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SENATE BILL 5825

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State of Washington                      53rd Legislature                      1993 Regular Session

By Senators Owen and Winsley

Read first time 02/16/93. Referred to Committee on Natural Resources.

1            AN ACT Relating to wild mushroom sales; amending RCW 15.90.010,  
2 15.90.020, 15.90.030, 15.90.040, and 15.90.060; adding new sections to  
3 chapter 15.90 RCW; decodifying RCW 15.90.901; repealing RCW 15.90.900;  
4 and prescribing penalties.

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

6            **Sec. 1.** RCW 15.90.010 and 1990 c 20 s 1 are each amended to read  
7 as follows:

8            Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

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

11            (2) (~~("Wild mushroom" means a mushroom that is not cultivated or~~  
12 ~~propagated by artificial means))~~ "Handle" means to purchase, process,  
13 or transport wild mushrooms.

14            (3) "Mushroom buyer" means (~~(a person)~~) an individual who buys wild  
15 mushrooms from (~~(a mushroom harvester)~~) any source for (~~(eventual~~  
16 ~~resale)~~) the account of a mushroom dealer.

17            (4) "Mushroom harvester" means (~~(a person)~~) an individual who picks  
18 wild mushrooms for sale (~~(or who picks wild mushrooms as an employee of~~  
19 ~~a mushroom buyer or dealer)~~).

1 (5) "Mushroom dealer" means (~~(a person)~~) an individual, other than  
2 a mushroom buyer, who (~~(purchases and)~~) handles wild mushrooms in any  
3 manner (~~(whatsoever)~~) for eventual resale, either wholesale or retail.

4 (6) "Nonresident mushroom buyer" means a mushroom buyer who has not  
5 fulfilled the qualifications of a resident mushroom buyer.

6 (7) "Nonresident mushroom dealer" means a mushroom dealer who has  
7 not fulfilled the qualifications of a resident mushroom dealer.

8 (8) "Resident mushroom buyer" means a mushroom buyer who has  
9 maintained a permanent place of abode within this state for at least  
10 ninety days immediately preceding an application for a license, has  
11 established by formal evidence an intent to continue residing in this  
12 state, and who is not licensed as a resident mushroom buyer in another  
13 state.

14 (9) "Resident mushroom dealer" means a mushroom dealer who has  
15 maintained a permanent place of abode within this state for at least  
16 ninety days immediately preceding an application for a license, has  
17 established by formal evidence an intent to continue residing in this  
18 state, and who is not licensed as a mushroom dealer in another state.

19 (10) "Wild mushroom" means a mushroom that is not cultivated or  
20 propagated by artificial means.

21 **Sec. 2.** RCW 15.90.020 and 1990 c 20 s 2 are each amended to read  
22 as follows:

23 (1) A person may not act as a mushroom buyer or mushroom dealer  
24 without an annual license. (~~(Any)~~) A person applying for (~~(such)~~) a  
25 license shall file an application on a form prescribed by the  
26 department, (~~(and)~~) accompanied by the following license fee:

27 (a) Resident mushroom buyer, seventy-five dollars;

28 (b) Nonresident mushroom buyer, one hundred fifty dollars;

29 (c) Resident mushroom dealer, (~~(three hundred seventy-five)~~) one  
30 thousand dollars;

31 (d) Nonresident mushroom dealer, two thousand dollars.

32 (2) The mushroom buyer or mushroom dealer shall display the license  
33 (~~(in a manner)~~) visible to the public as prescribed by the department  
34 by rule.

35 **Sec. 3.** RCW 15.90.030 and 1990 c 20 s 3 are each amended to read  
36 as follows:

1 (1) A mushroom buyer who obtains wild mushrooms shall complete a  
2 form prescribed by the department that includes the following:

3 (a) The site at which the wild mushrooms were (~~(purchased)~~) bought  
4 by the mushroom buyer;

5 (b) The amount(~~(τ)~~) by weight(~~(τ)~~) of each species of wild  
6 mushroom(~~(ς)~~) obtained;

7 (c) The (~~(approximate location)~~) county of the harvest site;

8 (d) The date (~~(that)~~) the wild mushrooms were harvested;

9 (e) The price paid to the mushroom harvester;

10 (f) The name, address, and license number of the mushroom dealer  
11 (~~(to)~~) for whom the wild mushrooms (~~(are sold)~~) were bought;

12 (g) Any additional information that the department(~~(τ by ruleτ)~~)  
13 may require by rule.

14 (2) A form(~~(ς)~~) completed under this section shall be mailed or  
15 delivered to the department within the fifteen-day(~~(ς after)~~) period  
16 immediately following the end of the month in which the wild mushrooms  
17 were delivered to (~~(the)~~) a mushroom dealer.

18 (3) A mushroom dealer(~~(ς)~~) shall comply with (~~(the requirements~~  
19 ~~of)~~) this section when obtaining wild mushrooms from any source other  
20 than a licensed mushroom buyer.

21 **Sec. 4.** RCW 15.90.040 and 1990 c 20 s 4 are each amended to read  
22 as follows:

23 (1) A mushroom dealer(~~(ς)~~) shall (~~(annually, by December 31τ)~~) on  
24 the first of each month complete and mail or deliver to the department  
25 a form prescribed by the department that includes the following  
26 information on the prior month's activity for each (~~(variety)~~) species  
27 of wild mushroom(~~(ς)~~):

28 (a) The county where picked;

29 (b) The weight harvested;

30 (c) The special assessment paid to the department under section 8  
31 of this act;

32 (d) The quantity by weight sold within Washington, within the  
33 United States outside Washington, and to individual foreign countries;  
34 and

35 (~~(b) Any~~) (e) Additional information that the department(~~(τ by~~  
36 ~~ruleτ)~~) may require by rule.

37 (2) The department shall on March 1st of each year publish wild  
38 mushroom harvest totals (~~(in conjunction with United States department~~

1 of agriculture crop reporting statistics as well as)) and a compilation  
2 of the information received under subsection (1)((+a)) of this  
3 section.

4 **Sec. 5.** RCW 15.90.060 and 1988 c 230 s 6 are each amended to read  
5 as follows:

6 (1) A person who fails to comply with this chapter or rules adopted  
7 under this chapter commits a civil infraction and is subject to a civil  
8 penalty in an amount determined by the director of not more than five  
9 thousand dollars for each violation.

10 (2) The department is authorized to issue and enforce class I civil  
11 infractions in the manner prescribed under chapter 7.80 RCW.  
12 ((Violations of this chapter or any rule adopted under this chapter  
13 constitute a class I civil infraction under chapter 7.80 RCW.))

14 (3) Each violation of this chapter or rules adopted under this  
15 chapter is a separate offense.

16 (4) A person who, through an act of commission or omission,  
17 procures, aids, or abets in a violation of this chapter or rules  
18 adopted under this chapter commits a civil infraction and is subject to  
19 the civil penalty provided in this section.

20 NEW SECTION. **Sec. 6.** A mushroom dealer shall submit monthly to  
21 the department the names and locations of buyers that buy wild  
22 mushrooms on the mushroom dealer's behalf.

23 NEW SECTION. **Sec. 7.** (1) Any person shall have in his or her  
24 possession while commercially transporting wild mushrooms, either as  
25 the owner of the mushrooms or as a commercial hauler, a bill of lading  
26 or manifest of cargo on a form provided by the department.

27 (2) Any bill of lading or manifest of cargo shall include the  
28 following:

29 (a) Name, address, and license number of the mushroom dealer who  
30 owns the wild mushrooms;

31 (b) Species and weight of the wild mushrooms being transported; and

32 (c) Delivery destination by name and address.

33 (3) A bill of lading or a manifest of cargo required by subsection  
34 (1) of this section or a record containing the same information for  
35 each shipment of wild mushrooms transported or received by a mushroom

1 dealer shall be kept for a period of three years by the mushroom  
2 dealer.

3 NEW SECTION. **Sec. 8.** A mushroom dealer shall pay a special  
4 assessment of ten cents per pound to the department for all species of  
5 wild mushroom harvested or bought in this state. Special assessment  
6 moneys received by the department under this section shall be deposited  
7 in the mushroom inspection account established in section 9 of this  
8 act.

9 NEW SECTION. **Sec. 9.** The mushroom inspection account is created  
10 in the custody of the state treasury. All receipts from the special  
11 assessment under section 8 of this act shall be deposited into the  
12 account. The balance in the account shall not exceed three hundred  
13 thousand dollars and any excess shall be deposited in the state general  
14 fund. Expenditures from the account may be used only for the  
15 administration of this chapter. Only the director or the director's  
16 designee may authorize expenditures from the account. The account is  
17 subject to allotment procedures under chapter 43.88 RCW, but no  
18 appropriation is required for expenditures.

19 NEW SECTION. **Sec. 10.** (1) The director or an appointed officer of  
20 the department may stop any vehicle on any public road in this state if  
21 there is reasonable cause to believe that the vehicle contains wild  
22 mushrooms being handled in any manner subject to the provisions of this  
23 chapter.

24 (2) Any person who fails to stop a vehicle when directed to do so  
25 under subsection (1) of this section is subject to the penalties  
26 provided under section 5 of this act.

27 (3) A vehicle may be impounded, and its cargo of wild mushrooms  
28 embargoed, by the director or an appointed officer of the department  
29 for violation of this chapter.

30 (4) A wild mushroom cargo which is embargoed under subsection (3)  
31 of this section may be released by the director or an appointed officer  
32 of the department only upon compliance with this chapter.

33 NEW SECTION. **Sec. 11.** The director may bring an action to enjoin  
34 a violation or threatened violation of any provision of this chapter or

1 rule adopted under this chapter in the superior court in the county in  
2 which the violation occurs or is about to occur.

3 NEW SECTION. **Sec. 12.** The director may refuse to grant or renew  
4 a license, may revoke or suspend a license, or may issue a conditional  
5 or probationary order if the director is satisfied after a hearing  
6 pursuant to chapter 34.05 RCW, the administrative procedure act, of the  
7 existence of any of the following facts, each of which is a violation  
8 of this chapter:

9 (1) A licensee has failed to pay the special assessment under  
10 section 8 of this act or has failed to pay the special assessment in  
11 the manner prescribed under section 4 of this act.

12 (2) An applicant for an original license or an applicant for  
13 renewal of a license has operated in the manner of a licensee without  
14 first obtaining a license to operate in the appropriate license  
15 category.

16 (3) A licensee has failed to comply with the recordkeeping or  
17 record reporting requirements of this chapter.

18 (4) A licensee has failed to provide the director with access to  
19 records required under this chapter or any rules adopted under this  
20 chapter.

21 (5) A licensee has falsified any information reported to the  
22 director regarding the handling of any wild mushrooms.

23 (6) A licensee was guilty of deception in the procurement of any  
24 license provided under this chapter.

25 (7) A mushroom dealer has knowingly employed a mushroom buyer, as  
26 defined in this chapter, without causing the mushroom buyer to comply  
27 with the licensing requirements of this chapter applicable to mushroom  
28 buyers.

29 NEW SECTION. **Sec. 13.** Sections 6 through 12 of this act are each  
30 added to chapter 15.90 RCW.

31 NEW SECTION. **Sec. 14.** RCW 15.90.901 is decodified.

32 NEW SECTION. **Sec. 15.** RCW 15.90.900 and 1988 c 230 s 9 are each  
33 repealed.

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