

ANALYSIS OF ESB 6123

House Agriculture & Ecology Committee

February 18, 1998

BACKGROUND:

The Director of Agriculture has general supervisory authority over suppressing and preventing the spread of infectious, contagious, communicable and dangerous diseases affecting animals within, in transit through, and being imported into the state. The Director may establish and enforce quarantines against any domestic animals affected with such a disease or that may have been exposed to other animals so affected. (RCW 16.36.020.) If the public welfare demands the destruction of an animal that is affected with an infectious, contagious, communicable or dangerous disease, or is held under quarantine for brucellosis but the owner of the animal fails or refuses to follow a herd plan established by the State Veterinarian, the Director is authorized to order the animal destroyed. (RCW 16.36.090.) Provisions of these general animal health laws also authorize the Director to control diseases in ratites, llamas, and alpacas and to regulate the feeding of garbage to swine. (RCW 16.36.103 through .110 and RCW 16.36.120 and .130.) The Director also administers other laws established for controlling diseases in sheep. (Chapter 16.44 RCW.) The Director of Agriculture and the Director of Fish and Wildlife jointly develop a program for disease inspection and control for private sector cultured aquatic products. The program is administered by the Director of Fish and Wildlife. (RCW 75.58.010.)

With certain exceptions, it is unlawful for any person to bring into this state for any purpose a domestic animal without first having secured an official health certificate, certified by the state veterinarian of origin that the animals meet the health requirements of the Director. (RCW 16.36.050.) A violation of or a failure to comply with the general animal health laws or the rules adopted under them is a gross misdemeanor. Each day in which a violation occurs constitutes a separate violation. The Director may bring actions to enjoin violations of certain of these laws. (RCW 16.36.110.)

SUMMARY:

Authority to Control Diseases. The animals— for which the Director of Agriculture has authority and responsibility for disease control under the general animal disease control statutes are altered. In general, they do not include fish, insects, or non-captive wildlife. The Director's authority to establish quarantines under these statutes now expressly includes the authority to quarantine the sperm, ova, and embryos of animals. (Sections 1 and 2.) The Director's authority to control diseases in sheep is replaced with these authorities to control diseases in animals and livestock in general. Provisions of law regarding the control of diseases in ratites, llamas, and alpacas are also replaced with these general animal health statutes. (Section 22.) The Director's rules for preventing the introduction or spread of diseases in this state may be more stringent than federal rules. (Section 4(2).)

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Hold Orders. The Director is expressly granted authority to issue hold orders,— which are distinguished from quarantines in duration and purpose. A hold order is one issued to the owner of animals or animal reproductive products that restricts the animals or products to a designated holding location pending an investigation regarding disease, disease exposure, well-being, movement, or import status of the animals or products. (Sections 1 and 2.) It may be issued when: an overt disease or exposure to disease in an animal is not immediately obvious, but there is reasonable cause to investigate whether an animal is diseased or has been exposed to disease; import health papers, permits, or other transportation documents required by law or rule are not complete or are suspected to be fraudulent; or further transport of an animal would jeopardize the well-being of the animal or other animals in this state. A hold order is in effect for 7 days and, for disease control purposes, may be replaced by a quarantine order. (Section 2(3).)

Health Documents and Tests. It is unlawful for a person intentionally and falsely to make, complete, alter, use, or sign an animal health certificate, certificate of veterinary inspection, or official written animal health document of the Department. (Section 5(3).) A current requirement is modified which requires that a health certificate be secured for importing domestic animals into the state other than for immediate slaughter. The requirement now expressly applies to wildlife imported into the state. (Sections 1 and 5(1).) Exemptions from this requirement are also altered: an exemption for importing animals to be slaughtered within 14 days now applies to animals imported for slaughter within 7 days; a 24-hour exemption currently given to animals imported for feeding and watering is replaced by the authority of the Director to exempt any animal from the health certificate requirement by rule. (Section 5(1)&(2).) The authority granted by current law for the Director to enter at reasonable times an animal premises to conduct disease tests is restricted. Entry may be made when there is reasonable evidence that animals on the premises are infected with or have been exposed to a reportable disease. (Section 6.)

Laboratories; Reportable Diseases. The Director may license and regulate the activities of a veterinary laboratory if it does not have a licensed veterinarian present within the management or staff and may adopt rules to regulate these laboratories in any manner necessary to protect the health and safety of the public and the public’s animals. (Section 3(3).) Veterinary laboratories, and not just veterinarians as under current law, must immediately report to the Director the existence or suspected existence of any reportable diseases among animals. Persons using their own diagnostic services must also report such diseases to the Director. These reporting requirements now apply to diseases found or suspected in wildlife. (Section 8.) The diseases that are reportable in this manner are to be identified by rule, not (as currently) through



publications of the Director. (Sections 4(1)(c) and 8(1).) The Director must investigate these reports and/or keep records of the reports and may require appropriate treatment of the animals with the diseases. The owner of such an animal may dispose of it rather than treat the animal. It is unlawful for a person to import into this state any animal with or exposed to a reportable disease without a permit from the Director. (Section 8.)

Destruction of Diseased Animals. The authority of the Director to order the destruction of any animal held in a brucellosis quarantine for the failure of the owner to follow a herd plan of the State Veterinarian is altered. The Director may now order the destruction of any animal held in any quarantine for failure of the owner to follow a herd or flock plan that is in the form of a written management agreement for disease control between the owner and the State Veterinarian. (Section 9.) In ordering the slaughter or destruction of any animal, the Director may pay an indemnity in an amount set by rule which must not exceed 75% of the appraised or salvage value of the animal, rather than 50% or certain specified amounts, as under current law. Payment of indemnity does not apply to an animal that has been brought into this state in violation of these statutes or the rules adopted under them rather than, as under current law, not applying to animals destroyed within 6 months of being brought into this state. (Section 10.) A hearing may be requested on an order to destroy an animal or the reproductive products of an animal or on an order holding or quarantining such an animal or product. If the hearing is held, it is to be held in accordance with the Administrative Procedure Act. (Section 17.)

Responsibilities of Owners. Prohibitions against selling, exchanging, or giving away disease infected animals or sheep exposed to infection are clarified. It is unlawful for a person to sell, exchange, or give away any animal that the person knows has been exposed to or treated for any contagious, communicable, or infectious disease within the previous 30 days unless: the person notifies the recipient of the animal regarding the infection, exposure, or treatment; or the legal withdrawal period for any treatment has been met. (Sections 22 and 14.) The provisions of law establishing the liability of the owner of diseased sheep for damages done to healthy sheep exposed to the owner's diseased sheep are altered. When diseased livestock mingle with healthy livestock through the fault or negligence of the owner of the diseased livestock, that owner is liable for any damages to the healthy livestock. (Section 16.) As is currently expressly the case for sheep quarantines, the expenses for handling or caring for any animal or animal reproductive product placed under a quarantine or hold order are the responsibility of the owner. The Director may administer oaths and examine witnesses and records in controlling animal diseases. (Section 2(5)&(7).)



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Any person owning or controlling livestock infected with or exposed to scrapie or another transmissible spongiform encephalopathy must immediately report the disease or exposure to the Director. It is unlawful to fail to report or to conceal the existence of such a disease. (Section 15.)

Injunctions. Rather than having the authority to enjoin actions that violate certain provisions of the animal disease statutes, the Director may bring an action to enjoin the violation of any of these animal disease statutes or the rules adopted under them. (Section 13.)

Game Rules. The rules of the Director cannot allow the importation, possession, or uses of animals that are in violation of the game and game fish statutes or rules adopted under them. (Section 18.)

Other. The Director may collect monies to recover the reasonable costs of printing and distributing certificates and other supplies to veterinarians. (Section 19.) The authority of the Director to enter agreements with federal agencies for animal disease control is expanded to include agreements with other governmental agencies of this state and other states as well. (Section 11.) To issue a license to a person to feed garbage to swine, the director must first determine that the applicant meets the requirements of state and federal rules regarding such feeding. The \$10 licensing application fee is no longer to be returned to the applicant if the permit is denied. (Section 12.) Specific rules regarding quarantines for bovine tuberculosis and brucellosis are repealed. (Section 4(1)(b).) Although the Director retains the authority to license the feeding of garbage to swine, the Director's express authority to require the disinfection of all facilities used for keeping such swine is repealed. (Section 3(1).)

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