

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5374

Chapter 103, Laws of 2011

62nd Legislature
2011 Regular Session

DEPARTMENT OF AGRICULTURE--TECHNICAL CHANGES

EFFECTIVE DATE: 07/22/11

Passed by the Senate March 4, 2011
YEAS 49 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 6, 2011
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 18, 2011, 2:25 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5374** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 19, 2011

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5374

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Agriculture & Rural Economic Development (originally sponsored by Senators Becker and Hobbs)

READ FIRST TIME 02/02/11.

1 AN ACT Relating to making technical, nonsubstantive changes to
2 department of agriculture-related sections; amending RCW 15.26.120,
3 15.30.200, 90.64.030, 15.48.280, 15.60.065, 15.60.085, 15.60.095,
4 15.65.375, 15.66.245, 15.76.115, 16.24.120, 17.21.150, 17.26.020,
5 15.65.280, 15.66.140, 15.89.070, 15.115.140, 15.65.243, 15.65.510,
6 15.65.550, 15.66.113, 20.01.205, 15.65.033, 15.66.010, 15.66.017,
7 15.24.900, 15.28.015, 15.44.015, 15.88.025, 15.89.025, 15.92.010,
8 15.115.020, 16.67.035, 15.58.030, 17.15.030, 17.21.100, 19.94.015,
9 20.01.010, 20.01.475, 20.01.510, 20.01.520, and 17.24.210; reenacting
10 and amending RCW 15.65.020; creating a new section; and repealing RCW
11 15.58.380.

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

13 **Sec. 1.** RCW 15.26.120 and 1969 c 129 s 12 are each amended to read
14 as follows:

15 There is hereby levied on all commercial tree fruit produced in
16 this state or held out as being produced in this state for fresh or
17 processing use, an assessment, initially not to exceed ten cents per
18 ton on all such tree fruits, except that such assessment for apples for
19 fresh shipment shall be at the rate of one-half cent per one hundred

1 pounds gross billing weight. Such assessment on all such commercial
2 tree fruit shall not become effective until approved by a majority of
3 such commercial producers of tree fruit voting in a referendum
4 conducted jointly by the Washington apple (~~(advertising)~~) commission,
5 Washington state fruit commission, and the department. The respective
6 commissions shall supply all known producers of tree fruits subject to
7 their respective commissions with a ballot for the referendum and the
8 department shall supply all known tree fruit producers not subject to
9 either of the commissions with a ballot wherein all known producers may
10 approve or disapprove such assessment. The commission may waive the
11 payment of assessments by any class of producers of minimal amounts of
12 tree fruit when the commission determines subsequent to a hearing that
13 the cost of collecting and keeping records of such assessments is
14 disproportionate to the return to the commission.

15 **Sec. 2.** RCW 15.30.200 and 1961 c 29 s 20 are each amended to read
16 as follows:

17 All moneys collected under the provisions of this chapter for the
18 inspection and certification of any fruits or vegetables subject to the
19 provisions of this chapter shall be handled and deposited in the manner
20 provided for in chapter (~~(15.16)~~) 15.17 RCW, as enacted or hereafter
21 amended, for the handling of inspection and certification fees derived
22 for the inspection of any fruits and vegetables.

23 **Sec. 3.** RCW 90.64.030 and 2003 c 325 s 3 are each amended to read
24 as follows:

25 (1) Under the inspection program established in RCW 90.64.023, the
26 department may investigate a dairy farm to determine whether the
27 operation is discharging pollutants or has a record of discharging
28 pollutants into surface or ground waters of the state. Upon concluding
29 an investigation, the department shall make a written report of its
30 findings, including the results of any water quality measurements,
31 photographs, or other pertinent information, and provide a copy of the
32 report to the dairy producer within twenty days of the investigation.

33 (2) The department shall investigate a written complaint filed with
34 the department within three working days and shall make a written
35 report of its findings including the results of any water quality
36 measurements, photographs, or other pertinent information. Within

1 twenty days of receiving a written complaint, a copy of the findings
2 shall be provided to the dairy producer subject to the complaint, and
3 to the complainant if the person gave his or her name and address to
4 the department at the time the complaint was filed.

5 (3) The department may consider past complaints against the same
6 dairy farm from the same person and the results of its previous
7 inspections, and has the discretion to decide whether to conduct an
8 inspection if:

9 (a) The same or a similar complaint or complaints have been filed
10 against the same dairy farm within the immediately preceding six-month
11 period; and

12 (b) The department made a determination that the activity that was
13 the subject of the prior complaint was not a violation.

14 (4) If the decision of the department is not to conduct an
15 inspection, it shall document the decision and the reasons for the
16 decision within twenty days. The department shall provide the decision
17 to the complainant if the name and address were provided to the
18 department, and to the dairy producer subject to the complaint, and the
19 department shall place the decision in the department's administrative
20 records.

21 (5) The report of findings of any inspection conducted as the
22 result of either an oral or a written complaint shall be placed in the
23 department's administrative records. Only findings of violations shall
24 be entered into the database identified in RCW 90.64.130.

25 (6) A dairy farm that is determined to be a significant contributor
26 of pollution based on actual water quality tests, photographs, or other
27 pertinent information is subject to the provisions of this chapter and
28 to the enforcement provisions of chapters 43.05 and 90.48 RCW,
29 including civil penalties levied under RCW 90.48.144.

30 (7) If the department determines that an unresolved water quality
31 problem from a dairy farm requires immediate corrective action, the
32 department shall notify the producer and the district in which the
33 problem is located. When corrective actions are required to address
34 such unresolved water quality problems, the department shall provide
35 copies of all final dairy farm inspection reports and documentation of
36 all formal regulatory and enforcement actions taken by the department
37 against that particular dairy farm to the local conservation district
38 and to the appropriate dairy farm within twenty days.

1 (8) For a violation of water quality laws that is a first offense
2 for a dairy producer, the penalty may be waived to allow the producer
3 to come into compliance with water quality laws. The department shall
4 record all legitimate violations and subsequent enforcement actions.

5 (9) A discharge, including a storm water discharge, to surface
6 waters of the state shall not be considered a violation of this
7 chapter, chapter 90.48 RCW, or chapter 173-201A WAC, and shall
8 therefore not be enforceable by the department of ecology or a third
9 party, if at the time of the discharge, a violation is not occurring
10 under RCW 90.64.010(~~(+18+)~~) (17). In addition, a dairy producer shall
11 not be held liable for violations of this chapter, chapter 90.48 RCW,
12 chapter 173-201A WAC, or the federal clean water act due to the
13 discharge of dairy nutrients to waters of the state resulting from
14 spreading these materials on lands other than where the nutrients were
15 generated, when the nutrients are spread by persons other than the
16 dairy producer or the dairy producer's agent.

17 (10) As provided under RCW 7.48.305, agricultural activities
18 associated with the management of dairy nutrients are presumed to be
19 reasonable and shall not be found to constitute a nuisance unless the
20 activity has a substantial adverse effect on public health and safety.

21 (11) This section specifically acknowledges that if a holder of a
22 general or individual national pollutant discharge elimination system
23 permit complies with the permit and the dairy nutrient management plan
24 conditions for appropriate land application practices, the permit
25 provides compliance with the federal clean water act and acts as a
26 shield against citizen or agency enforcement for any additions of
27 pollutants to waters of the state or of the United States as authorized
28 by the permit.

29 (12) A dairy producer who fails to have an approved dairy nutrient
30 management plan by July 1, 2002, or a certified dairy nutrient
31 management plan by December 31, 2003, and for which no appeals have
32 been filed with the pollution control hearings board, is in violation
33 of this chapter. Each month beyond these deadlines that a dairy
34 producer is out of compliance with the requirement for either plan
35 approval or plan certification shall be considered separate violations
36 of chapter 90.64 RCW that may be subject to penalties. Such penalties
37 may not exceed one hundred dollars per month for each violation up to
38 a combined total of five thousand dollars. The department has

1 discretion in imposing penalties for failure to meet deadlines for plan
2 approval or plan certification if the failure to comply is due to lack
3 of state funding for implementation of the program. Failure to
4 register as required in RCW 90.64.017 shall subject a dairy producer to
5 a maximum penalty of one hundred dollars. Penalties shall be levied by
6 the department.

7 **Sec. 4.** RCW 15.48.280 and 1967 c 114 s 15 are each amended to read
8 as follows:

9 Seed bailment contracts for the increase of agricultural seeds
10 shall not create a security interest under the terms of the Uniform
11 Commercial Code, chapter 62A.9A RCW. No filing, recording, or notice
12 of a seed bailment contract shall be required under any of the laws of
13 the state to establish, during the term of a seed bailment contract the
14 validity of any such contracts, nor to establish and confirm in the
15 bailor the title to all seed, seed stock, plant life and the resulting
16 seed crop thereof grown or produced by the bailee under the terms of a
17 bailment contract.

18 **Sec. 5.** RCW 15.60.065 and 1993 c 89 s 18 are each amended to read
19 as follows:

20 When the county legislative authority determines that it would be
21 desirable to establish an apiary coordinated area or areas in their
22 county, they shall make an order fixing a time and place when a hearing
23 will be held, notice of which shall be published at least once each
24 week for two successive weeks in a newspaper having general circulation
25 within the county. It shall be the duty of the county legislative
26 authority at the time fixed for such hearing, to hear all persons
27 interested in the establishment of apiary coordinated areas as defined
28 in this section and RCW ((~~15.60.180, 15.60.190, and 15.60.210~~))
29 15.60.075 and 15.60.085.

30 **Sec. 6.** RCW 15.60.085 and 1989 c 354 s 68 are each amended to read
31 as follows:

32 When the county legislative authority of any county deems it
33 advisable to change the boundary or boundaries of any apiary
34 coordinated area, a hearing shall be held in the same manner as
35 provided in RCW ((~~15.60.180~~)) 15.60.065. If the county legislative

1 authority decides to change the boundary or boundaries of any apiary
2 coordinated area or areas, they shall within thirty days after the
3 conclusion of such hearing make an order describing the change or
4 changes. Such order shall be entered upon the records of the county
5 and published in a newspaper having general circulation in the county
6 once each week for four successive weeks.

7 **Sec. 7.** RCW 15.60.095 and 1993 c 89 s 20 are each amended to read
8 as follows:

9 The county legislative authority of any county with a population of
10 from forty thousand to less than seventy thousand located east of the
11 Cascade crest and bordering in the southern side of the Snake river
12 shall have the power to designate by an order made and published, as
13 provided in RCW (~~(15.60.190)~~) 15.60.075, certain territories as apiary
14 coordinated areas in which they may designate the number of colonies
15 per apiary, the distance between apiaries, the minimum required setback
16 distance from property lines, and the time of year the regulations
17 shall be in effect. No territory so designated shall be less than two
18 square miles in area.

19 **Sec. 8.** RCW 15.65.375 and 2002 c 313 s 32 are each amended to read
20 as follows:

21 Any marketing agreement or order may authorize the members of a
22 commodity board, or their agents or designees, to participate in
23 federal or state hearings or other proceedings concerning regulation of
24 the manufacture, distribution, sale, or use of any pesticide as defined
25 by RCW 15.58.030(~~(+30)~~) or any agricultural chemical which is of use
26 or potential use in producing the affected commodity. Any marketing
27 agreement or order may authorize the expenditure of commodity board
28 funds for this purpose.

29 **Sec. 9.** RCW 15.66.245 and 2002 c 313 s 63 are each amended to read
30 as follows:

31 Any marketing agreement or order may authorize the members of a
32 commodity commission, or their agents or designees, to participate in
33 federal or state hearings or other proceedings concerning regulation of
34 the manufacture, distribution, sale, or use of any pesticide as defined
35 by RCW 15.58.030(~~(+30)~~) or any agricultural chemical which is of use

1 or potential use in producing the affected commodity. Any marketing
2 agreement or order may authorize the expenditure of commodity
3 commission funds for this purpose.

4 **Sec. 10.** RCW 15.76.115 and 2010 1st sp.s. c 37 s 912 are each
5 amended to read as follows:

6 The fair fund is created in the custody of the state treasury. All
7 moneys received by the department of agriculture for the purposes of
8 this fund and from RCW 67.16.105(~~((4))~~) (7) shall be deposited into the
9 fund. At the beginning of fiscal year 2002 and each fiscal year
10 thereafter, the state treasurer shall transfer into the fair fund from
11 the general fund the sum of two million dollars, except for fiscal year
12 2011 the state treasurer shall transfer into the fair fund from the
13 general fund the sum of one million one hundred three thousand dollars.
14 Expenditures from the fund may be used only for assisting fairs in the
15 manner provided in this chapter. Only the director of agriculture or
16 the director's designee may authorize expenditures from the fund. The
17 fund is subject to allotment procedures under chapter 43.88 RCW, but no
18 appropriation is required for expenditures.

19 **Sec. 11.** RCW 16.24.120 and 1989 c 286 s 12 are each amended to
20 read as follows:

21 Upon taking possession of any livestock at large contrary to the
22 provisions of chapter 16.24 RCW (~~((16.13.020))~~), or any unclaimed
23 livestock submitted or impounded, by any person, at any public
24 livestock market or any other facility approved by the director, the
25 sheriff or brand inspector shall cause it to be transported to and
26 impounded at the nearest public livestock market licensed under chapter
27 16.65 RCW or at such place as approved by the director. If the sheriff
28 has impounded an animal in accordance with this section, he or she
29 shall forthwith notify the nearest brand inspector of the department of
30 agriculture, who shall examine the animal and, by brand, tattoo, or
31 other identifying characteristic, shall attempt to ascertain the
32 ownership thereof.

33 **Sec. 12.** RCW 17.21.150 and 1994 c 283 s 18 are each amended to
34 read as follows:

1 A person who has committed any of the following acts is declared to
2 be in violation of this chapter:

3 (1) Made false or fraudulent claims through any media,
4 misrepresenting the effect of materials or methods to be utilized;

5 (2) Applied worthless or improper pesticides;

6 (3) Operated a faulty or unsafe apparatus;

7 (4) Operated in a faulty, careless, or negligent manner;

8 (5) Refused or neglected to comply with the provisions of this
9 chapter, the rules adopted hereunder, or of any lawful order of the
10 director including a final order of the director directing payment of
11 a civil penalty. In an adjudicative proceeding arising from the
12 department's denial of a license for failure to pay a civil penalty the
13 subject shall be limited to whether the payment was made and the
14 proceeding may not be used to collaterally attack the final order;

15 (6) Refused or neglected to keep and maintain the pesticide
16 application records required by rule, or to make reports when and as
17 required;

18 (7) Made false or fraudulent records, invoices, or reports;

19 (8) Acted as a certified applicator without having provided direct
20 supervision to an unlicensed person (~~as — defined — in — RCW~~
21 ~~17.21.020(12)~~);

22 (9) Operated an unlicensed apparatus or an apparatus without a
23 license plate issued for that particular apparatus;

24 (10) Used fraud or misrepresentation in making an application for
25 a license or renewal of a license;

26 (11) Is not qualified to perform the type of pest control under the
27 conditions and in the locality in which he or she operates or has
28 operated, regardless of whether or not he or she has previously passed
29 a pesticide license examination;

30 (12) Aided or abetted a licensed or an unlicensed person to evade
31 the provisions of this chapter, combined or conspired with such a
32 licensed or an unlicensed person to evade the provisions of this
33 chapter, or allowed one's license to be used by an unlicensed person;

34 (13) Knowingly made false, misleading, or erroneous statements or
35 reports during or after an inspection concerning any infestation or
36 infection of pests found on land or in connection with any pesticide
37 complaint or investigation;

38 (14) Impersonated any state, county or city inspector or official;

1 (15) Applied a restricted use pesticide without having a certified
2 applicator in direct supervision;

3 (16) Operated a commercial pesticide application business: (a)
4 Without an individual licensed as a commercial pesticide applicator or
5 (b) with a licensed commercial pesticide applicator not licensed in the
6 classification or classifications in which the business operates; or

7 (17) Operated as a commercial pesticide applicator without meeting
8 the financial responsibility requirements including not having a
9 properly executed financial responsibility insurance certificate or
10 surety bond form on file with the department.

11 **Sec. 13.** RCW 17.26.020 and 2003 c 39 s 10 are each amended to read
12 as follows:

13 (1) Facilitating the control of spartina and purple loosestrife is
14 a high priority for all state agencies.

15 (2) The department of natural resources is responsible for spartina
16 and purple loosestrife control on state-owned aquatic lands managed by
17 the department of natural resources.

18 (3) The department of fish and wildlife is responsible for spartina
19 and purple loosestrife control on state-owned aquatic lands managed by
20 the department of fish and wildlife.

21 (4) The state parks and recreation commission is responsible for
22 spartina and purple loosestrife control on state-owned aquatic lands
23 managed by the state parks and recreation commission.

24 (5) Unless the context clearly requires otherwise, the definitions
25 in this subsection apply throughout this chapter, RCW 90.48.020,
26 90.58.030, and (~~77.55.150~~) 77.55.081:

27 (a) "Spartina" means *Spartina alterniflora*, *Spartina anglica*,
28 *Spartina x townsendii*, and *Spartina patens*.

29 (b) "Purple loosestrife" means *Lythrum salicaria* and *Lythrum*
30 *virgatum*.

31 (c) "Aquatic noxious weed" means an aquatic weed on the state
32 noxious weed list adopted under RCW 17.10.080.

33 **Sec. 14.** RCW 15.65.280 and 2010 c 8 s 6075 are each amended to
34 read as follows:

35 The powers and duties of the board shall be:

36 (1) To elect a chair and such other officers as it deems advisable;

- 1 (2) To advise and counsel the director with respect to the
2 administration and conduct of such marketing agreement or order;
- 3 (3) To recommend to the director administrative rules and orders
4 and amendments thereto for the exercise of his or her powers in
5 connection with such agreement or order;
- 6 (4) To advise the director upon (~~any—and~~) all assessments
7 provided pursuant to the terms of such agreement or order and upon the
8 collection, deposit, withdrawal, disbursement and paying out of all
9 moneys;
- 10 (5) To assist the director in the collection of such necessary
11 information and data as the director may deem necessary in the proper
12 administration of this chapter;
- 13 (6) To administer the order or agreement as its administrative
14 board if the director designates it so to do in such order or
15 agreement;
- 16 (7) To work cooperatively with other local, state, and federal
17 agencies; universities; and national organizations for the purposes
18 provided in the board's marketing order or agreement;
- 19 (8) To enter into contracts or interagency agreements with any
20 private or public agency, whether federal, state, or local, to carry
21 out the purposes provided in the board's marketing order or agreement.
22 Personal service contracts must comply with chapter 39.29 RCW;
- 23 (9) To accept and expend or retain any gifts, bequests,
24 contributions, or grants from private persons or private and public
25 agencies to carry out the purposes provided in the board's marketing
26 order or agreement;
- 27 (10) To retain in emergent situations the services of private legal
28 counsel to conduct legal actions on behalf of a board. The retention
29 of a private attorney is subject to review by the office of the
30 attorney general;
- 31 (11) To engage in appropriate fund-raising activities for the
32 purpose of supporting activities of the board authorized by the
33 marketing order or agreement;
- 34 (12) To enter into contracts or agreements for research in the
35 production, irrigation, processing, transportation, marketing, use, or
36 distribution of an affected commodity;
- 37 (13) To participate in international, federal, state, and local
38 hearings, meetings, and other proceedings relating to the production,

1 irrigation, manufacture, regulation, transportation, distribution,
2 sale, or use of affected commodities including activities authorized
3 under RCW ((42.17.190)) 42.17A.635, including the reporting of those
4 activities to the public disclosure commission;

5 (14) To maintain a list of the names and addresses of affected
6 producers that may be compiled from information used to collect
7 assessments under the marketing order or agreement, and data on the
8 value of each producer's production for a minimum three-year period;

9 (15) To maintain a list of the names and addresses of persons who
10 handle the affected commodity within the affected area and data on the
11 amount and value of the commodity handled for a minimum three-year
12 period by each person; and

13 (16) To perform such other duties as the director may prescribe in
14 the marketing agreement or order.

15 Any agreement or order under which the commodity board administers
16 the order or agreement shall (if so requested by the affected producers
17 within the affected area in the proposal or promulgation hearing)
18 contain provisions whereby the director reserves the power to approve
19 or disapprove every order, rule or directive issued by the board, in
20 which event such approval or disapproval shall be based on whether or
21 not the director believes the board's action has been carried out in
22 conformance with the purposes of this chapter.

23 **Sec. 15.** RCW 15.66.140 and 2003 c 396 s 2 are each amended to read
24 as follows:

25 Every commodity commission shall have such powers and duties in
26 accordance with provisions of this chapter as may be provided in the
27 marketing order and shall have the following powers and duties:

28 (1) To elect a chair and such other officers as determined
29 advisable;

30 (2) To adopt, rescind, and amend rules and regulations reasonably
31 necessary for the administration and operation of the commission and
32 the enforcement of its duties under the marketing order;

33 (3) To administer, enforce, direct and control the provisions of
34 the marketing order and of this chapter relating thereto;

35 (4) To employ and discharge at its discretion such administrators
36 and additional personnel, attorneys, advertising and research agencies

- 1 and other persons and firms that it may deem appropriate and pay
2 compensation to the same;
- 3 (5) To acquire personal property and purchase or lease office space
4 and other necessary real property and transfer and convey the same;
- 5 (6) To institute and maintain in its own name any and all legal
6 actions, including actions by injunction, mandatory injunction or civil
7 recovery, or proceedings before administrative tribunals or other
8 governmental authorities necessary to carry out the provisions of this
9 chapter and of the marketing order;
- 10 (7) To keep accurate records of all its receipts and disbursements,
11 which records shall be open to inspection and audit by the state
12 auditor or private auditor designated by the state auditor at least
13 every five years;
- 14 (8) Borrow money and incur indebtedness;
- 15 (9) Make necessary disbursements for routine operating expenses;
- 16 (10) To expend funds for commodity-related education, training, and
17 leadership programs as each commission deems expedient;
- 18 (11) To work cooperatively with other local, state, and federal
19 agencies; universities; and national organizations for the purposes
20 provided in the commission's marketing order;
- 21 (12) To enter into contracts or interagency agreements with any
22 private or public agency, whether federal, state, or local, to carry
23 out the purposes provided in the commission's marketing order.
24 Personal service contracts must comply with chapter 39.29 RCW;
- 25 (13) To accept and expend or retain any gifts, bequests,
26 contributions, or grants from private persons or private and public
27 agencies to carry out the purposes provided in the commission's
28 marketing order;
- 29 (14) To enter into contracts or agreements for research in the
30 production, irrigation, processing, transportation, marketing, use, or
31 distribution of an affected commodity;
- 32 (15) To retain in emergent situations the services of private legal
33 counsel to conduct legal actions on behalf of a commission. The
34 retention of a private attorney is subject to review by the office of
35 the attorney general;
- 36 (16) To engage in appropriate fund-raising activities for the
37 purpose of supporting activities of the commission authorized by the
38 marketing order;

1 (17) To participate in international, federal, state, and local
2 hearings, meetings, and other proceedings relating to the production,
3 irrigation, manufacture, regulation, transportation, distribution,
4 sale, or use of affected commodities including activities authorized
5 under RCW ((42.17.190)) 42.17A.635, including the reporting of those
6 activities to the public disclosure commission;

7 (18) To maintain a list of the names and addresses of affected
8 producers that may be compiled from information used to collect
9 assessments under the provisions of the marketing order and data on the
10 value of each producer's production for a minimum three-year period;

11 (19) To maintain a list of the names and addresses of persons who
12 handle the affected commodity within the affected area and data on the
13 amount and value of the commodity handled for a minimum three-year
14 period by each person;

15 (20) To request records and audit the records of producers or
16 handlers of the affected commodity during normal business hours to
17 determine whether the appropriate assessment has been paid;

18 (21) To acquire or own intellectual property rights, licenses, or
19 patents and to collect royalties resulting from commission-funded
20 research related to the affected commodity; and

21 (22) Such other powers and duties that are necessary to carry out
22 the purposes of this chapter.

23 **Sec. 16.** RCW 15.89.070 and 2009 c 373 s 9 are each amended to read
24 as follows:

25 The commission shall:

26 (1) Elect a chair and officers. The officers must include a
27 treasurer who is responsible for all receipts and disbursements by the
28 commission and the faithful discharge of whose duties shall be
29 guaranteed by a bond at the sole expense of the commission. The
30 commission must adopt rules for its own governance that provide for the
31 holding of an annual meeting for the election of officers and the
32 transaction of other business and for other meetings the commission may
33 direct;

34 (2) Do all things reasonably necessary to effect the purposes of
35 this chapter. However, the commission has no rule-making power except
36 as provided in this chapter;

1 (3) Employ and discharge managers, secretaries, agents, attorneys,
2 and employees and engage the services of independent contractors;

3 (4) Retain, as necessary, the services of private legal counsel to
4 conduct legal actions on behalf of the commission. The retention of a
5 private attorney is subject to review by the office of the attorney
6 general;

7 (5) Receive donations of beer from producers for promotional
8 purposes under subsections (6) and (7) of this section and for fund-
9 raising purposes under subsection (8) of this section. Donations of
10 beer for promotional purposes may only be disseminated without charge;

11 (6) Engage directly or indirectly in the promotion of Washington
12 beer, including, without limitation, the acquisition in any lawful
13 manner and the dissemination without charge of beer. This
14 dissemination is not deemed a sale for any purpose and the commission
15 is not deemed a producer, supplier, or manufacturer, or the clerk,
16 servant, or agent of a producer, supplier, distributor, or
17 manufacturer. This dissemination without charge shall be for
18 agricultural development or trade promotion, and not for fund-raising
19 purposes under subsection (8) of this section. Dissemination for
20 promotional purposes may include promotional hosting and must in the
21 good faith judgment of the commission be in the aid of the marketing,
22 advertising, sale of beer, or of research related to such marketing,
23 advertising, or sale;

24 (7) Promote Washington beer by conducting unique beer tastings
25 without charge;

26 (8) Beginning July 1, 2007, fund the Washington beer commission
27 through sponsorship of up to twelve beer festivals annually at which
28 beer may be sold to festival participants. For this purpose, the
29 commission would qualify for issue of a special occasion license as an
30 exception to WAC 314-05-020 but must comply with laws under Title 66
31 RCW and rules adopted by the liquor control board under which such
32 events may be conducted;

33 (9) Participate in international, federal, state, and local
34 hearings, meetings, and other proceedings relating to the production,
35 regulation, distribution, sale, or use of beer including activities
36 authorized under RCW (~~42.17.190~~) 42.17A.635, including the reporting
37 of those activities to the public disclosure commission;

1 (10) Acquire and transfer personal and real property, establish
2 offices, incur expenses, and enter into contracts, including contracts
3 for the creation and printing of promotional literature. The contracts
4 are not subject to chapter 43.78 RCW, and are cancelable by the
5 commission unless performed under conditions of employment that
6 substantially conform to the laws of this state and the rules of the
7 department of labor and industries. The commission may create debt and
8 other liabilities that are reasonable for proper discharge of its
9 duties under this chapter;

10 (11) Maintain accounts with one or more qualified public
11 depositories as the commission may direct, for the deposit of money,
12 and expend money for purposes authorized by this chapter by drafts made
13 by the commission upon such institutions or by other means;

14 (12) Cause to be kept and annually closed, in accordance with
15 generally accepted accounting principles, accurate records of all
16 receipts, disbursements, and other financial transactions, available
17 for audit by the state auditor;

18 (13) Create and maintain a list of producers and disseminate
19 information among and solicit the opinions of producers with respect to
20 the discharge of the duties of the commission, directly or by
21 arrangement with trade associations or other instrumentalities;

22 (14) Employ, designate as an agent, act in concert with, and enter
23 into contracts with any person, council, commission, or other entity to
24 promote the general welfare of the beer industry and particularly to
25 assist in the sale and distribution of Washington beer in domestic and
26 foreign commerce. The commission shall expend money necessary or
27 advisable for this purpose and to pay its proportionate share of the
28 cost of any program providing direct or indirect assistance to the sale
29 and distribution of Washington beer in domestic or foreign commerce,
30 employing and paying for vendors of professional services of all kinds;

31 (15) Sue and be sued as a commission, without individual liability
32 for acts of the commission within the scope of the powers conferred
33 upon it by this chapter;

34 (16) Serve as liaison with the liquor control board on behalf of
35 the commission and not for any individual producer;

36 (17) Receive such gifts, grants, and endowments from public or
37 private sources as may be made from time to time, in trust or

1 otherwise, for the use and benefit of the purposes of the commission
2 and expend the same or any income therefrom according to the terms of
3 the gifts, grants, or endowments.

4 **Sec. 17.** RCW 15.115.140 and 2009 c 33 s 14 are each amended to
5 read as follows:

6 (1) The commission is an agency of the Washington state government
7 subject to oversight by the director. In exercising its powers and
8 duties, the commission shall carry out the following purposes:

9 (a) To establish plans and conduct programs for advertising and
10 sales promotion, to maintain present markets, or to create new or
11 larger markets for wheat and barley grown in Washington;

12 (b) To engage in cooperative efforts in the domestic or foreign
13 marketing of wheat and barley grown in Washington;

14 (c) To provide for carrying on research studies to find more
15 efficient methods of production, irrigation, processing,
16 transportation, handling, and marketing of wheat and barley grown in
17 Washington;

18 (d) To adopt rules to provide for improving standards and grades by
19 defining, establishing, and providing labeling requirements with
20 respect to wheat and (~~barley~~) barley grown in Washington;

21 (e) To investigate and take necessary action to prevent unfair
22 trade practices relating to wheat and barley grown in Washington;

23 (f) To provide information or communicate on matters pertaining to
24 the production, irrigation, processing, transportation, marketing, or
25 uses of wheat and barley grown in Washington to any elected official or
26 officer or employee of any agency;

27 (g) To provide marketing information and services for producers of
28 wheat and barley in Washington;

29 (h) To provide information and services for meeting resource
30 conservation objectives of producers of wheat and barley in Washington;

31 (i) To provide for education and training related to wheat and
32 barley grown in Washington; and

33 (j) To assist and cooperate with the department or any local,
34 state, or federal government agency in the investigation and control of
35 exotic pests and diseases that could damage or affect the production or
36 trade of wheat and barley grown in Washington.

37 (2) The commission has the following powers and duties:

- 1 (a) To collect the assessments of producers as provided in this
2 chapter and to expend the same in accordance with this chapter;
- 3 (b) To maintain a list of the names and addresses of affected
4 producers that may be compiled from information used to collect
5 assessments authorized under this chapter and data on the value of each
6 producer's production for a minimum three-year period;
- 7 (c) To maintain a list of the names and addresses of persons who
8 handle wheat or barley within the affected area and data on the amount
9 and value of the wheat and barley handled for a minimum three-year
10 period by each person;
- 11 (d) To request records and audit the records of producers or
12 handlers of wheat or barley during normal business hours to determine
13 whether the appropriate assessment has been paid;
- 14 (e) To fund, conduct, or otherwise participate in scientific
15 research relating to wheat or barley, including but not limited to
16 research to find more efficient methods of irrigation, production,
17 processing, handling, transportation, and marketing of wheat or barley,
18 or regarding pests, pesticides, food safety, irrigation,
19 transportation, and environmental stewardship related to wheat or
20 barley;
- 21 (f) To work cooperatively with local, state, and federal agencies,
22 universities, and national organizations for the purposes provided in
23 this chapter;
- 24 (g) To establish a foundation using commission funds as grant money
25 when the foundation benefits the wheat or barley industry in Washington
26 and implements the purposes provided in this chapter;
- 27 (h) To acquire or own intellectual property rights, licenses, or
28 patents and to collect royalties resulting from commission-funded
29 research related to wheat or barley;
- 30 (i) To enter into contracts or interagency agreements with any
31 private or public agency, whether federal, state, or local, to carry
32 out the purposes and powers provided in this chapter, including
33 specifically contracts or agreements for research described in (e) of
34 this subsection. Personal service contracts must comply with chapter
35 39.29 RCW;
- 36 (j) To institute and maintain in its own name any and all legal
37 actions necessary to carry out the provisions of this chapter,

1 including actions by injunction, mandatory injunction or civil
2 recovery, or proceedings before administrative tribunals or other
3 governmental authorities;

4 (k) To retain in emergent situations the services of private legal
5 counsel to conduct legal actions on behalf of the commission. The
6 retention of a private attorney is subject to review and approval by
7 the office of the attorney general;

8 (l) To elect a chair and other officers as determined advisable;

9 (m) To employ and discharge at its discretion administrators and
10 additional personnel, advertising and research agencies, and other
11 persons and firms as appropriate and pay compensation;

12 (n) To acquire personal property and purchase or lease office space
13 and other necessary real property and transfer and convey that real
14 property;

15 (o) To keep accurate records of all its receipts and disbursements
16 by commodity, which records must be open to inspection and audit by the
17 state auditor or private auditor designated by the state auditor at
18 least every five years;

19 (p) To borrow money and incur indebtedness;

20 (q) To make necessary disbursements for routine operating expenses;

21 (r) To expend funds for commodity-related education, training, and
22 leadership programs as the commission deems expedient;

23 (s) To accept and expend or retain any gifts, bequests,
24 contributions, or grants from private persons or private and public
25 agencies to carry out the purposes provided in this chapter;

26 (t) To apply for and administer federal market access programs or
27 similar programs or projects and provide matching funds as may be
28 necessary;

29 (u) To engage in appropriate fund-raising activities for the
30 purpose of supporting activities of the commission authorized in this
31 chapter;

32 (v) To participate in international, federal, state, and local
33 hearings, meetings, and other proceedings relating to the production,
34 irrigation, manufacture, regulation, transportation, distribution,
35 sale, or use of wheat or barley; or the regulation of the manufacture,
36 distribution, sale, or use of any pesticide, as defined in chapter
37 15.58 RCW, or any agricultural chemical which is of use or potential

1 use in producing wheat or barley. This participation may include
2 activities authorized under RCW (~~(42.17.190)~~) 42.17A.635, including the
3 reporting of those activities to the public disclosure commission;

4 (w) To speak on behalf of the Washington state government on a
5 nonexclusive basis regarding issues related to wheat and barley,
6 including but not limited to trade negotiations and market access
7 negotiations and to fund industry organizations engaging in those
8 activities;

9 (x) To adopt, rescind, and amend rules and regulations reasonably
10 necessary for the administration and operation of the commission and
11 the enforcement of its duties under this chapter;

12 (y) To administer, enforce, direct, and control the provisions of
13 this chapter and any rules adopted under this chapter; and

14 (z) Other powers and duties that are necessary to carry out the
15 purposes of this chapter.

16 **Sec. 18.** RCW 15.65.243 and 2002 c 313 s 24 are each amended to
17 read as follows:

18 (1) This section (~~(or RCW 15.65.245)~~) applies when the director
19 appoints a majority of the board positions as set forth under RCW
20 15.65.220(3).

21 (2) Candidates for director-appointed board positions on a
22 commodity board shall be nominated under RCW 15.65.250.

23 (3) The director shall cause an advisory vote to be held for the
24 director-appointed positions. Not less than ten days in advance of the
25 vote, advisory ballots shall be mailed to all producers or handlers
26 entitled to vote, if their names appear upon the list of affected
27 parties or affected producers or handlers, whichever is applicable.
28 Notice of every advisory vote for board membership shall be published
29 in a newspaper of general circulation within the affected area defined
30 in the order or agreement not less than ten days in advance of the date
31 of the vote. The advisory ballot shall be conducted in a manner so
32 that it is a secret ballot. The names of the two candidates receiving
33 the most votes in the advisory vote shall be forwarded to the director
34 for potential appointment to the board. In the event there are only
35 two candidates nominated for a board position, an advisory vote may not
36 be held and the candidates' names shall be forwarded to the director
37 for potential appointment.

1 (4) The candidates whose names are forwarded to the director for
2 potential appointment shall submit to the director a letter stating why
3 ((he or she)) the candidate wishes to be appointed to the board. The
4 director may select either person for the position.

5 **Sec. 19.** RCW 15.65.510 and 1989 c 354 s 29 are each amended to
6 read as follows:

7 All parties to a marketing agreement, all persons subject to a
8 marketing order, and all producers, dealers, and handlers of a
9 commodity governed by the provisions of a marketing agreement or order
10 shall severally from time to time, upon the request of the director,
11 the director's designee, or the commodity board established under the
12 marketing agreement or order, furnish such information and permit such
13 inspections as the director, the director's designee, or the commodity
14 board finds to be necessary to effectuate the declared policies of this
15 chapter and the purposes of such agreement or order. Information and
16 inspections may also be required by the director, the director's
17 designee, or the commodity board to ascertain and determine the extent
18 to which such agreement or order has been carried out or has
19 effectuated such policies and purposes, or to determine whether or not
20 there has been any abuse of the privilege of exemption from laws
21 relating to trusts, monopolies and restraints of trade. Such
22 information shall be furnished in accordance with forms and reports to
23 be prescribed by the director, the director's designee, or the
24 commodity board. The director, the director's designee, or a designee
25 of the commodity board is hereby authorized to inspect crops and
26 examine such books, papers, records, copies of tax reports, accounts,
27 correspondence, contracts, documents, or memoranda as he or she deems
28 relevant and which are within the control:

29 (1) Of any such party to such marketing agreement or, any person
30 subject to any marketing order from whom such report was requested, or

31 (2) Of any person having, either directly or indirectly, actual or
32 legal control of or over such party, producer or handler of such
33 records, or

34 (3) Of any subsidiary of any such party, producer, handler or
35 person.

36 To carry out the purposes of this section the director or the
37 director's designee upon giving due notice, may hold hearings, take

1 testimony, administer oaths, subpoena witnesses and issue subpoenas for
2 the production of books, records, documents or other writings of any
3 kind. RCW (~~(15.65.080,)~~) 15.65.090, 15.65.100 and 15.65.110, together
4 with such other regulations consistent therewith as the director may
5 from time to time prescribe, shall apply with respect to any such
6 hearing. All information furnished to or acquired by the director or
7 the director's designee pursuant to this section shall be kept
8 confidential by all officers and employees of the director or the
9 director's designee and only such information so furnished or acquired
10 as the director deems relevant shall be disclosed by the director or
11 them, and then only in a suit or administrative hearing brought at the
12 direction or upon the request of the director or to which the director
13 or the director's designee or any officer of the state of Washington is
14 a party, and involving the marketing agreement or order with reference
15 to which the information so to be disclosed was furnished or acquired.

16 Nothing in this section shall prohibit:

17 (1) The issuance of general statements based upon the reports of a
18 number of persons subject to any marketing agreement or order, which
19 statements do not identify the information furnished by any person; or

20 (2) The publication by the director or the director's designee of
21 the name of any person violating any marketing agreement or order,
22 together with a statement of the particular provisions and the manner
23 of the violation of the marketing agreement or order so violated by
24 such person.

25 **Sec. 20.** RCW 15.65.550 and 2010 c 8 s 6091 are each amended to
26 read as follows:

27 Upon the request of the director or his or her designee, it shall
28 be the duty of the attorney general of the state of Washington and of
29 the several prosecuting attorneys in their respective counties to
30 institute proceedings to enforce the remedies and to collect the moneys
31 provided for or pursuant to this chapter. Whenever the director and/or
32 his or her designee has reason to believe that any person has violated
33 or is violating the provisions of any marketing agreement or order
34 issued pursuant to this chapter, the director and/or his or her
35 designee shall have and is hereby granted the power to institute an
36 investigation and, after due notice to such person, to conduct a
37 hearing in order to determine the facts for the purpose of referring

1 the matter to the attorney general or to the appropriate prosecuting
2 attorney for appropriate action. The provisions contained in RCW
3 (~~15.65.080,~~) 15.65.090, 15.65.100 and 15.65.110 shall apply with
4 respect to such hearings.

5 **Sec. 21.** RCW 15.66.113 and 2002 c 313 s 52 are each amended to
6 read as follows:

7 (1) This section (~~or RCW 15.66.115~~) applies when the director
8 appoints a majority of the positions of the commission as set forth
9 under RCW 15.66.110(3).

10 (2) Candidates for director-appointed positions on a commission
11 shall be nominated under RCW 15.66.120(1).

12 (3) Not less than sixty days nor more than seventy-five days prior
13 to the commencement of a commission member's term, the director shall
14 cause an advisory vote to be held for the director-appointed positions.
15 Advisory ballots shall be mailed to all affected producers and shall be
16 returned to the director not less than thirty days prior to the
17 commencement of the term. The advisory ballot shall be conducted in a
18 manner so that it is a secret ballot. The names of the two candidates
19 receiving the most votes in the advisory vote shall be forwarded to the
20 director for potential appointment to the commission. In the event
21 there are only two candidates nominated for a position, an advisory
22 vote may not be held and the candidates' names shall be forwarded to
23 the director for potential appointment.

24 (4) The candidates whose names are forwarded to the director for
25 potential appointment shall submit to the director a letter stating why
26 he or she wishes to be appointed to the commission. The director may
27 select either person for the position.

28 **Sec. 22.** RCW 20.01.205 and 1997 c 58 s 855 are each amended to
29 read as follows:

30 The director shall immediately suspend the license or certificate
31 of a person who has been certified pursuant to RCW 74.20A.320 by the
32 department of social and health services as a person who is not in
33 compliance with a support order (~~or a residential or visitation~~
34 ~~order~~). If the person has continued to meet all other requirements
35 for reinstatement during the suspension, reissuance of the license or

1 certificate shall be automatic upon the director's receipt of a release
2 issued by the department of social and health services stating that the
3 licensee is in compliance with the order.

4 **Sec. 23.** RCW 15.65.020 and 2009 c 549 s 1007 are each reenacted
5 and amended to read as follows:

6 The following terms are hereby defined:

7 (1) "Affected commodity" means that part or portion of any
8 agricultural commodity which is covered by or forms the subject matter
9 of any marketing agreement or order or proposal, and includes all
10 affected units thereof as herein defined and no others.

11 (2) "Affected parties" means any producer, affected producer,
12 handler, or commodity board member.

13 (3) "Affected unit" means in the case of marketing agreements and
14 orders drawn on the basis of a production area, any unit of the
15 commodity specified in or covered by such agreement or order which is
16 produced in such area and sold or marketed or delivered for sale or
17 marketing; and "affected unit" means, in the case of marketing
18 agreements and orders drawn on the basis of marketing area, any unit of
19 the commodity specified in or covered by such agreement or order which
20 is stored in frozen condition or sold or marketed or delivered for sale
21 or marketing within such marketing area: PROVIDED, That in the case of
22 marketing agreements "affected unit" shall include only those units
23 which are produced by producers or handled by handlers who have
24 assented to such agreement.

25 (4) "Agricultural commodity" means any of the following commodities
26 or products: Llamas, alpacas, or any other animal or any distinctive
27 type of agricultural, horticultural, viticultural, floricultural,
28 vegetable, or animal product, including, but not limited to, products
29 qualifying as organic (~~food~~) products under chapter 15.86 RCW and
30 private sector cultured aquatic products as defined in RCW 15.85.020
31 and other fish and fish products, either in its natural or processed
32 state, including beehives containing bees and honey and Christmas trees
33 but not including timber or timber products. The director is hereby
34 authorized to determine (on the basis of common usage and practice)
35 what kinds, types or sub-types should be classed together as an
36 agricultural commodity for the purposes of this chapter.

1 (5) "Assessment" means the monetary amount established in a
2 marketing order or agreement that is to be paid by each affected
3 producer to a commodity board in accordance with the schedule
4 established in the marketing order or agreement.

5 (6) "Commercial quantities" as applied to producers and/or
6 production means such quantities per year (or other period of time) of
7 an agricultural commodity as the director finds are not less than the
8 minimum which a prudent person engaged in agricultural production would
9 produce for the purpose of making such quantity of such commodity a
10 substantial contribution to the economic operation of the farm on which
11 such commodity is produced. "Commercial quantities" as applied to
12 handlers and/or handling means such quantities per year (or other
13 period of time) of an agricultural commodity or product thereof as the
14 director finds are not less than the minimum which a prudent person
15 engaged in such handling would handle for the purpose of making such
16 quantity a substantial contribution to the handling operation in which
17 such commodity or product thereof is so handled. In either case, the
18 director may in his or her discretion: (a) Determine that substantial
19 quantity is any amount above zero; and (b) apply the quantity so
20 determined on a uniform rule applicable alike to all persons which he
21 or she finds to be similarly situated.

22 (7) "Commodity board" means any board established pursuant to RCW
23 15.65.220. "Board" means any such commodity board unless a different
24 board is expressly specified.

25 (8) "Cooperative association" means any incorporated or
26 unincorporated association of producers which conforms to the
27 qualifications set out in the act of congress of the United States of
28 February 18, 1922 as amended, known as the "Capper-Volstead Act" and
29 which is engaged in making collective sales or in marketing any
30 agricultural commodity or product thereof or in rendering service for
31 or advancing the interests of the producers of such commodity on a
32 nonprofit cooperative basis.

33 (9) "Department" means the department of agriculture of the state
34 of Washington.

35 (10) "Director" means the director of agriculture of the state of
36 Washington or his or her duly appointed representative. The phrase
37 "director or his or her designee" means the director unless, in the
38 provisions of any marketing agreement or order, he or she has

1 designated an administrator, board, or other designee to act in the
2 matter designated, in which case "director or his or her designee"
3 means for such order or agreement the administrator, board, or other
4 person(s) so designated and not the director.

5 (11) "Handler" means any person who acts, either as principal,
6 agent or otherwise, in processing, selling, marketing or distributing
7 an agricultural commodity or storage of a frozen agricultural commodity
8 which was not produced by him or her. "Handler" does not mean a common
9 carrier used to transport an agricultural commodity. "Affected
10 handler" means any handler of an affected commodity. "To handle" means
11 to act as a handler.

12 (12) "List of affected handlers" means a list containing the names
13 and addresses of affected handlers. This list shall contain the names
14 and addresses of all affected handlers and, if requested by the
15 director, the amount, by unit, of the affected commodity handled during
16 a designated period under this chapter.

17 (13) "List of affected parties" means a list containing the names
18 and mailing addresses of affected parties. This list shall contain the
19 names and addresses of all affected parties and, if requested by the
20 director, the amount, by unit, of the affected commodity produced
21 during a designated period under this chapter.

22 (14) "List of affected producers" means a list containing the names
23 and mailing addresses of affected producers. This list shall contain
24 the names and addresses of all affected producers and, if requested by
25 the director, the amount, by unit, of the affected commodity produced
26 during a designated period under this chapter.

27 (15) "Mail" or "send" for purposes of any notice relating to rule
28 making, referenda, or elections means regular mail or electronic
29 distribution, as provided in RCW 34.05.260 for rule making.
30 "Electronic distribution" or "electronically" means distribution by
31 electronic mail or facsimile mail.

32 (16) "Marketing agreement" means an agreement entered into and
33 issued by the director pursuant to this chapter.

34 (17) "Marketing order" means an order adopted by the director under
35 this chapter that establishes a commodity board for an agricultural
36 commodity or agricultural commodities with like or common qualities or
37 producers.

1 (18) "Member of a cooperative association" means any producer who
2 markets his or her product through such cooperative association and who
3 is a voting stockholder of or has a vote in the control of or is a
4 party to a marketing agreement with such cooperative association with
5 respect to such product.

6 (19) "Percent by numbers" means the percent of those persons on the
7 list of affected parties or affected producers.

8 (20) "Person" means any individual, firm, corporation, limited
9 liability company, trust, association, partnership, society, or any
10 other organization of individuals, or any unit or agency of local,
11 state, or federal government.

12 (21) "Producer" means any person engaged in the business of
13 producing any agricultural commodity for market in commercial
14 quantities. "Affected producer" means any producer who is subject to
15 a marketing order or agreement. "To produce" means to act as a
16 producer. For the purposes of RCW 15.65.140 and 15.65.160 as now or
17 hereafter amended "producer" shall include bailees who contract to
18 produce or grow any agricultural product on behalf of a bailor who
19 retains title to the seed and its resulting agricultural product or the
20 agricultural product delivered for further production or increase.

21 (22) "Producer-handler" means any person who acts both as a
22 producer and as a handler with respect to any agricultural commodity.
23 A producer-handler shall be deemed to be a producer with respect to the
24 agricultural commodities which he or she produces, and a handler with
25 respect to the agricultural commodities which he or she handles,
26 including those produced by himself or herself.

27 (23) "Producer marketing" or "marketed by producers" means any or
28 all operations performed by any producer or cooperative association of
29 producers in preparing for market and marketing, and shall include:
30 (a) selling any agricultural commodity produced by such producer(s) to
31 any handler; (b) delivering any such commodity or otherwise disposing
32 of it for commercial purposes to or through any handler.

33 (24) "Production area" and "marketing area" means any area defined
34 as such in any marketing order or agreement in accordance with RCW
35 15.65.350. "Affected area" means the marketing or production area so
36 defined in such order, agreement or proposal.

37 (25) "Represented in a referendum" means that a written document
38 evidencing approval or assent or disapproval or dissent is duly and

1 timely filed with or mailed to the director by or on behalf of an
2 affected producer and/or a volume of production of an affected
3 commodity in a form which the director finds meets the requirements of
4 this chapter. "Referendum" means a vote by the affected parties or
5 affected producers which is conducted by secret ballot.

6 (26) "Rule-making proceedings" means the rule-making provisions as
7 outlined in chapter 34.05 RCW.

8 (27) "Section" means a section of this chapter unless some other
9 statute is specifically mentioned. The present includes the past and
10 future tenses, and the past or future the present. The masculine
11 gender includes the feminine and neuter. The singular number includes
12 the plural and the plural includes the singular.

13 (28) "Sell" includes offer for sale, expose for sale, have in
14 possession for sale, exchange, barter or trade.

15 (29) "Unit" of an agricultural commodity means a unit of volume,
16 weight, quantity, or other measure in which such commodity is commonly
17 measured. The director shall designate in each marketing order and
18 agreement the unit to be used therein.

19 (30) "Vacancy" means that a board member leaves or is removed from
20 a board position prior to the end of a term, or a nomination process
21 for the beginning of a term concludes with no candidates for a
22 position.

23 (31) "Volume of production" means the percent of the average volume
24 of production of the affected commodity of those on the list of
25 affected parties or affected producers for a production period. For
26 the purposes of this chapter, a production period is a minimum three-
27 year period or as specified in the marketing order or agreement.

28 **Sec. 24.** RCW 15.65.033 and 2002 c 313 s 3 are each amended to read
29 as follows:

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

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

- 34 Chapter 15.08 RCW Horticultural pests and diseases;
- 35 Chapter 15.13 RCW Horticultural plants, Christmas trees, and
36 facilities--Inspection and licensing;
- 37 Chapter 15.14 RCW Planting stock;

1 Chapter 15.15 RCW Certified seed potatoes;
2 Chapter 15.17 RCW Standards of grades and packs;
3 Chapter 15.19 RCW Certification and inspection of ginseng;
4 Chapter 15.30 RCW Controlled atmosphere storage of fruits and
5 vegetables;
6 Chapter 15.49 RCW Seeds;
7 Chapter 15.53 RCW Commercial feed;
8 Chapter 15.54 RCW Fertilizers, minerals, and limes;
9 Chapter 15.58 RCW Washington pesticide control act;
10 Chapter 15.60 RCW Apiaries;
11 Chapter 15.64 RCW Farm marketing;
12 Chapter 15.83 RCW Agricultural marketing and fair practices;
13 Chapter 15.85 RCW Aquaculture marketing;
14 Chapter 15.86 RCW Organic (~~food~~) products;
15 Chapter 15.92 RCW Center for sustaining agriculture and natural
16 resources;
17 Chapter 17.24 RCW Insect pests and plant diseases;
18 Chapter 19.94 RCW Weights and measures;
19 Chapter 20.01 RCW Agricultural products--Commission merchants,
20 dealers, brokers, buyers, agents;
21 Chapter 22.09 RCW Agricultural commodities;
22 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including
23 provisions of 21 C.F.R. relating to the general manufacturing
24 practices, food labeling, food standards, food additives, and pesticide
25 tolerances;
26 Chapter 69.07 RCW Washington food processing act;
27 Chapter 69.25 RCW Washington wholesome eggs and egg products act;
28 Chapter 69.28 RCW Honey;
29 7 U.S.C., section 136, Federal insecticide, fungicide, and
30 rodenticide act.

31 (2) In addition to the laws and regulations listed in subsection
32 (1) of this section that apply to the agricultural industry as a whole,
33 the dry pea and lentil industry is regulated by or must comply with the
34 additional laws and rules adopted under 7 U.S.C., chapter 38,
35 agricultural marketing act.

36 **Sec. 25.** RCW 15.66.010 and 2002 c 313 s 39 are each amended to
37 read as follows:

1 For the purposes of this chapter:

2 (1) "Director" means the director of agriculture of the state of
3 Washington or any qualified person or persons designated by the
4 director of agriculture to act for him or her concerning some matter
5 under this chapter.

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

8 (3) "Marketing order" means an order adopted by rule by the
9 director that establishes a commodity commission for an agricultural
10 commodity pursuant to this chapter.

11 (4) "Agricultural commodity" means any of the following commodities
12 or products: Llamas, alpacas, or any other animal or any distinctive
13 type of agricultural, horticultural, viticultural, vegetable, and/or
14 animal product, including, but not limited to, products qualifying as
15 organic ((~~feed~~)) products under chapter 15.86 RCW and private sector
16 cultured aquatic products as defined in RCW 15.85.020 and other fish
17 and fish products, within its natural or processed state, including
18 beehives containing bees and honey and Christmas trees but not
19 including timber or timber products. The director is authorized to
20 determine what kinds, types or subtypes should be classed together as
21 an agricultural commodity for the purposes of this chapter.

22 (5) "Producer" means any person engaged in the business of
23 producing or causing to be produced for market in commercial quantities
24 any agricultural commodity. "To produce" means to act as a producer.
25 For the purposes of this chapter, "producer" shall include bailees who
26 contract to produce or grow any agricultural product on behalf of a
27 bailor who retains title to the seed and its resulting agricultural
28 product or the agricultural product delivered for further production or
29 increase.

30 (6) "Affected producer" means any producer who is subject to a
31 marketing order.

32 (7) "Affected commodity" means the agricultural commodity that is
33 specified in the marketing order.

34 (8) "Commodity commission" or "commission" means a commission
35 formed to carry out the purposes of this chapter under a particular
36 marketing order concerning an affected commodity.

37 (9) "Unit" means a unit of volume, quantity or other measure in
38 which an agricultural commodity is commonly measured.

1 (10) "Unfair trade practice" means any practice which is unlawful
2 or prohibited under the laws of the state of Washington including but
3 not limited to Titles 15, 16 and 69 RCW and chapters 9.16, 19.77,
4 19.80, 19.84, and 19.83 RCW, or any practice, whether concerning
5 interstate or intrastate commerce that is unlawful under the provisions
6 of the act of Congress of the United States, September 26, 1914,
7 chapter 311, section 5, 38 U.S. Statutes at Large 719 as amended, known
8 as the "Federal Trade Commission Act of 1914", or the violation of or
9 failure accurately to label as to grades and standards in accordance
10 with any lawfully established grades or standards or labels.

11 (11) "Person" includes any individual, firm, corporation, limited
12 liability company, trust, association, partnership, society, or any
13 other organization of individuals or any unit or agency of local,
14 state, or federal government.

15 (12) "Cooperative association" means any incorporated or
16 unincorporated association of producers which conforms to the
17 qualifications set out in the act of Congress of the United States,
18 Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large
19 388 as amended, known as the "Capper-Volstead Act" and which is engaged
20 in making collective sales or in marketing any agricultural commodity
21 or product thereof or in rendering service for or advancing the
22 interests of the producers of such commodity on a nonprofit cooperative
23 basis.

24 (13) "Member of a cooperative association" or "member" means any
25 producer of an agricultural commodity who markets his or her product
26 through such cooperative association and who is a voting stockholder of
27 or has a vote in the control of or is under a marketing agreement with
28 such cooperative association with respect to such product.

29 (14) "Affected handler" means any handler of an affected commodity.

30 (15) "Affected parties" means any producer, affected producer,
31 handler, or commodity commission member.

32 (16) "Assessment" means the monetary amount established in a
33 marketing order that is to be paid by each affected producer to a
34 commission in accordance with the schedule established in the marketing
35 order.

36 (17) "Mail" or "send," for purposes of any notice relating to rule
37 making, referenda, or elections, means regular mail or electronic

1 distribution, as provided in RCW 34.05.260 for rule making.
2 "Electronic distribution" or "electronically" means distribution by
3 electronic mail or facsimile mail.

4 (18) "Handler" means any person who acts, either as principal,
5 agent, or otherwise, in the processing, selling, marketing, or
6 distributing of an agricultural commodity that is not produced by the
7 handler. "Handler" does not include a common carrier used to transport
8 an agricultural commodity. "To handle" means to act as a handler.

9 (19) "List of affected parties" means a list containing the names
10 and mailing addresses of affected parties. This list must contain the
11 names and addresses of all affected parties and, if requested by the
12 director, the amount, by unit, of the affected commodity produced
13 during a designated period under this chapter.

14 (20) "List of affected producers" means a list containing the names
15 and mailing addresses of affected producers. This list must contain
16 the names and addresses of all affected producers and, if requested by
17 the director, the amount, by unit, of the affected commodity produced
18 during a designated period under this chapter.

19 (21) "List of affected handlers" means a list containing the names
20 and addresses of affected handlers. This list must contain the names
21 and addresses of all affected handlers and, if requested by the
22 director, the amount, by unit, of the affected commodity handled during
23 a designated period under this chapter.

24 (22) "Percent by numbers" means the percent of those persons on the
25 list of affected parties or affected producers.

26 (23) "Referendum" means a vote by the affected parties or affected
27 producers which is conducted by secret ballot.

28 (24) "Rule-making proceedings" means rule making under chapter
29 34.05 RCW.

30 (25) "Vacancy" means that a commission member leaves or is removed
31 from a position on the commission prior to the end of a term, or a
32 nomination process for the beginning of a term concludes with no
33 candidates for a position.

34 (26) "Volume of production" means the percent of the average volume
35 of production of the affected commodity of those on the list of
36 affected parties or affected producers for a production period. For
37 the purposes of this chapter, a production period is a minimum three-
38 year period or as specified in the marketing order.

1 **Sec. 26.** RCW 15.66.017 and 2002 c 313 s 41 are each amended to
2 read as follows:

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

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

- 7 Chapter 15.08 RCW Horticultural pests and diseases;
- 8 Chapter 15.13 RCW Horticultural plants, Christmas trees, and
9 facilities--Inspection and licensing;
- 10 Chapter 15.14 RCW Planting stock;
- 11 Chapter 15.15 RCW Certified seed potatoes;
- 12 Chapter 15.17 RCW Standards of grades and packs;
- 13 Chapter 15.19 RCW Certification and inspection of ginseng;
- 14 Chapter 15.30 RCW Controlled atmosphere storage of fruits and
15 vegetables;
- 16 Chapter 15.49 RCW Seeds;
- 17 Chapter 15.53 RCW Commercial feed;
- 18 Chapter 15.54 RCW Fertilizers, minerals, and limes;
- 19 Chapter 15.58 RCW Washington pesticide control act;
- 20 Chapter 15.60 RCW Apiaries;
- 21 Chapter 15.64 RCW Farm marketing;
- 22 Chapter 15.83 RCW Agricultural marketing and fair practices;
- 23 Chapter 15.85 RCW Aquaculture marketing;
- 24 Chapter 15.86 RCW Organic (~~food~~) products;
- 25 Chapter 15.92 RCW Center for sustaining agriculture and natural
26 resources;
- 27 Chapter 17.24 RCW Insect pests and plant diseases;
- 28 Chapter 19.94 RCW Weights and measures;
- 29 Chapter 20.01 RCW Agricultural products--Commission merchants,
30 dealers, brokers, buyers, agents;
- 31 Chapter 22.09 RCW Agricultural commodities;
- 32 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including
33 provisions of 21 C.F.R. relating to the general manufacturing
34 practices, food labeling, food standards, food additives, and pesticide
35 tolerances;
- 36 Chapter 69.07 RCW Washington food processing act;
- 37 Chapter 69.25 RCW Washington wholesome eggs and egg products act;
- 38 Chapter 69.28 RCW Honey;

1 7 U.S.C., section 136, Federal insecticide, fungicide, and
2 rodenticide act.

3 (2) 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 potato industry is regulated by or must comply with the following
6 additional laws and the rules or regulations adopted thereunder:

7 (a) 7 C.F.R., Part 51, United States standards for grades of
8 potatoes;

9 (b) 7 C.F.R., Part 946, Federal marketing order for Irish potatoes
10 grown in Washington;

11 (c) 7 C.F.R., Part 1207, Potato research and promotion plan.

12 (3) In addition to the laws and regulations listed in subsection
13 (1) of this section that apply to the agricultural industry as a whole,
14 the wheat and barley industries are regulated by or must comply with
15 the following additional laws and the rules adopted thereunder:

16 (a) 7 U.S.C., section 1621, Agricultural marketing act;

17 (b) Chapter 70.94 RCW, Washington clean air act, agricultural
18 burning.

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

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

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

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

26 (d) Washington fryer commission labeling standards.

27 **Sec. 27.** RCW 15.24.900 and 2002 c 313 s 134 are each amended to
28 read as follows:

29 (1) This chapter is passed:

30 (a) In the exercise of the police power of the state to assure,
31 through this chapter, and other chapters, that the apple industry is
32 highly regulated to protect the public health, to prevent fraudulent
33 practices, to promote the welfare of the state, and to stabilize and
34 protect the apple industry of the state as a vital and integral part of
35 its economy for the benefit of all its citizens;

36 (b) Because the apple crop grown in Washington comprises one of the

1 major agricultural crops of Washington, and that therefore the business
2 of selling and distributing such crop and the expanding and protection
3 of its market is of public interest;

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

6 (d) Because it is necessary to discover the health giving qualities
7 and food and dietetic value of Washington apples, and to spread that
8 knowledge throughout the world in order to increase the consumption of
9 Washington apples;

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

14 (f) Because the stabilizing and promotion of the apple industry,
15 the enlarging of its markets, and the increasing of the consumption of
16 apples are necessary to assure and increase the payment of taxes to the
17 state and its subdivisions, to alleviate unemployment within the state,
18 and increase wages for agricultural labor;

19 (g) To disseminate information giving the public full knowledge of
20 the manner of production, the cost and expense thereof, the care taken
21 to produce and sell only apples of the finest quality, the methods and
22 care used in preparing for market, and the methods of sale and
23 distribution to increase the amount secured by the producer therefor,
24 so that they can pay higher wages and pay their taxes, and by such
25 information to reduce the cost of distribution so that the spread
26 between the cost to the consumer and the amount received by the
27 producer will be reduced to the minimum absolutely necessary; and

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

32 (2) The history, economy, culture, and future of Washington state's
33 agricultural industry involves the apple industry. In order to develop
34 and promote apples and apple products as part of an existing
35 comprehensive scheme to regulate those products, the legislature
36 declares:

37 (a) That it is vital to the continued economic well-being of the
38 citizens of this state and their general welfare that its apple and

1 apple products be properly promoted by establishing orderly, fair,
2 sound, efficient, and unhampered marketing, grading, and standards of
3 and for apples and apple products; and by working to stabilize the
4 apple industry and by increasing consumption of apples and apple
5 products within the state, nation, and internationally;

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

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

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

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

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

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

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

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

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

35 (ii) Pests and diseases, chapter 15.08 RCW;

36 (iii) Standards of grades and packs, chapter 15.17 RCW;

37 (iv) Tree fruit research, chapter 15.26 RCW;

38 (v) Controlled atmosphere storage, chapter 15.30 RCW;

1 (vi) Higher education in agriculture, chapter (~~(28.30-[28B.30])~~)
2 28B.30 RCW;
3 (vii) Department of agriculture, chapter 43.23 RCW;
4 (viii) Fertilizers, minerals, and limes under chapter 15.54 RCW;
5 (ix) Organic (~~(feed)~~) products act under chapter 15.86 RCW;
6 (x) Intrastate commerce in food, drugs, and cosmetics under chapter
7 69.04 RCW and rules;
8 (xi) Horticultural plants, Christmas trees, and facilities--
9 Inspection and licensing under chapter 15.13 RCW;
10 (xii) Planting stock under chapter 15.14 RCW;
11 (xiii) Washington pesticide control act under chapter 15.58 RCW;
12 (xiv) Farm marketing under chapter 15.64 RCW;
13 (xv) Insect pests and plant diseases under chapter 17.24 RCW;
14 (xvi) Weights and measures under chapter 19.94 RCW;
15 (xvii) Agricultural products--Commission merchants, dealers,
16 brokers, buyers, and agents under chapter 20.01 RCW; and
17 (xviii) The federal insecticide, fungicide, and rodenticide act
18 under 7 U.S.C. Sec. 136; and
19 (e) That this chapter is in the exercise of the police powers of
20 this state for the purposes of protecting the health, peace, safety,
21 and general welfare of the people of this state.

22 **Sec. 28.** RCW 15.28.015 and 2002 c 313 s 103 are each amended to
23 read as follows:

24 The history, economy, culture, and the future of Washington state's
25 agriculture involves the production of soft tree fruits. In order to
26 develop and promote Washington's soft tree fruits as part of an
27 existing comprehensive regulatory scheme the legislature declares:

- 28 (1) That the Washington state fruit commission is created;
29 (2) That it is vital to the continued economic well-being of the
30 citizens of this state and their general welfare that its soft tree
31 fruits be properly promoted by (a) enabling the soft tree fruit
32 industry to help themselves in establishing orderly, fair, sound,
33 efficient, and unhampered cooperative marketing, grading, and
34 standardizing of soft tree fruits they produce; and (b) working to
35 stabilize the soft tree fruit industry by increasing consumption of
36 soft tree fruits within the state, the nation, and internationally;

1 (3) That producers of soft tree fruits operate within a regulatory
2 environment that imposes burdens on them for the benefit of society and
3 the citizens of the state and includes restrictions on marketing
4 autonomy. Those restrictions may impair the producers of soft tree
5 fruits in their ability to compete in local, domestic, and foreign
6 markets;

7 (4) That it is in the overriding public interest that support for
8 the soft tree fruit industry be clearly expressed, that adequate
9 protection be given to agricultural commodities, uses, activities, and
10 operations, and that soft tree fruits be promoted individually, and as
11 part of a comprehensive industry to:

12 (a) Enhance the reputation and image of Washington state's
13 agriculture industry;

14 (b) Increase the sale and use of Washington state's soft tree
15 fruits in local, domestic, and foreign markets;

16 (c) Protect the public by educating the public in reference to the
17 quality, care, and methods used in the production of Washington state's
18 soft tree fruits;

19 (d) Increase the knowledge of the health-giving qualities and
20 dietetic value of soft tree fruits;

21 (e) Support and engage in cooperative programs or activities that
22 benefit the production, handling, processing, marketing, and uses of
23 soft tree fruits produced in Washington state;

24 (5) That this chapter is enacted in the exercise of the police
25 powers of this state for the purpose of protecting the health, peace,
26 safety, and general welfare of the people of this state and to
27 stabilize and protect the soft tree fruit industry of the state; and

28 (6) That the production and marketing of soft tree fruit is a
29 highly regulated industry and that the provisions of this chapter and
30 the rules adopted under it are only one aspect of the regulated
31 industry. Other regulations and restraints applicable to the soft tree
32 fruit industry include:

33 (a) The federal marketing order under 7 C.F.R. Part 922 (apricots);

34 (b) The federal marketing order under 7 C.F.R. Part 923 (sweet
35 cherries);

36 (c) The federal marketing order under 7 C.F.R. Part 924 (prunes);

37 (d) The federal marketing order under 7 C.F.R. Part 930 (tart
38 cherries);

- 1 (e) The federal marketing order under 7 C.F.R. Part 931 (Bartlett
2 pears);
- 3 (f) Tree fruit research act under chapter 15.26 RCW;
- 4 (g) Controlled atmosphere storage of fruits and vegetables under
5 chapter 15.30 RCW;
- 6 (h) Organic (~~food~~) products act under chapter 15.86 RCW;
- 7 (i) Intrastate commerce in food, drugs, and cosmetics under chapter
8 69.04 RCW and rules;
- 9 (j) Washington food processing act under chapter 69.07 RCW;
- 10 (k) Washington food storage warehouses act under chapter 69.10 RCW;
- 11 (l) Weighmasters under chapter 15.80 RCW;
- 12 (m) Horticultural pests and diseases under chapter 15.08 RCW;
- 13 (n) Horticultural plants, Christmas trees, and facilities--
14 Inspection and licensing under chapter 15.13 RCW;
- 15 (o) Planting stock under chapter 15.14 RCW;
- 16 (p) Standards of grades and packs under chapter 15.17 RCW;
- 17 (q) Washington pesticide control act under chapter 15.58 RCW;
- 18 (r) Farm marketing under chapter 15.64 RCW;
- 19 (s) Insect pests and plant diseases under chapter 17.24 RCW;
- 20 (t) Weights and measures under chapter 19.94 RCW;
- 21 (u) Agricultural products--Commission merchants, dealers, brokers,
22 buyers, and agents under chapter 20.01 RCW; and
- 23 (v) Rules under the Washington Administrative Code, Title 16.

24 **Sec. 29.** RCW 15.44.015 and 2002 c 313 s 87 are each amended to
25 read as follows:

26 The history, economy, culture, and the future of Washington state's
27 agriculture involves the dairy industry. In order to develop and
28 promote Washington's dairy products as part of an existing
29 comprehensive scheme to regulate those products the legislature
30 declares:

31 (1) That the Washington state dairy products commission is created.
32 The commission may also take actions under the name "the dairy farmers
33 of Washington";

34 (2) That it is vital to the continued economic well-being of the
35 citizens of this state and their general welfare that its dairy
36 products be properly promoted by (a) enabling the dairy industry to
37 help themselves in establishing orderly, fair, sound, efficient, and

1 unhampered marketing, grading, and standardizing of the dairy products
2 they produce; and (b) working to stabilize the dairy industry by
3 increasing consumption of dairy products within the state, the nation,
4 and internationally;

5 (3) That dairy producers operate within a regulatory environment
6 that imposes burdens on them for the benefit of society and the
7 citizens of the state and includes restrictions on marketing autonomy.
8 Those restrictions may impair the dairy producer's ability to compete
9 in local, domestic, and foreign markets;

10 (4) That it is in the overriding public interest that support for
11 the dairy industry be clearly expressed, that adequate protection be
12 given to agricultural commodities, uses, activities, and operations,
13 and that dairy products be promoted individually, and as part of a
14 comprehensive industry to:

15 (a) Enhance the reputation and image of Washington state's
16 agriculture industry;

17 (b) Increase the sale and use of Washington state's dairy products
18 in local, domestic, and foreign markets;

19 (c) Protect the public by educating the public in reference to the
20 quality, care, and methods used in the production of Washington state's
21 dairy products;

22 (d) Increase the knowledge of the health-giving qualities and
23 dietetic value of dairy products; and

24 (e) Support and engage in programs or activities that benefit the
25 production, handling, processing, marketing, and uses of dairy products
26 produced in Washington state;

27 (5) That this chapter is enacted in the exercise of the police
28 powers of this state for the purpose of protecting the health, peace,
29 safety, and general welfare of the people of this state; and

30 (6) That the dairy industry is a highly regulated industry and that
31 this chapter and the rules adopted under it are only one aspect of the
32 regulated industry. Other regulations and restraints applicable to the
33 dairy industry include the:

34 (a) Federal marketing order under 7 C.F.R., Part 1124;

35 (b) Dairy promotion program under the dairy and tobacco adjustment
36 act of 1983, Subtitle B;

37 (c) Milk and milk products act under chapter 15.36 RCW and rules,
38 including:

- 1 (i) The national conference of interstate milk shippers pasteurized
2 milk ordinance;
- 3 (ii) The national conference of interstate milk shippers dry milk
4 ordinance;
- 5 (iii) Standards for the fabrication of single-service containers;
- 6 (iv) Procedures governing cooperative state-public health service;
- 7 (v) Methods of making sanitation ratings of milk supplies;
- 8 (vi) Evaluation and certification of milk laboratories; and
- 9 (vii) Interstate milk shippers;
- 10 (d) Milk and milk products for animal food act under chapter 15.37
11 RCW and rules;
- 12 (e) Organic (~~food~~) products act under chapter 15.86 RCW and
13 rules;
- 14 (f) Intrastate commerce in food, drugs, and cosmetics act under
15 chapter 69.04 RCW and rules, including provisions of 21 C.F.R. relating
16 to the general manufacturing practices, milk processing, food labeling,
17 food standards, and food additives;
- 18 (g) Washington food processing act under chapter 69.07 RCW and
19 rules;
- 20 (h) Washington food storage warehouses act under chapter 69.10 RCW
21 and rules;
- 22 (i) Animal health under chapter 16.36 RCW and rules;
- 23 (j) Weighmasters under chapter 15.80 RCW and rules; and
- 24 (k) Dairy nutrient management act under chapter 90.64 RCW and
25 rules.

26 **Sec. 30.** RCW 15.88.025 and 2002 c 313 s 110 are each amended to
27 read as follows:

28 The history, economy, culture, and future of Washington state's
29 agriculture involves the wine industry. In order to develop and
30 promote wine grapes and wine as part of an existing comprehensive
31 scheme to regulate those products the legislature declares:

32 (1) That it is vital to the continued economic well-being of the
33 citizens of this state and their general welfare that its wine grapes
34 and wine be properly promoted by (a) enabling the wine industry to help
35 themselves in establishing orderly, fair, sound, efficient, and
36 unhampered marketing of wine grapes and wines they produce; and (b)

1 working to stabilize the wine industry by increasing markets for wine
2 grapes and wine within the state, the nation, and internationally;

3 (2) That wine grape growers and wine producers operate within a
4 regulatory environment that imposes burdens on them for the benefit of
5 society and the citizens of the state and includes restrictions on
6 marketing autonomy. Those restrictions may impair the wine grape
7 growers' and wine producers' ability to compete in local, domestic, and
8 foreign markets;

9 (3) That it is in the overriding public interest that support for
10 the wine industry be clearly expressed; that adequate protection be
11 given to agricultural commodities, uses, activities, and operations;
12 and that wine grapes and wine be promoted individually, and as part of
13 a comprehensive industry to:

14 (a) Enhance the reputation and image of Washington state's
15 agriculture industry;

16 (b) Increase the sale and use of wine grapes and wine in local,
17 domestic, and foreign markets;

18 (c) Protect the public by educating the public in reference to the
19 quality, care, and methods used in the production of wine grapes and
20 wine;

21 (d) Increase the knowledge of the qualities and value of
22 Washington's wine grapes and wine; and

23 (e) Support and engage in programs or activities that benefit the
24 production, handling, processing, marketing, and uses of wine grapes
25 and wine;

26 (4) That this chapter is enacted in the exercise of the police
27 powers of this state for the purpose of protecting the health, peace,
28 safety, and general welfare of the people of this state; and

29 (5) That the production and marketing of wine grapes and wine is a
30 highly regulated industry and that the provisions of this chapter and
31 the rules adopted under it are only one aspect of the regulated
32 industry. Other regulations and restraints applicable to the wine
33 grape and wine industry include:

34 (a) Organic (~~(food)~~) products act under chapter 15.86 RCW;

35 (b) Horticultural pests and diseases under chapter 15.08 RCW;

36 (c) Horticultural plants, Christmas trees, and facilities--
37 Inspection and licensing under chapter 15.13 RCW;

38 (d) Planting stock under chapter 15.14 RCW;

- 1 (e) Washington pesticide control act under chapter 15.58 RCW;
2 (f) Insect pests and plant diseases under chapter 17.24 RCW;
3 (g) Wholesale distributors and suppliers of wine and malt beverages
4 under chapter 19.126 RCW;
5 (h) Weights and measures under chapter 19.94 RCW;
6 (i) Title 66 RCW, alcoholic beverage control;
7 (j) Title 69 RCW, food, drugs, cosmetics, and poisons including
8 provisions of 21 C.F.R. relating to the general manufacturing
9 practices, food labeling, food standards, food additives, and pesticide
10 tolerances;
11 (k) Chapter 69.07 RCW, Washington food processing act;
12 (l) 27 U.S.C., Secs. 201 through 211, 213 through 219a, and 122A;
13 (m) 27 C.F.R., Parts 1, 6, 9, 10, 12, 16, 240, 251, 252; and
14 (n) Rules under Titles 16 and 314 WAC, and rules adopted under
15 chapter 15.88 RCW.

16 **Sec. 31.** RCW 15.89.025 and 2006 c 330 s 3 are each amended to read
17 as follows:

18 The history, economy, culture, and future of Washington state's
19 agriculture involve the beer industry. In order to develop and promote
20 beer as part of an existing comprehensive scheme to regulate those
21 products, the legislature declares that:

22 (1) It is vital to the continued economic well-being of the
23 citizens of this state and their general welfare that beer produced in
24 Washington state be properly promoted;

25 (2) It is in the overriding public interest that support for the
26 Washington beer industry be clearly expressed and that beer be promoted
27 individually, and as part of a comprehensive industry to:

28 (a) Enhance the reputation and image of Washington state's
29 agriculture industry;

30 (b) Protect the public by educating the public in reference to the
31 quality, care, and methods used in the production of beer;

32 (c) Increase the knowledge of the qualities and value of
33 Washington's beer; and

34 (d) Support and engage in programs or activities that benefit the
35 production, handling, processing, marketing, and uses of beer;

36 (3) This chapter is enacted in the exercise of the police powers of

1 this state to protect the health, peace, safety, and general welfare of
2 the people of this state; and

3 (4) The production and marketing of beer is a highly regulated
4 industry and this chapter and the rules adopted under it are only one
5 aspect of the regulated industry. Other laws applicable to the beer
6 industry include:

7 (a) The organic (~~food~~) products act, chapter 15.86 RCW;

8 (b) The wholesale distributors and suppliers of malt beverages,
9 chapter 19.126 RCW;

10 (c) Weights and measures, chapter 19.94 RCW;

11 (d) Title 66 RCW, alcoholic beverage control;

12 (e) Title 69 RCW, food, drugs, cosmetics, and poisons;

13 (f) 21 C.F.R. as it relates to general manufacturing practices,
14 food labeling, food standards, food additives, and pesticide
15 tolerances;

16 (g) Chapter 69.07 RCW, Washington food processing act;

17 (h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;

18 (i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and

19 (j) Rules under Title 314 WAC.

20 **Sec. 32.** RCW 15.92.010 and 1995 c 390 s 4 are each amended to read
21 as follows:

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

24 (1) "Agricultural commodity" means any distinctive type of
25 agricultural, horticultural, viticultural, floricultural, vegetable, or
26 animal product, including but not limited to, products qualifying as
27 organic (~~food~~) products under chapter 15.86 RCW, private sector
28 cultured aquatic products as defined in RCW 15.85.020, bees and honey,
29 and Christmas trees but not including timber or timber products.

30 (2) "Center" means the center for sustaining agriculture and
31 natural resources established at Washington State University.

32 (3) "Laboratory" means the food and environmental quality
33 laboratory established at Washington State University at Tri-Cities.

34 (4) "Integrated pest management" is a strategy that uses various
35 combinations of pest control methods, biological, cultural, and
36 chemical, in a compatible manner to achieve satisfactory control and
37 ensure favorable economic and environmental consequences.

1 (5) "IR-4 program" means interregional research project number
2 four, clearances of chemicals and biologics for minor or special uses,
3 established in 1963 by the cooperative state research service of the
4 United States department of agriculture, the coordinated national
5 program involving land-grant universities and the United States
6 department of agriculture to provide data required for the registration
7 of pesticides needed for the production of minor crops.

8 (6) "Minor crop" means an agricultural crop considered to be minor
9 in the national context of registering pesticides.

10 (7) "Minor use" means a pesticide use considered to be minor in the
11 national context of registering pesticides including, but not limited
12 to, a use for a special local need.

13 (8) "Natural resources" means soil, water, air, forests, wetlands,
14 wildlands, and wildlife.

15 (9) "Pesticide" means chemical or biologic used to control pests
16 such as insect, rodent, nematode, snail, slug, weed, virus, or any
17 organism the director of agriculture may declare to be a pest.

18 (10) "Registration" means use of a pesticide approved by the state
19 department of agriculture.

20 (11) "Sustainable agriculture" means a systems approach to farming,
21 ranching, and natural resource production that builds on and supports
22 the physical, biological, and ecological resource base upon which
23 agriculture depends. The goals of sustainable agriculture are to
24 provide human food and fiber needs in an economically viable manner for
25 the agriculture industry and in a manner which protects the environment
26 and contributes to the overall safety and quality of life.

27 **Sec. 33.** RCW 15.115.020 and 2009 c 33 s 2 are each amended to read
28 as follows:

29 The wheat and barley industries are highly regulated industries,
30 and this chapter and the rules adopted under it are only one aspect of
31 the regulation of those industries. Other regulations and restraints
32 applicable to the wheat and barley industries include:

33 (1) Chapter 15.04 RCW, Washington agriculture general provisions;

34 (2) Chapter 15.08 RCW, horticultural pests and diseases;

35 (3) Chapter 15.14 RCW, planting stock;

36 (4) Chapter 15.49 RCW, seeds;

37 (5) Chapter 15.54 RCW, fertilizers, minerals, and limes;

- 1 (6) Chapter 15.58 RCW, Washington pesticide control act;
- 2 (7) Chapter 15.64 RCW, farm marketing;
- 3 (8) Chapter 15.83 RCW, agricultural marketing and fair practices;
- 4 (9) Chapter 15.86 RCW, organic (~~food~~) products;
- 5 (10) Chapter 15.92 RCW, center for sustaining agriculture and
- 6 natural resources;
- 7 (11) Chapter 17.24 RCW, insect pests and plant diseases;
- 8 (12) Chapter 19.94 RCW, weights and measures;
- 9 (13) Chapter 20.01 RCW, agricultural products--commission
- 10 merchants, dealers, brokers, buyers, agents;
- 11 (14) Chapter 22.09 RCW, agricultural commodities;
- 12 (15) Chapter 43.23 RCW, department of agriculture;
- 13 (16) Chapter 69.04 RCW, food, drugs, cosmetics, and poisons
- 14 including provisions of Title 21 U.S.C. relating to the general
- 15 manufacturing practices, food labeling, food standards, food additives,
- 16 and pesticide tolerances;
- 17 (17) Chapter 70.94 RCW, Washington clean air act, agricultural
- 18 burning;
- 19 (18) 7 U.S.C., Sec. 136, federal insecticide, fungicide, and
- 20 rodenticide act; and
- 21 (19) 7 U.S.C., Sec. 1621, agricultural marketing act.

22 **Sec. 34.** RCW 16.67.035 and 2002 c 313 s 79 are each amended to
23 read as follows:

24 The history, economy, culture, and the future of Washington state's
25 agriculture involves the beef industry. In order to develop and
26 promote beef and beef products as part of an existing comprehensive
27 scheme to regulate those products the legislature declares:

- 28 (1) That the Washington state beef commission is created;
- 29 (2) That it is vital to the continued economic well-being of the
- 30 citizens of this state and their general welfare that its beef and beef
- 31 products be properly promoted by (a) enabling the beef industry to help
- 32 themselves in establishing orderly, fair, sound, efficient, and
- 33 unhampered marketing, grading, and standardizing of beef and beef
- 34 products they produce; and (b) working to stabilize the beef industry
- 35 by increasing consumption of beef and beef products within the state,
- 36 the nation, and internationally;

1 (3) That beef producers operate within a regulatory environment
2 that imposes burdens on them for the benefit of society and the
3 citizens of the state and includes restrictions on marketing autonomy.
4 Those restrictions may impair the beef producer's ability to compete in
5 local, domestic, and foreign markets;

6 (4) That it is in the overriding public interest that support for
7 the beef industry be clearly expressed, that adequate protection be
8 given to agricultural commodities, uses, activities, and operations,
9 and that beef and beef products be promoted individually, and as part
10 of a comprehensive industry to:

11 (a) Enhance the reputation and image of Washington state's
12 agriculture industry;

13 (b) Increase the sale and use of beef products in local, domestic,
14 and foreign markets;

15 (c) Protect the public by educating the public in reference to the
16 quality, care, and methods used in the production of beef and beef
17 products, and in reference to the various cuts and grades of beef and
18 the uses to which each should be put;

19 (d) Increase the knowledge of the health-giving qualities and
20 dietetic value of beef products; and

21 (e) Support and engage in programs or activities that benefit the
22 production, handling, processing, marketing, and uses of beef and beef
23 products;

24 (5) That this chapter is enacted in the exercise of the police
25 powers of this state for the purpose of protecting the health, peace,
26 safety, and general welfare of the people of this state; and

27 (6) That the beef industry is a highly regulated industry and that
28 this chapter and the rules adopted under it are only one aspect of the
29 regulated industry. Other regulations and restraints applicable to the
30 beef industry include the:

31 (a) Beef promotion and research act of 1985, U.S.C. Title 7,
32 chapter 62;

33 (b) Beef promotion and research, 7 C.F.R., Part 1260;

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

35 (d) USDA meat grading, certification, and standards, 7 C.F.R., Part
36 54;

37 (e) Mandatory price reporting, 7 C.F.R., Part 57;

38 (f) Grazing permits, 43 C.F.R., Part 2920;

- 1 (g) Capper-Volstead act, U.S.C. Title 7, chapters 291 and 292;
2 (h) Livestock identification under chapter 16.57 RCW and rules;
3 (i) Organic (~~food~~) products act under chapter 15.86 RCW and
4 rules;
5 (j) Intrastate commerce in food, drugs, and cosmetics act under
6 chapter 69.04 RCW and rules, including provisions of 21 C.F.R. relating
7 to the general manufacturing practices, food labeling, food standards,
8 food additives, and pesticide tolerances;
9 (k) Washington food processing act under chapter 69.07 RCW and
10 rules;
11 (l) Washington food storage warehouses act under chapter 69.10 RCW
12 and rules;
13 (m) Animal health under chapter 16.36 RCW and rules; and
14 (n) Weights and measures under chapter 19.94 RCW and rules.

15 **Sec. 35.** RCW 15.58.030 and 2004 c 100 s 6 are each amended to read
16 as follows:

17 As used in this chapter the words and phrases defined in this
18 section shall have the meanings indicated unless the context clearly
19 requires otherwise.

20 (1) "Active ingredient" means any ingredient which will prevent,
21 destroy, repel, control, or mitigate pests, or which will act as a
22 plant regulator, defoliant, desiccant, or spray adjuvant.

23 (2) "Antidote" means the most practical immediate treatment in case
24 of poisoning and includes first aid treatment.

25 (3) "Arthropod" means any invertebrate animal that belongs to the
26 phylum arthropoda, which in addition to insects, includes allied
27 classes whose members are wingless and usually have more than six legs;
28 for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

29 (4) "Complete wood destroying organism inspection" means inspection
30 for the purpose of determining evidence of infestation, damage, or
31 conducive conditions as part of the transfer, exchange, or refinancing
32 of any structure in Washington state. Complete wood destroying
33 organism inspections include any wood destroying organism inspection
34 that is conducted as the result of telephone solicitation by an
35 inspection, pest control, or other business, even if the inspection
36 would fall within the definition of a specific wood destroying organism
37 inspection.

1 (5) "Defoliant" means any substance or mixture of substances
2 intended to cause the leaves or foliage to drop from a plant with or
3 without causing abscission.

4 (6) "Department" means the Washington state department of
5 agriculture.

6 (7) "Desiccant" means any substance or mixture of substances
7 intended to artificially accelerate the drying of plant tissues.

8 (8) "Device" means any instrument or contrivance intended to trap,
9 destroy, control, repel, or mitigate pests, or to destroy, control,
10 repel or mitigate fungi, nematodes, or such other pests, as may be
11 designated by the director, but not including equipment used for the
12 application of pesticides when sold separately from the pesticides.

13 (9) "Director" means the director of the department or a duly
14 authorized representative.

15 (10) "Distribute" means to offer for sale, hold for sale, sell,
16 barter, or supply pesticides in this state.

17 (11) "EPA" means the United States environmental protection agency.

18 (12) "EPA restricted use pesticide" means any pesticide with
19 restricted uses as classified for restricted use by the administrator,
20 EPA.

21 (13) "FIFRA" means the federal insecticide, fungicide, and
22 rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

23 (14) "Fungi" means all nonchlorophyll-bearing thallophytes (all
24 nonchlorophyll-bearing plants of a lower order than mosses and
25 liverworts); for example, rusts, smuts, mildews, molds, yeasts, and
26 bacteria, except those on or in living persons or other animals.

27 (15) "Fungicide" means any substance or mixture of substances
28 intended to prevent, destroy, repel, or mitigate any fungi.

29 (16) "Herbicide" means any substance or mixture of substances
30 intended to prevent, destroy, repel, or mitigate any weed.

31 (17) "Inert ingredient" means an ingredient which is not an active
32 ingredient.

33 (18) "Ingredient statement" means a statement of the name and
34 percentage of each active ingredient together with the total percentage
35 of the inert ingredients in the pesticide, and when the pesticide
36 contains arsenic in any form, the ingredient statement shall also
37 include percentages of total and water soluble arsenic, each calculated

1 as elemental arsenic. The ingredient statement for a spray adjuvant
2 must be consistent with the labeling requirements adopted by rule.

3 (19) "Insect" means any of the numerous small invertebrate animals
4 whose bodies are more or less obviously segmented, and which for the
5 most part belong to the class insecta, comprising six-legged, usually
6 winged forms, for example, beetles, bugs, bees, flies, and to other
7 allied classes of arthropods whose members are wingless and usually
8 have more than six legs, for example, spiders, mites, ticks,
9 centipedes, and isopod crustaceans.

10 (20) "Insecticide" means any substance or mixture of substances
11 intended to prevent, destroy, repel, or mitigate any insects which may
12 be present in any environment whatsoever.

13 (21) "Inspection control number" means a number obtained from the
14 department that is recorded on wood destroying organism inspection
15 reports issued by a structural pest inspector in conjunction with the
16 transfer, exchange, or refinancing of any structure.

17 (22) "Label" means the written, printed, or graphic matter on, or
18 attached to, the pesticide, device, or immediate container, and the
19 outside container or wrapper of the retail package.

20 (23) "Labeling" means all labels and other written, printed, or
21 graphic matter:

22 (a) Upon the pesticide, device, or any of its containers or
23 wrappers;

24 (b) Accompanying the pesticide, or referring to it in any other
25 media used to disseminate information to the public; and

26 (c) To which reference is made on the label or in literature
27 accompanying or referring to the pesticide or device except when
28 accurate nonmisleading reference is made to current official
29 publications of the department, United States departments of
30 agriculture; interior; education; health and human services; state
31 agricultural colleges; and other similar federal or state institutions
32 or agencies authorized by law to conduct research in the field of
33 pesticides.

34 (24) "Land" means all land and water areas, including airspace and
35 all plants, animals, structures, buildings, devices and contrivances,
36 appurtenant thereto or situated thereon, fixed or mobile, including any
37 used for transportation.

1 (25) "Master license system" means the mechanism established by
2 chapter 19.02 RCW by which master licenses, endorsed for individual
3 state-issued licenses, are issued and renewed using a master
4 application and a master license expiration date common to each
5 renewable license endorsement.

6 (26) "Nematocide" means any substance or mixture of substances
7 intended to prevent, destroy, repel, or mitigate nematodes.

8 (27) "Nematode" means any invertebrate animal of the phylum
9 nemathelminthes and class nematoda, that is, unsegmented round worms
10 with elongated, fusiform, or saclike bodies covered with cuticle, and
11 inhabiting soil, water, plants or plant parts, may also be called nemas
12 or eelworms.

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

15 (29) "Pest" means, but is not limited to, any insect, rodent,
16 nematode, snail, slug, weed and any form of plant or animal life or
17 virus, except virus on or in a living person or other animal, which is
18 normally considered to be a pest or which the director may declare to
19 be a pest.

20 (30) "Pest control consultant" means any individual who sells or
21 offers for sale at other than a licensed pesticide dealer outlet or
22 location where they are employed, or who offers or supplies technical
23 advice or makes recommendations to the user of:

24 (a) Highly toxic pesticides, as determined under RCW 15.58.040;

25 (b) EPA restricted use pesticides or restricted use pesticides
26 which are restricted by rule to distribution by licensed pesticide
27 dealers only; or

28 (c) Any other pesticide except those pesticides which are labeled
29 and intended for home and garden use only.

30 (31) "Pesticide" means, but is not limited to:

31 (a) Any substance or mixture of substances intended to prevent,
32 destroy, control, repel, or mitigate any insect, rodent, snail, slug,
33 fungus, weed, and any other form of plant or animal life or virus,
34 except virus on or in a living person or other animal which is normally
35 considered to be a pest or which the director may declare to be a pest;

36 (b) Any substance or mixture of substances intended to be used as
37 a plant regulator, defoliant or desiccant; and

38 (c) Any spray adjuvant.

1 (~~32~~) (~~("Pesticide advisory board" means the pesticide advisory~~
2 ~~board as provided for in the Washington pesticide application act.~~

3 ~~(33))~~ "Pesticide dealer" means any person who distributes any of
4 the following pesticides:

5 (a) Highly toxic pesticides, as determined under RCW 15.58.040;

6 (b) EPA restricted use pesticides or restricted use pesticides
7 which are restricted by rule to distribution by licensed pesticide
8 dealers only; or

9 (c) Any other pesticide except those pesticides which are labeled
10 and intended for home and garden use only.

11 ~~((34))~~ (33) "Pesticide dealer manager" means the owner or other
12 individual supervising pesticide distribution at one outlet holding a
13 pesticide dealer license.

14 ~~((35))~~ (34) "Plant regulator" means any substance or mixture of
15 substances intended through physiological action, to accelerate or
16 retard the rate of growth or maturation, or to otherwise alter the
17 behavior of ornamental or crop plants or their produce, but shall not
18 include substances insofar as they are intended to be used as plant
19 nutrients, trace elements, nutritional chemicals, plant inoculants, or
20 soil amendments.

21 ~~((36))~~ (35) "Registrant" means the person registering any
22 pesticide under the provisions of this chapter.

23 ~~((37))~~ (36) "Restricted use pesticide" means any pesticide or
24 device which, when used as directed or in accordance with a widespread
25 and commonly recognized practice, the director determines, subsequent
26 to a hearing, requires additional restrictions for that use to prevent
27 unreasonable adverse effects on the environment including people,
28 lands, beneficial insects, animals, crops, and wildlife, other than
29 pests.

30 ~~((38))~~ (37) "Rodenticide" means any substance or mixture of
31 substances intended to prevent, destroy, repel, or mitigate rodents, or
32 any other vertebrate animal which the director may declare by rule to
33 be a pest.

34 ~~((39))~~ (38) "Specific wood destroying organism inspection" means
35 an inspection of a structure for purposes of identifying or verifying
36 evidence of an infestation of wood destroying organisms prior to pest
37 management activities.

1 ((+40+)) (39) "Spray adjuvant" means any product intended to be
2 used with a pesticide as an aid to the application or to the effect of
3 the pesticide, and which is in a package or container separate from the
4 pesticide. Spray adjuvant includes, but is not limited to, acidifiers,
5 compatibility agents, crop oil concentrates, defoaming agents, drift
6 control agents, modified vegetable oil concentrates, nonionic
7 surfactants, organosilicone surfactants, stickers, and water
8 conditioning agents. Spray adjuvant does not include products that are
9 only intended to mark the location where a pesticide is applied.

10 ((+41+)) (40) "Special local needs registration" means a
11 registration issued by the director pursuant to provisions of section
12 24(c) of FIFRA.

13 ((+42+)) (41) "Structural pest inspector" means any individual who
14 performs the service of conducting a complete wood destroying organism
15 inspection or a specific wood destroying organism inspection.

16 ((+43+)) (42) "Unreasonable adverse effects on the environment"
17 means any unreasonable risk to people or the environment taking into
18 account the economic, social, and environmental costs and benefits of
19 the use of any pesticide, or as otherwise determined by the director.

20 ((+44+)) (43) "Weed" means any plant which grows where not wanted.

21 ((+45+)) (44) "Wood destroying organism" means insects or fungi
22 that consume, excavate, develop in, or otherwise modify the integrity
23 of wood or wood products. Wood destroying organism includes, but is
24 not limited to, carpenter ants, moisture ants, subterranean termites,
25 dampwood termites, beetles in the family Anobiidae, and wood decay
26 fungi (wood rot).

27 ((+46+)) (45) "Wood destroying organism inspection report" means
28 any written document that reports or comments on the presence or
29 absence of wood destroying organisms, their damage, and/or conducive
30 conditions leading to the establishment of such organisms.

31 **Sec. 36.** RCW 17.15.030 and 1997 c 357 s 4 are each amended to read
32 as follows:

33 (1) A state agency or institution listed in RCW 17.15.020 shall
34 provide integrated pest management training for employees responsible
35 for pest management. ~~((The training programs shall be developed in
36 cooperation — with — the — interagency — integrated — pest — management
37 coordinating committee created under RCW 17.15.040.))~~

1 (2) A state agency or institution listed in RCW 17.15.020 shall
2 designate an integrated pest management coordinator (~~and the~~
3 ~~department of labor and industries and the office of the superintendent~~
4 ~~of public instruction shall each designate one representative to serve~~
5 ~~on the committee established in RCW 17.15.040~~)).

6 **Sec. 37.** RCW 17.21.100 and 1994 c 283 s 9 are each amended to read
7 as follows:

8 (1) Certified applicators licensed under the provisions of this
9 chapter, persons required to be licensed under this chapter, all
10 persons applying pesticides to more than one acre of agricultural land
11 in a calendar year, including public entities engaged in roadside
12 spraying of pesticides, and all other persons making landscape
13 applications of pesticides to types of property listed in RCW
14 17.21.410(1) (b), (c), (d), and (e), shall keep records for each
15 application which shall include the following information:

- 16 (a) The location of the land where the pesticide was applied;
- 17 (b) The year, month, day and beginning and ending time of the
18 application of the pesticide each day the pesticide was applied;
- 19 (c) The product name used on the registered label and the United
20 States environmental protection agency registration number, if
21 applicable, of the pesticide which was applied;
- 22 (d) The crop or site to which the pesticide was applied;
- 23 (e) The amount of pesticide applied per acre or other appropriate
24 measure;
- 25 (f) The concentration of pesticide that was applied;
- 26 (g) The number of acres, or other appropriate measure, to which the
27 pesticide was applied;
- 28 (h) The licensed applicator's name, address, and telephone number
29 and the name of the individual or individuals making the application
30 and their license number, if applicable;
- 31 (i) The direction and estimated velocity of the wind during the
32 time the pesticide was applied. This subsection (i) shall not apply to
33 applications of baits in bait stations and pesticide applications
34 within structures; and
- 35 (j) Any other reasonable information required by the director in
36 rule.

1 (2)(a) The required information shall be recorded on the same day
2 that a pesticide is applied.

3 (b) A commercial pesticide applicator who applies a pesticide to an
4 agricultural crop or agricultural lands shall provide a copy of the
5 records required under subsection (1) of this section for the
6 application to the owner, or to the lessee if applied on behalf of the
7 lessee, of the lands to which the pesticide is applied. Records
8 provided by a commercial pesticide applicator to the owner or lessee of
9 agricultural lands under this subsection need not be provided on a form
10 adopted by the department.

11 (3) The records required under this section shall be maintained and
12 preserved by the licensed pesticide applicator or such other person or
13 entity applying the pesticides for no less than seven years from the
14 date of the application of the pesticide to which such records refer.
15 If the pesticide was applied by a commercial pesticide applicator to
16 the agricultural crop or agricultural lands of a person who employs one
17 or more employees, as "employee" is defined in RCW 49.70.020, the
18 records shall also be kept by the employer for a period of seven years
19 from the date of the application of the pesticide to which the records
20 refer.

21 (4)(a) The pesticide records shall be readily accessible to the
22 department for inspection. Copies of the records shall be provided on
23 request to: The department; the department of labor and industries;
24 treating health care personnel initiating diagnostic testing or therapy
25 for a patient with a suspected case of pesticide poisoning; the
26 department of health; (~~the pesticide incident reporting and tracking
27 review panel;~~) and, in the case of an industrial insurance claim filed
28 under Title 51 RCW with the department of labor and industries, the
29 employee or the employee's designated representative. In addition, the
30 director may require the submission of the records on a routine basis
31 within thirty days of the application of any restricted use pesticide
32 in prescribed areas controlling the use of the restricted use
33 pesticide. When a request for records is made under this subsection by
34 treating health care personnel and the record is required for
35 determining treatment, copies of the record shall be provided
36 immediately. For all other requests, copies of the record shall be
37 provided within seventy-two hours.

1 (b) Copies of records provided to a person or entity under this
2 subsection (4) shall, if so requested, be provided on a form adopted
3 under subsection (7) of this section. Information for treating health
4 care personnel shall be made immediately available by telephone, if
5 requested, with a copy of the records provided within twenty-four
6 hours.

7 (5) If a request for a copy of the record is made under this
8 section from an applicator referred to in subsection (1) of this
9 section and the applicator refuses to provide a copy, the requester may
10 notify the department of the request and the applicator's refusal.
11 Within seven working days, the department shall request that the
12 applicator provide the department with all pertinent copies of the
13 records, except that in a medical emergency the request shall be made
14 within two working days. The applicator shall provide copies of the
15 records to the department within twenty-four hours after the
16 department's request.

17 (6) The department shall include inspection of the records required
18 under this section as part of any on-site inspection conducted under
19 this chapter on agricultural lands. The inspection shall determine
20 whether the records are readily transferable to a form adopted by the
21 department and are readily accessible to employees. However, no person
22 subject to a department inspection may be inspected under this
23 subsection (6) more than once in any calendar year, unless a previous
24 inspection has found recordkeeping violations. If recordkeeping
25 violations are found, the department may conduct reasonable multiple
26 inspections, pursuant to rules adopted by the department. Nothing in
27 this subsection (6) limits the department's inspection of records
28 pertaining to pesticide-related injuries, illnesses, fatalities,
29 accidents, or complaints.

30 (7) The department of agriculture and the department of labor and
31 industries shall jointly adopt, by rule, forms that satisfy the
32 information requirements of this section.

33 **Sec. 38.** RCW 19.94.015 and 1995 c 355 s 1 are each amended to read
34 as follows:

35 (1) Except as provided in subsection (4) of this section for the
36 initial registration of an instrument or device, no weighing or
37 measuring instrument or device may be used for commercial purposes in

1 the state unless its commercial use is registered annually. If its
2 commercial use is within a city that has a city sealer and a weights
3 and measures program as provided by RCW 19.94.280, the commercial use
4 of the instrument or device shall be registered with the city if the
5 city has adopted fees pursuant to subsection (2) of this section. If
6 its commercial use is outside of such a city, the commercial use of the
7 instrument or device shall be registered with the department.

8 (2) A city with such a sealer and program may establish an annual
9 fee for registering the commercial use of such a weighing or measuring
10 instrument or device with the city. The annual fee shall not exceed
11 the fee established in RCW 19.94.175 for registering the use of a
12 similar instrument or device with the department. Fees upon weighing
13 or measuring instruments or devices within the jurisdiction of the city
14 that are collected under this subsection by city sealers shall be
15 deposited into the general fund, or other account, of the city as
16 directed by the governing body of the city.

17 (3) Registrations with the department are accomplished as part of
18 the master license system under chapter 19.02 RCW. Payment of the
19 registration fee for a weighing or measuring instrument or device under
20 the master license system constitutes the registration required by this
21 section.

22 (4) The fees established by or under RCW 19.94.175 for registering
23 a weighing or measuring instrument or device shall be paid to the
24 department of licensing concurrently with an application for a master
25 license or with the annual renewal of a master license under chapter
26 19.02 RCW. A weighing or measuring instrument or device shall be
27 initially registered with the state at the time the owner applies for
28 a master license for a new business or at the first renewal of the
29 license that occurs after the instrument or device is first placed into
30 commercial use. (~~However, the use of an instrument or device that is
31 in commercial use on the effective date of this act shall be initially
32 registered at the time the first renewal of the master license of the
33 owner of the instrument or device is due following the effective date
34 of this act.~~) The department of licensing shall remit to the
35 department of agriculture all fees collected under this provision less
36 reasonable collection expenses.

37 (5) Each city charging registration fees under this section shall

1 notify the department of agriculture at the time such fees are adopted
2 and whenever changes in the fees are adopted.

3 **Sec. 39.** RCW 20.01.010 and 2004 c 212 s 1 are each amended to read
4 as follows:

5 As used in this title the terms defined in this section have the
6 meanings indicated unless the context clearly requires otherwise.

7 (1) "Director" means the director of agriculture or a duly
8 authorized representative.

9 (2) "Person" means any natural person, firm, partnership, exchange,
10 association, trustee, receiver, corporation, and any member, officer,
11 or employee thereof or assignee for the benefit of creditors.

12 (3) "Agricultural product" means any unprocessed horticultural,
13 vermicultural and its by-products, viticultural, berry, poultry,
14 poultry product, grain, bee, or other agricultural products.
15 "Agricultural product" also includes (a) mint or mint oil processed by
16 or for the producer thereof, hay and straw baled or prepared for market
17 in any manner or form and livestock; and (b) agricultural seed, flower
18 seed, vegetable seed, other crop seed, and seeds, as defined in chapter
19 15.49 RCW, however, any disputes regarding responsibilities for seed
20 clean out are governed exclusively by contracts between the producers
21 of the seed and conditioners or processors of the seed.

22 (4) "Producer" means any person engaged in the business of growing
23 or producing any agricultural product, whether as the owner of the
24 products, or producing the products for others holding the title
25 thereof.

26 (5) "Consignor" means any producer, person, or his or her agent who
27 sells, ships, or delivers to any commission merchant, dealer, cash
28 buyer, or agent, any agricultural product for processing, handling,
29 sale, or resale.

30 (6) "Commission merchant" means any person who receives on
31 consignment for sale or processing and sale from the consignor thereof
32 any agricultural product for sale on commission on behalf of the
33 consignor, or who accepts any farm product in trust from the consignor
34 thereof for the purpose of resale, or who sells or offers for sale on
35 commission any agricultural product, or who in any way handles for the
36 account of or as an agent of the consignor thereof, any agricultural
37 product.

1 (7) "Dealer" means any person other than a cash buyer, as defined
2 in subsection (10) of this section, who solicits, contracts for, or
3 obtains from the consignor thereof for reselling or processing, title,
4 possession, or control of any agricultural product, or who buys or
5 agrees to buy any agricultural product from the consignor thereof for
6 sale or processing and includes any person, other than one who acts
7 solely as a producer, who retains title in an agricultural product and
8 delivers it to a producer for further production or increase. For the
9 purposes of this chapter, the term dealer includes any person who
10 purchases livestock on behalf of and for the account of another, or who
11 purchases cattle in another state or country and imports these cattle
12 into this state for resale.

13 (8) "Limited dealer" means any person who buys, agrees to buy, or
14 pays for the production or increase of any agricultural product by
15 paying to the consignor at the time of obtaining possession or control
16 of any agricultural product the full agreed price of the agricultural
17 product and who operates under the alternative bonding provision in RCW
18 20.01.211.

19 (9) "Broker" means any person other than a commission merchant,
20 dealer, or cash buyer who negotiates the purchase or sale of any
21 agricultural product, but no broker may handle the agricultural
22 products involved or proceeds of the sale.

23 (10) "Cash buyer" means any person other than a commission
24 merchant, dealer, or broker, who obtains from the consignor thereof for
25 the purpose of resale or processing, title, possession, or control of
26 any agricultural product or who contracts for the title, possession, or
27 control of any agricultural product, or who buys or agrees to buy for
28 resale any agricultural product by paying to the consignor at the time
29 of obtaining possession or control of any agricultural product the full
30 agreed price of the agricultural product, in coin or currency(~~(, lawful~~
31 ~~money of the United States)~~). However, a cashier's check, certified
32 check, credit card, or bankdraft may be used for the payment. For the
33 purposes of this subsection, "agricultural product," does not include
34 hay, grain, straw, or livestock.

35 (11) "Agent" means any person who, on behalf of any commission
36 merchant, dealer, broker, or cash buyer, acts as liaison between a
37 consignor and a principal, or receives, contracts for, or solicits any
38 agricultural product from the consignor thereof or who negotiates the

1 consignment or purchase of any agricultural product on behalf of any
2 commission merchant, dealer, broker, or cash buyer and who transacts
3 all or a portion of that business at any location other than at the
4 principal place of business of his or her employer. With the exception
5 of an agent for a commission merchant or dealer handling horticultural
6 products, an agent may operate only in the name of one principal and
7 only to the account of that principal.

8 (12) "Retail merchant" means any person operating from a bona fide
9 or established place of business selling agricultural products twelve
10 months of each year.

11 (13) "Fixed or established place of business" for the purpose of
12 this chapter means any permanent warehouse, building, or structure, at
13 which necessary and appropriate equipment and fixtures are maintained
14 for properly handling those agricultural products generally dealt in,
15 and at which supplies of the agricultural products being usually
16 transported are stored, offered for sale, sold, delivered, and
17 generally dealt with in quantities reasonably adequate for and usually
18 carried for the requirements of such a business, and that is recognized
19 as a permanent business at such place, and carried on as such in good
20 faith and not for the purpose of evading this chapter, and where
21 specifically designated personnel are available to handle transactions
22 concerning those agricultural products generally dealt in, which
23 personnel are available during designated and appropriate hours to that
24 business, and shall not mean a residence, barn, garage, tent, temporary
25 stand or other temporary quarters, any railway car, or permanent
26 quarters occupied pursuant to any temporary arrangement.

27 (14) "Processor" means any person, firm, company, or other
28 organization that purchases agricultural crops from a consignor and
29 that cans, freezes, dries, dehydrates, cooks, presses, powders, or
30 otherwise processes those crops in any manner whatsoever for eventual
31 resale.

32 (15) "Pooling contract" means any written agreement whereby a
33 consignor delivers a horticultural product to a commission merchant
34 under terms whereby the commission merchant may commingle the
35 consignor's horticultural products for sale with others similarly
36 agreeing, which must include all of the following:

37 (a) A delivery receipt for the consignor that indicates the variety

1 of horticultural product delivered, the number of containers, or the
2 weight and tare thereof;

3 (b) Horticultural products received for handling and sale in the
4 fresh market shall be accounted for to the consignor with individual
5 pack-out records that shall include variety, grade, size, and date of
6 delivery. Individual daily packing summaries shall be available within
7 forty-eight hours after packing occurs. However, platform inspection
8 shall be acceptable by mutual contract agreement on small deliveries to
9 determine variety, grade, size, and date of delivery;

10 (c) Terms under which the commission merchant may use his or her
11 judgment in regard to the sale of the pooled horticultural product;

12 (d) The charges to be paid by the consignor as filed with the state
13 of Washington;

14 (e) A provision that the consignor shall be paid for his or her
15 pool contribution when the pool is in the process of being marketed in
16 direct proportion, not less than eighty percent of his or her interest
17 less expenses directly incurred, prior liens, and other advances on the
18 grower's crop unless otherwise mutually agreed upon between grower and
19 commission merchant.

20 (16) "Date of sale" means the date agricultural products are
21 delivered to the person buying the products.

22 (17) "Conditioner" means any person, firm, company, or other
23 organization that receives seeds from a consignor for drying or
24 cleaning.

25 (18) "Seed bailment contract" means any contract meeting the
26 requirements of chapter 15.48 RCW.

27 (19) "Proprietary seed" means any seed that is protected under the
28 Federal Plant Variety Protection Act.

29 (20) "Licensed public weighmaster" means any person, licensed under
30 the provisions of chapter 15.80 RCW, who weighs, measures, or counts
31 any commodity or thing and issues therefor a signed certified
32 statement, ticket, or memorandum of weight, measure, or count upon
33 which the purchase or sale of any commodity or upon which the basic
34 charge of payment for services rendered is based.

35 (21) "Certified weight" means any signed certified statement or
36 memorandum of weight, measure or count issued by a licensed public
37 weighmaster in accordance with the provisions of chapter 15.80 RCW.

1 (22) "Licensee" means any person or business licensed under this
2 chapter as a commission merchant, dealer, limited dealer, broker, cash
3 buyer, or agent.

4 (23) "Seed" means agricultural seed, flower seed, vegetable seed,
5 other crop seed, and seeds, as defined in chapter 15.49 RCW.

6 (24) "Seed clean out" means the process of removing impurities from
7 raw seed product.

8 **Sec. 40.** RCW 20.01.475 and 1971 ex.s. c 182 s 13 are each amended
9 to read as follows:

10 It shall be prima facie evidence that a licensee licensed under the
11 provisions of this (~~(1971-amendatory-act)~~) chapter is acting as such in
12 the handling of any agricultural product.

13 **Sec. 41.** RCW 20.01.510 and 1971 ex.s. c 182 s 16 are each amended
14 to read as follows:

15 In order to carry out the purposes of this (~~(1971-amendatory-act)~~)
16 chapter, the director may require a processor to annually complete a
17 form prescribed by the director, which, when completed, will show the
18 maximum processing capacity of each plant operated by the processor in
19 the state of Washington. Such completed form shall be returned to the
20 director by a date prescribed by him or her.

21 **Sec. 42.** RCW 20.01.520 and 1971 ex.s. c 182 s 17 are each amended
22 to read as follows:

23 By a date or dates prescribed prior to planting time by the
24 director, the director, in order to carry out the purposes of this
25 (~~(1971-amendatory-act)~~) chapter, may require a processor to have filed
26 with (~~(him)~~) the director:

27 (1) A copy of each contract (~~(he)~~) the processor has entered into
28 with a grower for the purchase of acres of crops and/or quantity of
29 crops to be harvested during the present or next growing season; and

30 (2) A notice of each oral commitment (~~(he)~~) the processor has given
31 to growers for the purchase of acres of crops and/or quantity of crops
32 to be harvested during the present or next growing season, and such
33 notice shall disclose the amount of acres and/or quantity to which the
34 processor has committed himself or herself.

1 **Sec. 43.** RCW 17.24.210 and 1982 c 153 s 3 are each amended to read
2 as follows:

3 The director of agriculture may, on the behalf of the state of
4 Washington, enter into indemnity contracts wherein the state of
5 Washington agrees to repay any person, firm, corporation, or other
6 entity acting under the direction or control of the proper authority to
7 provide plant pest or plant disease prevention, control, or eradication
8 measures as provided in this chapter or any rule adopted pursuant to
9 the provisions of this chapter, for losses and damages incurred as a
10 result of such prevention, control, or eradication measures if all of
11 the following conditions occur:

12 (1) At the time of the incident the worker is performing services
13 as an emergency measures worker and is acting within the course of his
14 or her duties as an emergency measures worker;

15 (2) At the time of the injury, loss, or damage, the organization
16 providing emergency measures by which the worker is employed is an
17 approved organization for providing emergency measures;

18 (3) The injury, loss, or damage is proximately caused by his or her
19 service either with or without negligence as an emergency measures
20 worker;

21 (4) The injury, loss, or damage is not caused by the intoxication
22 of the worker; and

23 (5) The injury, loss, or damage is not due to ((wilful)) willful
24 misconduct or gross negligence on the part of a worker.

25 Where an act or omission by an emergency services provider in the
26 course of providing emergency services injures a person or property,
27 the provider and the state may be jointly and severally liable for the
28 injury, if state liability is proved under existing or hereafter
29 enacted law.

30 (~~Each person, firm, corporation, or other entity authorized to~~
31 ~~provide the prevention, control, or eradication measures implementing~~
32 ~~a program approved under RCW 17.24.200 shall be identified on a list~~
33 ~~approved by the director. For the purposes of this section, each~~
34 ~~person on the list shall be known, for the duration of the person's~~
35 ~~services under the program, as "an emergency measures worker."~~)

36 NEW SECTION. **Sec. 44.** RCW 15.58.380 (Board to advise director)
37 and 1971 ex.s. c 190 s 38 are each repealed.

1 NEW_SECTION. **Sec. 45.** The purpose of this act is to make
2 technical, nonsubstantive amendments to the sections included in this
3 act. No substantive changes to the law are intended or implied.

4 NEW_SECTION. **Sec. 46.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

 Passed by the Senate March 4, 2011.

 Passed by the House April 6, 2011.

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