 RCW, the Sanitary control of shellfish
26 act: PROVIDED, That if any such establishments process foods not
27 specifically provided for in the above entitled acts, such
28 establishments shall be subject to the provisions of this chapter.

29 The provisions of this chapter shall not apply to restaurants or
30 food service establishments.

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

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

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

- 3 (1) RCW 69.08.010 and 1971 c 27 s 1 & 1945 c 192 s 1;
- 4 (2) RCW 69.08.020 and 1945 c 192 s 4;
- 5 (3) RCW 69.08.030 and 1985 c 25 s 1 & 1945 c 192 s 2;
- 6 (4) RCW 69.08.040 and 1985 c 25 s 2 & 1945 c 192 s 3;
- 7 (5) RCW 69.08.045 and 1988 c 5 s 5 & 1971 c 27 s 2;
- 8 (6) RCW 69.08.050 and 1945 c 192 s 5;
- 9 (7) RCW 69.08.060 and 1945 c 192 s 6;
- 10 (8) RCW 69.08.070 and 1945 c 192 s 7;
- 11 (9) RCW 69.08.080 and 1945 c 192 s 8; and
- 12 (10) RCW 69.08.090 and 1945 c 192 s 9.

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

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

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

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

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

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

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

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

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

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

3 (e) If it bears or contains any color additive which is unsafe
4 within the meaning of RCW 69.04.396, as enacted or hereafter amended:
5 PROVIDED, That an article which is not otherwise deemed adulterated
6 under subsection (4)(c), (d), or (e) of this section shall nevertheless
7 be deemed adulterated if use of the pesticide chemical, food additive,
8 or color additive, in or on such article, is prohibited by regulations
9 of the director in official plants;

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

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

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

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

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

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

26 (~~(k)~~) (l) If any valuable constituent has been in whole or in
27 part omitted or abstracted therefrom; or if any substance has been
28 substituted, wholly or in part therefor; or if damage or inferiority
29 has been concealed in any manner; or if any substance has been added
30 thereto or mixed or packed therewith so as to increase its bulk or
31 weight, or reduce its quality or strength, or make it appear better or
32 of greater value than it is.

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

36 (6) "Intrastate commerce" means any eggs or egg products in
37 intrastate commerce, whether such eggs or egg products are intended for
38 sale, held for sale, offered for sale, sold, stored, transported, or

1 handled in this state in any manner and prepared for eventual
2 distribution in this state, whether at wholesale or retail.

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

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

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

9 (10) "Egg handler" or "dealer" means any person who produces,
10 contracts for or obtains possession or control of any eggs for the
11 purpose of sale to another dealer or retailer, or for processing and
12 sale to a dealer, retailer or consumer: PROVIDED, That for the purpose
13 of this chapter, "sell" or "sale" includes the following: Offer for
14 sale, expose for sale, have in possession for sale, exchange, barter,
15 trade, or as an inducement for the sale of another product.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (28) "Official plant" means any plant which is licensed under the
32 provisions of this chapter, at which inspection of the processing of
33 egg products is maintained by the United States department of
34 agriculture or by the state under cooperative agreements with the
35 United States department of agriculture or by the state.

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

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

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

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

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

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

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

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

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

24 (38) "Master license system" means the mechanism established by
25 chapter 19.02 RCW by which master licenses, endorsed for individual
26 state-issued licenses, are issued and renewed utilizing a master
27 application and a master license expiration date common to each
28 renewable license endorsement.

29 (39) "Ambient temperature" means the atmospheric temperature
30 surrounding or encircling shell eggs.

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

33 No person shall act as an egg handler or dealer without first
34 obtaining an annual license and permanent dealer's number from the
35 department; such license shall expire on the master license expiration
36 date. Application for an egg dealer license or egg dealer branch
37 license, shall be made through the master license system. The annual
38 egg dealer license fee shall be (~~ten~~) thirty dollars and the annual

1 egg dealer branch license fee shall be ((five)) fifteen dollars. A
2 copy of the master license shall be posted at each location where such
3 licensee operates. Such application shall include the full name of the
4 applicant for the license and the location of each facility he intends
5 to operate. If such applicant is an individual, receiver, trustee,
6 firm, partnership, association or corporation, the full name of each
7 member of the firm or partnership or the names of the officers of the
8 association or corporation shall be given on the application. Such
9 application shall further state the principal business address of the
10 applicant in the state and elsewhere and the name of a person domiciled
11 in this state authorized to receive and accept service of summons of
12 legal notices of all kinds for the applicant and any other necessary
13 information prescribed by the director. Upon the approval of the
14 application and compliance with the provisions of this chapter,
15 including the applicable regulations adopted hereunder by the
16 department, the applicant shall be issued a license or renewal thereof.
17 Such license and permanent egg handler or dealer's number shall be
18 nontransferable.

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

21 ~~(1) ((Any person who commits any offense prohibited by RCW~~
22 ~~69.25.110 shall upon conviction be guilty of a gross misdemeanor.)) (a)~~
23 Any person violating any provision of this chapter or any rule adopted
24 under this chapter is guilty of a misdemeanor and guilty of a gross
25 misdemeanor for any second and subsequent violation. Any offense
26 committed more than five years after a previous conviction shall be
27 considered a first offense. A misdemeanor under this section is
28 punishable to the same extent that a misdemeanor is punishable under
29 RCW 9A.20.021 and a gross misdemeanor under this section is punishable
30 to the same extent that a gross misdemeanor is punishable under RCW
31 9A.20.021.

32 (b) Whenever the director finds that a person has committed a
33 violation of any of the provisions of this chapter, and that violation
34 has not been punished pursuant to (a) of this subsection, the director
35 may impose upon and collect from the violator a civil penalty not
36 exceeding one thousand dollars per violation per day. Each violation
37 shall be a separate and distinct offense.

1 When construing or enforcing the provisions of RCW 69.25.110, the
2 act, omission, or failure of any person acting for or employed by any
3 individual, partnership, corporation, or association within the scope
4 of the person's employment or office shall in every case be deemed the
5 act, omission, or failure of such individual, partnership, corporation,
6 or association, as well as of such person.

7 (2) No carrier or warehouseman shall be subject to the penalties of
8 this chapter, other than the penalties for violation of RCW 69.25.140,
9 or subsection (3) of this section, by reason of his or her receipt,
10 carriage, holding, or delivery, in the usual course of business, as a
11 carrier or warehouseman of eggs or egg products owned by another person
12 unless the carrier or warehouseman has knowledge, or is in possession
13 of facts which would cause a reasonable person to believe that such
14 eggs or egg products were not eligible for transportation under, or
15 were otherwise in violation of, this chapter, or unless the carrier or
16 warehouseman refuses to furnish on request of a representative of the
17 director the name and address of the person from whom he or she
18 received such eggs or egg products and copies of all documents, if
19 there be any, pertaining to the delivery of the eggs or egg products
20 to, or by, such carrier or warehouseman.

21 (3) Notwithstanding any other provision of law any person who
22 forcibly assaults, resists, impedes, intimidates, or interferes with
23 any person while engaged in or on account of the performance of his or
24 her official duties under this chapter shall be punished by a fine of
25 not more than five thousand dollars or imprisonment in a state
26 correctional facility for not more than three years, or both. Whoever,
27 in the commission of any such act, uses a deadly or dangerous weapon,
28 shall be punished by a fine of not more than ten thousand dollars or by
29 imprisonment in a state correctional facility for not more than ten
30 years, or both.

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

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

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

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

7 (c) The sale of eggs by any poultry producer from his own flocks
8 directly to a household consumer exclusively for use by such consumer
9 and members of his household and his nonpaying guests and employees,
10 and the transportation, possession, and use of such eggs in accordance
11 with this subsection;

12 (d) The sale of eggs by shell egg packers on his own premises
13 directly to household consumers for use by such consumer and members of
14 his household and his nonpaying guests and employees, and the
15 transportation, possession, and use of such eggs in accordance with
16 this subsection;

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

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

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

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

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

3 (1) All containers used by an egg handler or dealer to package eggs
4 shall bear the name and address or the permanent number issued by the
5 director to said egg handler or dealer. Such permanent number shall be
6 displayed in a size and location prescribed by the director. ((It
7 shall constitute a gross misdemeanor for any egg handler or dealer to
8 reuse a container which bears the permanent number of another egg
9 handler or dealer unless such number is totally obliterated prior to
10 reuse.)) It shall be a violation for any egg handler or dealer to use
11 a container that bears the permanent number of another egg handler or
12 dealer unless such number is totally obliterated prior to use. The
13 director may in addition require the obliteration of any or all
14 markings that may be on any container which will be ((reused)) used
15 for eggs by an egg handler or dealer.

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

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

25 (1) In addition to any other records required to be kept and
26 furnished the director under the provisions of this chapter, the
27 director may require any person who sells to any retailer, or to any
28 restaurant, hotel, boarding house, bakery, or any institution or
29 concern which purchases eggs for serving to guests or patrons thereof
30 or for its use in preparation of any food product for human
31 consumption, candled or graded eggs other than those of his own
32 production sold and delivered on the premises where produced, to
33 furnish that retailer or other purchaser with an invoice covering each
34 such sale, showing the exact grade or quality, and the size or weight
35 of the eggs sold, according to the standards prescribed by the
36 director, together with the name and address of the person by whom the
37 eggs were sold. The person selling and the retailer or other purchaser
38 shall keep a copy of said invoice on file at his place of business for

1 a period of thirty days, during which time the copy shall be available
2 for inspection at all reasonable times by the director: PROVIDED, That
3 no retailer or other purchaser shall be guilty of a violation of this
4 chapter if he can establish a guarantee from the person from whom the
5 eggs were purchased to the effect that they, at the time of purchase,
6 conformed to the information required by the director on such invoice:
7 PROVIDED FURTHER, That if the retailer or other purchaser having
8 labeled any such eggs in accordance with the invoice keeps them for
9 such a time after they are purchased as to cause them to deteriorate to
10 a lower grade or standard, and sells them under the label of the
11 invoice grade or standard, he shall be guilty of a violation of this
12 chapter.

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

17 (3) After being received at the point of first purchase, all graded
18 shell eggs packed in containers for the purpose of sale to consumers
19 shall be held and transported under refrigeration at ambient
20 temperatures no greater than forty-five degrees Fahrenheit (seven and
21 two-tenths degrees Celsius). This provision shall apply without
22 limitation to retailers, institutional users, dealer/wholesalers, food
23 handlers, transportation firms, or any person who handles eggs after
24 the point of first purchase.

25 (4) No invoice shall be required on eggs when packed for sale to
26 the United States department of defense, or a component thereof, if
27 labeled with grades promulgated by the United States secretary of
28 agriculture.

29 NEW SECTION. Sec. 32. The following acts or parts of acts are
30 each repealed:

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

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

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

35 The definitions set forth in this section apply (~~through~~
36 ~~{throughout}~~) throughout this chapter.

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

3 (~~2~~) "Person" means a natural person, individual, firm, partnership,
4 corporation, company, society, or association.

5 (~~3~~) "Distribute" means to import, consign, manufacture, produce,
6 compound, mix, or blend commercial feed, or to offer for sale, sell,
7 barter, or otherwise supply commercial feed in this state.

8 (~~4~~) "Distributor" means any person who distributes.

9 (~~5~~) "Sell" or "sale" includes exchange.

10 (~~6~~) "Commercial feed" means all materials including customer-
11 formula feed which are distributed for use as feed or for mixing in
12 feed, for animals other than man.

13 (~~7~~) "Feed ingredient" means each of the constituent materials
14 making up a commercial feed.

15 (~~8~~) "Customer formula feed" means a mixture of commercial feed
16 and/or materials each batch of which is mixed according to the specific
17 instructions of the final purchaser or contract feeder.

18 (~~9~~) "Brand" means the term, design, trademark, or other specific
19 designation under which an individual commercial feed is distributed in
20 this state.

21 (~~10~~) "Product" means the name of the commercial feed that
22 identifies it as to kind, class, or specific use.

23 (~~11~~) "Label" means a display of written, printed, or graphic matter
24 upon or affixed to the container in which a commercial feed is
25 distributed, or on the invoice or delivery slip with which a commercial
26 feed is distributed.

27 (~~12~~) "Labeling" means all labels and other written, printed, or
28 graphic matter upon a commercial feed or any of its containers or
29 wrappers, or otherwise accompanying such commercial feed.

30 (~~13~~) "Ton" means a net weight of two thousand pounds avoirdupois.

31 (~~14~~) "Percent" or "percentage" means percentage by weight.

32 (~~15~~) "Official sample" means any sample of feed taken by the
33 department, obtained and analyzed as provided in RCW 15.53.9024.

34 (~~16~~) "Contract feeder" means an independent contractor, or any
35 other person who feeds commercial feed to animals pursuant to an oral
36 or written agreement whereby such commercial feed is supplied,
37 furnished or otherwise provided to such person by any distributor and
38 whereby such person's remuneration is determined all or in part by feed
39 consumption, mortality, profits, or amount or quality of product:

1 ~~PROVIDED, That it shall not include a bona fide employee of a~~
2 ~~manufacturer or distributor of commercial feed.~~

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

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

7 (2) "Commercial feed" means all materials or combination of
8 materials that are distributed or intended for distribution for use as
9 feed or for mixing in feed, unless such materials are specifically
10 exempted. Unmixed whole seeds and physically altered entire unmixed
11 seeds, when such whole seeds or physically altered seeds are not
12 chemically changed or not adulterated within the meaning of RCW
13 15.53.902, are exempt. The department by rule may exempt from this
14 definition, or from specific provisions of this chapter, commodities
15 such as hay, straw, stover, silage, cobs, husks, hulls, and individual
16 chemical compounds or substances when such commodities, compounds, or
17 substances are not intermixed with other materials, and are not
18 adulterated within the meaning of RCW 15.53.902.

19 (3) "Contract feeder" means a person who is an independent
20 contractor and feeds commercial feed to animals pursuant to a contract
21 whereby such commercial feed is supplied, furnished, or otherwise
22 provided to such person and whereby such person's remuneration is
23 determined all or in part by feed consumption, mortality, profits, or
24 amount or quality of product.

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

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

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

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

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

37 (9) "Drug" means an article intended for use in the diagnosis,
38 cure, mitigation, treatment, or prevention of disease in animals other

1 than people and articles, other than feed intended to affect the
2 structure or a function of the animal body.

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

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

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

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

14 (14) "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 (15) "Labeling" means all labels and other written, printed, or
19 graphic matter: (a) Upon a commercial feed or any of its containers or
20 wrappers; or (b) accompanying such commercial feed.

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

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

25 (18) "Medicated feed" means a commercial feed containing a drug or
26 other medication.

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

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

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

33 (22) "Person" means an individual, firm, partnership, corporation,
34 or association.

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

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

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

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

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

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

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

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

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

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

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

28 (2) The director when adopting rules in respect to the feed
29 industry shall consult with affected parties, such as manufacturers and
30 distributors of commercial feed and any final rule adopted shall be
31 designed to promote orderly marketing and shall be reasonable and
32 necessary and based upon the requirements and condition of the industry
33 and shall be for the purpose of promoting the well-being of the members
34 of the feed industry as well as the well-being of the purchasers and
35 users of feed and for the general welfare of the people of the state.

36 NEW SECTION. **Sec. 35.** A new section is added to chapter 15.53 RCW
37 to read as follows:

1 (1) Beginning January 1, 1996, a person who manufactures a
2 commercial feed, is an initial distributor of a commercial feed, or
3 whose name appears as the responsible party on a commercial feed label
4 to be distributed in or into this state shall first obtain from the
5 department a commercial feed license for each facility. Sale of food
6 processing byproducts from fruit, vegetable, or potato processing
7 plants, freezing or dehydrating facilities, or juice or jelly
8 preserving plants, bona fide experimental feed on which accurate
9 records and experimental programs are maintained, and pet food and
10 specialty pet food are exempt from the requirement of a commercial feed
11 license. The sale of byproducts or products of sugar refineries are
12 not exempt from the requirement of a commercial feed license.

13 (2) Application for a commercial feed license shall be made
14 annually on forms provided by the department and shall be accompanied
15 by a fee of fifty dollars, except that for the period beginning January
16 1, 1996, and ending June 30, 1996, the fee shall be twenty-five
17 dollars. The commercial feed license shall expire on June 30th of each
18 year.

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

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

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

22 (4) After January 1, 1996, application for license renewal is due
23 July 1st of each year. If an application for license renewal provided
24 for in this section is not filed with the department prior to July
25 15th, a delinquency fee of fifty dollars shall be assessed and added to
26 the original fee and must be paid by the applicant before the renewal
27 license is issued. The assessment of the delinquency fee shall not
28 prevent the department from taking other action as provided for in this
29 chapter. The penalty does not apply if the applicant furnishes an
30 affidavit that he or she has not distributed a commercial feed
31 subsequent to the expiration of his or her prior license.

32 (5) The department may deny a license application if the applicant
33 is not in compliance with this chapter or applicable rules, and may
34 revoke a license if the licensee is not in compliance with this chapter
35 or applicable rules. Prior to denial or revocation of a license, the
36 department shall provide notice and an opportunity to correct
37 deficiencies. If an applicant or licensee fails to correct the
38 deficiency, the department shall deny or revoke the license. If

1 aggrieved by the decision, the applicant or licensee may request a
2 hearing as authorized under chapter 34.05 RCW.

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

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

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

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

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

30 (b) ~~Beginning July 1, 1993, each registration for a commercial feed~~
31 ~~product distributed in packages of less than ten pounds shall be~~
32 ~~accompanied by an annual registration fee of forty five dollars on each~~
33 ~~such commercial feed so distributed, but no inspection fee may be~~
34 ~~collected on packages of less than ten pounds of the commercial feed so~~
35 ~~registered)).~~

36 (2) The application for registration of pet food and specialty pet
37 food shall be on forms provided by the department and shall be

1 accompanied by the fees in subsection (3) of this section.
2 Registrations expire on June 30th of each year.

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

5 (a) Each pet food and specialty pet food distributed in packages of
6 ten pounds or more shall be accompanied by a fee of eleven dollars,
7 except that for the period beginning January 1, 1996, and ending June
8 30, 1996, the fee shall be five dollars and fifty cents. If such
9 commercial feed is also distributed in packages of less than ten pounds
10 it shall be registered under (b) of this subsection.

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

17 (4) The department may require that ((such)) the application for
18 registration of pet food and specialty pet food be accompanied by a
19 label and/or other printed matter describing the product. ((All
20 registrations expire on December 31st of each year, and are renewable
21 unless such registration is canceled by the department or it has called
22 for a new registration, or unless canceled by the registrant.

23 (4) The application shall include the information required by RCW
24 15.53.9016(1)(b) through (1)(e).))

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

29 (6) Changes in the guarantee of either chemical or ingredient
30 composition of a ((commercial feed)) pet food or specialty pet food
31 registered under the provisions of this chapter may be permitted if
32 there is satisfactory evidence that such changes would not result in a
33 lowering of the feed value of the product for the purpose for which it
34 was designed.

35 (7) The department is ((empowered)) authorized to refuse
36 registration of any application not in compliance with the provisions
37 of this chapter and any rule adopted under this chapter and to cancel
38 any registration subsequently found to be not in compliance with any
39 provisions of this chapter((, but a registration shall not be refused

1 ~~or canceled until the registrant has been given opportunity to be heard~~
2 ~~before the department and to amend his application in order to comply~~
3 ~~with the requirements of)) and any rule adopted under this chapter.~~
4 Prior to refusal or cancellation of a registration, the applicant or
5 registrant of an existing registered pet food or specialty pet food
6 shall be notified of the reasons and given an opportunity to amend the
7 application to comply. If the applicant does not make the necessary
8 corrections, the department shall refuse to register the feed. The
9 applicant or registrant of an existing registered pet food or specialty
10 pet food may request a hearing as provided for in chapter 34.05 RCW.

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

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

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

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

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

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

33 ~~((c) The guaranteed analysis of the commercial feed, listing the~~
34 ~~minimum percentage of crude protein, minimum percentage of crude fat,~~
35 ~~and maximum percentage of crude fiber. For mineral feeds the list~~
36 ~~shall include the following if added: Minimum and maximum percentages~~
37 ~~of calcium (Ca), minimum percentage of phosphorus (P), minimum~~
38 ~~percentage of iodine (I), and minimum and maximum percentages of salt~~

1 ~~(NaCl).~~— ~~Other substances or elements, determinable by laboratory~~
2 ~~methods, may be guaranteed by permission of the department. When any~~
3 ~~items are guaranteed, they shall be subject to inspection and analysis~~
4 ~~in accordance with the methods and regulations that may be prescribed~~
5 ~~by the department. Products distributed solely as mineral and/or~~
6 ~~vitamin supplements and guaranteed as specified in this section need~~
7 ~~not show guarantees for protein, fat, and fiber.~~

8 ~~((d))~~ (b) The guaranteed analysis stated in such terms as the
9 department by rule determines is required to advise the user of the
10 composition of the feed or to support claims made in the labeling. In
11 all cases the substances or elements must be determinable by laboratory
12 methods such as the methods published by the association of official
13 analytical chemists.

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

20 ~~((e))~~ (d) The name and principal mailing address of the person
21 responsible for distributing the commercial feed.

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

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

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

28 (2) When a commercial feed, except a customer-formula feed, is
29 distributed in this state in bags or other containers, the label shall
30 be placed on or affixed to the container; when a commercial feed,
31 except a customer-formula feed, is distributed in bulk the label shall
32 accompany delivery and be furnished to the purchaser at time of
33 delivery.

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

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

39 (b) Name and address of the purchaser;

1 (c) Date of ~~((sale; and))~~ delivery;

2 (d) ~~((Brand name and number of pounds of each registered commercial~~
3 ~~feed used in the mixture and the name and number of pounds of each~~
4 ~~other feed ingredient added.~~

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

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

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

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

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

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

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

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

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

37 (1) ~~((On or after June 30, 1981,))~~ Except as provided in subsection
38 (4) of this section, each initial distributor of a commercial feed in

1 this state shall pay to the department an inspection fee on all
2 commercial feed sold by such person during the year. The fee shall be
3 not less than four cents nor more than (~~fourteen~~) twelve cents per
4 ton as prescribed by the director by rule: PROVIDED, That such fees
5 shall be used for routine enforcement (~~of RCW 15.53.9022 and for~~
6 ~~analysis for contaminants only when the department has reasonable cause~~
7 ~~to believe any lot of feed or any feed ingredient is adulterated~~) and
8 administration of this chapter and rules adopted under this chapter.

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

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

28 (4) When more than one distributor is involved in the distribution
29 of a commercial feed, the (~~last registrant or~~) initial distributor
30 (~~who distributes to a nonregistrant (dealer or consumer)~~) is
31 responsible for reporting the tonnage and paying the inspection fee,
32 unless (~~the reporting and paying of fees have been made by a prior~~
33 ~~distributor of the feed~~) this sale or transaction is made to an exempt
34 buyer.

35 (~~(4)~~) (5) Each person made responsible by this chapter for the
36 payment of inspection fees for commercial feed sold in this state shall
37 file a report with the department on January 1st and July 1st of each
38 year showing the number of tons of such commercial feed sold during the
39 six calendar months immediately preceding the date the report is due.

1 The proper inspection fee shall be remitted with the report. The
2 person required to file the report and pay the fee shall have a thirty-
3 day period of grace immediately following the day the report and
4 payment are due to file the report, and pay the fee. Upon permission
5 of the department, an annual statement under oath may be filed by any
6 person distributing within the state less than one hundred tons for
7 each six-month period during any year, and upon filing such statement
8 such person shall pay the inspection fee at the rate provided for in
9 subsection (1) of this section. The minimum inspection fee shall be
10 twelve dollars and fifty cents for each six-month reporting period or
11 twenty-five dollars if reporting annually.

12 ~~((5) Each distributor shall keep such reasonable and practical~~
13 ~~records as may be necessary or required by the department to indicate~~
14 ~~accurately the tonnage of commercial feed distributed in this state,~~
15 ~~and the department has the right to examine such records to verify~~
16 ~~statements of tonnage. Failure to make an accurate statement of~~
17 ~~tonnage or to pay the inspection fee or comply as provided herein~~
18 ~~constitutes a violation of this chapter, and may result in the issuance~~
19 ~~of an order for "withdrawal from distribution" on any commercial feed~~
20 ~~being subsequently distributed.~~

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

27 ~~(7))~~ (6) For the purpose of determining accurate tonnage of
28 commercial feed distributed in this state or to identify or verify
29 semiannual tonnage reports, the department may require each registrant
30 or licensee, or both, to maintain records or file additional reports.

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

35 (8) The registrant or licensee shall maintain records required
36 under this section and submit these records to the department upon
37 request.

38 (9) Any person responsible for reporting tonnage or paying
39 inspection fees who fails to do so before the thirty-first day

1 following the last day of each reporting period, shall pay a penalty
2 equal to fifteen percent of the inspection fee due or fifty dollars,
3 whichever is greater. The penalty, together with any delinquent
4 inspection fee is due before the forty-first day following the last day
5 of each reporting period. The department may cancel registration of a
6 registrant or may revoke a license of a licensee who fails to pay the
7 penalty and delinquent inspection fees within that time period. The
8 applicant or licensee may request a hearing as authorized under chapter
9 34.05 RCW.

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

21 (~~(8)~~) (11) Any commercial feed purchased by a consumer or
22 contract feeder outside the jurisdiction of this state and brought into
23 this state for use is subject to all the provisions of this chapter,
24 including inspection fees.

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

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

29 (1) If it bears or contains any poisonous or deleterious substance
30 which may render it injurious to health; but in case the substance is
31 not an added substance, such commercial feed shall not be considered
32 adulterated under this subsection if the quantity of such substance in
33 such commercial feed does not ordinarily render it injurious to health;
34 or

35 (2) If it bears or contains any added poisonous, added deleterious,
36 or added nonnutritive substance which is unsafe within the meaning of
37 section 406 of the Federal Food, Drug, and Cosmetic Act (other than one

1 which is (a) a pesticide chemical in or on a raw agricultural
2 commodity; or (b) a food additive); or

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

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

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

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

29 (7) If any valuable constituent has been in whole or in part
30 omitted or abstracted therefrom or any less valuable substance
31 substituted therefor; or

32 ((+7)) (8) If its composition or quality falls below or differs
33 from that which it is purported or is represented to possess by its
34 labeling; or

35 ((+8)) (9) If it contains a drug and the methods used in or the
36 facilities or controls used for its manufacture, processing, or
37 packaging do not conform to current good manufacturing practice rules
38 adopted by the department to assure that the drug meets the
39 requirements of this chapter as to safety and has the identity and

1 strength and meets the quality and purity characteristics that it
2 purports or is represented to possess. In adopting such rules, the
3 department shall adopt the current good manufacturing practice
4 regulations for type A medicated articles and type B and type C
5 medicated feeds established under authority of the Federal Food, Drug,
6 and Cosmetic Act, unless the department determines that they are not
7 appropriate to the conditions that exist in this state; or

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

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

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

18 (1) If its labeling is false or misleading in any particular;
19 (2) If it is distributed under the name of another commercial feed;
20 (3) If it is not labeled as required in RCW 15.53.9016 and in
21 ((regulations)) rules prescribed under this chapter;

22 (4) If it purports to be or is represented as a commercial feed
23 ((ingredient)), or if it purports to contain or is represented as
24 containing a commercial feed or feed ingredient, unless such commercial
25 feed or feed ingredient conforms to the definition of identity, if any,
26 prescribed by ((regulation)) rule of the department. In the adopting
27 of such ((regulations)) rules the department may consider commonly
28 accepted definitions such as those issued by nationally recognized
29 associations or groups of feed control officials;

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

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

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

3 ~~(1) ((It shall be the duty of the department to sample, inspect,~~
4 ~~make analysis of, and test commercial feed distributed within this~~
5 ~~state at such time and place and to such an extent as it may deem~~
6 ~~necessary to determine whether such feeds are in compliance with the~~
7 ~~provisions of this chapter. The department is authorized to stop any~~
8 ~~commercial vehicle transporting feed on the public highways and direct~~
9 ~~it to the nearest scales approved by the department to check weights of~~
10 ~~feeds being delivered. The department is also authorized, upon~~
11 ~~presentation of proper identification, to enter any distributor's~~
12 ~~premises including any vehicle of transport at all reasonable times in~~
13 ~~order to have access to commercial feed and to records relating to~~
14 ~~their distribution. This includes the determining of the weight of~~
15 ~~packages and bulk shipments.~~

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

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

36 (2) A separate notice shall be given for each such inspection, but
37 a notice is not required for each entry made during the period covered
38 by the inspection. Each such inspection shall be commenced and
39 completed with reasonable promptness. Upon completion of the

1 inspection, the person in charge of the facility or vehicle shall be so
2 notified.

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

8 (4) If the owner of a factory, warehouse, or establishment
9 described in subsection (1) of this section, or his or her agent,
10 refuses to admit the director or his or her agent to inspect in
11 accordance with subsections (1) and (2) of this section, the director
12 or his or her agent is authorized to obtain from any court of competent
13 jurisdiction a warrant directing such owner or his or her agent to
14 submit the premises described in the warrant to inspection.

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

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

23 (7) The results of all analyses of official samples shall be
24 forwarded by the department to the person named on the label and to the
25 purchaser, if known. If the inspection and analysis of an official
26 sample indicates a commercial feed has been adulterated or misbranded
27 and upon request within thirty days following the receipt of the
28 analysis, the department shall furnish to the registrant or licensee a
29 portion of the sample concerned. If referee analysis is requested, a
30 portion of the official sample shall be furnished by the department and
31 shall be sent directly to an independent lab agreed to by all parties.

32 (8) The department, in determining for administrative purposes
33 whether a feed is deficient in any component, shall be guided solely by
34 the official sample as defined in RCW 15.53.901((+13+)) (20) and
35 obtained and analyzed as provided for in this section.

36 ~~((4) When the inspection and analysis of an official sample has~~
37 ~~been made the results of analysis shall be forwarded by the department~~
38 ~~to the distributor and to the purchaser if known. Upon request and~~

1 ~~within thirty days the department shall furnish to the distributor a~~
2 ~~portion of the sample concerned.~~

3 ~~(5))~~ (9) Analysis of an official sample by the department shall be
4 accepted as prima facie evidence by any court of competent
5 jurisdiction.

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

8 (1) When the department has reasonable cause to believe that any
9 lot of commercial feed is adulterated or misbranded or is being
10 distributed in violation of this chapter or any ~~((regulations))~~ rules
11 hereunder it may issue and enforce a written or printed "withdrawal
12 from distribution" order, or "stop sale" order, warning the distributor
13 not to dispose of the lot of feed in any manner until written
14 permission is given by the department ~~((or a court of competent~~
15 ~~jurisdiction))~~. The department shall release the lot of commercial
16 feed so withdrawn when the provisions and ~~((regulations))~~ rules have
17 been complied with. If compliance is not obtained within thirty days,
18 parties may agree to an alternative disposition in writing or the
19 department may ~~((begin))~~ institute condemnation proceedings ~~((for~~
20 ~~condemnation))~~ in a court of competent jurisdiction.

21 (2) Any lot of commercial feed not in compliance with the
22 provisions and ~~((regulations))~~ rules is subject to seizure on complaint
23 of the department to a court of competent jurisdiction in the area in
24 which the commercial feed is located. If the court finds the
25 commercial feed to be in violation of this chapter and orders the
26 condemnation of the commercial feed, it shall be disposed of in any
27 manner consistent with the quality of the commercial feed and the laws
28 of the state. The court shall first give the claimant an opportunity
29 to apply to the court for release of the commercial feed or for
30 permission to process or relabel the commercial feed to bring it into
31 compliance with this chapter.

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

34 The department shall publish at least annually, in such forms as it
35 may deem proper, information concerning the distribution of commercial
36 feed, together with such data on their production and use as it may
37 consider advisable, and a report of the results of the analyses of

1 official samples of commercial feed within the state as compared with
2 the analyses guaranteed (~~(in the registration and)~~) on the label or as
3 calculated from the invoice data for customer-formula feeds: PROVIDED,
4 That the information concerning production and use of commercial feeds
5 shall not disclose the operations of any person.

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

8 (~~(1) The following acts or parts of acts are each repealed:~~

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

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

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

17 ~~(3))~~ All licenses and registrations in effect on July 1, ~~((1975))~~
18 1995, shall continue in full force and effect until their regular
19 expiration date, December 31, ~~((1975))~~ 1995. No registration or
20 license that has already been paid under the requirements of prior law
21 shall be refunded.

22 NEW SECTION. **Sec. 45.** (1) The following acts or parts of acts are
23 each repealed:

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

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

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

33 NEW SECTION. **Sec. 46.** RCW 15.53.9036 and 1989 c 175 s 51, 1975
34 1st ex.s. c 257 s 6, & 1965 ex.s. c 31 s 15 are each repealed.

1 NEW SECTION. **Sec. 47.** RCW 15.53.905 and 15.53.9052 are each
2 decodified.

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

5 The director shall cause a charge to be made for all brand
6 inspection of cattle and horses required under this chapter and rules
7 adopted hereunder. Such charges shall be paid to the department by the
8 owner or person in possession unless requested by the purchaser and
9 then such brand inspection shall be paid by the purchaser requesting
10 such brand inspection. Except as provided by rule, such inspection
11 charges shall be due and payable at the time brand inspection is
12 performed and shall be paid upon billing by the department and if not
13 shall constitute a prior lien on the cattle or cattle hides or horses
14 or horse hides brand inspected until such charge is paid. The director
15 in order to best utilize the services of the department in performing
16 brand inspection may establish schedules by days and hours when a brand
17 inspector will be on duty to perform brand inspection at established
18 inspection points. The fees for brand inspection shall be not less
19 than fifty cents nor more than seventy-five cents per head for cattle
20 and not less than two dollars nor more than three dollars per head for
21 horses as prescribed by the director by rule subsequent to a hearing
22 under chapter 34.05 RCW and in conformance with RCW 16.57.015. Fees
23 for brand inspection of cattle and horses (~~(performed by the director)~~)
24 at points other than those designated by the director or not in accord
25 with the schedules established by the director shall be based on a fee
26 schedule not to exceed actual net cost to the department of performing
27 the brand inspection service. For the purpose of this section, actual
28 costs shall mean fifteen dollars per hour and the current mileage rate
29 set by the office of financial management.

30 **Sec. 49.** RCW 16.57.220 and 1994 c 46 s 25 and 1994 c 46 s 19 are
31 each reenacted and amended to read as follows:

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

1 charges shall be due and payable at the time brand inspection is
2 performed and shall be paid upon billing by the department and if not
3 shall constitute a prior lien on the cattle or cattle hides or horses
4 or horse hides brand inspected until such charge is paid. The director
5 in order to best utilize the services of the department in performing
6 brand inspection may establish schedules by days and hours when a brand
7 inspector will be on duty to perform brand inspection at established
8 inspection points. The fees for brand inspection performed at
9 inspection points according to schedules established by the director
10 shall be sixty cents per head for cattle and not more than two dollars
11 and forty cents per head for horses as prescribed by the director
12 subsequent to a hearing under chapter 34.05 RCW and in conformance with
13 RCW 16.57.015. Fees for brand inspection of cattle and horses
14 (~~performed by the director~~) at points other than those designated by
15 the director or not in accord with the schedules established by the
16 director shall be based on a fee schedule not to exceed actual net cost
17 to the department of performing the brand inspection service. For the
18 purpose of this section, actual costs shall mean fifteen dollars per
19 hour and the current mileage rate set by the office of financial
20 management.

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

23 No person shall collect or make a charge for brand inspection of
24 livestock unless there has been an actual brand inspection of such
25 livestock (~~by the director~~).

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

28 Any person purchasing, selling, holding for sale, trading,
29 bartering, transferring title, slaughtering, handling, or transporting
30 cattle shall keep a record on forms prescribed by the director. Such
31 forms shall show the number, specie, brand or other method of
32 identification of such cattle and any other necessary information
33 required by the director. The original shall be kept for a period of
34 three years or shall be furnished to the director upon demand or as
35 prescribed by rule, one copy shall accompany the cattle to their
36 destination and shall be subject to inspection at any time by the
37 director or any peace officer or member of the state patrol: PROVIDED,

1 That in the following instances only, cattle may be moved or
2 transported within this state without being accompanied by ((a)) an
3 official certificate of permit ((or an official)), brand inspection
4 certificate ((or)), bill of sale, or self-inspection slip:

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

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

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

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

14 (1) Such livestock lawfully bears the person's own healed recorded
15 brand(())i or

16 (2) Such livestock is accompanied by a certificate of permit from
17 the owner of the recorded brand or tattoo(())i or

18 (3) Such livestock is accompanied by a brand inspection
19 certificate(())i or

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

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

23 A violation of this section constitutes a gross misdemeanor
24 punishable to the same extent as a gross misdemeanor that is punishable
25 under RCW 9A.20.021.

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

28 All unbranded cattle and horses and those bearing brands not
29 recorded, in the current edition of this state's brand book, which are
30 not accompanied by a certificate of permit, and those bearing brands
31 recorded, in the current edition of this state's brand book, which are
32 not accompanied by a certificate of permit signed by the owner of the
33 brand when presented for inspection by the director, shall be sold by
34 the director or the director's representative, unless other
35 satisfactory proof of ownership is presented showing the person
36 presenting them to be lawfully in possession. Upon the sale of such
37 cattle or horses, the director or the director's representative shall

1 give the purchasers a bill of sale therefor, or, if theft is suspected,
2 the cattle or horses may be impounded by the director or the director's
3 representative.

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

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

11 (a) A nonrefundable original license application fee of fifteen
12 hundred dollars.

13 (b) A legal description of the property upon which the public
14 livestock market shall be located.

15 ~~((b))~~ (c) A complete description and blueprints or plans of the
16 public livestock market physical plant, yards, pens, and all facilities
17 the applicant proposes to use in the operation of such public livestock
18 market.

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

22 ~~((d))~~ (e) The schedule of rates and charges the applicant
23 proposes to impose on the owners of livestock for services rendered in
24 the operation of such livestock market.

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

27 ~~((f))~~ (g) Projected source and quantity of livestock, by county,
28 anticipated to be handled.

29 ~~((g))~~ (h) Projected income and expense statements for the first
30 year's operation.

31 ~~((h))~~ (i) Facts upon which are based the conclusion that the
32 trade area and the livestock industry will benefit because of the
33 proposed market.

34 ~~((i))~~ (j) Such other information as the director may reasonably
35 require.

36 (2) The director shall, after public hearing as provided by chapter
37 34.05 RCW, grant or deny an application for original license for a
38 public livestock market after considering evidence and testimony

1 relating to all of the requirements of this section and giving
2 reasonable consideration at the same hearing to:

3 (a) Benefits to the livestock industry to be derived from the
4 establishment and operation of the public livestock market proposed in
5 the application; and

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

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

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

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

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

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

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

28 ~~(5) Upon the approval of the application by the director and
29 compliance with the provisions of this chapter, the applicant shall be
30 issued a license or renewal thereof. Any license issued under the
31 provisions of this chapter shall only be valid at location and for the
32 sales day or days for which the license was issued)) Applications for
33 renewal under RCW 16.65.040 shall include all information under
34 subsection (1) of this section, except subsection (1)(a) of this
35 section.~~

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

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

3 (1) Upon the approval of the application by the director and
4 compliance with the provisions of this chapter, the applicant shall be
5 issued a license or renewal thereof. Any license issued under the
6 provisions of this chapter shall only be valid at location and for the
7 sales day or days for which the license was issued.

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

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

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

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

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

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

27 NEW SECTION. Sec. 57. 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:

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

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

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

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

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

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

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

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

18 Producer members of the commission shall be nominated and elected
19 by producers within the district that such producer members represent
20 in the year in which a commission member's term shall expire. Such
21 producer members receiving the largest number of the votes cast in the
22 respective districts which they represent shall be elected. The
23 election shall be by secret mail ballot and under the supervision of
24 the director.

25 Nomination for candidates to be elected to the commission shall be
26 conducted by mail by the director. Such nomination forms shall be
27 mailed by the director to each producer in a district where a vacancy
28 is about to occur. Such mailing shall be made on or after April 1st,
29 but not later than April 10th of the year the commission vacancy will
30 occur. The nomination form shall provide for the name of the producer
31 being nominated and the names of five producers nominating such
32 nominee. The producers nominating such nominee shall affix their
33 signatures to such form and shall further attest that the said nominee
34 meets the qualifications for a producer member to serve on the
35 commission and that he or she will be willing to serve on the
36 commission if elected.

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

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

10 ~~((Whenever producers fail to file any nominating petitions, the
11 director shall nominate at least two, but not more than three,
12 qualified producers and place their names on the secret mail election
13 ballot as nominees: PROVIDED, That any qualified producer may be
14 elected by a write-in ballot, even though said producer's name was not
15 placed in nomination for such election.))~~ If only one person is
16 nominated for a position on the commission, the director shall
17 determine whether the person possesses the qualifications required by
18 statute for the position and, if the director determines that the
19 person possesses such qualifications, the director shall declare that
20 the person has been duly elected.

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

23 Unless otherwise directed in the commodity commission enabling
24 statute, this chapter shall not apply to the Washington state ((apple
25 advertising commission, the Washington state fruit commission, the
26 Washington tree fruit research commission, the Washington state beef
27 commission, the Washington state dairy products commission, or any
28 agricultural)) commodity commissions created either under separate
29 statute or under the provisions of chapters 15.65 and 15.66 RCW:
30 PROVIDED, That all such commissions shall submit estimates and such
31 other necessary information as may be required for the development of
32 the budget and shall also be subject to audit by the appropriate state
33 auditing agency or officer.

34 NEW SECTION. **Sec. 61.** A new section is added to chapter 43.23 RCW
35 to read as follows:

36 For purposes of this chapter:

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

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

3 NEW SECTION. **Sec. 62.** A new section is added to chapter 43.23 RCW
4 to read as follows:

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

9 The director or his or her designee may also collect as costs
10 moneys paid to the collection agency as charges, or in the case of
11 credit cards or financial instruments, such as checks returned for
12 nonpayment, moneys paid to financial institutions.

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

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

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

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

4 NEW SECTION. Sec. 65. A new section is added to chapter 43.23 RCW
5 to read as follows:

6 Except as otherwise specified by law, in the event a check or
7 negotiable instrument as defined by RCW 62A.3-104 is dishonored by
8 nonacceptance or nonpayment, the department is entitled to collect a
9 reasonable handling fee for each instrument. If the check or
10 instrument is not paid within fifteen days and proper notice is sent,
11 the department is authorized to recover the assessment, the handling
12 fee, and any other charges allowed by RCW 62A.3-515.

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

15 (1) Except as provided in subsection (~~((2))~~) (4) of this section,
16 any person desiring to register a pesticide with the department shall
17 pay to the director an annual registration fee for each pesticide
18 registered by the department for such person. The registration fee for
19 the registration of pesticides for any one person during a calendar
20 year shall be: One hundred five dollars for each of the first twenty-
21 five pesticides registered; one hundred dollars for each of the twenty-
22 sixth through one-hundredth pesticides registered; seventy-five dollars
23 for each of the one hundred first through one hundred fiftieth
24 pesticides registered; and fifty dollars for each additional pesticide
25 registered. In addition, the department may establish by rule a
26 registration fee not to exceed ten dollars for each registered product
27 labeled and intended for home and garden use only.

28 (2) The revenue generated by the pesticide registration fees shall
29 be deposited in the agricultural local fund to support the activities
30 of the pesticide program within the department. The revenue generated
31 by the home and garden use only fees shall be deposited in the
32 agriculture local fund, to be used to assist in funding activities of
33 the pesticide incident reporting and tracking review panel.

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

1 (~~(2)~~) (4) A person desiring to register a label where a special
2 local need exists shall pay to the director a nonrefundable application
3 fee of two hundred dollars upon submission of the registration request.
4 In addition, a person desiring to renew an approved special local need
5 registration shall pay to the director an annual registration fee of
6 two hundred dollars for each special local needs label registered by
7 the department for such person. The revenue generated by the special
8 local needs application fees and the special local needs renewal fees
9 shall be deposited in the agricultural local fund to be used to assist
10 in funding the department's special local needs registration
11 activities. All special local needs registrations expire on December
12 31st of each year.

13 (~~(3)~~) (5) Any registration approved by the director and in effect
14 on the 31st day of December for which a renewal application has been
15 made and the proper fee paid, continues in full force and effect until
16 the director notifies the applicant that the registration has been
17 renewed, or otherwise denied in accord with the provision of RCW
18 15.58.110.

19 NEW SECTION. Sec. 67. A new section is added to chapter 15.58 RCW
20 to read as follows:

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

23 NEW SECTION. Sec. 68. RCW 15.58.410 and 1971 ex.s. c 190 s 41 are
24 each repealed.

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

27 The brand inspector shall cause to be published once in a newspaper
28 published in the county where the animal was found, a notice of the
29 impounding.

30 The notice shall state:

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

33 (2) When and where found;

34 (3) Where impounded; and

35 (4) That if unclaimed, the animal will be sold at a public
36 livestock market sale or other public sale, and the date of such sale:

1 PROVIDED, That if no newspaper shall be published in such county,
2 copies of the notice shall be posted at four commonly frequented places
3 therein.

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

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

10 If no person shall claim the animal within ten days after the date
11 of publication or posting of the notice, it shall be sold at the next
12 succeeding public livestock market sale to be held at the sales yard
13 where impounded, provided that in the director's discretion the
14 department of agriculture may otherwise cause the animal to be sold at
15 public sale.

16 The legislature intends this to be a clarification of existing law;
17 therefore, this section shall have retroactive effect as of December 1,
18 1994.

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

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

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

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

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

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

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

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

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

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

15 NEW SECTION. **Sec. 73.** The state noxious weed control board shall
16 develop a study to determine the cost of controlling weeds on state-
17 owned or managed lands, included along state-owned rights of way. The
18 board may conduct the study, or may contract with either public or
19 private agencies to conduct and complete the study. The departments of
20 natural resources, transportation, and fish and wildlife, and the parks
21 and recreation commission shall cooperate with the weed board or the
22 contractor in the study.

23 As part of the study, the state noxious weed control board shall
24 identify those weed species that are practical to control and should be
25 controlled. The board shall also identify the impacts and estimate the
26 costs of not controlling these weeds. The board may exclude from the
27 study those weeds that, due to high cost or impracticality, cannot be
28 controlled on private lands. The board shall develop a prioritized
29 list of weeds that are practical to control and that should be
30 controlled on state-owned and managed lands.

31 NEW SECTION. **Sec. 74.** The state noxious weed control board shall
32 study alternative funding mechanisms for Washington's noxious weed
33 control program. The departments of natural resources, transportation,
34 and fish and wildlife, and the parks and recreation commission shall
35 cooperate with the weed board in the study. As part of the study, the
36 state noxious weed control board shall identify the impacts and costs
37 of each alternative. Funding alternatives shall address weed control

1 needs of private citizens, local governments, county weed boards, state
2 agencies, the state noxious weed control board, and federal agencies.

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

5 All state agencies shall control noxious weeds on lands they own,
6 lease, or otherwise control. Agencies shall develop plans to control
7 noxious weeds in accordance with standards in this chapter. All state
8 agencies' lands must comply with this chapter, regardless of noxious
9 weed control efforts on adjacent lands. County noxious weed control
10 boards shall assist landowners to meet and exceed the standards on
11 state lands.

12 NEW SECTION. **Sec. 76.** (1) The standing committee on agriculture
13 and agricultural trade and development of the senate and the standing
14 committee on agriculture and ecology of the house of representatives
15 shall jointly study land leasing practices of state agencies in regard
16 to weed control and report their findings to the legislature in 1996.

17 (2) State agencies shall list noxious weed control projects in
18 their respective jurisdictions in order of priority, along with their
19 plans to control these infestations, and shall submit the lists and
20 plans to the legislative committees identified in subsection (1) of
21 this section before the beginning of the 1996 regular session of the
22 legislature.

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

25 The activated county noxious weed control board of each county
26 shall annually submit a budget to the county legislative authority for
27 the operating cost of the county's weed program for the ensuing fiscal
28 year: PROVIDED, That if the board finds the budget approved by the
29 legislative authority is insufficient for an effective county noxious
30 weed control program it shall petition the county legislative authority
31 to hold a hearing as provided in RCW 17.10.890. Control of weeds is a
32 special benefit to the lands within any such section. Funding for the
33 budget shall be derived from (~~either or both~~) any or all of the
34 following:

35 (1) The county legislative authority may, in lieu of a tax, levy an
36 assessment against the land for this purpose. Prior to the levying of

1 an assessment the county noxious weed control board shall hold a public
2 hearing at which it shall gather information to serve as a basis for
3 classification and shall then classify the lands into suitable
4 classifications, including but not limited to dry lands, range lands,
5 irrigated lands, nonuse lands, forest lands, or federal lands. The
6 board shall develop and forward to the county legislative authority, as
7 a proposed level of assessment for each class, such an amount as shall
8 seem just. The assessment rate shall be either uniform per acre in its
9 respective class or a flat rate per parcel rate plus a uniform rate per
10 acre: PROVIDED, That if no special benefits should be found to accrue
11 to a class of land, a zero assessment may be levied. The legislative
12 authority, upon receipt of the proposed levels of assessment from the
13 board, after a hearing, shall accept, modify, or refer back to the
14 board for its reconsideration all or any portion of the proposed levels
15 of assessment. The findings by the county legislative authority of
16 such special benefits, when so declared by resolution and spread upon
17 the minutes of said authority shall be conclusive as to whether or not
18 the same constitutes a special benefit to the lands within the section.
19 The amount of such assessment shall constitute a lien against the
20 property. The county legislative authority may by resolution or
21 ordinance require that notice of the lien be sent to each owner of
22 property for which the assessment has not been paid by the date it was
23 due and that each such lien created shall be collected by the treasurer
24 in the same manner as delinquent real property tax, if within thirty
25 days from the date the owner is sent notice of the lien, including the
26 amount thereof, the lien remains unpaid and an appeal has not been made
27 pursuant to RCW 17.10.180. Liens treated as delinquent taxes shall
28 bear interest at the rate of twelve percent per annum and such interest
29 shall accrue as of the date notice of the lien is sent to the owner:
30 PROVIDED FURTHER, That any collections for such lien shall not be
31 considered as tax; or

32 (2) The county legislative authority may appropriate money from the
33 county general fund necessary for the administration of the county
34 noxious weed control program. In addition the county legislative
35 authority may make emergency appropriations as it deems necessary for
36 the implementation of this chapter.

37 (3) Forest lands used solely for the planting, growing, or
38 harvesting of trees and which are typified, except during a single
39 period of five years following clear-cut logging, by canopies so dense

1 as to prohibit growth of an understory may be subject to an annual
2 noxious weed assessment levied by a county legislative authority that
3 shall not exceed one-tenth of the weighted average per acre noxious
4 weed assessment levied on all other lands in unincorporated areas
5 within the county that are subject to the weed assessment. This
6 assessment shall be computed in accordance with the formula in
7 subsection (4) of this section.

8 (4) The calculation of the "weighted average per acre noxious weed
9 assessment" shall be a ratio expressed as follows: (a) The numerator
10 shall be the total amount of funds estimated to be collected from the
11 per acre assessment on all lands except (i) forest lands as identified
12 in subsection (3) of this section, (ii) lands exempt from the noxious
13 weed assessment, and (iii) lands located in an incorporated area. (b)
14 The denominator shall be the total acreage from which funds in (a) of
15 this subsection are collected. For lands of less than one acre in
16 size, the denominator calculation may be based on the following
17 assumptions: (i) Unimproved lands shall be calculated as being one-
18 half acre in size on the average, and (ii) improved lands shall be
19 calculated as being one-third acre in size on the average. The county
20 legislative authority may choose to calculate the denominator for lands
21 of less than one acre in size using other assumptions about average
22 parcel size based on local information.

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

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

34 NEW SECTION. **Sec. 79.** The sum of twenty thousand dollars, or as
35 much thereof as may be necessary, is appropriated from the general fund
36 for the biennium ending June 30, 1997, to the state noxious weed

1 control board to study, or contract for a study, on the cost of
2 controlling weeds on state-owned or managed lands.

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

5 NEW SECTION. **Sec. 81.** Sections 1 through 47, 50 through 53, and
6 59 through 68 of this act are necessary for the immediate preservation
7 of the public peace, health, or safety, or support of the state
8 government and its existing public institutions, and shall take effect
9 June 30, 1995.

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

Passed the Senate April 21, 1995.

Passed the House April 20, 1995.

Approved by the Governor May 16, 1995.

Filed in Office of Secretary of State May 16, 1995.