

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5487

Chapter 306, Laws of 2011

62nd Legislature
2011 Regular Session

EGGS AND EGG PRODUCTS--INTRASTATE COMMERCE

EFFECTIVE DATE: 08/01/12

Passed by the Senate April 21, 2011
YEAS 32 NAYS 14

BRAD OWEN

President of the Senate

Passed by the House April 11, 2011
YEAS 70 NAYS 27

FRANK CHOPP

Speaker of the House of Representatives

Approved May 10, 2011, 4:15 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 5487** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 11, 2011

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5487

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Agriculture & Rural Economic Development (originally sponsored by Senators Schoesler, Hatfield, Hobbs, Delvin, Honeyford, Becker, and Shin)

READ FIRST TIME 02/18/11.

1 AN ACT Relating to eggs and egg products in intrastate commerce;
2 amending RCW 69.25.020, 69.25.050, and 69.25.250; adding new sections
3 to chapter 69.25 RCW; and providing an effective date.

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

5 **Sec. 1.** RCW 69.25.020 and 1995 c 374 s 25 are each amended to read
6 as follows:

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

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

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

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

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

18 (a) If it bears or contains any poisonous or deleterious substance
19 which may render it injurious to health; but in case the substance is

1 not an added substance, such article shall not be considered
2 adulterated under this clause if the quantity of such substance in or
3 on such article does not ordinarily render it injurious to health;

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

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

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

14 (e) If it bears or contains any color additive which is unsafe
15 within the meaning of RCW 69.04.396(~~(, as enacted or hereafter amended;~~
16 ~~PROVIDED, That~~)); however, an article which is not otherwise deemed
17 adulterated under subsection (4)(c), (d), or (e) of this section shall
18 nevertheless be deemed adulterated if use of the pesticide chemical,
19 food additive, or color additive, in or on such article, is prohibited
20 by regulations of the director in official plants;

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

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

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

29 (i) If it is an egg which has been subjected to incubation or the
30 product of any egg which has been subjected to incubation;

31 (j) If its container is composed, in whole or in part, of any
32 poisonous or deleterious substance which may render the contents
33 injurious to health;

34 (k) If it has been intentionally subjected to radiation, unless the
35 use of the radiation was in conformity with a regulation or exemption
36 in effect pursuant to RCW 69.04.394; or

37 (l) If any valuable constituent has been in whole or in part
38 omitted or abstracted therefrom; or if any substance has been

1 substituted, wholly or in part therefor; or if damage or inferiority
2 has been concealed in any manner; or if any substance has been added
3 thereto or mixed or packed therewith so as to increase its bulk or
4 weight, or reduce its quality or strength, or make it appear better or
5 of greater value than it is.

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

9 (6) "Intrastate commerce" means any eggs or egg products in
10 intrastate commerce, whether such eggs or egg products are intended for
11 sale, held for sale, offered for sale, sold, stored, transported, or
12 handled in this state in any manner and prepared for eventual
13 distribution in this state, whether at wholesale or retail.

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

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

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

20 (10) "Egg handler" or "dealer" means any person who produces,
21 contracts for or obtains possession or control of any eggs or egg
22 products for the purpose of sale to another dealer or retailer, or for
23 processing and sale to a dealer, retailer or consumer(~~(:—PROVIDED,~~
24 ~~That)).~~ For the purpose of this chapter, "sell" or "sale" includes the
25 following: Offer for sale, expose for sale, have in possession for
26 sale, exchange, barter, trade, or as an inducement for the sale of
27 another product.

28 (11)(a) "Egg product" means any dried, frozen, or liquid eggs, with
29 or without added ingredients, excepting products which contain eggs
30 only in a relatively small proportion, or historically have not been,
31 in the judgment of the director, considered by consumers as products of
32 the egg food industry, and which may be exempted by the director under
33 such conditions as ((he)) the director may prescribe to assure that the
34 egg ingredients are not adulterated and ((such-products)) are not
35 represented as egg products.

36 (b) The following products are not included in the definition of
37 "egg product" if they are prepared from eggs or egg products that have
38 been either inspected by the United States department of agriculture or

1 by the department under a cooperative agreement with the United States
2 department of agriculture: Freeze-dried products, imitation egg
3 products, egg substitutes, dietary foods, dried no-bake custard mixes,
4 egg nog mixes, acidic dressings, noodles, milk and egg dip, cake mixes,
5 French toast, balut and other similar ethnic delicacies, and sandwiches
6 containing eggs or egg products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (28) "Official plant" means any plant which is licensed under the
16 provisions of this chapter, at which inspection of the processing of
17 egg products is maintained by the United States department of
18 agriculture or by the state under cooperative agreements with the
19 United States department of agriculture or by the state.

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

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

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

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

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

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

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

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

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

8 (38) "Master license system" means the mechanism established by
9 chapter 19.02 RCW by which master licenses, endorsed for individual
10 state-issued licenses, are issued and renewed utilizing a master
11 application and a master license expiration date common to each
12 renewable license endorsement.

13 (39) "Ambient temperature" means the atmospheric temperature
14 surrounding or encircling shell eggs.

15 **Sec. 2.** RCW 69.25.050 and 1995 c 374 s 26 are each amended to read
16 as follows:

17 (1)(a) No person shall act as an egg handler or dealer without
18 first obtaining an annual license and permanent dealer's number from
19 the department(~~(; such license shall expire on the master license~~
20 ~~expiration date)~~).

21 (b) Application for an egg dealer license or egg dealer branch
22 license(~~, shall~~) must be made through the master license system as
23 provided under chapter 19.02 RCW and expires on the master license
24 expiration date. The annual egg dealer license fee (~~shall be~~) is
25 thirty dollars and the annual egg dealer branch license fee (~~shall~~
26 ~~be~~) is fifteen dollars. A copy of the master license (~~shall~~) must
27 be posted at each location where (~~such~~) the licensee operates.
28 (~~Such~~) The application (~~shall~~) must include the full name of the
29 applicant for the license (~~and~~), the location of each facility (~~he~~)
30 the applicant intends to operate, and, if applicable, documentation of
31 compliance with section 3 or 4 of this act.

32 (2) If (~~such~~) an applicant is an individual, receiver, trustee,
33 firm, partnership, association or corporation, the full name of each
34 member of the firm or partnership or the names of the officers of the
35 association or corporation shall be given on the application. (~~Such~~)
36 The application (~~shall~~) must further state the principal business
37 address of the applicant in the state and elsewhere and the name of a

1 person domiciled in this state authorized to receive and accept service
2 of summons of legal notices of all kinds for the applicant and any
3 other necessary information prescribed by the director.

4 (3) The applicant must be issued a license or renewal under this
5 section upon the approval of the application and compliance with the
6 provisions of this chapter, including the applicable ((regulations))
7 rules adopted ((hereunder)) by the department((, the applicant shall be
8 issued a license or renewal thereof)).

9 ((Such)) (4) The license and permanent egg handler or dealer's
10 number ((shall be)) is nontransferable.

11 NEW SECTION. Sec. 3. A new section is added to chapter 69.25 RCW
12 to read as follows:

13 (1) All new and renewal applications submitted under RCW 69.25.050
14 before January 1, 2026, must include proof that all eggs and egg
15 products provided in intrastate commerce by the applicant are produced
16 by commercial egg layer operations:

17 (a) With a current certification under the 2010 version of the
18 united egg producers animal husbandry guidelines for United States egg
19 laying flocks for conventional cage systems or cage-free systems or a
20 subsequent version of the guidelines recognized by the department in
21 rule; or

22 (b) Operated in strict compliance with any standards, adopted by
23 the department in rule, that are equivalent to or more stringent than
24 the standards identified in (a) of this subsection.

25 (2) All new and renewal applications submitted under RCW 69.25.050
26 before January 1, 2017, must, in addition to complying with subsection
27 (1) of this section, include proof that all eggs and egg products
28 provided in intrastate commerce by the applicant are produced by
29 commercial egg layer operations whose housing facilities, if built
30 between January 1, 2012, and December 31, 2016, are either:

31 (a) Approved under, or convertible to, the American humane
32 association facility system plan for enriched colony housing in effect
33 on January 1, 2011, or a subsequent version of the plan recognized by
34 the department in rule and, in addition, are convertible to the
35 standards identified in section 5 of this act; or

36 (b) Operated in strict compliance with any standards, adopted by

1 the department in rule, that are equivalent to or more stringent than
2 the standards identified in (a) of this subsection.

3 (3) All new and renewal applications submitted under RCW 69.25.050
4 between January 1, 2017, and December 31, 2025, must, in addition to
5 complying with subsection (1) of this section, include proof that all
6 eggs and egg products provided in intrastate commerce by the applicant
7 are produced by commercial egg layer operations whose housing
8 facilities, if built on or after January 1, 2012, are either:

9 (a) Approved under the American humane association facility system
10 plan and audit protocol for enriched colony housing in effect on
11 January 1, 2011, or a subsequent version of the plan recognized by the
12 department in rule and, in addition, are operated to the standards
13 identified in section 5 of this act; or

14 (b) Operated in strict compliance with any standards, adopted by
15 the department in rule, that are equivalent to or more stringent than
16 the standards identified in (a) of this subsection.

17 (4) All new and renewal applications submitted under RCW 69.25.050
18 on or after January 1, 2026, must include proof that all eggs and egg
19 products provided in intrastate commerce by the applicant are produced
20 by commercial egg layer operations that are either:

21 (a) Approved under the American humane association facility system
22 plan and audit protocol for enriched colony housing in effect on
23 January 1, 2011, or a subsequent version of the plan recognized by the
24 department in rule and, in addition, are operated to the standards
25 identified in section 5 of this act; or

26 (b) Operated in strict compliance with any standards, adopted by
27 the department in rule, that are equivalent to or more stringent than
28 the standards identified in (a) of this subsection.

29 (5) The following are exempt from the requirements of subsections
30 (2) and (3) of this section:

31 (a) Applicants with fewer than three thousand laying chickens; and

32 (b) Commercial egg layer operations when producing eggs or egg
33 products from turkeys, ducks, geese, guineas, or other species of fowl
34 other than domestic chickens.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 69.25 RCW
36 to read as follows:

37 Any egg handler or dealer involved with the in-state production of

1 eggs or egg products only intended for sale outside of the state of
2 Washington must ensure that the associated commercial egg layer
3 operation is in compliance with the applicable standards as provided in
4 section 3 of this act.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 69.25 RCW
6 to read as follows:

7 (1) All commercial egg layer operations required under section 3 of
8 this act to meet the American humane association facility system plan,
9 or an equivalent to the plan, must also ensure that all hens in the
10 operation are provided with:

11 (a) No less than one hundred sixteen and three-tenths square inches
12 of space per hen; and

13 (b) Access to areas for nesting, scratching, and perching.

14 (2) The requirements of this section apply for any commercial egg
15 layer operation on the same dates that section 3 of this act requires
16 compliance with the American humane association facility system plan or
17 an equivalent to the plan.

18 **Sec. 6.** RCW 69.25.250 and 1995 c 374 s 29 are each amended to read
19 as follows:

20 (1)(a) There is hereby levied an assessment not to exceed three
21 mills per dozen eggs entering intrastate commerce, as prescribed by
22 rules ~~((and—regulations))~~ issued by the director. ~~((Such))~~ The
23 assessment ~~((shall be))~~ is applicable to all eggs entering intrastate
24 commerce, except as provided in RCW 69.25.170 and 69.25.290 ~~((.—Such~~
25 ~~assessment shall))~~, and must be paid to the director on a monthly basis
26 on or before the tenth day following the month ~~((such))~~ the eggs enter
27 intrastate commerce.

28 (b) The director may require reports by egg handlers or dealers
29 along with the payment of the assessment fee. ~~((Such))~~ The reports may
30 include any and all pertinent information necessary to carry out the
31 purposes of this chapter.

32 (c) The director may, by ~~((regulations))~~ rule, require egg
33 container manufacturers to report on a monthly basis all egg containers
34 sold to any egg handler or dealer and bearing such egg handler or
35 dealer's permanent number.

1 (2) Egg products in intrastate commerce are exempt from the
2 assessment in subsection (1) of this section.

3 NEW SECTION. Sec. 7. This act takes effect August 1, 2012.

4 NEW SECTION. Sec. 8. 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 April 21, 2011.

Passed by the House April 11, 2011.

Approved by the Governor May 10, 2011.

Filed in Office of Secretary of State May 11, 2011.