

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1086

59th Legislature
2005 Regular Session

Passed by the House February 28, 2005
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 4, 2005
Yeas 41 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1086** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1086

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Representatives Linville, Kristiansen and Pettigrew; by request of Department of Agriculture

Read first time 01/13/2005. Referred to Committee on Economic Development, Agriculture & Trade.

1 AN ACT Relating to commercial feed; amending RCW 15.53.901,
2 15.53.9013, 15.53.9014, 15.53.9014, 15.53.9016, 15.53.9018, 15.53.9024,
3 and 15.53.9044; adding a new section to chapter 15.53 RCW; repealing
4 RCW 15.53.9053; providing effective dates; providing an expiration
5 date; and declaring an emergency.

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

7 **Sec. 1.** RCW 15.53.901 and 1995 c 374 s 33 are each amended to read
8 as follows:

9 The definitions set forth in this section apply throughout this
10 chapter.

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

14 (2) "Commercial feed" means all materials or combination of
15 materials that are distributed or intended for distribution for use as
16 feed or for mixing in feed, unless such materials are specifically
17 exempted. Unmixed whole seeds and physically altered entire unmixed
18 seeds, when such whole seeds or physically altered seeds are not
19 chemically changed or not adulterated within the meaning of RCW

1 15.53.902, are exempt. The department by rule may exempt from this
2 definition, or from specific provisions of this chapter, commodities
3 such as hay, straw, stover, silage, cobs, husks, hulls, and individual
4 chemical compounds or substances when such commodities, compounds, or
5 substances are not intermixed with other materials, and are not
6 adulterated within the meaning of RCW 15.53.902.

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

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

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

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

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

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

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

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

34 "Facility" means any place where a commercial feed is manufactured,
35 repackaged, sold, transloaded, or stored for later distribution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (26) "Responsible buyer" means a licensee who is not the final
33 purchaser of a commercial feed and has agreed to be responsible for
34 reporting tonnage and paying inspection fees for all commercial feeds
35 they distribute.

36 (27) "Retail" means to distribute to the final purchaser.

37 ((+27)) (28) "Sell" or "sale" includes exchange.

1 ~~((28))~~ (29) "Specialty pet" means a domesticated animal pet
2 normally maintained in a cage or tank, such as, but not limited to,
3 gerbils, hamsters, canaries, psittacine birds, mynahs, finches,
4 tropical fish, goldfish, snakes, and turtles.

5 ~~((29))~~ (30) "Specialty pet food" means a commercial feed prepared
6 and distributed for consumption by specialty pets.

7 ~~((30))~~ (31) "Ton" means a net weight of two thousand pounds
8 avoirdupois.

9 ~~((31))~~ (32) "Transload" means to transfer commercial feed from
10 one carrier to another carrier without processing or blending the
11 ingredients, for example, transferred from rail car to trucks or
12 shipping containers.

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

15 **Sec. 2.** RCW 15.53.9013 and 1995 c 374 s 35 are each amended to
16 read as follows:

17 (1) ~~((Beginning January 1, 1996, a))~~ Except as provided under
18 subsection (2) of this section, any person: (a) Who manufactures a
19 commercial feed(, is an initial distributor of a commercial feed, or)
20 in this state; (b) who distributes a commercial feed in or into this
21 state; or (c) whose name appears ((as the responsible party)) on a
22 commercial feed label ((to be distributed in or into this state shall))
23 as guarantor, must first obtain from the department a commercial feed
24 license for each facility(, Sale of) that distributes in or into
25 this state.

26 (2) The following persons are exempt from the requirement of a
27 commercial feed license:

28 (a) Any person who makes only retail sales of commercial feed which
29 bears labeling or other approved indication that the commercial feed is
30 from a licensed manufacturer, guarantor, or distributor who has assumed
31 full responsibility for reporting and paying the inspection fee due
32 under this act;

33 (b) Any person distributing only pet food or specialty pet food;

34 (c) Any person distributing food processing byproducts from fruit,
35 vegetable, or potato processing plants, freezing or dehydrating
36 facilities, or juice or jelly preserving plants, except that the

1 distribution of byproducts or products of sugar refineries are not
2 exempt from the requirement of a commercial feed license; and

3 (d) Any person distributing bona fide experimental feed on which
4 accurate records and experimental programs are maintained~~((, and pet~~
5 ~~food and specialty pet food are exempt from the requirement of a~~
6 ~~commercial feed license. The sale of byproducts or products of sugar~~
7 ~~refineries are not exempt from the requirement of a commercial feed~~
8 ~~license)).~~

9 ~~((+2))~~ (3) Application for a commercial feed license ~~((shall))~~
10 must be made annually on forms provided by the department and ~~((shall))~~
11 must be accompanied by a fee of fifty dollars~~((, except that for the~~
12 ~~period beginning January 1, 1996, and ending June 30, 1996, the fee~~
13 ~~shall be twenty five dollars. The commercial feed license shall expire~~
14 ~~on June 30th of each year)).~~

15 ~~((+3))~~ (4) The commercial feed license expires on June 30th of
16 each year. The application and fee for a commercial feed license
17 renewal is due July 1st of each year. If a completed application and
18 appropriate fee is not received by July 1st, a late renewal fee of
19 fifty dollars per facility will be assessed in addition to the license
20 fee and must be paid by the applicant before the renewal license is
21 issued. A late renewal fee will not apply if the applicant furnishes
22 an affidavit that he or she has not distributed a commercial feed
23 subsequent to the expiration of his or her prior license. The
24 assessment of the late renewal fee will not prevent the department from
25 taking other action as provided for in this chapter.

26 (5) An application for a commercial feed license ~~((shall))~~ must
27 include ~~((the following))~~:

28 (a) The name and mailing address of the applicant;

29 (b) The physical address of the facility;

30 (c) The name, contact information, and signature of the applicant;

31 and

32 (d) Other information required by the department by rule.

33 ~~((+4) After January 1, 1996, application for license renewal is due~~
34 ~~July 1st of each year. If an application for license renewal provided~~
35 ~~for in this section is not filed with the department prior to July~~
36 ~~15th, a delinquency fee of fifty dollars shall be assessed and added to~~
37 ~~the original fee and must be paid by the applicant before the renewal~~
38 ~~license is issued. The assessment of the delinquency fee shall not~~

1 ~~prevent the department from taking other action as provided for in this~~
2 ~~chapter. The penalty does not apply if the applicant furnishes an~~
3 ~~affidavit that he or she has not distributed a commercial feed~~
4 ~~subsequent to the expiration of his or her prior license.~~

5 ~~(5))~~ (6) The department may deny a license application if the
6 applicant is not in compliance with this chapter or applicable rules,
7 and may ~~((revoke))~~ cancel a license if the licensee is not in
8 compliance with this chapter or applicable rules. Prior to denial or
9 ~~((revocation))~~ cancellation of a license, the department shall provide
10 notice and an opportunity to correct deficiencies. If an applicant or
11 licensee fails to correct the deficiency, the department shall deny or
12 ~~((revoke))~~ cancel the license. If aggrieved by the decision, the
13 applicant or licensee may request a hearing as authorized under chapter
14 34.05 RCW.

15 ~~((6))~~ (7) Notwithstanding the payment of a ~~((delinquency))~~ late
16 renewal fee, it is a violation to distribute a commercial feed by an
17 unlicensed person, and nothing in this chapter ~~((shall))~~ prevents the
18 department from imposing a penalty authorized by this chapter for the
19 violation.

20 ~~((7))~~ (8) The department may under conditions specified by rule,
21 request ~~((copies))~~ submission of labels and labeling in order to
22 determine compliance with the provisions of this chapter.

23 **Sec. 3.** RCW 15.53.9014 and 1995 c 374 s 36 are each amended to
24 read as follows:

25 (1) ~~((Each pet food and specialty pet food shall be registered with~~
26 ~~the department and such registration shall be renewed annually before~~
27 ~~such commercial feed may be distributed in this state.))~~ A person may
28 not distribute in this state a pet food or specialty pet food that has
29 not been registered by the department.

30 (2) ~~((The))~~ All applications for registration ~~((of pet food and~~
31 ~~specialty pet food shall be))~~ must be submitted on forms provided by
32 the department and ~~((shall be accompanied by the fees in subsection (3)~~
33 ~~of this section. Registrations expire on June 30th of each year.~~

34 ~~(3) Pet food and specialty pet food registration fees are as~~
35 ~~follows:~~

36 ~~(a) Each pet food and specialty pet food distributed in packages of~~
37 ~~ten pounds or more shall be accompanied by a fee of eleven dollars,~~

1 ~~except that for the period beginning January 1, 1996, and ending June~~
2 ~~30, 1996, the fee shall be five dollars and fifty cents. If such~~
3 ~~commercial feed is also distributed in packages of less than ten pounds~~
4 ~~it shall be registered under (b) of this subsection.~~

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

11 ~~(4) The department may require that the application for~~
12 ~~registration of pet food and specialty pet food be accompanied by a~~
13 ~~label and/or other printed matter describing the product.)) must~~
14 ~~include:~~

15 ~~(a) The name and mailing address of the applicant;~~

16 ~~(b) The physical address of the applicant;~~

17 ~~(c) The name, contact information, and signature of the applicant;~~

18 ~~(d) Indication of the package sizes distributed for each product;~~

19 ~~and~~

20 ~~(e) Other information required by the department by rule.~~

21 ~~(3) An application for registration must be accompanied by a label~~
22 ~~and other applicable printed matter describing the product and the~~
23 ~~following fees:~~

24 ~~(a) For those registrants whose names begin with a number or the~~
25 ~~letters A through N:~~

26 ~~(i) Eleven dollars per product for those products distributed only~~
27 ~~in packages of ten pounds or more;~~

28 ~~(ii) Forty-five dollars per product for those products distributed~~
29 ~~in packages of less than ten pounds; or~~

30 ~~(iii) Forty-five dollars per product for those products distributed~~
31 ~~both in packages of less than ten pounds and packages of ten pounds or~~
32 ~~more.~~

33 ~~(b) For those registrants whose names begin with the letters O~~
34 ~~through Z:~~

35 ~~(i) Twenty-two dollars per product for those products distributed~~
36 ~~only in packages of ten pounds or more;~~

37 ~~(ii) Ninety dollars per product for those products distributed in~~
38 ~~packages of less than ten pounds; or~~

1 (iii) Ninety dollars per product for those products distributed
2 both in packages of less than ten pounds and packages of ten pounds or
3 more.

4 (4)(a) All registrations issued by the department to a registrant
5 whose name begins with a number or the letters A through N expire July
6 1, 2006.

7 (b) All registrations issued by the department to a registrant
8 whose name begins with the letters O through Z expire July 1, 2007.

9 (5) A distributor (~~((shall not be))~~) is not required to register a
10 pet food or specialty pet food that is already registered under (~~(the~~
11 ~~provisions of)~~) this chapter, as long as it is distributed with the
12 original label.

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

18 (7) The department (~~((is authorized to refuse))~~) may deny
19 registration of any (~~(application))~~ pet food or speciality pet food not
20 in compliance with (~~(the provisions of)~~) this chapter and (~~(any))~~ its
21 rules (~~((adopted under this chapter and to))~~). The department may cancel
22 any registration subsequently found to be not in compliance with (~~(any~~
23 ~~provisions of)~~) this chapter and (~~(any))~~ its rules (~~((adopted under this~~
24 ~~chapter))~~). Prior to (~~((refusal))~~) denial or cancellation of a
25 registration, the applicant or registrant of an existing registered pet
26 food or specialty pet food (~~((shall))~~) must be notified of the reasons
27 and given an opportunity to amend the application to comply. If the
28 applicant does not make the necessary corrections, the department
29 (~~((shall refuse to register the feed))~~) will deny or cancel the
30 registration. The applicant or registrant of an existing registered
31 pet food or specialty pet food may request a hearing as provided for in
32 chapter 34.05 RCW.

33 (8) (~~((After January 1, 1996,))~~) Application for renewal of
34 registration is due July 1st of each (~~((year))~~) registration period. If
35 an application for renewal (~~((of the registration provided for in this~~
36 ~~section))~~) is not (~~((filed prior to July 15th of any one year, a~~
37 ~~penalty))~~) received by the department by the due date, a late fee of ten
38 dollars per product (~~((shall be assessed and))~~) is added to the original

1 fee and ~~((shall))~~ must be paid by the applicant before the renewal
2 registration may be issued~~((, unless))~~. A late fee will not apply if
3 the applicant furnishes an affidavit that he or she has not distributed
4 this feed subsequent to the expiration of ((his or her)) the prior
5 registration. Payment of a late fee does not prevent the department
6 from imposing a penalty authorized by this chapter for the violation.

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

11 **Sec. 4.** RCW 15.53.9014 and 1995 c 374 s 36 are each amended to
12 read as follows:

13 (1) ~~((Each pet food and specialty pet food shall be registered with~~
14 ~~the department and such registration shall be renewed annually before~~
15 ~~such commercial feed may be distributed in this state.))~~ A person may
16 not distribute in this state a pet food or specialty pet food that has
17 not been registered by the department.

18 (2) ~~((The))~~ All applications for registration ~~((of pet food and~~
19 ~~specialty pet food shall be))~~ must be submitted on forms provided by
20 the department and ~~((shall be accompanied by the fees in subsection (3)~~
21 ~~of this section. Registrations expire on June 30th of each year.~~

22 (3) ~~Pet food and specialty pet food registration fees are as~~
23 ~~follows:~~

24 (a) ~~Each pet food and specialty pet food distributed in packages of~~
25 ~~ten pounds or more shall be accompanied by a fee of eleven dollars,~~
26 ~~except that for the period beginning January 1, 1996, and ending June~~
27 ~~30, 1996, the fee shall be five dollars and fifty cents. If such~~
28 ~~commercial feed is also distributed in packages of less than ten pounds~~
29 ~~it shall be registered under (b) of this subsection.~~

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

36 (4) ~~The department may require that the application for~~

1 registration of pet food and specialty pet food be accompanied by a
2 label and/or other printed matter describing the product.)) must
3 include:

4 (a) The name and mailing address of the applicant;

5 (b) The physical address of the applicant;

6 (c) The name, contact information, and signature of the applicant;

7 (d) Indication of the package sizes distributed for each product;

8 and

9 (e) Other information required by the department by rule.

10 (3) An application for registration must be accompanied by a label
11 and other applicable printed matter describing the product and the
12 following fees:

13 (a) Twenty-two dollars per product for those products distributed
14 only in packages of ten pounds or more;

15 (b) Ninety dollars per product for those products distributed in
16 packages of less than ten pounds; or

17 (c) Ninety dollars per product for those products distributed both
18 in packages of less than ten pounds and packages of ten pounds or more.

19 (4) Registrations are issued by the department for a two-year
20 period beginning on July 1st of a given year and ending twenty-four
21 months later on July 1st, except that registrations issued to a
22 registrant who applies to register an additional product during the
23 last twelve months of the registrant's period expire on the next July
24 1st.

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

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

34 (7) The department (~~(is authorized to refuse)~~) may deny
35 registration of any (~~(application))~~ pet food or speciality pet food not
36 in compliance with (~~(the provisions of))~~ this chapter and (~~(any))~~ its
37 rules (~~(adopted under this chapter and to))~~. The department may cancel
38 any registration subsequently found to be not in compliance with (~~(any~~

1 ~~provisions of~~) this chapter and ~~((any))~~ its rules ~~((adopted under this~~
2 ~~chapter))~~. Prior to ~~((refusal))~~ denial or cancellation of a
3 registration, the applicant or registrant of an existing registered pet
4 food or specialty pet food ~~((shall))~~ must be notified of the reasons
5 and given an opportunity to amend the application to comply. If the
6 applicant does not make the necessary corrections, the department
7 ~~((shall refuse to register the feed))~~ will deny or cancel the
8 registration. The applicant or registrant of an existing registered
9 pet food or specialty pet food may request a hearing as provided for in
10 chapter 34.05 RCW.

11 (8) ~~((After January 1, 1996,))~~ Application for renewal of
12 registration is due July 1st of each ((year)) registration period. If
13 an application for renewal ~~((of the registration provided for in this~~
14 ~~section))~~ is not ~~((filed prior to July 15th of any one year, a penalty~~
15 ~~of ten))~~ received by the department by the due date, a late fee of
16 twenty dollars per product ~~((shall be assessed and))~~ is added to the
17 original fee and ~~((shall))~~ must be paid by the applicant before the
18 renewal registration may be issued~~((, unless))~~. A late fee will not
19 apply if the applicant furnishes an affidavit that he or she has not
20 distributed this feed subsequent to the expiration of ~~((his or her))~~
21 the prior registration. Payment of a late fee does not prevent the
22 department from imposing a penalty authorized by this chapter for the
23 violation.

24 ~~((9) It is a violation of this chapter to distribute an~~
25 ~~unregistered pet food or specialty pet food. Payment of a delinquency~~
26 ~~fee shall not prevent the department from imposing a penalty authorized~~
27 ~~by this chapter for the violation.))~~

28 NEW SECTION. Sec. 5. A new section is added to chapter 15.53 RCW
29 to read as follows:

30 (1) To become a responsible buyer, a commercial feed licensee must
31 apply for responsible buyer status on forms provided by the department.
32 The application must include:

- 33 (a) The name and mailing address of the licensee;
34 (b) The physical address of the licensee;
35 (c) The name, contact information, and signature of the applicant;

36 and

37 (d) Other information required by the department by rule.

1 (2) To be removed from responsible buyer status, the licensee must
2 notify the department in writing. The licensee is not released from
3 responsible buyer status until the department notifies the licensee in
4 writing of such release.

5 (3) The department will maintain a current list of all responsible
6 buyers and make the list available on request.

7 **Sec. 6.** RCW 15.53.9016 and 1995 c 374 s 37 are each amended to
8 read as follows:

9 (1) Any commercial feed, except a customer-formula feed,
10 distributed in this state (~~shall~~) must be accompanied by a legible
11 label bearing the following information:

12 (a) The product name and the brand name, if any, under which the
13 commercial feed is distributed.

14 (b) The guaranteed analysis stated in such terms as the department
15 by rule determines is required to advise the user of the composition of
16 the feed or to support claims made in the labeling. In all cases the
17 substances or elements must be determinable by laboratory methods such
18 as the methods published by the association of official analytical
19 chemists.

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

26 (d) The name and principal mailing address of the manufacturer or
27 the person responsible for distributing the commercial feed.

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

31 (f) Those precautionary statements (~~as~~) the department by rule
32 determines are necessary for the safe and effective use of the
33 commercial feed.

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

35 (2) When a commercial feed, except a customer-formula feed, is
36 distributed in this state in bags or other containers, the label
37 (~~shall~~) must be placed on or affixed to the container; when a

1 commercial feed, except a customer-formula feed, is distributed in bulk
2 the label (~~shall~~) must accompany delivery and be furnished to the
3 purchaser at time of delivery.

4 (3) A customer-formula feed (~~shall~~) must be labeled by shipping
5 document. The shipping document, which is to accompany delivery and be
6 supplied to the purchaser at the time of delivery, (~~shall~~) must bear
7 the following information:

8 (a) Name and address of the manufacturer;

9 (b) Name and address of the purchaser;

10 (c) Date of delivery;

11 (d) Product name and the net weight as required under chapter 19.94
12 RCW;

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

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

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

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

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

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

29 **Sec. 7.** RCW 15.53.9018 and 1995 c 374 s 38 are each amended to
30 read as follows:

31 (1) Every registrant or licensee must file a semiannual report on
32 forms provided by the department setting forth the number of tons of
33 commercial feed distributed in or into this state. The report must be
34 filed regardless of the amount of feed distributed or inspection fees
35 owed. The report must include:

36 (a) The name and mailing address of the registrant or licensee;

37 (b) The physical address of the registrant or licensee;

1 (c) The name, contact information, and signature of the person
2 filing the report;

3 (d) The total number of tons distributed in or into this state;

4 (e) The total number of tons on which the registrant or licensee is
5 paying;

6 (f) If the registrant or licensee is not paying inspection fees on
7 all commercial feed he or she distributed in or into this state,
8 information regarding the registrants or licensees that are responsible
9 for paying the inspection fees and the number of tons involved; and

10 (g) Other information required by the department by rule.

11 (2) Except as provided in subsections ((+4)) (3) through (5) of
12 this section, each initial distributor ((of a commercial feed in this
13 state shall)) or responsible buyer must pay to the department an
14 inspection fee on all commercial feed ((sold)) distributed by such
15 person during the ((year)) reporting period. The inspection fee
16 ((shall)) must accompany the report required in subsection (1) of this
17 section. The inspection fee shall be not less than four cents nor more
18 than twelve cents per ton as prescribed by the ((director)) department
19 by rule((:— PROVIDED, That such)). These fees shall be used for
20 ((routine)) enforcement and administration of this chapter and its
21 rules ((adopted under this chapter)).

22 ((+2) An inspection fee is not required for: (a) Commercial feed
23 distributed by a person having proof that inspection fees have been
24 paid by his or her supplier (manufacturer); (b) commercial feed in
25 packages weighing less than ten pounds; (c) commercial feed for
26 shipment to points outside this state;))

27 (3) The initial distributor is not required to pay an inspection
28 fee for commercial feed he or she distributed to a responsible buyer.

29 (4) In a situation where a responsible buyer is distributing to
30 another responsible buyer, the inspection fee must be paid by the last
31 responsible buyer to distribute the commercial feed.

32 (5) The initial distributor or responsible buyer is not required to
33 pay an inspection fee for: (a) Pet food and specialty pet food
34 distributed in packages weighing less than ten pounds; (b) distribution
35 of bona fide experimental feeds on which accurate records and
36 experimental programs are maintained; (c) commercial feed distributed
37 to points outside this state; and (d) food processing byproducts from
38 fruit, vegetable, or potato processing plants, freezing or dehydrating

1 facilities, or juice or jelly preserving plants(~~(; and (e) bona fide~~
2 ~~experimental feeds on which accurate records and experimental programs~~
3 ~~are maintained))~~).

4 ~~((3))~~ (6) Tonnage will be reported and inspection fees will be
5 paid on (a) byproducts or products of sugar refineries; and (b)
6 materials used in the preparation of pet foods and specialty pet food.

7 ~~((4) When more than one distributor is involved in the~~
8 ~~distribution of a commercial feed, the initial distributor is~~
9 ~~responsible for reporting the tonnage and paying the inspection fee,~~
10 ~~unless this sale or transaction is made to an exempt buyer.~~

11 ~~(5))~~ (7)(a) Each person made responsible by this chapter for ~~((the~~
12 ~~payment of))~~ filing a report or paying inspection fees ~~((for commercial~~
13 ~~feed sold in this state shall file a report with the department on~~
14 ~~January 1st and July 1st of each year showing the number of tons of~~
15 ~~such commercial feed sold during the six calendar months immediately~~
16 ~~preceding the date the report is due. The proper inspection fee shall~~
17 ~~be remitted with the report. The person required to file the report~~
18 ~~and pay the fee shall have a thirty day period of grace immediately~~
19 ~~following the day the report and payment are due to file the report,~~
20 ~~and pay the fee. Upon permission of the department, an annual~~
21 ~~statement under oath may be filed by any person distributing within the~~
22 ~~state less than one hundred tons for each six month period during any~~
23 ~~year, and upon filing such statement such person shall pay the~~
24 ~~inspection fee at the rate provided for in subsection (1) of this~~
25 ~~section. The minimum inspection fee shall be twelve dollars and fifty~~
26 ~~cents for each six month reporting period or twenty five dollars if~~
27 ~~reporting annually.~~

28 ~~(6))~~ must do so according to the following schedule:

29 (i) For the period January 1st through June 30th of each year, the
30 report and inspection fees are due on July 31st of that year; and

31 (ii) For the period July 1st through December 31st of each year,
32 the report and inspection fees are due on January 31st of the following
33 year.

34 (b) If a complete report is not received by the due date or the
35 appropriate inspection fees are not received by the due date, the
36 person responsible for filing the report or paying the inspection fee
37 must pay a late fee equal to fifteen percent of the inspection fee owed
38 or fifty dollars, whichever is greater.

1 (c) The department may cancel the registration of a person's
2 commercial feed or may cancel a person's commercial feed license if
3 that person fails to pay the late fee. The applicant or licensee may
4 request a hearing as authorized under chapter 34.05 RCW.

5 (8) If inspection fees are owed, the minimum inspection fee is
6 twelve dollars and fifty cents.

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

11 ~~(7))~~ verifying the accuracy of reports and payment of appropriate
12 inspection fees, the department may examine, at reasonable times ((the
13 records maintained under this section. Records shall)), a registrant's
14 or licensee's distribution records and may require each registrant or
15 licensee to maintain records or file additional reports. These records
16 must be maintained in usable condition by the registrant or licensee
17 for a period of ~~((two))~~ three years unless by rule this retention
18 period is extended and must be submitted to the department upon
19 request.

20 ~~((8) The registrant or licensee shall maintain records required~~
21 ~~under this section and submit these records to the department upon~~
22 ~~request.~~

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

34 (10) The report required by subsection ~~((5))~~ (1) of this section
35 shall not be a public record, and ~~((it is a misdemeanor for any person~~
36 ~~to divulge))~~ any information given in such report which would reveal
37 the business operation of the person making the report ~~((: PROVIDED,~~
38 ~~That nothing contained in this subsection shall be construed to prevent~~

1 ~~or make unlawful~~) is exempt from public disclosure under chapter 42.17
2 RCW, and information obtained by the department from other governmental
3 agencies or other sources that is used to verify information received
4 in the report is exempt from public disclosure under chapter 42.17 RCW.
5 However, this subsection does not prevent the use of information
6 concerning the business operation of a person if any action, suit, or
7 proceeding instituted under the authority of this chapter, including
8 any civil action for collection of unpaid inspection fees, which action
9 is hereby authorized and which shall be as an action at law in the name
10 of the director of the department.

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

15 **Sec. 8.** RCW 15.53.9024 and 1995 c 374 s 41 are each amended to
16 read as follows:

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

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

1 by the inspection. Each such inspection shall be commenced and
2 completed with reasonable promptness. Upon completion of the
3 inspection, the person in charge of the facility or vehicle shall be so
4 notified.

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

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

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

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

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

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

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

4 **Sec. 9.** RCW 15.53.9044 and 1988 c 254 s 5 are each amended to read
5 as follows:

6 All moneys collected under this chapter shall be paid to the
7 director and deposited in an account within the agricultural local
8 fund. Such deposits shall be used only in the administration and
9 enforcement of this chapter. (~~Any residual balance remaining in the
10 commercial feed fund on June 9, 1988, shall be transferred to the
11 account within the agricultural local fund.~~)

12 NEW SECTION. **Sec. 10.** RCW 15.53.9053 (Continuation of prior
13 licenses and registrations) and 1995 c 374 s 44 & 1975 1st ex.s. c 257
14 s 12 are each repealed.

15 NEW SECTION. **Sec. 11.** Section 3 of this act is necessary for the
16 immediate preservation of the public peace, health, or safety, or
17 support of the state government and its existing public institutions,
18 and takes effect July 1, 2005.

19 NEW SECTION. **Sec. 12.** Section 4 of this act takes effect July 1,
20 2006.

21 NEW SECTION. **Sec. 13.** Section 3 of this act expires July 1, 2006.

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