
SENATE BILL 5631

State of Washington

62nd Legislature

2011 Regular Session

By Senators Swecker, Hatfield, Haugen, and Shin

Read first time 02/02/11. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to miscellaneous provisions regulated by the
2 department of agriculture; amending RCW 69.04.331, 15.53.902,
3 15.65.033, 15.66.017, 15.24.900, 43.23.010, 15.17.210, 16.24.120,
4 16.24.130, 16.04.025, 16.72.040, 15.80.420, 15.80.440, and 15.58.150;
5 reenacting and amending RCW 22.09.830; reenacting RCW 16.65.440; and
6 repealing RCW 15.58.370 and 19.94.505.

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

8 **Sec. 1.** RCW 69.04.331 and 1986 c 203 s 17 are each amended to read
9 as follows:

10 (1) If a theater or other commercial food service establishment
11 prepares and sells popcorn for human consumption, the establishment, at
12 the point of sale, shall disclose by posting a sign in a conspicuous
13 manner to prospective consumers a statement as to whether the butter or
14 butter-like flavoring added to or attributed to the popcorn offered for
15 sale is butter (~~as defined in RCW 15.32.010~~) or is some other
16 product. If the flavoring is some other product, the establishment
17 shall also disclose the ingredients of the product.

18 The director of agriculture shall adopt rules prescribing the size
19 and content of the sign upon which the disclosure is to be made. Any

1 popcorn sold by or offered for sale by such an establishment to a
2 consumer in violation of this section or the rules of the director
3 implementing this section shall be deemed to be misbranded for the
4 purposes of this chapter.

5 (2) The provisions of subsection (1) of this section do not apply
6 to packaged popcorn labeled so as to disclose ingredients as required
7 by law for prepackaged foods.

8 (3) For purposes of this section, "butter" is defined as the food
9 product usually known as butter, and which is made exclusively from
10 milk or cream, or both, with or without common salt, and with or
11 without additional coloring matter, and containing not less than eighty
12 percent by weight or milkfat, all tolerance having been allowed for.

13 **Sec. 2.** RCW 15.53.902 and 2005 c 40 s 1 are each amended to read
14 as follows:

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

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

23 (2) If it bears or contains any added poisonous, added deleterious,
24 or added nonnutritive substance which is unsafe within the meaning of
25 section 406 of the federal food, drug, and cosmetic act (other than one
26 which is (a) a pesticide chemical in or on a raw agricultural
27 commodity; or (b) a food additive); or

28 (3) If it is, or it bears, or contains any food additive which is
29 unsafe within the meaning of section 409 of the federal food, drug, and
30 cosmetic act (21 U.S.C. Sec. 348); or

31 (4) If it is ruminant feed and is, bears, or contains any animal
32 protein prohibited in ruminant feed that is unsafe within the meaning
33 of federal regulations promulgated under section 409 of the federal
34 food, drug, and cosmetic act (21 U.S.C. Sec. 348); or

35 (5) If it is a raw agricultural commodity and it bears or contains
36 a pesticide chemical which is unsafe within the meaning of section
37 408(a) of the federal food, drug, and cosmetic act: PROVIDED, That

1 where a pesticide chemical has been used in or on a raw agricultural
2 commodity in conformity with an exemption granted or a tolerance
3 prescribed under section 408 of the federal food, drug, and cosmetic
4 act and such raw agricultural commodity has been subjected to
5 processing such as canning, cooking, freezing, dehydrating, or milling,
6 the residue of such pesticide chemical remaining in or on such
7 processed feed shall not be deemed unsafe if such residue in or on the
8 raw agricultural commodity has been removed to the extent possible in
9 good manufacturing practice and the concentration of such residue in
10 the processed feed is not greater than the tolerance prescribed for the
11 raw agricultural commodity unless the feeding of such processed feed
12 will result or is likely to result in a pesticide residue in the edible
13 product of the animal, which is unsafe within the meaning of section
14 408(a) of the federal food, drug, and cosmetic act; or

15 (6) If it is, or it bears or contains any color additive which is
16 unsafe within the meaning of section (~~(706)~~) 721 of the federal food,
17 drug, and cosmetic act (21 U.S.C. Sec. 379e); or

18 (7) If it is, or it bears or contains any new animal drug that is
19 unsafe within the meaning of section 512 of the federal food, drug, and
20 cosmetic act (21 U.S.C. Sec. 360b); or

21 (8) If any valuable constituent has been in whole or in part
22 omitted or abstracted therefrom or any less valuable substance
23 substituted therefor; or

24 (9) If its composition or quality falls below or differs from that
25 which it is purported or is represented to possess by its labeling; or

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

1 (11) If it contains viable, prohibited (primary) noxious weed seeds
2 in excess of one per pound, or if it contains viable, restricted
3 (secondary) noxious weed seeds in excess of twenty-five per pound. The
4 primary and secondary noxious weed seeds shall be those as named
5 pursuant to the provisions of chapter 15.49 RCW and rules adopted
6 thereunder.

7 **Sec. 3.** RCW 15.65.033 and 2002 c 313 s 3 are each amended to read
8 as follows:

9 This chapter and the rules adopted under it are only one aspect of
10 the comprehensively regulated agricultural industry.

11 (1) Other laws applicable to agricultural commodities include the
12 following chapters and the rules adopted thereunder:

13 Chapter 15.08 RCW Horticultural pests and diseases;

14 Chapter 15.09 RCW Horticultural pest and disease board;

15 Chapter 15.13 RCW Horticultural plants, Christmas trees, and
16 facilities--Inspection and licensing;

17 Chapter 15.14 RCW Planting stock;

18 Chapter 15.15 RCW Certified seed potatoes;

19 Chapter 15.17 RCW Standards of grades and packs;

20 Chapter 15.19 RCW Certification and inspection of ginseng;

21 Chapter 15.30 RCW Controlled atmosphere storage of fruits and
22 vegetables;

23 Chapter 15.49 RCW Seeds;

24 Chapter 15.51 RCW Brassica seed production;

25 Chapter 15.53 RCW Commercial feed;

26 Chapter 15.54 RCW Fertilizers, minerals, and limes;

27 Chapter 15.58 RCW Washington pesticide control act;

28 Chapter 15.60 RCW Apiaries;

29 Chapter 15.64 RCW Farm marketing;

30 Chapter 15.83 RCW Agricultural marketing and fair practices;

31 Chapter 15.85 RCW Aquaculture marketing;

32 Chapter 15.86 RCW Organic (~~food~~) products;

33 Chapter 15.92 RCW Center for sustaining agriculture and natural
34 resources;

35 Chapter 17.21 RCW Washington pesticide application act;

36 Chapter 17.24 RCW Insect pests and plant diseases;

37 Chapter 19.94 RCW Weights and measures;

1 Chapter 20.01 RCW Agricultural products--Commission merchants,
2 dealers, brokers, buyers, agents;
3 Chapter 22.09 RCW Agricultural commodities;
4 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including
5 provisions of 21 C.F.R. relating to the general manufacturing
6 practices, food labeling, food standards, food additives, and pesticide
7 tolerances;
8 Chapter 69.07 RCW Washington food processing act;
9 Chapter 69.25 RCW Washington wholesome eggs and egg products act;
10 Chapter 69.28 RCW Honey;
11 7 U.S.C., section 136, Federal insecticide, fungicide, and
12 rodenticide act.
13 (2) In addition to the laws and regulations listed in subsection
14 (1) of this section that apply to the agricultural industry as a whole,
15 the dry pea and lentil industry is regulated by or must comply with the
16 additional laws and rules adopted under 7 U.S.C., chapter 38,
17 agricultural marketing act.

18 **Sec. 4.** RCW 15.66.017 and 2002 c 313 s 41 are each amended to read
19 as follows:
20 This chapter and the rules adopted under it are only one aspect of
21 the comprehensively regulated agricultural industry.
22 (1) Other laws applicable to agricultural commodities include the
23 following chapters and the rules adopted thereunder:
24 Chapter 15.08 RCW Horticultural pests and diseases;
25 Chapter 15.09 RCW Horticultural pest and disease board;
26 Chapter 15.13 RCW Horticultural plants, Christmas trees, and
27 facilities--Inspection and licensing;
28 Chapter 15.14 RCW Planting stock;
29 Chapter 15.15 RCW Certified seed potatoes;
30 Chapter 15.17 RCW Standards of grades and packs;
31 Chapter 15.19 RCW Certification and inspection of ginseng;
32 Chapter 15.30 RCW Controlled atmosphere storage of fruits and
33 vegetables;
34 Chapter 15.49 RCW Seeds;
35 Chapter 15.51 RCW Brassica seed production;
36 Chapter 15.53 RCW Commercial feed;
37 Chapter 15.54 RCW Fertilizers, minerals, and limes;

1 Chapter 15.58 RCW Washington pesticide control act;
2 Chapter 15.60 RCW Apiaries;
3 Chapter 15.64 RCW Farm marketing;
4 Chapter 15.83 RCW Agricultural marketing and fair practices;
5 Chapter 15.85 RCW Aquaculture marketing;
6 Chapter 15.86 RCW Organic (~~food~~) products;
7 Chapter 15.92 RCW Center for sustaining agriculture and natural
8 resources;
9 Chapter 17.21 RCW Washington pesticide application act;
10 Chapter 17.24 RCW Insect pests and plant diseases;
11 Chapter 19.94 RCW Weights and measures;
12 Chapter 20.01 RCW Agricultural products--Commission merchants,
13 dealers, brokers, buyers, agents;
14 Chapter 22.09 RCW Agricultural commodities;
15 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including
16 provisions of 21 C.F.R. relating to the general manufacturing
17 practices, food labeling, food standards, food additives, and pesticide
18 tolerances;
19 Chapter 69.07 RCW Washington food processing act;
20 Chapter 69.25 RCW Washington wholesome eggs and egg products act;
21 Chapter 69.28 RCW Honey;
22 7 U.S.C., section 136, Federal insecticide, fungicide, and
23 rodenticide act.
24 (2) In addition to the laws and regulations listed in subsection
25 (1) of this section that apply to the agricultural industry as a whole,
26 the potato industry is regulated by or must comply with the following
27 additional laws and the rules or regulations adopted thereunder:
28 (a) 7 C.F.R., Part 51, United States standards for grades of
29 potatoes;
30 (b) 7 C.F.R., Part 946, Federal marketing order for Irish potatoes
31 grown in Washington;
32 (c) 7 C.F.R., Part 1207, Potato research and promotion plan.
33 (3) In addition to the laws and regulations listed in subsection
34 (1) of this section that apply to the agricultural industry as a whole,
35 the wheat and barley industries are regulated by or must comply with
36 the following additional laws and the rules adopted thereunder:
37 (a) 7 U.S.C., section 1621, Agricultural marketing act;

1 (b) Chapter 70.94 RCW, Washington clean air act, agricultural
2 burning.

3 (4) In addition to the laws and regulations listed in subsection
4 (1) of this section that apply to the agricultural industry as a whole,
5 the poultry industry is regulated by or must comply with the following
6 additional laws and the rules adopted thereunder:

7 (a) 21 U.S.C., chapter 10, Poultry and poultry products inspection;

8 (b) 21 U.S.C., chapter 9, Packers and stockyards;

9 (c) 7 U.S.C., section 1621, Agricultural marketing act;

10 (d) Washington fryer commission labeling standards.

11 **Sec. 5.** RCW 15.24.900 and 2002 c 313 s 134 are each amended to
12 read as follows:

13 (1) This chapter is passed:

14 (a) In the exercise of the police power of the state to assure,
15 through this chapter, and other chapters, that the apple industry is
16 highly regulated to protect the public health, to prevent fraudulent
17 practices, to promote the welfare of the state, and to stabilize and
18 protect the apple industry of the state as a vital and integral part of
19 its economy for the benefit of all its citizens;

20 (b) Because the apple crop grown in Washington comprises one of the
21 major agricultural crops of Washington, and that therefore the business
22 of selling and distributing such crop and the expanding and protection
23 of its market is of public interest;

24 (c) Because it is necessary and expedient to enhance the reputation
25 of Washington apples in domestic and foreign markets;

26 (d) Because it is necessary to discover the health giving qualities
27 and food and dietetic value of Washington apples, and to spread that
28 knowledge throughout the world in order to increase the consumption of
29 Washington apples;

30 (e) Because Washington grown apples are handicapped by high freight
31 rates in competition with eastern and foreign grown apples in the
32 markets of the world, and this disadvantage can only be overcome by
33 education and advertising;

34 (f) Because the stabilizing and promotion of the apple industry,
35 the enlarging of its markets, and the increasing of the consumption of
36 apples are necessary to assure and increase the payment of taxes to the

1 state and its subdivisions, to alleviate unemployment within the state,
2 and increase wages for agricultural labor;

3 (g) To disseminate information giving the public full knowledge of
4 the manner of production, the cost and expense thereof, the care taken
5 to produce and sell only apples of the finest quality, the methods and
6 care used in preparing for market, and the methods of sale and
7 distribution to increase the amount secured by the producer therefor,
8 so that they can pay higher wages and pay their taxes, and by such
9 information to reduce the cost of distribution so that the spread
10 between the cost to the consumer and the amount received by the
11 producer will be reduced to the minimum absolutely necessary; and

12 (h) To protect the general public by educating it in reference to
13 the various varieties and grades of Washington apples, the time to use
14 and consume each variety, and the uses to which each variety should be
15 put.

16 (2) The history, economy, culture, and future of Washington state's
17 agricultural industry involves the apple industry. In order to develop
18 and promote apples and apple products as part of an existing
19 comprehensive scheme to regulate those products, the legislature
20 declares:

21 (a) That it is vital to the continued economic well-being of the
22 citizens of this state and their general welfare that its apple and
23 apple products be properly promoted by establishing orderly, fair,
24 sound, efficient, and unhampered marketing, grading, and standards of
25 and for apples and apple products; and by working to stabilize the
26 apple industry and by increasing consumption of apples and apple
27 products within the state, nation, and internationally;

28 (b) That apple producers operate within a regulatory environment
29 that imposes burdens on them for the benefit of society and the
30 citizens of the state and includes restrictions on marketing autonomy.
31 Those restrictions may impair the agricultural producer's ability to
32 compete in local, domestic, and foreign markets;

33 (c) That it is in the overriding public interest that support for
34 the apple industry be clearly expressed, that adequate protection be
35 given to agricultural commodities, uses, activities, and operations,
36 and that apples and apple products be promoted individually, as well as
37 part of a comprehensive promotion of the agricultural industry to:

1 (i) Enhance the reputation and image of Washington state's
2 agricultural industry;

3 (ii) Increase the sale and use of apples and apple products in
4 local, domestic, and foreign markets;

5 (iii) Protect the public and consumers by correcting any false or
6 misleading information and by educating the public in reference to the
7 quality, care, and methods used in the production of apples and apple
8 products, and in reference to the various sizes, grades, and varieties
9 of apples and the uses to which each should be put;

10 (iv) Increase the knowledge of the health-giving qualities and
11 dietetic value of apple products; and

12 (v) Support and engage in programs or activities that benefit the
13 production, handling, processing, marketing, and uses of apples and
14 apple products;

15 (d) That the apple industry is a highly regulated industry and that
16 this chapter and the rules adopted under it are only one aspect of the
17 regulation of the industry. Other regulations and restraints
18 applicable to the apple industry include:

19 (i) Washington agriculture general provisions, chapter 15.04 RCW;

20 (ii) Horticultural pests and diseases, chapter 15.08 RCW;

21 (iii) Horticultural pest and disease board, chapter 15.09 RCW;

22 (iv) Washington pesticide application act, chapter 17.21 RCW;

23 ~~(v)~~ Standards of grades and packs, chapter 15.17 RCW;

24 ~~((+iv))~~ (vi) Tree fruit research, chapter 15.26 RCW;

25 ~~((+v))~~ (vii) Controlled atmosphere storage, chapter 15.30 RCW;

26 ~~((+vi))~~ (viii) Higher education in agriculture, chapter ~~((28.30~~
27 ~~{28B.30})~~) 28B.30 RCW;

28 ~~((+vii))~~ (ix) Department of agriculture, chapter 43.23 RCW;

29 ~~((+viii))~~ (x) Fertilizers, minerals, and limes under chapter 15.54
30 RCW;

31 ~~((+ix))~~ (xi) Organic ~~((food))~~ products act under chapter 15.86
32 RCW;

33 ~~((+x))~~ (xii) Intrastate commerce in food, drugs, and cosmetics
34 under chapter 69.04 RCW and rules;

35 ~~((+xi))~~ (xiii) Horticultural plants, Christmas trees, and
36 facilities--Inspection and licensing under chapter 15.13 RCW;

37 ~~((+xii))~~ (xiv) Planting stock under chapter 15.14 RCW;

1 (~~(xiii)~~) (xv) Washington pesticide control act under chapter
2 15.58 RCW;

3 (~~(xiv)~~) (xvi) Farm marketing under chapter 15.64 RCW;

4 (~~(xv)~~) (xvii) Insect pests and plant diseases under chapter 17.24
5 RCW;

6 (~~(xvi)~~) (xviii) Weights and measures under chapter 19.94 RCW;

7 (~~(xvii)~~) (xix) Agricultural products--Commission merchants,
8 dealers, brokers, buyers, and agents under chapter 20.01 RCW; and

9 (~~(xviii)~~) (xx) The federal insecticide, fungicide, and
10 rodenticide act under 7 U.S.C. Sec. 136; and

11 (e) That this chapter is in the exercise of the police powers of
12 this state for the purposes of protecting the health, peace, safety,
13 and general welfare of the people of this state.

14 **Sec. 6.** RCW 43.23.010 and 2002 c 354 s 244 are each amended to
15 read as follows:

16 In order to obtain maximum efficiency and effectiveness within the
17 department of agriculture, the director may create such administrative
18 divisions within the department as he or she deems necessary. The
19 director shall appoint a deputy director and a confidential secretary
20 for the deputy director, as well as such assistant directors as shall
21 be needed to administer the several divisions within the department.
22 The director shall appoint no more than eight assistant directors. The
23 officers appointed under this section are exempt from the provisions of
24 the state civil service law as provided in RCW 41.06.070(1)(g), and
25 shall be paid salaries to be fixed by the governor in accordance with
26 the procedure established by law for the fixing of salaries for
27 officers exempt from the operation of the state civil service law. The
28 director shall also appoint and deputize a state veterinarian who shall
29 be an experienced veterinarian properly licensed to practice veterinary
30 medicine in this state.

31 The director of agriculture shall have charge and general
32 supervision of the department and may assign supervisory and
33 administrative duties other than those specified in RCW 43.23.070 to
34 the division which in his or her judgment can most efficiently carry on
35 those functions.

1 **Sec. 7.** RCW 16.65.440 and 2003 c 326 s 89 and 2003 c 53 s 116 are
2 each reenacted to read as follows:

3 (1) Except as provided in subsection (2) of this section, any
4 person who violates any provisions or requirements of this chapter or
5 rules adopted by the director pursuant to this chapter is guilty of a
6 misdemeanor.

7 (2) A second or subsequent violation is a gross misdemeanor.

8 **Sec. 8.** RCW 22.09.830 and 1994 sp.s. c 6 s 901 and 1994 c 46 s 6
9 are each reenacted and amended to read as follows:

10 (1) All moneys collected as fees for weighing, grading, and
11 inspecting commodities and all other fees collected under the
12 provisions of this chapter, except as provided in subsections (2) and
13 (3) of this section, shall be deposited in the grain inspection
14 revolving fund, which is hereby established. The state treasurer is
15 the custodian of the revolving fund. Disbursements from the revolving
16 fund shall be on authorization of the director of the department of
17 agriculture. The revolving fund is subject to the allotment procedure
18 provided in chapter 43.88 RCW, but no appropriation is required for
19 disbursements from the fund. The fund shall be used for all expenses
20 directly incurred by the grain inspection program in carrying out the
21 provisions of this chapter (~~and for departmental administrative~~
22 ~~expenses during the 1993-95 biennium. The department may use so much~~
23 ~~of such fund not exceeding five percent thereof as the director of~~
24 ~~agriculture may determine necessary for research and promotional work,~~
25 ~~including rate studies, relating to wheat and wheat products)).~~

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

1 subsection when the hop inspection fund is, or the director may
2 reasonably anticipate that it will be, reduced below twenty thousand
3 dollars as the result of such expenditure or other necessary
4 expenditures made to carry out the inspection, grading, and testing of
5 hops.

6 (3) All moneys collected by the grain warehouse audit program,
7 including grain warehouse license fees pursuant to RCW 22.09.050 and
8 22.09.055, shall be deposited by the director into the grain warehouse
9 audit account, hereby created within the agricultural local fund
10 established in RCW 43.23.230. Moneys collected shall be used to
11 support the grain warehouse audit program.

12 **Sec. 9.** RCW 15.17.210 and 2002 c 316 s 1 are each amended to read
13 as follows:

14 It is unlawful:

15 (1) To sell any fruits or vegetables:

16 (a) As meeting the standards for any fruit or vegetable as
17 prescribed by the director unless they in fact do so;

18 (b) For which no standards have been established under this chapter
19 unless ninety percent or more by weight or count, as determined by the
20 director, are free from plant pest injury that has penetrated or
21 damaged the edible portions and from worms, mold, slime, or decay;

22 (c) In containers other than the size and dimensions prescribed by
23 the director by rule;

24 (d) Unless the containers in which the fruits or vegetables are
25 placed or packed are marked with the proper grade and additional
26 information as may be prescribed by rule. The additional information
27 may include:

28 (i) The name and address of the grower, or packer, or distributor;

29 (ii) The varieties of the fruits or vegetables;

30 (iii) The size, weight, and either volume or count, or both, of the
31 fruits or vegetables;

32 (e) Which are in containers marked or advertised for sale or sold
33 as being either graded or classified, or both, according to the
34 standards prescribed by the director by rule unless the fruits or
35 vegetables conform with the standards;

36 (f) Which are deceptively packed;

37 (g) Which are deceptively arranged or displayed;

- 1 (h) Which are mislabeled; or
2 (i) Which do not conform to this chapter or rules adopted under
3 this chapter;
- 4 (2) For any person to ship or transport or any carrier to accept
5 any lot of fruits or vegetables without an inspection certificate,
6 permit, or certificate of compliance when the director has prescribed
7 by rule that such products be accompanied by an inspection certificate,
8 permit, or certificate of compliance. The inspection certificate,
9 permit, or certificate of compliance shall be on a form prescribed by
10 the director and may include methods of denoting that all assessments
11 provided for by law have been paid before the fruits or vegetables may
12 lawfully be delivered or accepted for shipment;
- 13 (3) For any person to refuse to submit any container, load, or
14 display of fruits or vegetables for inspection by the director, or
15 refuse to stop any vehicle or equipment containing such products for
16 the purpose of inspection by the director; or
- 17 (4) For any person to move any fruits or vegetables or their
18 containers to which any tag has been affixed, except as provided in RCW
19 15.17.200(~~;-or~~
- 20 ~~(5) After October 1st of any calendar year, for any person to sell~~
21 ~~containers of apples, containing apples harvested in a prior calendar~~
22 ~~year, to any retailer or wholesaler for the purpose of resale to the~~
23 ~~public for fresh consumption)).~~

24 **Sec. 10.** RCW 16.24.120 and 1989 c 286 s 12 are each amended to
25 read as follows:

26 Upon taking possession of any livestock at large contrary to the
27 provisions of ((RCW 16.13.020)) this chapter, or any unclaimed
28 livestock submitted or impounded, by any person, at any public
29 livestock market or any other facility approved by the director, the
30 sheriff or brand inspector shall cause it to be transported to and
31 impounded at the nearest public livestock market licensed under chapter
32 16.65 RCW or at such place as approved by the director. If the sheriff
33 has impounded an animal in accordance with this section, ((he)) the
34 sheriff shall forthwith notify the nearest brand inspector of the
35 department of agriculture, who shall examine the animal and, by brand,
36 tattoo, or other identifying characteristic, shall attempt to ascertain
37 the ownership thereof.

1 **Sec. 11.** RCW 16.24.130 and 1995 c 374 s 69 are each amended to
2 read as follows:

3 The brand inspector shall cause to be published once in a newspaper
4 published in the county where the animal was found, a notice of the
5 impounding.

6 The notice shall state:

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

9 (2) When and where found;

10 (3) Where impounded; and

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

16 If the animal is marked with a brand (~~(or tattoo)~~) which is
17 registered with the director of agriculture, the brand inspector, on or
18 before the date of publication or posting, shall send a copy of the
19 notice to the owner of record by registered mail.

20 **Sec. 12.** RCW 16.04.025 and 1989 c 286 s 21 are each amended to
21 read as follows:

22 If the owner or the person having in charge or possession such
23 animals is unknown to the person sustaining the damage, the person
24 retaining such animals shall, within twenty-four hours, notify the
25 county sheriff or the nearest state brand inspector as to the number,
26 description, and location of the animals. The county sheriff or brand
27 inspector shall examine the animals by brand, tattoo, or other
28 identifying characteristics and attempt to ascertain ownership. If the
29 animal is marked with a brand (~~(or tattoo)~~) which is registered with
30 the director of agriculture, the brand inspector or county sheriff
31 shall furnish this information and other pertinent information to the
32 person holding the animals who in turn shall send the notice required
33 in RCW 16.04.020 to the animals' owner of record by certified mail.

34 If the county sheriff or the brand inspector determines that there
35 is no apparent damage to the property of the person retaining the
36 animals, or if the person sustaining the damage contacts the county
37 sheriff or brand inspector to have the animals removed from his or her

1 property, such animals shall be removed in accordance with chapter
2 16.24 RCW. Such removal shall not prejudice the property owner's
3 ability to recover damages through civil suit.

4 **Sec. 13.** RCW 16.72.040 and 1955 c 321 s 5 are each amended to read
5 as follows:

6 The owners of any fox, mink, or marten may mark them by branding
7 with tattoo or other marks for the purpose of identification(~~(, but no~~
8 ~~person shall be entitled to ownership in or rights under any particular~~
9 ~~branding marks unless and until the branding marks are recorded with~~
10 ~~the department in the same manner and with like effect as brands of~~
11 ~~other animals are recorded as provided in chapter 16.56 RCW)).~~

12 **Sec. 14.** RCW 15.80.420 and 1969 ex.s. c 100 s 13 are each amended
13 to read as follows:

14 It shall be a violation of this chapter to transport by highway any
15 hay, straw, or grain which has been purchased by weight or will be
16 purchased by weight, unless it is weighed and a certified weight ticket
17 is issued thereon, by the first licensed public weighmaster which would
18 be encountered on the ordinary route to the destination where the hay,
19 straw, or grain is to be unloaded(~~(; PROVIDED,)~~). If agreed upon in
20 writing between a dealer or commission merchant and a grower or
21 consigner, a certified vehicle tare weight and certified vehicle gross
22 weight may be obtained from a hay or straw processing facility with a
23 scale approved by the director. However, ((That)) this section shall
24 not apply to the following:

25 (1) The transportation of, or sale of, hay, straw, or grain by the
26 primary producer thereof;

27 (2) The transportation of hay, straw, or grain by an
28 agriculturalist for use in his or her own growing, or animal or poultry
29 husbandry endeavors;

30 (3) The transportation of grain by a party who is either a
31 warehouseman or grain dealer and who is licensed under the grain
32 warehouse laws and who makes such shipment in the course of the
33 business for which he or she is so licensed;

34 (4) The transportation of hay, straw or grain by retail merchants,
35 except for the provisions of RCW 15.80.430 and 15.80.440;

1 (5) The transportation of grain from a warehouse licensed under the
2 grain warehouse laws when the transported grain is consigned directly
3 to a public terminal warehouse.

4 **Sec. 15.** RCW 15.80.440 and 1969 ex.s. c 100 s 15 are each amended
5 to read as follows:

6 (1) The driver of any vehicle previously weighed by a licensed
7 public weighmaster may be required to reweigh the vehicle and load at
8 the nearest scale.

9 (2) The driver of any vehicle operated by or for a retail merchant
10 which vehicle contains hay, straw, or grain may be required to weigh
11 the vehicle and load at the nearest scale(~~(, and)~~). If agreed upon in
12 writing between a dealer or commission merchant and a grower or
13 consigner, a certified vehicle tare weight and certified vehicle gross
14 weight may be obtained from a hay or straw processing facility with a
15 scale approved by the director.

16 (3) If the weight is found to be less than the amount appearing on
17 the invoice, a copy of which is required to be carried on the vehicle,
18 the director shall report the finding to the consignee and may cause
19 such retail merchant to be prosecuted in accordance with the provisions
20 of this chapter.

21 **Sec. 16.** RCW 15.58.150 and 2003 c 212 s 3 are each amended to read
22 as follows:

23 (1) It is unlawful for any person to distribute within the state or
24 deliver for transportation or transport in intrastate commerce or
25 between points within this state through any point outside this state
26 any of the following:

27 (a) Any pesticide which has not been registered pursuant to the
28 provisions of this chapter;

29 (b) Any pesticide if any of the claims made for it or any of the
30 directions for its use or other labeling differs from the
31 representations made in connection with its registration, or if the
32 composition of a pesticide differs from its composition as represented
33 in connection with its registration: PROVIDED, That at the discretion
34 of the director, a change in the labeling or formula of a pesticide may
35 be made within a registration period without requiring reregistration
36 of the product;

1 (c) Any pesticide unless it is in the registrant's or the
2 manufacturer's unbroken immediate container and there is affixed to
3 such container, and to the outside container or wrapper of the retail
4 package, if there is one through which the required information on the
5 immediate container cannot be clearly read, a label bearing the
6 information required in this chapter and the rules adopted under this
7 chapter;

8 (d) Any pesticide (~~((including arsenicals, fluorides, fluosilicates,~~
9 ~~and/or any other white powdered pesticides))~~) unless (~~((they have))~~) it
10 has been distinctly denatured as to color, taste, odor, or form if so
11 required by rule;

12 (e) Any pesticide which is adulterated or misbranded, or any device
13 which is misbranded;

14 (f) Any pesticide in containers, violating rules adopted pursuant
15 to RCW 15.58.040(2)(f) or pesticides found in containers which are
16 unsafe due to damage.

17 (2) It shall be unlawful:

18 (a) To sell or deliver any pesticide to any person who is required
19 by law or rules promulgated under such law to be certified, licensed,
20 or have a permit to use or purchase the pesticide unless such person or
21 the person's agent, to whom sale or delivery is made, has a valid
22 certification, license, or permit to use or purchase the kind and
23 quantity of such pesticide sold or delivered: PROVIDED, That, subject
24 to conditions established by the director, such permit may be obtained
25 immediately prior to sale or delivery from any person designated by the
26 director;

27 (b) For any person to detach, alter, deface or destroy, wholly or
28 in part, any label or labeling provided for in this chapter or rules
29 adopted under this chapter, or to add any substance to, or take any
30 substance from, a pesticide in a manner that may defeat the purpose of
31 this chapter or the rules adopted thereunder;

32 (c) For any person to use or cause to be used any pesticide
33 contrary to label directions or to regulations of the director if those
34 regulations differ from or further restrict the label directions:
35 PROVIDED, The compliance to the term "contrary to label directions" is
36 enforced by the director consistent with the intent of this chapter;

37 (d) For any person to use for his or her own advantage or to
38 reveal, other than to the director or proper officials or employees of

1 the state, or to the courts of the state in response to a subpoena, or
2 to physicians, or in emergencies to pharmacists and other qualified
3 persons for use in the preparation of antidotes, any information
4 relative to formulas of products acquired by authority of RCW
5 15.58.060;

6 (e) For any person to make false, misleading, or erroneous
7 statements or reports concerning any pest during or after a pest
8 inspection or to fail to comply with criteria established by rule for
9 structural pest inspections;

10 (f) For any person to make false, misleading, or erroneous
11 statements or reports in connection with any pesticide complaint or
12 investigation;

13 (g) For any person to act as, or advertise that they perform the
14 services of, a structural pest inspector without having a license to
15 act as a structural pest inspector;

16 (h) For a business to conduct one or more complete wood destroying
17 organism inspections without first having obtained a structural pest
18 inspection company license from the department.

19 NEW SECTION. **Sec. 17.** The following acts or parts of acts are
20 each repealed:

21 (1) RCW 15.58.370 (Results of analyses to be published) and 1971
22 ex.s. c 190 s 37; and

23 (2) RCW 19.94.505 (Gasoline containing alcohol--Dispensing device
24 label required--Carbon monoxide nonattainment area--Penalty) and 2000
25 c 171 s 65, 1992 c 237 s 34, & 1984 c 61 s 1.

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