

2 **HB 2132 - H AMD 042 ADOPTED 1-31-96**

3 By Representative Chandler

4

5 On page 1, after line 3, insert the following:

6 "Sec. 1. RCW 15.17.020 and 1963 c 122 s 2 are each amended to read  
7 as follows:

8 For the purpose of this chapter:

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 a natural person, individual, or firm,  
14 partnership, corporation, company, society, and association, and every  
15 officer, agent, or employee thereof. This term shall import either the  
16 singular or plural, as the case may be.

17 (4) "Horticultural plant or product" includes, but is not limited  
18 to, any horticultural, floricultural, viticultural, and olericultural  
19 plant, growing or otherwise, and their products whether grown above or  
20 below the ground's surface.

21 (5) "Horticultural facilities" means, but is not limited to, the  
22 premises where horticultural plants and products are grown, stored,  
23 handled, or delivered for sale or transportation, records, and all  
24 vehicles and equipment, whether aerial or surface, used to transport  
25 such horticultural plants or products.

26 (6) "Deceptive pack" means the pack of any container which has in  
27 the outer layer or any exposed surface, horticultural plants or  
28 products which are in quality, size, condition, or any other respect so  
29 superior to those in the interior of the container in the unexposed  
30 portion as to materially misrepresent the contents. Such pack is  
31 deceptive when the outer or exposed surface is composed of  
32 horticultural plants or products whose size is not an accurate  
33 representation of the variation of the size of such horticultural  
34 plants or products in the entire container, even though such  
35 horticultural plants or products in the container are virtually uniform  
36 in size or comply with the specific horticultural plant or product for  
37 which the director in prescribing standards for grading and classifying

1 has prescribed size variations or if such size variations are  
2 prescribed by law.

3 (7) "Deceptive arrangement or display" of any horticultural plants  
4 or products, means any bulk lot or load, arrangement or display of such  
5 horticultural plants or products which has in the exposed surface,  
6 horticultural plants or products which are so superior in quality,  
7 size, condition, or any other respect to those which are concealed, or  
8 the unexposed portion, as to materially misrepresent any part of such  
9 bulk lot or load, arrangement, or display.

10 (8) "Mislabel" means the placing or presence of any false or  
11 misleading statement, design, or device upon any container, or upon the  
12 label or lining of any such container, or upon the wrapper of any  
13 horticultural plants or products, or upon any such horticultural plants  
14 or products, or any placard used in connection therewith and having  
15 reference to such horticultural plants or products. A statement,  
16 design, or device is false or misleading when the horticultural plant  
17 or product or container to which it refers does not conform to such  
18 statement.

19 (9) "Container" means any container, subcontainer used within a  
20 container, or any type of a container used to prepackage any  
21 horticultural plants or products: PROVIDED, That this does not include  
22 containers used by a retailer to package such horticultural plants or  
23 products sold from a bulk display to a consumer.

24 (10) "Agent" means broker, commission merchant, auctioneer,  
25 solicitor, seller, or consignor, and any other person acting upon the  
26 actual or implied authority of another.

27 (11) "Inspection and certification" means, but is not limited to,  
28 the inspection of any horticultural plant or product at any time prior  
29 to, during, or subsequent to harvest, by the director, and the issuance  
30 by him of a written permit to move or sell or a written certificate  
31 stating the grade, classification, and if such horticultural plants or  
32 products are free of plant pests and/or other defects.

33 (12) "Plant pests" means, but is not limited to, any living stage  
34 of any insects, mites, nematodes, slugs, snails, protozoa, or other  
35 invertebrate animals, bacteria, fungi, other parasitic plants or  
36 reproductive parts thereof, viruses, or any organisms similar to or  
37 allied with any of the foregoing, or any infectious substance, which  
38 can directly or indirectly injure or cause disease or damage in any

1 plant or parts thereof, or any processed, manufactured, or other  
2 products of plants.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 15.17 RCW  
4 to read as follows:

5 The director shall, by rule, establish either grades or  
6 classifications, or both, for American ginseng (*Panax quinquefolius*  
7 L.). In establishing grades or classifications, the director shall  
8 take into account the factors of place of origin, whether the ginseng  
9 is wild or cultivated, weight, and date of harvest.

10 The director shall, by rule, require the registration of ginseng  
11 dealers who purchase and/or sell ginseng for the purpose of foreign  
12 export. The director may, after determining that an applicant or  
13 registered ginseng dealer has violated this chapter, and complying with  
14 the notice and hearing requirements and all other provisions of chapter  
15 34.05 RCW concerning adjudicative proceedings, deny, suspend, or revoke  
16 any dealer registration or application for registration issued under  
17 this chapter.

18 The director shall adopt rules requiring that records be maintained  
19 by ginseng dealers.

20 The director may adopt any other rules necessary to comply with the  
21 requirements of the Convention on International Trade in Endangered  
22 Species of Wild Fauna and Flora, (27 U.S.T. 108); the Endangered  
23 Species Act of 1973, as amended (16 U.S.C. 1531 et seq.); and 50  
24 C.F.R., Part 23 (1995), as they existed on the effective date of this  
25 act, or such subsequent date as may be provided by rule, consistent  
26 with the purposes of this section.

27 It is unlawful for a person to sell, offer for sale, hold for sale,  
28 or ship or transport ginseng for foreign export in violation of this  
29 chapter or rules adopted under this chapter."

30 Renumber the remaining sections consecutively and correct the title  
31 and internal references accordingly.

32 EFFECT: The Director of Agriculture is authorized to adopt: rules  
33 establishing grades and/or classifications for American ginseng; rules  
34 requiring the registration of dealers who buy or sell ginseng for  
35 foreign export; rules requiring ginseng dealers to maintain records;  
36 and, with regard to ginseng, rules complying with the requirements of  
37 the Convention on International Trade in Endangered Species of Wild

1 Fauna and Flora, the federal Endangered Species Act, and federal rules  
2 implementing the Convention.

3 Selling or transporting ginseng for foreign export in violation of  
4 these requirements is declared to be unlawful and the Director is  
5 authorized to deny, suspend, or revoke a dealer's registration under  
6 the Administrative Procedure Act for violations of these requirements  
7 or other provisions of the state's agricultural standards and grades  
8 statutes. Records are expressly declared to be horticultural  
9 facilities, which may be inspected by the Department of Agriculture  
10 under the agricultural standards and grades statutes.

--- END ---