

2 **SSB 5315 - H COMM AMD RULED BEYOND SCOPE AND OBJECT 4/13/95**
3 By Committee on Agriculture & Ecology

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 15.36.012 and 1994 c 143 s 102 are each amended to
8 read as follows:

9 For the purpose of this chapter:

10 "Adulterated milk" means milk that is deemed adulterated under
11 appendix L of the PMO.

12 "Aseptic processing" means the process by which milk or milk
13 products have been subjected to sufficient heat processing and packaged
14 in a hermetically sealed container so as to meet the standards of the
15 PMO.

16 "Colostrum milk" means milk produced within ten days before or
17 until practically colostrum free after parturition.

18 "DMO" means supplement I, the recommended sanitation ordinance for
19 grade A condensed and dry milk products and condensed and dry whey, to
20 the PMO published by the United States public health service, food and
21 drug administration.

22 "Dairy farm" means a place or premises where one or more cows,
23 goats, or other mammals are kept, a part or all of the milk or milk
24 products from which is sold or offered for sale to a milk processing
25 plant, transfer station, or receiving station.

26 "Dairy technician" means any person who takes samples of milk or
27 cream or fluid derivatives thereof, on which sample tests are to be
28 made as a basis of payment, or who grades, weighs, or measures milk or
29 cream or the fluid derivatives thereof, the grade, weight, or measure
30 to be used as a basis of payment, or who operates equipment wherein
31 milk or products thereof are pasteurized.

32 "Department" means the state department of agriculture.

33 "Director" means the director of agriculture of the state of
34 Washington or the director's duly authorized representative.

35 "Distributor" means a person other than a producer who offers for
36 sale or sells to another, milk or milk products.

1 "Grade A milk processing plant" means any milk processing plant
2 that meets all of the standards of the PMO to process grade A
3 pasteurized milk or milk products.

4 "Grade A pasteurized milk" means grade A raw milk that has been
5 pasteurized.

6 "Grade A raw milk" means raw milk produced upon dairy farms
7 conforming with all of the items of sanitation contained in the PMO, in
8 which the bacterial plate count does not exceed twenty thousand per
9 milliliter and the coliform count does not exceed ten per milliliter as
10 determined in accordance with RCW (~~(15.36.110)~~) 15.36.201.

11 "Grade A raw milk for pasteurization" means raw milk produced upon
12 dairy farms conforming with all of the same items of sanitation
13 contained in the PMO of grade A raw milk, and the bacterial plate
14 count, as delivered from the farm, does not exceed eighty thousand per
15 milliliter as determined in accordance with RCW (~~(15.36.110)~~)
16 15.36.201.

17 "Grade C milk" is milk that violates any of the requirements for
18 grade A milk but that is not deemed to be adulterated.

19 "Homogenized" means milk or milk products which have been treated
20 to ensure breakup of the fat globules to an extent consistent with the
21 requirements outlined in the PMO.

22 "Milk" means the lacteal secretion, practically free of colostrum,
23 obtained by the complete milking of one or more healthy cows, goats, or
24 other mammals.

25 "Milk hauler" means a person who transports milk or milk products
26 in bulk to or from a milk processing plant, receiving station, or
27 transfer station.

28 "Milk processing" means the handling, preparing, packaging, or
29 processing of milk in any manner in preparation for sale as food, as
30 defined in chapter 69.04 RCW. Milk processing does not include milking
31 or producing milk on a dairy farm that is shipped to a milk processing
32 plant for further processing.

33 "Milk processing plant" means a place, premises, or establishment
34 where milk or milk products are collected, handled, processed, stored,
35 bottled, pasteurized, aseptically processed, bottled, or prepared for
36 distribution, except an establishment (~~(whose activity is limited to~~
37 ~~retail sales))~~ that merely receives the processed milk products and
38 serves them or sells them at retail.

39 "Milk products" means the product of a milk manufacturing process.

1 "Misbranded milk" means milk or milk products that carries a grade
2 label unless such grade label has been awarded by the director and not
3 revoked, or that fails to conform in any other respect with the
4 statements on the label.

5 "Official brucellosis adult vaccinated cattle" means those cattle,
6 officially vaccinated over the age of official calfhood vaccinated
7 cattle, that the director has determined have been commingled with, or
8 kept in close proximity to, cattle identified as brucellosis reactors,
9 and have been vaccinated against brucellosis in a manner and under the
10 conditions prescribed by the director after a hearing and under rules
11 adopted under chapter 34.05 RCW, the administrative procedure act.

12 "Official laboratory" means a biological, chemical, or physical
13 laboratory that is under the direct supervision of the state or a local
14 regulatory agency.

15 "Officially designated laboratory" means a commercial laboratory
16 authorized to do official work by the department, or a milk industry
17 laboratory officially designated by the department for the examination
18 of grade A raw milk for pasteurization and commingled milk tank truck
19 samples of raw milk for antibiotic residues and bacterial limits.

20 "PMO" means the grade "A" pasteurized milk ordinance published by
21 the United States public health service, food and drug administration.

22 "Pasteurized" means the process of heating every particle of milk
23 or milk product in properly designed and operated equipment to the
24 temperature and time standards specified in the PMO.

25 "Person" means an individual, partnership, firm, corporation,
26 company, trustee, or association.

27 "Producer" means a person or organization who operates a dairy farm
28 and provides, sells, or offers milk for sale to a milk processing
29 plant, receiving station, or transfer station.

30 "Receiving station" means a place, premises, or establishment where
31 raw milk is received, collected, handled, stored, or cooled and
32 prepared for further transporting.

33 "Sale" means selling, offering for sale, holding for sale,
34 preparing for sale, trading, bartering, offering a gift as an
35 inducement for sale of, and advertising for sale in any media.

36 "Transfer station" means any place, premises, or establishment
37 where milk or milk products are transferred directly from one milk tank
38 truck to another.

39 "Ultrapasteurized" means the process by which milk or milk products

1 have been thermally processed in accordance with the time and
2 temperature standards of the PMO, so as to produce a product which has
3 an extended shelf life under refrigerated conditions.

4 "Ungraded processing plant" means a milk processing plant that
5 meets all of the standards of the PMO to produce milk products other
6 than grade A milk or milk products.

7 "Wash station" means a place, facility, or establishment where milk
8 tanker trucks are cleaned in accordance with the standards of the PMO.

9 All dairy products mentioned in this chapter mean those fit or used
10 for human consumption.

11 **Sec. 2.** RCW 15.36.071 and 1994 c 143 s 205 are each amended to
12 read as follows:

13 A milk hauler must obtain a milk hauler's license to conduct the
14 operation under this chapter. A milk hauler's license is not
15 transferable with respect to persons or locations or both. The
16 license, issued by the director upon approval of an application for the
17 license and compliance with the provisions of this chapter, shall
18 contain the license number, name, residence, and place of business, if
19 any, of the licensee. A milk hauler's license shall also contain
20 endorsements for individual milk transport vehicles. The license plate
21 number and registration number for each milk transport vehicle shall be
22 listed on the endorsement.

23 **Sec. 3.** RCW 15.36.171 and 1994 c 143 s 301 are each amended to
24 read as follows:

25 No milk or milk products shall be sold to the final consumer or to
26 restaurants, soda fountains, grocery stores, or similar establishments
27 except grade A pasteurized milk, or grade A raw milk. The director may
28 revoke the license of any milk distributor (~~(failing)~~), milk processing
29 plant, or producer whose product fails to qualify as grade A
30 pasteurized or grade A raw, or in lieu thereof may degrade his or her
31 product to grade C and permit its sale as other than fluid milk or
32 grade A milk products during a period not exceeding thirty days. In
33 the event of an emergency, the director may permit the sale of grade C
34 milk for more than thirty days.

35 **Sec. 4.** RCW 15.36.221 and 1984 c 226 s 5 are each amended to read
36 as follows:

1 Milk and milk products for consumption in the raw state or for
2 pasteurization shall be cooled within two hours of completion of
3 milking to forty degrees Fahrenheit or less and maintained at that
4 temperature until picked up, in accordance with RCW ((15.36.110))
5 15.36.201, so long as the blend temperature after the first and
6 following milkings does not exceed fifty degrees Fahrenheit.

7 **Sec. 5.** RCW 15.36.411 and 1994 c 143 s 502 are each amended to
8 read as follows:

9 The director may, subsequent to a hearing on the license, suspend
10 or revoke a license issued under this chapter if the director
11 determines that an applicant has committed any of the following acts:

12 (1) Refused, neglected, or failed to comply with the provisions of
13 this chapter, the rules adopted under this chapter, or a lawful order
14 of the director.

15 (2) Refused, neglected, or failed to keep and maintain records
16 required by this chapter, or to make the records available if requested
17 under the provisions of this chapter.

18 (3) Refused the department access to a portion or area of a
19 facility regulated under this chapter, for the purpose of carrying out
20 the provisions of this chapter.

21 (4) Refused the department access to records required to be kept
22 under the provisions of this chapter.

23 (5) Refused, neglected, or failed to comply with the applicable
24 provisions of chapter 69.04 RCW, Washington food, drug, and cosmetic
25 act, or rules adopted under chapter 69.04 RCW.

26 The provisions of this section requiring that a hearing be
27 conducted before an action may be taken against a license do not apply
28 to an action taken under RCW 15.36.111, 15.36.201, or 15.36.421.

29 Whenever a milk transport vehicle is found in violation of this
30 chapter or rules adopted under this chapter, the endorsement for that
31 milk transport vehicle contained on a milk hauler's license shall be
32 suspended or revoked. The suspension or revocation does not apply to
33 any other milk transport vehicle operated by the milk hauler.

34 **Sec. 6.** RCW 15.36.431 and 1994 c 143 s 504 are each reenacted to
35 read as follows:

36 No person shall employ a tester, sampler, weigher, grader, or
37 pasteurizer who is not licensed as a dairy technician.

1 A person who violates the provisions of this section may be fined
2 not less than two hundred fifty nor more than one thousand dollars, and
3 his or her license issued under this chapter revoked or suspended
4 subject to a hearing as provided under chapter 34.05 RCW.

5 **Sec. 7.** RCW 15.36.441 and 1994 c 143 s 505 are each amended to
6 read as follows:

7 (1) If the results of an antibiotic, pesticide, or other drug
8 residue test under RCW (~~(15.36.110)~~) 15.36.201 are above the actionable
9 level established in the PMO and determined using procedures set forth
10 in the PMO, a person holding a milk producer's license is subject to a
11 civil penalty. The penalty shall be in an amount equal to one-half the
12 value of the sum of the volumes of milk equivalent produced under the
13 license on the day prior to and the day of the adulteration. The value
14 of the milk shall be computed by the weighted average price for the
15 federal market order under which the milk is delivered.

16 (2) The penalty is imposed by the department giving a written
17 notice which is either personally served upon or transmitted by
18 certified mail, return receipt requested, to the person incurring the
19 penalty. The notice of the civil penalty shall be a final order of the
20 department unless, within fifteen days after the notice is received,
21 the person incurring the penalty appeals the penalty by filing a notice
22 of appeal with the department. If a notice of appeal is filed in a
23 timely manner, a hearing shall be conducted on behalf of the department
24 by the office of administrative hearings in accordance with chapters
25 34.05 and 34.12 RCW. At the conclusion of the hearing, the department
26 shall determine whether the penalty should be affirmed, and, if so,
27 shall issue a final order setting forth the civil penalty assessed, if
28 any. The order may be appealed to superior court in accordance with
29 chapter 34.05 RCW. Tests performed for antibiotic, pesticide, or other
30 drug residues by an official laboratory or an officially designated
31 laboratory of a milk sample drawn by a department official or a
32 licensed dairy technician shall be admitted as prima facie evidence of
33 the presence or absence of an antibiotic, pesticide, or other drug
34 residue.

35 (3) Any penalty imposed under this section is due and payable upon
36 the issuance of the final order by the department. The penalty shall
37 be deducted by the violator's marketing organization from the
38 violator's final payment for the month following the issuance of the

1 final order. The department shall promptly notify the violator's
2 marketing organization of any penalties contained in the final order.

3 (4) All penalties received or recovered from violations of this
4 section shall be remitted monthly by the violator's marketing
5 organization to the Washington state dairy products commission and
6 deposited in a revolving fund to be used solely for the purposes of
7 education and research. No appropriation is required for disbursements
8 from this fund.

9 (5) In case of a violation of the antibiotic, pesticide, or other
10 drug residue test requirements, an investigation shall be made to
11 determine the cause of the residue which shall be corrected. Follow-up
12 sampling and testing must be done in accordance with the requirements
13 of the PMO.

14 **Sec. 8.** RCW 15.36.551 and 1994 c 34 s 1 are each amended to read
15 as follows:

16 There is levied on all milk processed in this state an assessment
17 not to exceed fifty-four one-hundredths of one cent per hundredweight.
18 The director shall determine, by rule, an assessment, that with
19 contribution from the general fund, will support an inspection program
20 to maintain compliance with the provisions of the pasteurized milk
21 ordinance of the national conference on interstate milk shipment. All
22 assessments shall be levied on the operator of the first milk plant
23 receiving the milk for processing. This shall include milk plants that
24 produce their own milk for processing and milk plants that receive milk
25 from other sources. All moneys collected under this section shall be
26 paid to the director by the twentieth day of the succeeding month for
27 the previous month's assessments. The director shall deposit the funds
28 into the dairy inspection account hereby created within the
29 agricultural local fund established in RCW 43.23.230. The funds shall
30 be used only to provide inspection services to the dairy industry. If
31 the operator of a milk plant fails to remit any assessments, that sum
32 shall be a lien on any property owned by him or her, and shall be
33 reported by the director and collected in the manner and with the same
34 priority over other creditors as prescribed for the collection of
35 delinquent taxes under chapters 84.60 and 84.64 RCW.

36 This section shall expire June 30, (~~1995~~) 2000.

37 NEW SECTION. **Sec. 9.** For the purpose of this chapter:

1 (1) "Food storage warehouse" means any premises, establishment,
2 building, room area, facility, or place, in whole or in part, where
3 food is stored, kept, or held for wholesale distribution to other
4 wholesalers or to retail outlets, restaurants, and any such other
5 facility selling or distributing to the ultimate consumer. Food
6 storage warehouses include, but are not limited to, facilities where
7 food is kept or held refrigerated or frozen and include facilities
8 where food is stored to the account of another firm and/or is owned by
9 the food storage warehouse. "Food storage warehouse" does not include
10 grain elevators or fruit and vegetable storage and packing houses that
11 store, pack, and ship fresh fruit and vegetables even though they may
12 use refrigerated or controlled atmosphere storage practices in their
13 operation. However, this chapter applies to multiple food storage
14 operations that also distribute or ripen fruits and vegetables.

15 (2) "Department" means the Washington department of agriculture.

16 (3) "Director" means the director of the Washington department of
17 agriculture.

18 (4) "Food" means the same as defined in RCW 69.04.008.

19 (5) "Independent sanitation consultant" means an individual,
20 partnership, cooperative, or corporation that by reason of education,
21 certification, and experience has satisfactorily demonstrated expertise
22 in food and dairy sanitation and is approved by the director to advise
23 on such areas including, but not limited to: Principles of cleaning
24 and sanitizing food processing plants and equipment; rodent, insect,
25 bird, and other pest control; principals of hazard analysis critical
26 control point; basic food product labeling; principles of proper food
27 storage and protection; proper personnel work practices and attire;
28 sanitary design, construction, and installation of food plant
29 facilities, equipment, and utensils; and other pertinent food safety
30 issues.

31 NEW SECTION. **Sec. 10.** The director or his or her representative
32 shall make annual inspections of each food storage warehouse for
33 compliance with the provisions of chapter 69.04 RCW and the rules
34 adopted under chapter 69.04 RCW, except that food storage warehouses
35 exempted from licensure by the provisions of this chapter shall be
36 inspected by the department as deemed necessary by the director. Any
37 food storage warehouse found to not be in substantial compliance with
38 chapter 69.04 RCW and the rules adopted under chapter 69.04 RCW will be

1 reinspected as deemed necessary by the director to determine
2 compliance. This does not preclude the director from using any other
3 remedies as provided under chapter 69.04 RCW to gain compliance or to
4 embargo products as provided under RCW 69.04.110 to protect the public
5 from adulterated foods.

6 NEW SECTION. **Sec. 11.** Except as provided in this section and
7 section 12 of this act, it shall be unlawful for any person to operate
8 a food storage warehouse in the state without first having obtained an
9 annual license from the department, which shall expire on a date set by
10 rule by the director. License fees shall be prorated where necessary
11 to accommodate staggering of expiration dates. Application for a
12 license or license renewal shall be on a form prescribed by the
13 director and accompanied by the license fee. The license fee is fifty
14 dollars.

15 The application shall include the full name of the applicant for
16 the license and the location of the food storage warehouse he or she
17 intends to operate. If such applicant is an individual, receiver,
18 trustee, firm, partnership, association, or corporation, the full name
19 of each member of the firm or partnership, or names of the officers of
20 the association or corporation must be given on the application. The
21 application shall further state the principal business address of the
22 applicant in the state and elsewhere and the name of a person domiciled
23 in this state authorized to receive and accept service of summons of
24 legal notices of all kinds for the applicant. Upon the approval of the
25 application by the director and compliance with the provisions of this
26 chapter, including the applicable regulations adopted under this
27 chapter by the department, the applicant shall be issued a license or
28 renewal thereof. The director shall waive licensure under this
29 chapter for firms that are licensed under the provisions of chapter
30 69.07 or 15.36 RCW.

31 NEW SECTION. **Sec. 12.** A food storage warehouse that is inspected
32 for compliance with the current good manufacturing practices (Title 21
33 C.F.R. part 110) on at least an annual basis by a state or federal
34 agency or by an independent sanitation consultant approved by the
35 department shall be exempted from licensure under this chapter.

36 A report identifying the inspector and the inspecting entity, the
37 date of the inspection, and any violations noted on such inspection

1 shall be forwarded to the department by the food storage warehouse
2 within sixty days of the completion of the inspection. An inspection
3 shall be conducted and an inspection report for a food storage
4 warehouse shall be filed with the department at least once every twelve
5 months or the warehouse shall be licensed under this chapter and
6 inspected by the department for a period of two years.

7 NEW SECTION. **Sec. 13.** If the application for renewal of any
8 license provided for under this chapter is not filed prior to the
9 expiration date as established by rule by the director, an additional
10 fee of ten percent of the cost of the license shall be assessed and
11 added to the original fee and must be paid by the applicant before the
12 renewal license is issued.

13 NEW SECTION. **Sec. 14.** The director may, subsequent to a hearing
14 thereon, deny, suspend, or revoke any license provided for in this
15 chapter if he or she determines that an applicant has committed any of
16 the following acts:

17 (1) Refused, neglected, or failed to comply with the provisions of
18 this chapter, the rules adopted under this chapter, or any lawful order
19 of the director;

20 (2) Refused, neglected, or failed to keep and maintain records
21 required by this chapter, or to make such records available if
22 requested pursuant to the provisions of this chapter;

23 (3) Refused the department access to any portion or area of the
24 food storage warehouse for the purpose of carrying out the provisions
25 of this chapter;

26 (4) Refused the department access to any records required to be
27 kept under the provisions of this chapter;

28 (5) Refused, neglected, or failed to comply with any provisions of
29 chapter 69.04 RCW, Washington food, drug, and cosmetic act, or any
30 rules adopted under chapter 69.04 RCW.

31 The provisions of this section requiring that a hearing be
32 conducted before an action may be taken against a license do not apply
33 to an action taken under section 15 of this act.

34 NEW SECTION. **Sec. 15.** (1) Whenever the director finds a food
35 storage warehouse operating under conditions that constitute an
36 immediate danger to public health or whenever the licensee or any

1 employee of the licensee actively prevents the director or the
2 director's representative, during an on-site inspection, from
3 determining whether such a condition exists, the director may summarily
4 suspend, pending a hearing, a license provided for in this chapter.

5 (2) Whenever a license is summarily suspended, the holder of the
6 license shall be notified in writing that the license is, upon service
7 of the notice, immediately suspended and that prompt opportunity for a
8 hearing will be provided.

9 (3) Whenever a license is summarily suspended, food distribution
10 operations shall immediately cease. However, the director may
11 reinstate the license if the condition that caused the suspension has
12 been abated to the director's satisfaction.

13 NEW SECTION. **Sec. 16.** It is unlawful to sell, offer for sale, or
14 distribute in intrastate commerce food from or stored in a food storage
15 warehouse that is required to be licensed under this chapter but that
16 has not obtained a license, once notification by the director has been
17 given to the persons selling, offering, or distributing food for sale,
18 that the food is in or from such an unlicensed food storage warehouse.

19 NEW SECTION. **Sec. 17.** All moneys received by the department under
20 provisions of this chapter shall be paid into an account created in the
21 agricultural local fund established in RCW 43.23.230 and shall be used
22 solely to carry out provisions of this chapter and chapter 69.04 RCW.

23 NEW SECTION. **Sec. 18.** The department may use all the civil
24 remedies provided under chapter 69.04 RCW in carrying out and enforcing
25 the provisions of this chapter.

26 NEW SECTION. **Sec. 19.** (1) The department shall enforce and carry
27 out the provisions of this chapter and may adopt the necessary rules to
28 carry out its purpose.

29 (2) The adoption of rules under the provisions of this chapter are
30 subject to the applicable provisions of chapter 34.05 RCW, the
31 administrative procedure act.

32 NEW SECTION. **Sec. 20.** The director or director's deputies,
33 assistants, and inspectors are authorized to do all acts and things
34 necessary to carry out the provisions of this chapter, including the

1 taking of verified statements. The department personnel are empowered
2 to administer oaths of verification on the statement.

3 NEW SECTION. **Sec. 21.** A new section is added to chapter 69.04 RCW
4 to read as follows:

5 The director need not petition the superior court as provided for
6 in RCW 69.04.120 if the owner or claimant of such food or food products
7 agrees in writing to the disposition of such food or food products as
8 the director may order.

9 **Sec. 22.** RCW 69.07.040 and 1993 sp.s. c 19 s 11 and 1993 c 212 s
10 2 are each reenacted and amended to read as follows:

11 It shall be unlawful for any person to operate a food processing
12 plant or process foods in the state without first having obtained an
13 annual license from the department, which shall expire on a date set by
14 rule by the director. License fees shall be prorated where necessary
15 to accommodate staggering of expiration dates. Application for a
16 license shall be on a form prescribed by the director and accompanied
17 by the license fee. The license fee is determined by computing the
18 gross annual sales for the accounting year immediately preceding the
19 license year. If the license is for a new operator, the license fee
20 shall be based on an estimated gross annual sales for the initial
21 license period.

22	If gross annual sales are:	The license fee is:
23	\$0 to \$50,000	\$55.00
24	\$50,001 to \$500,000	\$110.00
25	\$500,001 to \$1,000,000	\$220.00
26	\$1,000,001 to \$5,000,000	\$385.00
27	\$5,000,001 to \$10,000,000	\$550.00
28	Greater than \$10,000,000	\$825.00

29 Such application shall include the full name of the applicant for the
30 license and the location of the food processing plant he or she intends
31 to operate. If such applicant is an individual, receiver, trustee,
32 firm, partnership, association or corporation, the full name of each
33 member of the firm or partnership, or names of the officers of the
34 association or corporation shall be given on the application. Such
35 application shall further state the principal business address of the
36 applicant in the state and elsewhere and the name of a person domiciled

1 in this state authorized to receive and accept service of summons of
2 legal notices of all kinds for the applicant. The application shall
3 also specify the type of food to be processed and the method or nature
4 of processing operation or preservation of that food and any other
5 necessary information. Upon the approval of the application by the
6 director and compliance with the provisions of this chapter, including
7 the applicable regulations adopted hereunder by the department, the
8 applicant shall be issued a license or renewal thereof.

9 Licenses shall be issued to cover only those products, processes,
10 and operations specified in the license application and approved for
11 licensing. Wherever a license holder wishes to engage in processing a
12 type of food product that is different than the type specified on the
13 application supporting the licensee's existing license and processing
14 that type of food product would require a major addition to or
15 modification of the licensee's processing facilities or has a high
16 potential for harm, the licensee shall submit an amendment to the
17 current license application. In such a case, the licensee may engage
18 in processing the new type of food product only after the amendment has
19 been approved by the department.

20 If upon investigation by the director, it is determined that a
21 person is processing food for retail sale and is not under permit,
22 license, or inspection by a local health authority, then that person
23 may be considered a food processor and subject to the provisions of
24 this chapter. The director may waive the licensure requirements of
25 this chapter for a person's operations at a facility if the person (~~is~~
26 ~~licensed under chapter 15.32 RCW or has a permit~~) has obtained a milk
27 processing plant license under chapter 15.36 RCW to conduct the same or
28 a similar operation at the facility.

29 **Sec. 23.** RCW 69.07.100 and 1988 c 5 s 4 are each amended to read
30 as follows:

31 The provisions of this chapter shall not apply to establishments
32 issued a permit or licensed under the provisions of:

33 (1) (~~Chapter 15.32 RCW, the Dairies and dairy products act;~~
34 ~~(2)~~) Chapter 69.25 RCW, the Washington wholesome eggs and egg
35 products act;

36 ((~~3~~)) (2) Chapter 69.28 RCW, the Washington state honey act;

37 ((~~4~~)) (3) Chapter 16.49 RCW, the Meat inspection act;

38 ((~~5~~)) (4) Title 66 RCW, relating to alcoholic beverage control;

1 and

2 ((+6)) (5) Chapter 69.30 RCW, the Sanitary control of shellfish
3 act: PROVIDED, That if any such establishments process foods not
4 specifically provided for in the above entitled acts, such
5 establishments shall be subject to the provisions of this chapter.

6 The provisions of this chapter shall not apply to restaurants or
7 food service establishments.

8 **Sec. 24.** RCW 69.07.085 and 1988 c 254 s 9 are each amended to read
9 as follows:

10 The department may issue sanitary certificates to food processors
11 under this chapter subject to such requirements as it may establish by
12 rule. The fee for issuance shall be ((twenty)) fifty dollars per
13 certificate. Fees collected under this section shall be deposited in
14 the agricultural local fund.

15 NEW SECTION. **Sec. 25.** The following acts or parts of acts are
16 each repealed:

- 17 (1) RCW 69.08.010 and 1971 c 27 s 1 & 1945 c 192 s 1;
- 18 (2) RCW 69.08.020 and 1945 c 192 s 4;
- 19 (3) RCW 69.08.030 and 1985 c 25 s 1 & 1945 c 192 s 2;
- 20 (4) RCW 69.08.040 and 1985 c 25 s 2 & 1945 c 192 s 3;
- 21 (5) RCW 69.08.045 and 1988 c 5 s 5 & 1971 c 27 s 2;
- 22 (6) RCW 69.08.050 and 1945 c 192 s 5;
- 23 (7) RCW 69.08.060 and 1945 c 192 s 6;
- 24 (8) RCW 69.08.070 and 1945 c 192 s 7;
- 25 (9) RCW 69.08.080 and 1945 c 192 s 8; and
- 26 (10) RCW 69.08.090 and 1945 c 192 s 9.

27 **Sec. 26.** RCW 69.25.020 and 1982 c 182 s 42 are each amended to
28 read as follows:

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

31 (1) "Department" means the department of agriculture of the state
32 of Washington.

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

35 (3) "Person" means any natural person, firm, partnership, exchange,
36 association, trustee, receiver, corporation, and any member, officer,

1 or employee thereof, or assignee for the benefit of creditors.

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

4 (a) If it bears or contains any poisonous or deleterious substance
5 which may render it injurious to health; but in case the substance is
6 not an added substance, such article shall not be considered
7 adulterated under this clause if the quantity of such substance in or
8 on such article does not ordinarily render it injurious to health;

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

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

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

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

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

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

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

34 (~~(h)~~) (i) If it is an egg which has been subjected to incubation
35 or the product of any egg which has been subjected to incubation;

36 (~~(i)~~) (j) If its container is composed, in whole or in part, of
37 any poisonous or deleterious substance which may render the contents
38 injurious to health;

39 (~~(j)~~) (k) If it has been intentionally subjected to radiation,

1 unless the use of the radiation was in conformity with a regulation or
2 exemption in effect pursuant to RCW 69.04.394; or

3 (~~(k)~~) (l) If any valuable constituent has been in whole or in
4 part omitted or abstracted therefrom; or if any substance has been
5 substituted, wholly or in part therefor; or if damage or inferiority
6 has been concealed in any manner; or if any substance has been added
7 thereto or mixed or packed therewith so as to increase its bulk or
8 weight, or reduce its quality or strength, or make it appear better or
9 of greater value than it is.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (26) "Official inspection legend" means any symbol prescribed by

1 regulations of the director showing that egg products were inspected in
2 accordance with this chapter.

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

6 (28) "Official plant" means any plant which is licensed under the
7 provisions of this chapter, at which inspection of the processing of
8 egg products is maintained by the United States department of
9 agriculture or by the state under cooperative agreements with the
10 United States department of agriculture or by the state.

11 (29) "Official standards" means the standards of quality, grades,
12 and weight classes for eggs, adopted under the provisions of this
13 chapter.

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

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

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

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

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

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

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

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

37 (38) "Master license system" means the mechanism established by
38 chapter 19.02 RCW by which master licenses, endorsed for individual
39 state-issued licenses, are issued and renewed utilizing a master

1 application and a master license expiration date common to each
2 renewable license endorsement.

3 (39) "Ambient temperature" means the atmospheric temperature
4 surrounding or encircling shell eggs.

5 **Sec. 27.** RCW 69.25.050 and 1982 c 182 s 43 are each amended to
6 read as follows:

7 No person shall act as an egg handler or dealer without first
8 obtaining an annual license and permanent dealer's number from the
9 department; such license shall expire on the master license expiration
10 date. Application for an egg dealer license or egg dealer branch
11 license, shall be made through the master license system. The annual
12 egg dealer license fee shall be (~~ten~~) thirty dollars and the annual
13 egg dealer branch license fee shall be (~~five~~) fifteen dollars. A
14 copy of the master license shall be posted at each location where such
15 licensee operates. Such application shall include the full name of the
16 applicant for the license and the location of each facility he intends
17 to operate. If such applicant is an individual, receiver, trustee,
18 firm, partnership, association or corporation, the full name of each
19 member of the firm or partnership or the names of the officers of the
20 association or corporation shall be given on the application. Such
21 application shall further state the principal business address of the
22 applicant in the state and elsewhere and the name of a person domiciled
23 in this state authorized to receive and accept service of summons of
24 legal notices of all kinds for the applicant and any other necessary
25 information prescribed by the director. Upon the approval of the
26 application and compliance with the provisions of this chapter,
27 including the applicable regulations adopted hereunder by the
28 department, the applicant shall be issued a license or renewal thereof.
29 Such license and permanent egg handler or dealer's number shall be
30 nontransferable.

31 **Sec. 28.** RCW 69.25.150 and 1992 c 7 s 47 are each amended to read
32 as follows:

33 ~~(1) ((Any person who commits any offense prohibited by RCW~~
34 ~~69.25.110 shall upon conviction be guilty of a gross misdemeanor.)) (a)~~
35 Any person violating any provision of this chapter or any rule adopted
36 under this chapter is guilty of a misdemeanor and guilty of a gross
37 misdemeanor for any second and subsequent violation. Any offense

1 committed more than five years after a previous conviction shall be
2 considered a first offense. A misdemeanor under this section is
3 punishable to the same extent that a misdemeanor is punishable under
4 RCW 9A.20.021 and a gross misdemeanor under this section is punishable
5 to the same extent that a gross misdemeanor is punishable under RCW
6 9A.20.021.

7 (b) Whenever the director finds that a person has committed a
8 violation of any of the provisions of this chapter, and that violation
9 has not been punished pursuant to (a) of this subsection, the director
10 may impose upon and collect from the violator a civil penalty not
11 exceeding one thousand dollars per violation per day. Each violation
12 shall be a separate and distinct offense.

13 When construing or enforcing the provisions of RCW 69.25.110, the
14 act, omission, or failure of any person acting for or employed by any
15 individual, partnership, corporation, or association within the scope
16 of the person's employment or office shall in every case be deemed the
17 act, omission, or failure of such individual, partnership, corporation,
18 or association, as well as of such person.

19 (2) No carrier or warehouseman shall be subject to the penalties of
20 this chapter, other than the penalties for violation of RCW 69.25.140,
21 or subsection (3) of this section, by reason of his or her receipt,
22 carriage, holding, or delivery, in the usual course of business, as a
23 carrier or warehouseman of eggs or egg products owned by another person
24 unless the carrier or warehouseman has knowledge, or is in possession
25 of facts which would cause a reasonable person to believe that such
26 eggs or egg products were not eligible for transportation under, or
27 were otherwise in violation of, this chapter, or unless the carrier or
28 warehouseman refuses to furnish on request of a representative of the
29 director the name and address of the person from whom he or she
30 received such eggs or egg products and copies of all documents, if
31 there be any, pertaining to the delivery of the eggs or egg products
32 to, or by, such carrier or warehouseman.

33 (3) Notwithstanding any other provision of law any person who
34 forcibly assaults, resists, impedes, intimidates, or interferes with
35 any person while engaged in or on account of the performance of his or
36 her official duties under this chapter shall be punished by a fine of
37 not more than five thousand dollars or imprisonment in a state
38 correctional facility for not more than three years, or both. Whoever,
39 in the commission of any such act, uses a deadly or dangerous weapon,

1 shall be punished by a fine of not more than ten thousand dollars or by
2 imprisonment in a state correctional facility for not more than ten
3 years, or both.

4 **Sec. 29.** RCW 69.25.170 and 1975 1st ex.s. c 201 s 18 are each
5 amended to read as follows:

6 (1) The director may, by regulation and under such conditions and
7 procedures as he may prescribe, exempt from specific provisions of this
8 chapter:

9 (a) The sale, transportation, possession, or use of eggs which
10 contain no more restricted eggs than are allowed by the tolerance in
11 the official state standards for consumer grades for shell eggs;

12 (b) The processing of egg products at any plant where the
13 facilities and operating procedures meet such sanitary standards as may
14 be prescribed by the director, and where the eggs received or used in
15 the manufacture of egg products contain no more restricted eggs than
16 are allowed by the official standards of the state consumer grades for
17 shell eggs, and the egg products processed at such plant;

18 (c) The sale of eggs by any poultry producer from his own flocks
19 directly to a household consumer exclusively for use by such consumer
20 and members of his household and his nonpaying guests and employees,
21 and the transportation, possession, and use of such eggs in accordance
22 with this subsection;

23 (d) The sale of eggs by shell egg packers on his own premises
24 directly to household consumers for use by such consumer and members of
25 his household and his nonpaying guests and employees, and the
26 transportation, possession, and use of such eggs in accordance with
27 this subsection;

28 (e) The sale of eggs by any egg producer with an annual egg
29 production from a flock of three thousand hens or less.

30 (2) The director may modify or revoke any regulation granting
31 exemption under this chapter whenever he deems such action appropriate
32 to effectuate the purposes of this chapter.

33 **Sec. 30.** RCW 69.25.250 and 1993 sp.s. c 19 s 12 are each amended
34 to read as follows:

35 There is hereby levied an assessment not to exceed three mills per
36 dozen eggs entering intrastate commerce, as prescribed by rules and
37 regulations issued by the director. Such assessment shall be

1 applicable to all eggs entering intrastate commerce except as provided
2 in RCW 69.25.170 and 69.25.290. Such assessment shall be paid to the
3 director on a monthly basis on or before the tenth day following the
4 month such eggs enter intrastate commerce. The director may require
5 reports by egg handlers or dealers along with the payment of the
6 assessment fee. Such reports may include any and all pertinent
7 information necessary to carry out the purposes of this chapter. The
8 director may, by regulations, require egg container manufacturers to
9 report on a monthly basis all egg containers sold to any egg handler or
10 dealer and bearing such egg handler or dealer's (~~license~~) permanent
11 number.

12 **Sec. 31.** RCW 69.25.310 and 1975 1st ex.s. c 201 s 32 are each
13 amended to read as follows:

14 (1) All containers used by an egg handler or dealer to package eggs
15 shall bear the name and address or the permanent number issued by the
16 director to said egg handler or dealer. Such permanent number shall be
17 displayed in a size and location prescribed by the director. (~~It~~
18 shall constitute a gross misdemeanor for any egg handler or dealer to
19 reuse a container which bears the permanent number of another egg
20 handler or dealer unless such number is totally obliterated prior to
21 reuse.)) It shall be a violation for any egg handler or dealer to use
22 a container that bears the permanent number of another egg handler or
23 dealer unless such number is totally obliterated prior to use. The
24 director may in addition require the obliteration of any or all
25 markings that may be on any container which will be (~~reused~~) used
26 for eggs by an egg handler or dealer.

27 (2) Notwithstanding subsection (1) of this section and following
28 written notice to the director, licensed egg handlers and dealers may
29 use new containers bearing another handler's or dealer's permanent
30 number on a temporary basis, in any event not longer than one year,
31 with the consent of such other handler or dealer for the purpose of
32 using up existing container stocks. Sale of container stock shall
33 constitute agreement by the parties to use the permanent number.

34 **Sec. 32.** RCW 69.25.320 and 1975 1st ex.s. c 201 s 33 are each
35 amended to read as follows:

36 (1) In addition to any other records required to be kept and
37 furnished the director under the provisions of this chapter, the

1 director may require any person who sells to any retailer, or to any
2 restaurant, hotel, boarding house, bakery, or any institution or
3 concern which purchases eggs for serving to guests or patrons thereof
4 or for its use in preparation of any food product for human
5 consumption, candled or graded eggs other than those of his own
6 production sold and delivered on the premises where produced, to
7 furnish that retailer or other purchaser with an invoice covering each
8 such sale, showing the exact grade or quality, and the size or weight
9 of the eggs sold, according to the standards prescribed by the
10 director, together with the name and address of the person by whom the
11 eggs were sold. The person selling and the retailer or other purchaser
12 shall keep a copy of said invoice on file at his place of business for
13 a period of thirty days, during which time the copy shall be available
14 for inspection at all reasonable times by the director: PROVIDED, That
15 no retailer or other purchaser shall be guilty of a violation of this
16 chapter if he can establish a guarantee from the person from whom the
17 eggs were purchased to the effect that they, at the time of purchase,
18 conformed to the information required by the director on such invoice:
19 PROVIDED FURTHER, That if the retailer or other purchaser having
20 labeled any such eggs in accordance with the invoice keeps them for
21 such a time after they are purchased as to cause them to deteriorate to
22 a lower grade or standard, and sells them under the label of the
23 invoice grade or standard, he shall be guilty of a violation of this
24 chapter.

25 (2) Each retailer and each distributor shall store shell eggs
26 awaiting sale or display eggs under clean and sanitary conditions in
27 areas free from rodents and insects. Shell eggs must be stored up off
28 the floor away from strong odors, pesticides, and cleaners.

29 (3) After being received at the point of first purchase, all graded
30 shell eggs packed in containers for the purpose of sale to consumers
31 shall be held and transported under refrigeration at ambient
32 temperatures no greater than forty-five degrees Fahrenheit (seven and
33 two-tenths degrees Celsius). This provision shall apply without
34 limitation to retailers, institutional users, dealer/wholesalers, food
35 handlers, transportation firms, or any person who handles eggs after
36 the point of first purchase.

37 (4) No invoice shall be required on eggs when packed for sale to
38 the United States department of defense, or a component thereof, if
39 labeled with grades promulgated by the United States secretary of

1 agriculture.

2 NEW SECTION. **Sec. 33.** The following acts or parts of acts are
3 each repealed:

4 (1) RCW 69.25.330 and 1975 1st ex.s. c 201 s 34; and

5 (2) RCW 69.25.340 and 1975 1st ex.s. c 201 s 36.

6 **Sec. 34.** RCW 15.53.901 and 1982 c 177 s 1 are each amended to read
7 as follows:

8 The definitions set forth in this section apply ((through
9 {throughout})) throughout this chapter.

10 ((~~(1) "Department" means the department of agriculture of the state
11 of Washington or its duly authorized representative.~~

12 ~~(2) "Person" means a natural person, individual, firm, partnership,
13 corporation, company, society, or association.~~

14 ~~(3) "Distribute" means to import, consign, manufacture, produce,
15 compound, mix, or blend commercial feed, or to offer for sale, sell,
16 barter, or otherwise supply commercial feed in this state.~~

17 ~~(4) "Distributor" means any person who distributes.~~

18 ~~(5) "Sell" or "sale" includes exchange.~~

19 ~~(6) "Commercial feed" means all materials including customer-
20 formula feed which are distributed for use as feed or for mixing in
21 feed, for animals other than man.~~

22 ~~(7) "Feed ingredient" means each of the constituent materials
23 making up a commercial feed.~~

24 ~~(8) "Customer formula feed" means a mixture of commercial feed
25 and/or materials each batch of which is mixed according to the specific
26 instructions of the final purchaser or contract feeder.~~

27 ~~(9) "Brand" means the term, design, trademark, or other specific
28 designation under which an individual commercial feed is distributed in
29 this state.~~

30 ~~(10) "Product" means the name of the commercial feed that
31 identifies it as to kind, class, or specific use.~~

32 ~~(11) "Label" means a display of written, printed, or graphic matter
33 upon or affixed to the container in which a commercial feed is
34 distributed, or on the invoice or delivery slip with which a commercial
35 feed is distributed.~~

36 ~~(12) "Labeling" means all labels and other written, printed, or
37 graphic matter upon a commercial feed or any of its containers or~~

1 ~~wrappers, or otherwise accompanying such commercial feed.~~

2 ~~(13) "Ton" means a net weight of two thousand pounds avoirdupois.~~

3 ~~(14) "Percent" or "percentage" means percentage by weight.~~

4 ~~(15) "Official sample" means any sample of feed taken by the~~
5 ~~department, obtained and analyzed as provided in RCW 15.53.9024.~~

6 ~~(16) "Contract feeder" means an independent contractor, or any~~
7 ~~other person who feeds commercial feed to animals pursuant to an oral~~
8 ~~or written agreement whereby such commercial feed is supplied,~~
9 ~~furnished or otherwise provided to such person by any distributor and~~
10 ~~whereby such person's remuneration is determined all or in part by feed~~
11 ~~consumption, mortality, profits, or amount or quality of product:~~
12 ~~PROVIDED, That it shall not include a bona fide employee of a~~
13 ~~manufacturer or distributor of commercial feed.~~

14 ~~(17) "Retail" means to distribute to the ultimate consumer.))~~

15 (1) "Brand name" means a word, name, symbol, or device, or any
16 combination thereof, identifying the commercial feed of a distributor
17 or registrant and distinguishing it from that of others.

18 (2) "Commercial feed" means all materials or combination of
19 materials that are distributed or intended for distribution for use as
20 feed or for mixing in feed, unless such materials are specifically
21 exempted. Unmixed whole seeds and physically altered entire unmixed
22 seeds, when such whole seeds or physically altered seeds are not
23 chemically changed or not adulterated within the meaning of RCW
24 15.53.902, are exempt. The department by rule may exempt from this
25 definition, or from specific provisions of this chapter, commodities
26 such as hay, straw, stover, silage, cobs, husks, hulls, and individual
27 chemical compounds or substances when such commodities, compounds, or
28 substances are not intermixed with other materials, and are not
29 adulterated within the meaning of RCW 15.53.902.

30 (3) "Contract feeder" means a person who is an independent
31 contractor and feeds commercial feed to animals pursuant to a contract
32 whereby such commercial feed is supplied, furnished, or otherwise
33 provided to such person and whereby such person's remuneration is
34 determined all or in part by feed consumption, mortality, profits, or
35 amount or quality of product.

36 (4) "Customer-formula feed" means commercial feed that consists of
37 a mixture of commercial feeds or feed ingredients, or both, each batch
38 of which is manufactured according to the instructions of the final
39 purchaser.

1 (5) "Department" means the department of agriculture of the state
2 of Washington or its duly authorized representative.

3 (6) "Director" means the director of the department or a duly
4 authorized representative.

5 (7) "Distribute" means to offer for sale, sell, exchange or barter,
6 commercial feed; or to supply, furnish, or otherwise provide commercial
7 feed to a contract feeder.

8 (8) "Distributor" means a person who distributes.

9 (9) "Drug" means an article intended for use in the diagnosis,
10 cure, mitigation, treatment, or prevention of disease in animals other
11 than people and articles, other than feed intended to affect the
12 structure or a function of the animal body.

13 (10) "Exempt buyer" means a licensee who has agreed to be
14 responsible for reporting tonnage and paying inspection fees for all
15 commercial feeds they distribute. An exempt buyer must apply for
16 exempt buyer status with the department. The department shall maintain
17 a list of all exempt buyers and make the list available on request.

18 (11) "Feed ingredient" means each of the constituent materials
19 making up a commercial feed.

20 (12) "Final purchaser" means a person who purchases commercial feed
21 to feed to animals in his or her care.

22 (13) "Initial distributor" means a person who first distributes a
23 commercial feed in or into this state.

24 (14) "Label" means a display of written, printed, or graphic matter
25 upon or affixed to the container in which a commercial feed is
26 distributed, or on the invoice or delivery slip with which a commercial
27 feed is distributed.

28 (15) "Labeling" means all labels and other written, printed, or
29 graphic matter: (a) Upon a commercial feed or any of its containers or
30 wrappers; or (b) accompanying such commercial feed.

31 (16) "Licensee" means a person who holds a commercial feed license
32 as prescribed in this chapter.

33 (17) "Manufacture" means to grind, mix or blend, or further process
34 a commercial feed for distribution.

35 (18) "Medicated feed" means a commercial feed containing a drug or
36 other medication.

37 (19) "Mineral feed" means a commercial feed intended to supply
38 primarily mineral elements or inorganic nutrients.

39 (20) "Official sample" means a sample of feed taken by the

1 department, obtained and analyzed as provided in RCW 15.53.9024 (3),
2 (5), or (6).

3 (21) "Percent" or "percentage" means percentage by weight.

4 (22) "Person" means an individual, firm, partnership, corporation,
5 or association.

6 (23) "Pet" means a domesticated animal normally maintained in or
7 near the household of the owner of the pet.

8 (24) "Pet food" means a commercial feed prepared and distributed
9 for consumption by pets.

10 (25) "Product name" means the name of the commercial feed that
11 identifies it as to kind, class, or specific use.

12 (26) "Retail" means to distribute to the final purchaser.

13 (27) "Sell" or "sale" includes exchange.

14 (28) "Specialty pet" means a domesticated animal pet normally
15 maintained in a cage or tank, such as, but not limited to, gerbils,
16 hamsters, canaries, psittacine birds, mynahs, finches, tropical fish,
17 goldfish, snakes, and turtles.

18 (29) "Specialty pet food" means a commercial feed prepared and
19 distributed for consumption by specialty pets.

20 (30) "Ton" means a net weight of two thousand pounds avoirdupois.

21 (31) "Quantity statement" means the net weight (mass), net volume
22 (liquid or dry), or count.

23 **Sec. 35.** RCW 15.53.9012 and 1965 ex.s. c 31 s 3 are each amended
24 to read as follows:

25 (1) The department shall administer, enforce and carry out the
26 provisions of this chapter and may adopt rules necessary to carry out
27 its purpose. In adopting such rules, the director shall consider (a)
28 the official definitions of feed ingredients and official feed terms
29 adopted by the association of American feed control officials and
30 published in the official publication of that organization; and (b) any
31 regulation adopted pursuant to the authority of the Federal Food, Drug,
32 and Cosmetic Act (21 U.S.C. Sec. 301, et seq.), if the department would
33 have the authority under this chapter to adopt the regulations. The
34 adoption of rules shall be subject to a public hearing and all other
35 applicable provisions of chapter 34.05 RCW (Administrative Procedure
36 Act)((, as enacted or hereafter amended)).

37 (2) The director when adopting rules in respect to the feed
38 industry shall consult with affected parties, such as manufacturers and

1 distributors of commercial feed and any final rule adopted shall be
2 designed to promote orderly marketing and shall be reasonable and
3 necessary and based upon the requirements and condition of the industry
4 and shall be for the purpose of promoting the well-being of the members
5 of the feed industry as well as the well-being of the purchasers and
6 users of feed and for the general welfare of the people of the state.

7 NEW SECTION. **Sec. 36.** A new section is added to chapter 15.53 RCW
8 to read as follows:

9 (1) Beginning January 1, 1996, a person who manufactures a
10 commercial feed, is an initial distributor of a commercial feed, or
11 whose name appears as the responsible party on a commercial feed label
12 to be distributed in or into this state shall first obtain from the
13 department a commercial feed license for each facility. Sale of food
14 processing byproducts from fruit, vegetable, or potato processing
15 plants, freezing or dehydrating facilities, or juice or jelly
16 preserving plants, bona fide experimental feed on which accurate
17 records and experimental programs are maintained, and pet food and
18 specialty pet food are exempt from the requirement of a commercial feed
19 license. The sale of byproducts or products of sugar refineries are
20 not exempt from the requirement of a commercial feed license.

21 (2) Application for a commercial feed license shall be made
22 annually on forms provided by the department and shall be accompanied
23 by a fee of fifty dollars, except that for the period beginning January
24 1, 1996, and ending June 30, 1996, the fee shall be twenty-five
25 dollars. The commercial feed license shall expire on June 30th of each
26 year.

27 (3) An application for license shall include the following:

28 (a) The name and address of the applicant;

29 (b) Other information required by the department by rule.

30 (4) After January 1, 1996, application for license renewal is due
31 July 1st of each year. If an application for license renewal provided
32 for in this section is not filed with the department prior to July
33 15th, a delinquency fee of fifty dollars shall be assessed and added to
34 the original fee and must be paid by the applicant before the renewal
35 license is issued. The assessment of the delinquency fee shall not
36 prevent the department from taking other action as provided for in this
37 chapter. The penalty does not apply if the applicant furnishes an
38 affidavit that he or she has not distributed a commercial feed

1 subsequent to the expiration of his or her prior license.

2 (5) The department may deny a license application if the applicant
3 is not in compliance with this chapter or applicable rules, and may
4 revoke a license if the licensee is not in compliance with this chapter
5 or applicable rules. Prior to denial or revocation of a license, the
6 department shall provide notice and an opportunity to correct
7 deficiencies. If an applicant or licensee fails to correct the
8 deficiency, the department shall deny or revoke the license. If
9 aggrieved by the decision, the applicant or licensee may request a
10 hearing as authorized under chapter 34.05 RCW.

11 (6) Notwithstanding the payment of a delinquency fee, it is a
12 violation to distribute a commercial feed by an unlicensed person, and
13 nothing in this chapter shall prevent the department from imposing a
14 penalty authorized by this chapter for the violation.

15 (7) The department may under conditions specified by rule, request
16 copies of labels and labeling in order to determine compliance with the
17 provisions of this chapter.

18 **Sec. 37.** RCW 15.53.9014 and 1993 sp.s. c 19 s 2 are each amended
19 to read as follows:

20 (1) Each (~~commercial feed~~) pet food and specialty pet food shall
21 be registered with the department and such registration shall be
22 renewed annually before such commercial feed may be distributed in this
23 state(~~(: PROVIDED, That sales of food processing byproducts from~~
24 ~~fruit, vegetable, or potato processing plants, freezing or dehydrating~~
25 ~~facilities, or juice or jelly preserving plants; unmixed seed, whole or~~
26 ~~processed, made directly from the entire seed; unground hay, straw,~~
27 ~~stover, silage, cobs, husks, and hulls, when not mixed with other~~
28 ~~material; bona fide experimental feeds on which accurate records and~~
29 ~~experimental programs are maintained; and customer formula feeds are~~
30 ~~exempt from such registration. The exemption for byproducts provided~~
31 ~~by this subsection does not apply to byproducts or products of sugar~~
32 ~~refineries or to materials used in the preparation of pet foods.~~

33 (a) Beginning July 1, 1993, each registration for a commercial feed
34 product distributed in packages of ten pounds or more shall be
35 accompanied by a fee of eleven dollars. If such commercial feed is
36 also distributed in packages of less than ten pounds it shall be
37 registered under subsection (b) of this section.

38 (b) Beginning July 1, 1993, each registration for a commercial feed

1 ~~product distributed in packages of less than ten pounds shall be~~
2 ~~accompanied by an annual registration fee of forty five dollars on each~~
3 ~~such commercial feed so distributed, but no inspection fee may be~~
4 ~~collected on packages of less than ten pounds of the commercial feed so~~
5 ~~registered)).~~

6 (2) The application for registration of pet food and specialty pet
7 food shall be on forms provided by the department and shall be
8 accompanied by the fees in subsection (3) of this section.
9 Registrations expire on June 30th of each year.

10 (3) Pet food and specialty pet food registration fees are as
11 follows:

12 (a) Each pet food and specialty pet food distributed in packages of
13 ten pounds or more shall be accompanied by a fee of eleven dollars,
14 except that for the period beginning January 1, 1996, and ending June
15 30, 1996, the fee shall be five dollars and fifty cents. If such
16 commercial feed is also distributed in packages of less than ten pounds
17 it shall be registered under (b) of this subsection.

18 (b) Each pet food and specialty pet food distributed in packages of
19 less than ten pounds shall be accompanied by a fee of forty-five
20 dollars, except that for the period beginning January 1, 1996, and
21 ending June 30, 1996, the fee shall be twenty-two dollars and fifty
22 cents. No inspection fee may be collected on pet food and specialty
23 pet food distributed in packages of less than ten pounds.

24 (4) ~~The department may require that ((such)) the application for~~
25 ~~registration of pet food and specialty pet food be accompanied by a~~
26 ~~label and/or other printed matter describing the product. ((All~~
27 ~~registrations expire on December 31st of each year, and are renewable~~
28 ~~unless such registration is canceled by the department or it has called~~
29 ~~for a new registration, or unless canceled by the registrant.~~

30 (4) ~~The application shall include the information required by RCW~~
31 ~~15.53.9016(1)(b) through (1)(e).)~~

32 (5) ~~A distributor shall not be required to register ((any~~
33 ~~commercial feed brand or product which)) a pet food or specialty pet~~
34 ~~food that is already registered under the provisions of this chapter,~~
35 ~~as long as it is distributed with the original label.~~

36 (6) ~~Changes in the guarantee of either chemical or ingredient~~
37 ~~composition of a ((commercial feed)) pet food or specialty pet food~~
38 ~~registered under the provisions of this chapter may be permitted if~~
39 ~~there is satisfactory evidence that such changes would not result in a~~

1 lowering of the feed value of the product for the purpose for which it
2 was designed.

3 (7) The department is ~~((empowered))~~ authorized to refuse
4 registration of any application not in compliance with the provisions
5 of this chapter and any rule adopted under this chapter and to cancel
6 any registration subsequently found to be not in compliance with any
7 provisions of this chapter~~((, but a registration shall not be refused~~
8 ~~or canceled until the registrant has been given opportunity to be heard~~
9 ~~before the department and to amend his application in order to comply~~
10 ~~with the requirements of))~~ and any rule adopted under this chapter.
11 Prior to refusal or cancellation of a registration, the applicant or
12 registrant of an existing registered pet food or specialty pet food
13 shall be notified of the reasons and given an opportunity to amend the
14 application to comply. If the applicant does not make the necessary
15 corrections, the department shall refuse to register the feed. The
16 applicant or registrant of an existing registered pet food or specialty
17 pet food may request a hearing as provided for in chapter 34.05 RCW.

18 (8) After January 1, 1996, application for renewal of registration
19 is due July 1st of each year. If an application for renewal of the
20 registration provided for in this section is not filed prior to
21 ~~((January 1st))~~ July 15th of any one year, a penalty of ten dollars per
22 product shall be assessed and added to the original fee and shall be
23 paid by the applicant before the renewal registration may be issued,
24 unless the applicant furnishes an affidavit that he has not distributed
25 this feed subsequent to the expiration of his or her prior
26 registration.

27 (9) It is a violation of this chapter to distribute an unregistered
28 pet food or specialty pet food. Payment of a delinquency fee shall not
29 prevent the department from imposing a penalty authorized by this
30 chapter for the violation.

31 **Sec. 38.** RCW 15.53.9016 and 1965 ex.s. c 31 s 5 are each amended
32 to read as follows:

33 (1) Any commercial feed ~~((registered with the department and)),~~
34 except a customer-formula feed, distributed in this state shall be
35 accompanied by a legible label bearing the following information:

36 (a) ~~((The net weight as required under chapter 19.94 RCW as enacted~~
37 ~~or hereinafter amended.~~

38 ~~(b))~~ The product name ~~((or))~~ and the brand name, if any, under

1 which the commercial feed is distributed.

2 ~~((c) The guaranteed analysis of the commercial feed, listing the~~
3 ~~minimum percentage of crude protein, minimum percentage of crude fat,~~
4 ~~and maximum percentage of crude fiber. For mineral feeds the list~~
5 ~~shall include the following if added: Minimum and maximum percentages~~
6 ~~of calcium (Ca), minimum percentage of phosphorus (P), minimum~~
7 ~~percentage of iodine (I), and minimum and maximum percentages of salt~~
8 ~~(NaCl). Other substances or elements, determinable by laboratory~~
9 ~~methods, may be guaranteed by permission of the department. When any~~
10 ~~items are guaranteed, they shall be subject to inspection and analysis~~
11 ~~in accordance with the methods and regulations that may be prescribed~~
12 ~~by the department. Products distributed solely as mineral and/or~~
13 ~~vitamin supplements and guaranteed as specified in this section need~~
14 ~~not show guarantees for protein, fat, and fiber.~~

15 ~~(d))~~ (b) The guaranteed analysis stated in such terms as the
16 department by rule determines is required to advise the user of the
17 composition of the feed or to support claims made in the labeling. In
18 all cases the substances or elements must be determinable by laboratory
19 methods such as the methods published by the association of official
20 analytical chemists.

21 (c) The common or usual name of each ingredient used in the
22 manufacture of the commercial feed, except as the department may, by
23 regulation, permit the use of a collective term for a group of
24 ingredients all of which perform the same function. An ingredient
25 statement is not required for single standardized ingredient feeds
26 which are officially defined.

27 ~~((e))~~ (d) The name and principal mailing address of the person
28 responsible for distributing the commercial feed.

29 (e) Adequate directions for use for all commercial feeds containing
30 drugs and for all such other commercial feeds as the department may
31 require by rule as necessary for their safe and effective use.

32 (f) Precautionary statements as the department by rule determines
33 are necessary for the safe and effective use of the commercial feed.

34 (g) The net weight as required under chapter 19.94 RCW.

35 (2) When a commercial feed, except a customer-formula feed, is
36 distributed in this state in bags or other containers, the label shall
37 be placed on or affixed to the container; when a commercial feed,
38 except a customer-formula feed, is distributed in bulk the label shall
39 accompany delivery and be furnished to the purchaser at time of

1 delivery.

2 (3) A customer-formula feed shall be labeled by ~~((invoice))~~
3 shipping document. The ~~((invoice))~~ shipping document, which is to
4 accompany delivery and be supplied to the purchaser at the time of
5 delivery, shall bear the following information:

6 (a) Name and address of the ~~((mixer))~~ manufacturer;

7 (b) Name and address of the purchaser;

8 (c) Date of ~~((sale; and))~~ delivery;

9 (d) ~~((Brand name and number of pounds of each registered commercial~~
10 ~~feed used in the mixture and the name and number of pounds of each~~
11 ~~other feed ingredient added.~~

12 ~~(4) If a commercial feed contains a nonnutritive substance which is~~
13 ~~intended for use in the diagnosis, cure, mitigation, treatment, or~~
14 ~~prevention of disease or which is intended to affect the structure or~~
15 ~~any function of the animal body, the department may require the label~~
16 ~~to show the amount present, directions for use, and/or warnings against~~
17 ~~misuse of the feed.~~

18 ~~(5) A customer-formula feed shall be considered to be in violation~~
19 ~~of this chapter if it does not conform to the invoice labeling. Upon~~
20 ~~request of the department it shall be the duty of the person~~
21 ~~distributing the customer-formula feed to supply the department with a~~
22 ~~copy of the invoice which represents that particular feed: PROVIDED,~~
23 ~~That such person shall not be required to keep such invoice for a~~
24 ~~period of longer than six months))~~ Product name and the net weight as
25 required under chapter 19.94 RCW;

26 (e) Adequate directions for use for all customer-formula feeds
27 containing drugs and for such other feeds as the department may require
28 by rule as necessary for their safe and effective use;

29 (f) The directions for use and precautionary statements as required
30 by subsection (1) (e) and (f) of this section; and

31 (g) If a drug containing product is used:

32 (i) The purpose of the medication (claim statement);

33 (ii) The established name of each active drug ingredient and the
34 level of each drug used in the final mixture expressed in accordance
35 with rules established by the department.

36 (4) The product name and quantity statement of each commercial feed
37 and each other ingredient used in the customer formula feed must be on
38 file at the plant producing the product. These records must be kept on
39 file for one year after the last sale. This information shall be made

1 available to the purchaser, the dealer making the sale, and the
2 department on request.

3 **Sec. 39.** RCW 15.53.9018 and 1982 c 177 s 3 are each amended to
4 read as follows:

5 (1) (~~On or after June 30, 1981,~~) Except as provided in subsection
6 (4) of this section, each initial distributor of a commercial feed in
7 this state shall pay to the department an inspection fee on all
8 commercial feed sold by such person during the year. The fee shall be
9 not less than four cents nor more than (~~fourteen~~) twelve cents per
10 ton as prescribed by the director by rule: PROVIDED, That such fees
11 shall be used for routine enforcement (~~of RCW 15.53.9022 and for~~
12 ~~analysis for contaminants only when the department has reasonable cause~~
13 ~~to believe any lot of feed or any feed ingredient is adulterated~~) and
14 administration of this chapter and rules adopted under this chapter.

15 (2) (~~In computing the tonnage on which the inspection fee must be~~
16 ~~paid, sales of: (a) Commercial feed to other feed registrants;~~) An
17 inspection fee is not required for: (a) Commercial feed distributed by
18 a person having proof that inspection fees have been paid by his or her
19 supplier (manufacturer); (b) commercial feed in packages weighing less
20 than ten pounds; (c) commercial feed for shipment to points outside
21 this state; (d) food processing byproducts from fruit, vegetable, or
22 potato processing plants, freezing or dehydrating facilities, or juice
23 or jelly preserving plants; and (e) (~~unmixed seed, whole or processed,~~
24 made directly from the entire seed; (f) unground hay, straw, stover,
25 silage, cobs, husks, and hulls, when not mixed with other material; and
26 ~~(g))~~) bona fide experimental feeds on which accurate records and
27 experimental programs are maintained (~~may be excluded. The exemption~~
28 for byproducts provided by this subsection does not apply to byproducts
29 or products of sugar refineries or to materials used in the preparation
30 of pet foods)).

31 (3) Tonnage will be reported and inspection fees will be paid on
32 (a) byproducts or products of sugar refineries; (b) materials used in
33 the preparation of pet foods and specialty pet food.

34 (4) When more than one distributor is involved in the distribution
35 of a commercial feed, the (~~last registrant or~~) initial distributor
36 (~~who distributes to a nonregistrant (dealer or consumer)~~) is
37 responsible for reporting the tonnage and paying the inspection fee,
38 unless (~~the reporting and paying of fees have been made by a prior~~

1 distributor of the feed)) this sale or transaction is made to an exempt
2 buyer.

3 ~~((4))~~ (5) Each person made responsible by this chapter for the
4 payment of inspection fees for commercial feed sold in this state shall
5 file a report with the department on January 1st and July 1st of each
6 year showing the number of tons of such commercial feed sold during the
7 six calendar months immediately preceding the date the report is due.
8 The proper inspection fee shall be remitted with the report. The
9 person required to file the report and pay the fee shall have a thirty-
10 day period of grace immediately following the day the report and
11 payment are due to file the report, and pay the fee. Upon permission
12 of the department, an annual statement under oath may be filed by any
13 person distributing within the state less than one hundred tons for
14 each six-month period during any year, and upon filing such statement
15 such person shall pay the inspection fee at the rate provided for in
16 subsection (1) of this section. The minimum inspection fee shall be
17 twelve dollars and fifty cents for each six-month reporting period or
18 twenty-five dollars if reporting annually.

19 ~~((5) Each distributor shall keep such reasonable and practical~~
20 ~~records as may be necessary or required by the department to indicate~~
21 ~~accurately the tonnage of commercial feed distributed in this state,~~
22 ~~and the department has the right to examine such records to verify~~
23 ~~statements of tonnage. Failure to make an accurate statement of~~
24 ~~tonnage or to pay the inspection fee or comply as provided herein~~
25 ~~constitutes a violation of this chapter, and may result in the issuance~~
26 ~~of an order for "withdrawal from distribution" on any commercial feed~~
27 ~~being subsequently distributed.~~

28 ~~(6) Inspection fees which are due and owing and have not been~~
29 ~~remitted to the department within thirty days following the due date~~
30 ~~shall have a collection fee of ten percent, but not less than ten~~
31 ~~dollars, added to the amount due when payment is finally made. The~~
32 ~~assessment of this collection fee shall not prevent the department from~~
33 ~~taking other actions as provided for in this chapter.~~

34 ~~(7))~~ (6) For the purpose of determining accurate tonnage of
35 commercial feed distributed in this state or to identify or verify
36 semiannual tonnage reports, the department may require each registrant
37 or licensee, or both, to maintain records or file additional reports.

38 (7) The department may examine at reasonable times the records
39 maintained under this section. Records shall be maintained in usable

1 condition by the registrant or licensee for a period of two years
2 unless by rule this retention period is extended.

3 (8) The registrant or licensee shall maintain records required
4 under this section and submit these records to the department upon
5 request.

6 (9) Any person responsible for reporting tonnage or paying
7 inspection fees who fails to do so before the thirty-first day
8 following the last day of each reporting period, shall pay a penalty
9 equal to fifteen percent of the inspection fee due or fifty dollars,
10 whichever is greater. The penalty, together with any delinquent
11 inspection fee is due before the forty-first day following the last day
12 of each reporting period. The department may cancel registration of a
13 registrant or may revoke a license of a licensee who fails to pay the
14 penalty and delinquent inspection fees within that time period. The
15 applicant or licensee may request a hearing as authorized under chapter
16 34.05 RCW.

17 (10) The report required by subsection (~~(4)~~) (5) of this section
18 shall not be a public record, and it is a misdemeanor for any person to
19 divulge any information given in such report which would reveal the
20 business operation of the person making the report: PROVIDED, That
21 nothing contained in this subsection shall be construed to prevent or
22 make unlawful the use of information concerning the business operation
23 of a person if any action, suit, or proceeding instituted under the
24 authority of this chapter, including any civil action for collection of
25 unpaid inspection fees, which action is hereby authorized and which
26 shall be as an action at law in the name of the director of the
27 department.

28 (~~(8)~~) (11) Any commercial feed purchased by a consumer or
29 contract feeder outside the jurisdiction of this state and brought into
30 this state for use is subject to all the provisions of this chapter,
31 including inspection fees.

32 **Sec. 40.** RCW 15.53.902 and 1982 c 177 s 4 are each amended to read
33 as follows:

34 It is unlawful for any person to distribute an adulterated feed.
35 A commercial feed is deemed to be adulterated:

36 (1) If it bears or contains any poisonous or deleterious substance
37 which may render it injurious to health; but in case the substance is
38 not an added substance, such commercial feed shall not be considered

1 adulterated under this subsection if the quantity of such substance in
2 such commercial feed does not ordinarily render it injurious to health;
3 or

4 (2) If it bears or contains any added poisonous, added deleterious,
5 or added nonnutritive substance which is unsafe within the meaning of
6 section 406 of the Federal Food, Drug, and Cosmetic Act (other than one
7 which is (a) a pesticide chemical in or on a raw agricultural
8 commodity; or (b) a food additive); or

9 (3) If it is, or it bears, or contains any food additive which is
10 unsafe within the meaning of section 409 of the Federal Food, Drug, and
11 Cosmetic Act (21 U.S.C. Sec. 348); or

12 (4) If it is a raw agricultural commodity and it bears or contains
13 a pesticide chemical which is unsafe within the meaning of section
14 408(a) of the Federal Food, Drug, and Cosmetic Act: PROVIDED, That
15 where a pesticide chemical has been used in or on a raw agricultural
16 commodity in conformity with an exemption granted or a tolerance
17 prescribed under section 408 of the Federal Food, Drug, and Cosmetic
18 Act and such raw agricultural commodity has been subjected to
19 processing such as canning, cooking, freezing, dehydrating, or milling,
20 the residue of such pesticide chemical remaining in or on such
21 processed feed shall not be deemed unsafe if such residue in or on the
22 raw agricultural commodity has been removed to the extent possible in
23 good manufacturing practice and the concentration of such residue in
24 the processed feed is not greater than the tolerance prescribed for the
25 raw agricultural commodity unless the feeding of such processed feed
26 will result or is likely to result in a pesticide residue in the edible
27 product of the animal, which is unsafe within the meaning of section
28 408(a) of the Federal Food, Drug, and Cosmetic Act; or

29 (5) If it is, or it bears or contains any color additive which is
30 unsafe within the meaning of section 706 of the Federal Food, Drug, and
31 Cosmetic Act; or

32 (6) If it is, or it bears or contains any new animal drug that is
33 unsafe within the meaning of section 512 of the Federal Food, Drug, and
34 Cosmetic Act (21 U.S.C. Sec. 360b); or

35 (7) If any valuable constituent has been in whole or in part
36 omitted or abstracted therefrom or any less valuable substance
37 substituted therefor; or

38 ((+7)) (8) If its composition or quality falls below or differs
39 from that which it is purported or is represented to possess by its

1 labeling; or

2 ~~((+8))~~ (9) If it contains a drug and the methods used in or the
3 facilities or controls used for its manufacture, processing, or
4 packaging do not conform to current good manufacturing practice rules
5 adopted by the department to assure that the drug meets the
6 requirements of this chapter as to safety and has the identity and
7 strength and meets the quality and purity characteristics that it
8 purports or is represented to possess. In adopting such rules, the
9 department shall adopt the current good manufacturing practice
10 regulations for type A medicated articles and type B and type C
11 medicated feeds established under authority of the Federal Food, Drug,
12 and Cosmetic Act, unless the department determines that they are not
13 appropriate to the conditions that exist in this state; or

14 (10) If it contains viable, prohibited (primary) noxious weed seeds
15 in excess of one per pound, or if it contains viable, restricted
16 (secondary) noxious weed seeds in excess of twenty-five per pound. The
17 primary and secondary noxious weed seeds shall be those as named
18 pursuant to the provisions of chapter 15.49 RCW ~~((as enacted or~~
19 ~~hereafter amended))~~ and rules adopted thereunder.

20 **Sec. 41.** RCW 15.53.9022 and 1965 ex.s. c 31 s 8 are each amended
21 to read as follows:

22 It shall be unlawful for any person to distribute misbranded feed.
23 A commercial feed shall be deemed to be misbranded:

24 (1) If its labeling is false or misleading in any particular;

25 (2) If it is distributed under the name of another commercial feed;

26 (3) If it is not labeled as required in RCW 15.53.9016 and in
27 ~~((regulations))~~ rules prescribed under this chapter;

28 (4) If it purports to be or is represented as a commercial feed
29 ~~((ingredient))~~, or if it purports to contain or is represented as
30 containing a commercial feed or feed ingredient, unless such commercial
31 feed or feed ingredient conforms to the definition of identity, if any,
32 prescribed by ~~((regulation))~~ rule of the department. In the adopting
33 of such ~~((regulations))~~ rules the department may consider commonly
34 accepted definitions such as those issued by nationally recognized
35 associations or groups of feed control officials;

36 (5) If any word, statement, or other information required by or
37 under authority of this chapter to appear on the label or labeling is
38 not prominently placed thereon with such conspicuousness (as compared

1 with other words, statements, designs, or devices, in the labeling) and
2 in such terms as to render it likely to be read and understood by the
3 ordinary individual under customary conditions of purchase and use;

4 (6) If its composition or quality falls below or differs from that
5 which it is purported or is represented to possess by its labeling.

6 **Sec. 42.** RCW 15.53.9024 and 1965 ex.s. c 31 s 9 are each amended
7 to read as follows:

8 (1) (~~It shall be the duty of the department to sample, inspect,~~
9 ~~make analysis of, and test commercial feed distributed within this~~
10 ~~state at such time and place and to such an extent as it may deem~~
11 ~~necessary to determine whether such feeds are in compliance with the~~
12 ~~provisions of this chapter. The department is authorized to stop any~~
13 ~~commercial vehicle transporting feed on the public highways and direct~~
14 ~~it to the nearest scales approved by the department to check weights of~~
15 ~~feeds being delivered. The department is also authorized, upon~~
16 ~~presentation of proper identification, to enter any distributor's~~
17 ~~premises including any vehicle of transport at all reasonable times in~~
18 ~~order to have access to commercial feed and to records relating to~~
19 ~~their distribution. This includes the determining of the weight of~~
20 ~~packages and bulk shipments.~~

21 (2) ~~The methods of sampling and analysis shall be those adopted by~~
22 ~~the department from officially recognized sources.~~

23 (3)) For the purpose of enforcement of this chapter, and in order
24 to determine whether its provisions have been complied with, including
25 whether an operation is subject to such provisions, inspectors duly
26 designated by the director, upon presenting appropriate credentials,
27 and a written notice to the owner, operator, or agent in charge, are
28 authorized (a) to enter, during normal business hours, a factory,
29 warehouse, or establishment within the state in which commercial feeds
30 are manufactured, processed, packed, or held for distribution, or to
31 enter a vehicle being used to transport or hold such feeds; and (b) to
32 inspect at reasonable times and within reasonable limits and in a
33 reasonable manner, such factory, warehouse, establishment, or vehicle
34 and all pertinent equipment, finished and unfinished materials,
35 containers, and labeling. The inspection may include the verification
36 of only such records, and production and control procedures as may be
37 necessary to determine compliance with the current good manufacturing
38 practice regulations established under RCW 15.53.902(9) and rules

1 adopted under good manufacturing practices for feeds to include
2 nonmedicated feeds.

3 (2) A separate notice shall be given for each such inspection, but
4 a notice is not required for each entry made during the period covered
5 by the inspection. Each such inspection shall be commenced and
6 completed with reasonable promptness. Upon completion of the
7 inspection, the person in charge of the facility or vehicle shall be so
8 notified.

9 (3) If the inspector or employee making such inspection of a
10 factory, warehouse, or other establishment has obtained a sample in the
11 course of the inspection, upon completion of the inspection and prior
12 to leaving the premises, he or she shall give to the owner, operator,
13 or agent in charge, a receipt describing the samples obtained.

14 (4) If the owner of a factory, warehouse, or establishment
15 described in subsection (1) of this section, or his or her agent,
16 refuses to admit the director or his or her agent to inspect in
17 accordance with subsections (1) and (2) of this section, the director
18 or his or her agent is authorized to obtain from any court of competent
19 jurisdiction a warrant directing such owner or his or her agent to
20 submit the premises described in the warrant to inspection.

21 (5) For the enforcement of this chapter, the director or his or her
22 duly assigned agent is authorized to enter upon any public or private
23 premises including any vehicle of transport during regular business
24 hours to have access to, and to obtain samples, and to examine records
25 relating to distribution of commercial feeds.

26 (6) Sampling and analysis shall be conducted in accordance with
27 methods published by the association of official analytical chemists,
28 or in accordance with other generally recognized methods.

29 (7) The results of all analyses of official samples shall be
30 forwarded by the department to the person named on the label and to the
31 purchaser, if known. If the inspection and analysis of an official
32 sample indicates a commercial feed has been adulterated or misbranded
33 and upon request within thirty days following the receipt of the
34 analysis, the department shall furnish to the registrant or licensee a
35 portion of the sample concerned. If referee analysis is requested, a
36 portion of the official sample shall be furnished by the department and
37 shall be sent directly to an independent lab agreed to by all parties.

38 (8) The department, in determining for administrative purposes
39 whether a feed is deficient in any component, shall be guided solely by

1 the official sample as defined in RCW 15.53.901(~~((+13))~~) (20) and
2 obtained and analyzed as provided for in this section.

3 ~~((4) When the inspection and analysis of an official sample has
4 been made the results of analysis shall be forwarded by the department
5 to the distributor and to the purchaser if known. Upon request and
6 within thirty days the department shall furnish to the distributor a
7 portion of the sample concerned.~~

8 ~~(5))~~ (9) Analysis of an official sample by the department shall be
9 accepted as prima facie evidence by any court of competent
10 jurisdiction.

11 **Sec. 43.** RCW 15.53.9038 and 1982 c 177 s 5 are each amended to
12 read as follows:

13 (1) When the department has reasonable cause to believe that any
14 lot of commercial feed is adulterated or misbranded or is being
15 distributed in violation of this chapter or any (~~regulations~~) rules
16 hereunder it may issue and enforce a written or printed "withdrawal
17 from distribution" order, or "stop sale" order, warning the distributor
18 not to dispose of the lot of feed in any manner until written
19 permission is given by the department (~~or a court of competent~~
20 ~~jurisdiction~~). The department shall release the lot of commercial
21 feed so withdrawn when the provisions and (~~regulations~~) rules have
22 been complied with. If compliance is not obtained within thirty days,
23 parties may agree to an alternative disposition in writing or the
24 department may (~~begin~~) institute condemnation proceedings (~~for~~
25 ~~condemnation~~) in a court of competent jurisdiction.

26 (2) Any lot of commercial feed not in compliance with the
27 provisions and (~~regulations~~) rules is subject to seizure on complaint
28 of the department to a court of competent jurisdiction in the area in
29 which the commercial feed is located. If the court finds the
30 commercial feed to be in violation of this chapter and orders the
31 condemnation of the commercial feed, it shall be disposed of in any
32 manner consistent with the quality of the commercial feed and the laws
33 of the state. The court shall first give the claimant an opportunity
34 to apply to the court for release of the commercial feed or for
35 permission to process or relabel the commercial feed to bring it into
36 compliance with this chapter.

37 **Sec. 44.** RCW 15.53.9042 and 1965 ex.s. c 31 s 18 are each amended

1 to read as follows:

2 The department shall publish at least annually, in such forms as it
3 may deem proper, information concerning the distribution of commercial
4 feed, together with such data on their production and use as it may
5 consider advisable, and a report of the results of the analyses of
6 official samples of commercial feed within the state as compared with
7 the analyses guaranteed (~~(in the registration and)~~) on the label or as
8 calculated from the invoice data for customer-formula feeds: PROVIDED,
9 That the information concerning production and use of commercial feeds
10 shall not disclose the operations of any person.

11 **Sec. 45.** RCW 15.53.9053 and 1975 1st ex.s. c 257 s 12 are each
12 amended to read as follows:

13 (~~(1) The following acts or parts of acts are each repealed:~~

14 ~~(a) Section 10, chapter 31, Laws of 1965 ex. sess., section 33,~~
15 ~~chapter 240, Laws of 1967 and RCW 15.53.9026; and~~

16 ~~(b) Sections 11 through 14, chapter 31, Laws of 1965 ex. sess. and~~
17 ~~RCW 15.53.9028 through 15.53.9034.~~

18 ~~(2) The enactment of this act and the repeal of the sections listed~~
19 ~~in subsection (1) of this section shall not have the effect of~~
20 ~~terminating, or in any way modify any liability, civil or criminal,~~
21 ~~which shall already be in existence on July 1, 1975.~~

22 ~~(3))~~ All licenses and registrations in effect on July 1, ~~((1975))~~
23 1995, shall continue in full force and effect until their regular
24 expiration date, December 31, ~~((1975))~~ 1995. No registration or
25 license that has already been paid under the requirements of prior law
26 shall be refunded.

27 NEW SECTION. **Sec. 46.** (1) The following acts or parts of acts are
28 each repealed:

29 (a) Section 10, chapter 31, Laws of 1965 ex. sess., section 33,
30 chapter 240, Laws of 1967 and RCW 15.53.9026; and

31 (b) Sections 11 through 14, chapter 31, Laws of 1965 ex. sess. and
32 RCW 15.53.9028 through 15.53.9034.

33 (2) The enactment of chapter 257, Laws of 1975 1st ex. sess. and
34 the repeal of the sections listed in subsection (1) of this section
35 shall not have the effect of terminating, or in any way modify any
36 liability, civil or criminal, which shall already be in existence on
37 July 1, 1975.

1 NEW SECTION. **Sec. 47.** RCW 15.53.9036 and 1989 c 175 s 51, 1975
2 1st ex.s. c 257 s 6, & 1965 ex.s. c 31 s 15 are each repealed.

3 NEW SECTION. **Sec. 48.** RCW 15.53.905 and 15.53.9052 are each
4 decodified.

5 NEW SECTION. **Sec. 49.** The legislature declares that the husbandry
6 of alternative livestock as a farming operation will provide a
7 consistent source of healthful food, offer opportunities for new jobs
8 and increased farm income stability, and improve the balance of trade.

9 The legislature finds that many areas of the state of Washington
10 are suitable for alternative livestock farms, and therefore the
11 legislature encourages the promotion of alternative livestock farming
12 activities, programs, and development with the same status as other
13 agricultural activities, programs, and development within the state.

14 The legislature finds that alternative livestock farming should be
15 considered a branch of the agricultural industry of the state for
16 purposes of laws that apply to or provide for the advancement, benefit,
17 or protection of the agriculture industry within the state.

18 The legislature recognizes that a Washington superior court has
19 found that the Washington wildlife commission has adopted rules in a
20 way that is designed more to discourage and terminate a whole industry
21 rather than mitigate potential harms created by the industry.

22 It is therefore the policy of this state to encourage the
23 development and expansion of alternative livestock farming within the
24 state. It is also the policy of the state that the regulation of the
25 alternative livestock farming industry rest solely with the department
26 of agriculture.

27 NEW SECTION. **Sec. 50.** Unless the context clearly requires
28 otherwise, the definitions in this section apply throughout this
29 chapter.

30 (1) "Alternative livestock" means those species designated by rule
31 adopted by the director of the department, under the provisions of
32 section 52 of this act, so long as the livestock are: Confined by
33 humans; raised or used in farm or ranch operations in the private
34 sector; and produced on the farm or ranch or legally acquired for the
35 farm or ranch. "Alternative livestock" does not include: Domestic
36 dogs (*Canis familiaris*) or domestic cats (*Felis domestica*) and other

1 members of the family (*Felidae*) or other animals held or propagated for
2 companion animal purposes; private sector aquatic products as defined
3 in and regulated under chapter 15.85 RCW; animals raised for release
4 into the wild; animals raised for the purpose of hunting that takes
5 place in this state; or fur farming and game farming as currently
6 allowed and regulated by chapters 16.72 and 77.12 RCW.

7 (2) "Alternative livestock farm or ranch" means the farm or ranch
8 upon which alternative livestock are reared and does not include
9 publicly and privately owned facilities for which a license or permit
10 is required under RCW 77.12.570 or 77.32.010.

11 (3) "Alternative livestock products" means the agricultural
12 products of alternative livestock including, but not limited to, meat
13 and meat products, velvet, antlers, horns, leather, hides, feathers,
14 eggs, gametes, and genetic materials.

15 (4) "Department" means the department of agriculture.

16 (5) "Traditional livestock" means horses, mules, cattle, llamas,
17 alpacas, sheep, swine, goats, poultry, ratites, and rabbits, and other
18 species historically found in commercial production on farms or ranches
19 in the state of Washington before 1980.

20 NEW SECTION. **Sec. 51.** The department is the principal state
21 agency for providing regulation of and state marketing support services
22 for the alternative livestock industry. The department shall exercise
23 its authorities, including, but not limited to, those provided by
24 chapters 15.64, 15.65, 15.66, 16.36, and 43.23 RCW, to regulate and
25 provide services to the alternative livestock industry as for other
26 agricultural industries.

27 NEW SECTION. **Sec. 52.** On the effective date of this section, the
28 director shall by rule designate as alternative livestock, those animal
29 species that have come into commercial production in the state of
30 Washington after 1980. Subsequent to the effective date of this
31 section, a person desiring to propagate any other animal species for
32 commercial purposes shall request that the director of agriculture
33 designate by rule, that species of animal as alternative livestock.
34 Prior to designating the species, the director shall conduct an
35 investigation including a specific review of the health status of the
36 species, and make a finding that the species is appropriate for
37 commercial production in the state of Washington. The director shall

1 conduct a public hearing on the substance of the finding. This section
2 does not apply to traditional livestock.

3 NEW SECTION. **Sec. 53.** It is unlawful to hunt or allow others to
4 hunt for a fee, any alternative livestock reared on or derived from an
5 alternative livestock farm.

6 NEW SECTION. **Sec. 54.** Wildlife species that exist in a wild state
7 in the state of Washington may not be trapped or captured or otherwise
8 taken for use in an alternative livestock farming operation.

9 NEW SECTION. **Sec. 55.** The director of agriculture shall, when
10 necessary, establish methods of identification requirements, such as
11 tattoos, branding, or eartags, for alternative livestock and
12 alternative livestock products to the extent that identifying the
13 livestock or the source or quantity of the products is necessary to
14 permit the department of fish and wildlife to effectively administer
15 and enforce Title 77 RCW.

16 NEW SECTION. **Sec. 56.** The owner of a farm or ranch for
17 alternative livestock shall register the farm or ranch annually with
18 the department. The director shall develop and maintain a registration
19 list of all alternative livestock farms and ranches. Registered
20 alternative livestock farms and ranches shall annually provide the
21 department production statistical data. The director of agriculture
22 shall establish by rule a reasonable annual registration fee to cover
23 the costs of development and maintenance of the alternative livestock
24 registration list. Fees may differ between species based upon the
25 economic value of the species. Fees collected under this section shall
26 be deposited in the alternative livestock farm account hereby
27 established within the agricultural local fund established in RCW
28 43.23.230 and shall be used solely for developing and maintaining the
29 alternative livestock registration list.

30 NEW SECTION. **Sec. 57.** The director of agriculture may adopt rules
31 establishing enclosure standards for one or more types of alternative
32 livestock as deemed necessary to assure adequate protection to other
33 livestock and wildlife.

1 NEW SECTION. **Sec. 58.** Wildlife species that exist in a wild state
2 in the state of Washington are not alternative livestock, and may only
3 be designated as alternative livestock by the director of agriculture
4 under the provisions of section 52 of this act, if they are legally:
5 Acquired from sources outside of the state of Washington and brought
6 into the state of Washington in compliance with all health and
7 identification requirements established by the director of agriculture
8 or the state veterinarian; reared on an alternative livestock farm or
9 ranch in this state; or acquired from such a farm or ranch.

10 NEW SECTION. **Sec. 59.** All rules of the department of fish and
11 wildlife and the department of agriculture, affecting alternative
12 livestock and deleterious exotic wildlife, that are inconsistent with
13 the purpose and substance of chapter . . . , Laws of 1995 (this act),
14 shall be amended or repealed to comply with chapter . . . , Laws of 1995
15 (this act).

16 **Sec. 60.** RCW 77.08.010 and 1993 sp.s. c 2 s 66 are each amended to
17 read as follows:

18 As used in this title or rules adopted pursuant to this title,
19 unless the context clearly requires otherwise:

20 (1) "Director" means the director of fish and wildlife.

21 (2) "Department" means the department of fish and wildlife.

22 (3) "Commission" means the state fish and wildlife commission.

23 (4) "Person" means and includes an individual, a corporation, or a
24 group of two or more individuals acting with a common purpose whether
25 acting in an individual, representative, or official capacity.

26 (5) "Wildlife agent" means a person appointed and commissioned by
27 the director, with authority to enforce laws and rules adopted pursuant
28 to this title, and other statutes as prescribed by the legislature.

29 (6) "Ex officio wildlife agent" means a commissioned officer of a
30 municipal, county, state, or federal agency having as its primary
31 function the enforcement of criminal laws in general, while the officer
32 is in the appropriate jurisdiction. The term "ex officio wildlife
33 agent" includes fisheries patrol officers, special agents of the
34 national marine fisheries service, state parks commissioned officers,
35 United States fish and wildlife special agents, department of natural
36 resources enforcement officers, and United States forest service
37 officers, while the agents and officers are within their respective

1 jurisdictions.

2 (7) "To hunt" and its derivatives means an effort to kill, injure,
3 capture, or harass a wild animal or wild bird.

4 (8) "To trap" and its derivatives means a method of hunting using
5 devices to capture wild animals or wild birds.

6 (9) "To fish" and its derivatives means an effort to kill, injure,
7 harass, or catch a game fish.

8 (10) "Open season" means those times, manners of taking, and places
9 or waters established by rule of the commission for the lawful hunting,
10 fishing, or possession of game animals, game birds, or game fish.
11 "Open season" includes the first and last days of the established time.

12 (11) "Closed season" means all times, manners of taking, and places
13 or waters other than those established as an open season.

14 (12) "Closed area" means a place where the hunting of some species
15 of wild animals or wild birds is prohibited.

16 (13) "Closed waters" means all or part of a lake, river, stream, or
17 other body of water, where fishing for game fish is prohibited.

18 (14) "Game reserve" means a closed area where hunting for all wild
19 animals and wild birds is prohibited.

20 (15) "Bag limit" means the maximum number of game animals, game
21 birds, or game fish which may be taken, caught, killed, or possessed by
22 a person, as specified by rule of the commission for a particular
23 period of time, or as to size, sex, or species.

24 (16) "Wildlife" means all (~~(species of the))~~ animals (~~(kingdom~~
25 ~~whose members))~~ that exist in Washington in a wild state. This
26 includes but is not limited to mammals, birds, reptiles, amphibians,
27 fish, and invertebrates. The term "wildlife" does not include feral
28 domestic mammals, the family Muridae of the order Rodentia (old world
29 rats and mice), animals regulated under the provisions of the federal
30 animal welfare act, alternative livestock designated under the
31 provision of section 52 of this act that are legally acquired outside
32 of the state of Washington or reared on an alternative livestock farm
33 or ranch in this state or acquired from such a farm or ranch, or those
34 fish, shellfish, and marine invertebrates classified as food fish or
35 shellfish by the director. The term "wildlife" includes all stages of
36 development and the bodily parts of wildlife members.

37 (17) "Wild animals" means those (~~(species))~~ animals of the class
38 Mammalia (~~(whose members))~~ that exist in Washington in a wild state and
39 the species *Rana catesbeiana* (bullfrog). The term "wild animal" does

1 not include feral domestic mammals or the family Muridae of the order
2 Rodentia (old world rats and mice).

3 (18) "Wild birds" means those (~~(species)~~) animals of the class Aves
4 (~~(whose members)~~) that exist in Washington in a wild state.

5 (19) "Protected wildlife" means wildlife designated by the
6 commission that shall not be hunted or fished.

7 (20) "Endangered species" means wildlife designated by the
8 commission as seriously threatened with extinction.

9 (21) "Game animals" means wild animals that shall not be hunted
10 except as authorized by the commission.

11 (22) "Fur-bearing animals" means game animals that shall not be
12 trapped except as authorized by the commission.

13 (23) "Game birds" means wild birds that shall not be hunted except
14 as authorized by the commission.

15 (24) "Predatory birds" means wild birds that may be hunted
16 throughout the year as authorized by the commission.

17 (25) "Deleterious exotic wildlife" means species of the animal
18 kingdom not native to Washington and designated as dangerous to the
19 environment or wildlife of the state but excluding traditional
20 livestock and alternative livestock as defined in section 50 (1) and
21 (5) of this act.

22 (26) "Game farm" means property on which wildlife is held or raised
23 for commercial purposes, trade, or gift. The term "game farm" does not
24 include publicly owned facilities.

25 (27) "Person of disability" means a permanently disabled person who
26 is not ambulatory without the assistance of a wheelchair, crutches, or
27 similar devices.

28 NEW SECTION. **Sec. 61.** A new section is added to chapter 16.49A
29 RCW to read as follows:

30 (1) Meat and meat by-products of alternative livestock, as defined
31 in section 50 of this act, whether or not such meat, meat by-products,
32 or animals originate from within the state, shall not be sold or
33 distributed for public consumption without prior inspection by the
34 department, the United States department of agriculture, or another
35 department-recognized local, state, or federal agency responsible for
36 food safety and inspection.

37 (2) The department may adopt rules establishing a program for
38 inspecting meat and meat by-products of alternative livestock. Such

1 rules shall include a fee schedule that will provide for the recovery
2 of the cost of the inspection program. Fees collected under this
3 section shall be deposited in an account within the agricultural local
4 fund and the revenue from such fees shall be used solely for carrying
5 out the provisions of this section. The director may employ such
6 personnel as are necessary to carry out the provisions of this section.

7 **Sec. 62.** RCW 16.36.005 and 1987 c 163 s 1 are each amended to read
8 as follows:

9 As used in this chapter:

10 "Alternative livestock" shall have the meaning as defined in
11 section 50 of this act.

12 "Director" means the director of agriculture of the state of
13 Washington or his or her authorized representative.

14 "Department" means the department of agriculture of the state of
15 Washington.

16 "Garbage" means the solid animal and vegetable waste and offal
17 together with the natural moisture content resulting from the handling,
18 preparation, or consumption of foods in houses, restaurants, hotels,
19 kitchens, markets, meat shops, packing houses and similar
20 establishments or any other food waste containing meat or meat
21 products.

22 "Veterinary biologic" means any virus, serum, toxin, and analogous
23 product of natural or synthetic origin, or product prepared from any
24 type of genetic engineering, such as diagnostics, antitoxins, vaccines,
25 live microorganisms, killed microorganisms, and the antigenic or
26 immunizing components intended for use in the diagnosis, treatment, or
27 prevention of diseases in animals.

28 **Sec. 63.** RCW 16.36.010 and 1927 c 165 s 2 are each amended to read
29 as follows:

30 The word "quarantine" as used in this act shall mean the placing
31 and restraining of any animal or animals by the owner or agents in
32 charge thereof, either within a certain described and designated
33 enclosure or area within this state, or the restraining of any such
34 animal or animals from entering this state, as may be directed in
35 writing by the director of agriculture, or his or her duly authorized
36 representative. Any animal or animals so quarantined within the state
37 shall at all times be kept separate and apart from other ((domestic))

1 animals and not allowed to have anything in common therewith.

2 **Sec. 64.** RCW 16.36.020 and 1987 c 163 s 2 are each amended to read
3 as follows:

4 The director shall have general supervision of the prevention of
5 the spread and the suppression of infectious, contagious, communicable
6 and dangerous diseases affecting animals within, in transit through and
7 being imported into the state. The director may establish and enforce
8 quarantine of and against any and all ((domestic)) animals which are
9 affected with any such disease or that may have been exposed to others
10 thus affected, whether within or without the state, for such length of
11 time as he or she deems necessary to determine whether any such animal
12 is infected with any such disease. The director shall also enforce and
13 administer the provisions of this chapter pertaining to garbage feeding
14 and when garbage has been fed to swine, the director may require the
15 disinfection of all facilities, including yard, transportation and
16 feeding facilities, used for keeping such swine.

17 The director shall also have the authority to regulate the sale,
18 distribution, and use of veterinary biologics in the state and may
19 adopt rules to restrict the sale, distribution, or use of any
20 veterinary biologic in any manner the director determines to be
21 necessary to protect the health and safety of the public and the
22 state's animal population.

23 **Sec. 65.** RCW 16.36.050 and 1979 c 154 s 11 are each amended to
24 read as follows:

25 It is unlawful for a person to intentionally falsely make,
26 complete, alter, use, or sign an animal health certificate, certificate
27 of veterinary inspection, or official written animal health instrument
28 of the department. It ((shall be)) is unlawful for any person, or any
29 railroad or transportation company, or other common carrier, to bring
30 into this state for any purpose any ((domestic)) animals without first
31 having secured an official health certificate or certificate of
32 veterinary inspection, certified by the state veterinarian of origin
33 that such animals meet the health requirements promulgated by the
34 director of agriculture of the state of Washington: PROVIDED, That
35 this section shall not apply to domestic animals imported into this
36 state for immediate slaughter, or domestic animals imported for the
37 purpose of unloading for feed, rest, and water, for a period not in

1 excess of twenty-eight hours except upon prior permit therefor secured
2 from the director of agriculture. It shall be unlawful for any person
3 to divert en route for other than to an approved, inspected stockyard
4 for immediate slaughter or to sell for other than immediate slaughter
5 or to fail to slaughter within fourteen days after arrival, any animal
6 imported into this state for immediate slaughter. It shall be unlawful
7 for any person, railroad, transportation company, or other common
8 carrier, to keep any domestic animals which are unloaded for feed, rest
9 and water in other than quarantined pens, or not to report any missing
10 animals to the director of agriculture at the time the animals are
11 reloaded.

12 **Sec. 66.** RCW 16.36.040 and 1979 c 154 s 10 are each amended to
13 read as follows:

14 The director of agriculture shall have power to ~~((promulgate))~~
15 adopt and enforce such reasonable rules ~~((, regulations))~~ and orders as
16 he or she may deem necessary or proper to prevent the introduction or
17 spreading of infectious, contagious, communicable or dangerous diseases
18 affecting ~~((domestic))~~ animals in this state, and to ~~((promulgate))~~
19 adopt and enforce such reasonable rules ~~((, regulations))~~ and orders as
20 he or she may deem necessary or proper governing the inspection and
21 test of all animals within or about to be imported into this state, and
22 to ~~((promulgate))~~ adopt and enforce ~~((intereounty))~~ intrastate
23 embargoes, hold orders, and quarantine ~~((to prevent the shipment,~~
24 ~~trailing, trucking, transporting or movement of bovine animals from any~~
25 ~~county that has not been declared modified accredited by the United~~
26 ~~States department of agriculture, animal and plant health inspection~~
27 ~~service, for tuberculosis and/or certified brucellosis free, into a~~
28 ~~county which has been declared modified accredited by the United States~~
29 ~~department of agriculture, animal and plant health inspection service,~~
30 ~~for tuberculosis and/or certified brucellosis free, unless such animals~~
31 ~~are accompanied by a negative certificate of tuberculin test made~~
32 ~~within sixty days and/or a negative brucellosis test made within the~~
33 ~~forty five day period prior to the movement of such animal into such~~
34 ~~county, issued by a duly authorized veterinary inspector of the state~~
35 ~~department of agriculture, or of the United States department of~~
36 ~~agriculture, animal and plant health inspection service, or an~~
37 ~~accredited veterinarian authorized by permit issued by the director of~~
38 ~~agriculture to execute such certificate))~~).

1 **Sec. 67.** RCW 16.36.070 and 1947 c 172 s 6 are each amended to read
2 as follows:

3 Whenever a majority of any board of health, board of county
4 commissioners, city council or other governing body of any incorporated
5 city or town, or trustees of any township, whether in session or not,
6 shall, in writing or by telegraph, notify the director of agriculture
7 of the prevalence of or probable danger of infection from any of the
8 diseases of ~~((domestic))~~ animals the director of agriculture
9 personally~~((, or by the supervisor of dairy and livestock,))~~ or by a
10 duly appointed and deputized veterinarian of the ~~((division of dairy
11 and livestock))~~ department, shall at once go to the place designated in
12 said notice and take such action as the exigencies may in his or her
13 judgment demand, and may in case of an emergency appoint deputies or
14 assistants, with equal power to act. The compensation to be paid such
15 emergency deputies and assistants, shall be fixed by the director of
16 agriculture in conformity with the standards effective in the locality
17 in which the services are performed.

18 **Sec. 68.** RCW 16.36.080 and 1947 c 172 s 7 are each amended to read
19 as follows:

20 It ~~((shall be))~~ is unlawful for any person registered to practice
21 veterinary medicine, surgery and dentistry in this state not to
22 immediately report in writing to the director of agriculture the
23 discovery of the existence or suspected existence among ~~((domestic))~~
24 animals within the state of any reportable diseases as published by the
25 director of agriculture.

26 **Sec. 69.** RCW 16.36.100 and 1927 c 165 s 10 are each amended to
27 read as follows:

28 The governor and the director of agriculture shall have the power
29 to cooperate with the government of the United States in the prevention
30 and eradication of diseases of ~~((domestic))~~ animals and the governor
31 shall have the power to receive and receipt for any moneys receivable
32 by this state under the provisions of any act of congress and pay the
33 same into the hands of the state treasurer as custodian for the state
34 to be used and expended in carrying out the provisions of this act and
35 the act or acts of congress under which said moneys are paid over to
36 the state.

1 **Sec. 70.** RCW 16.57.010 and 1993 c 105 s 2 are each amended to read
2 as follows:

3 For the purpose of this chapter:

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

6 (2) "Director" means the director of the department or a duly
7 appointed representative.

8 (3) "Person" means a natural person, individual, firm, partnership,
9 corporation, company, society, and association, and every officer,
10 agent or employee thereof. This term shall import either the singular
11 or the plural as the case may be.

12 (4) "Livestock" includes, but is not limited to, horses, mules,
13 cattle, sheep, swine, goats, poultry (~~and~~), rabbits, and alternative
14 livestock as defined in section 50 of this act.

15 (5) "Brand" means a permanent fire brand or any artificial mark,
16 other than an individual identification symbol, approved by the
17 director to be used in conjunction with a brand or by itself.

18 (6) "Production record brand" means a number brand which shall be
19 used for production identification purposes only.

20 (7) "Brand inspection" means the examination of livestock or
21 livestock hides for brands or any means of identifying livestock or
22 livestock hides and/or the application of any artificial identification
23 such as back tags or ear clips necessary to preserve the identity of
24 the livestock or livestock hides examined.

25 (8) "Individual identification symbol" means a permanent mark
26 placed on a horse for the purpose of individually identifying and
27 registering the horse and which has been approved for use as such by
28 the director.

29 (9) "Registering agency" means any person issuing an individual
30 identification symbol for the purpose of individually identifying and
31 registering a horse.

32 (10) "Poultry" means chickens, turkeys, ratites, and other
33 domesticated fowl.

34 (11) "Ratite" means, but is not limited to, ostrich, emu, rhea, or
35 other flightless bird used for human consumption, whether live or
36 slaughtered.

37 (12) "Ratite farming" means breeding, raising, and rearing of an
38 ostrich, emu, or rhea in captivity or an enclosure.

39 (13) "Microchipping" means the implantation of an identification

1 microchip in the pipping muscle of a chick ratite or the implantation
2 of a microchip in the tail muscle of an otherwise unidentified adult
3 ratite.

4 **Sec. 71.** RCW 16.58.130 and 1994 c 46 s 15 are each amended to read
5 as follows:

6 Each licensee shall pay to the director a fee of no (~~less~~) more
7 than ten cents (~~but no more than fifteen cents~~) for each head of
8 cattle handled through the licensee's feed lot. The fee shall be set
9 by the director by rule after a hearing under chapter 34.05 RCW and in
10 conformance with RCW 16.57.015. Payment of such fee shall be made by
11 the licensee on a monthly basis. Failure to pay as required shall be
12 grounds for suspension or revocation of a certified feed lot license.
13 Further, the director shall not renew a certified feed lot license if
14 a licensee has failed to make prompt and timely payments.

15 This section shall expire June 30, 1997.

16 NEW SECTION. **Sec. 72.** 1994 c 46 s 24 is repealed.

17 **Sec. 73.** 1994 c 46 s 29 (uncodified) is amended to read as
18 follows:

19 Sections 21 through 23 and 25 of this act shall take effect July 1,
20 1997.

21 **Sec. 74.** RCW 16.57.220 and 1994 c 46 s 19 are each amended to read
22 as follows:

23 The director shall cause a charge to be made for all brand
24 inspection of cattle and horses required under this chapter and rules
25 adopted hereunder. Such charges shall be paid to the department by the
26 owner or person in possession unless requested by the purchaser and
27 then such brand inspection shall be paid by the purchaser requesting
28 such brand inspection. Except as provided by rule, such inspection
29 charges shall be due and payable at the time brand inspection is
30 performed and shall be paid upon billing by the department and if not
31 shall constitute a prior lien on the cattle or cattle hides or horses
32 or horse hides brand inspected until such charge is paid. The director
33 in order to best utilize the services of the department in performing
34 brand inspection may establish schedules by days and hours when a brand
35 inspector will be on duty to perform brand inspection at established

1 inspection points. The fees for brand inspection shall be not less
2 than fifty cents nor more than seventy-five cents per head for cattle
3 and not less than two dollars nor more than three dollars per head for
4 horses as prescribed by the director by rule subsequent to a hearing
5 under chapter 34.05 RCW and in conformance with RCW 16.57.015. Fees
6 for brand inspection of cattle and horses (~~((performed by the director))~~)
7 at points other than those designated by the director or not in accord
8 with the schedules established by the director shall be based on a fee
9 schedule not to exceed actual net cost to the department of performing
10 the brand inspection service. For the purpose of this section, actual
11 costs shall mean fifteen dollars per hour and the current mileage rate
12 set by the office of financial management.

13 **Sec. 75.** RCW 16.57.220 and 1994 c 46 s 25 and 1994 c 46 s 19 are
14 each reenacted and amended to read as follows:

15 The director shall cause a charge to be made for all brand
16 inspection of cattle and horses required under this chapter and rules
17 adopted hereunder. Such charges shall be paid to the department by the
18 owner or person in possession unless requested by the purchaser and
19 then such brand inspection shall be paid by the purchaser requesting
20 such brand inspection. Except as provided by rule, such inspection
21 charges shall be due and payable at the time brand inspection is
22 performed and shall be paid upon billing by the department and if not
23 shall constitute a prior lien on the cattle or cattle hides or horses
24 or horse hides brand inspected until such charge is paid. The director
25 in order to best utilize the services of the department in performing
26 brand inspection may establish schedules by days and hours when a brand
27 inspector will be on duty to perform brand inspection at established
28 inspection points. The fees for brand inspection performed at
29 inspection points according to schedules established by the director
30 shall be sixty cents per head for cattle and not more than two dollars
31 and forty cents per head for horses as prescribed by the director
32 subsequent to a hearing under chapter 34.05 RCW and in conformance with
33 RCW 16.57.015. Fees for brand inspection of cattle and horses
34 (~~((performed by the director))~~) at points other than those designated by
35 the director or not in accord with the schedules established by the
36 director shall be based on a fee schedule not to exceed actual net cost
37 to the department of performing the brand inspection service. For the
38 purpose of this section, actual costs shall mean fifteen dollars per

1 hour and the current mileage rate set by the office of financial
2 management.

3 **Sec. 76.** RCW 16.57.230 and 1959 c 54 s 23 are each amended to read
4 as follows:

5 No person shall collect or make a charge for brand inspection of
6 livestock unless there has been an actual brand inspection of such
7 livestock (~~by the director~~).

8 **Sec. 77.** RCW 16.57.240 and 1991 c 110 s 4 are each amended to read
9 as follows:

10 Any person purchasing, selling, holding for sale, trading,
11 bartering, transferring title, slaughtering, handling, or transporting
12 cattle shall keep a record on forms prescribed by the director. Such
13 forms shall show the number, specie, brand or other method of
14 identification of such cattle and any other necessary information
15 required by the director. The original shall be kept for a period of
16 three years or shall be furnished to the director upon demand or as
17 prescribed by rule, one copy shall accompany the cattle to their
18 destination and shall be subject to inspection at any time by the
19 director or any peace officer or member of the state patrol: PROVIDED,
20 That in the following instances only, cattle may be moved or
21 transported within this state without being accompanied by ~~((a))~~ an
22 official certificate of permit ~~((or an official))~~, brand inspection
23 certificate ~~((or))~~, bill of sale, or self-inspection slip:

24 (1) When such cattle are moved or transported upon lands under the
25 exclusive control of the person moving or transporting such cattle;

26 (2) When such cattle are being moved or transported for temporary
27 grazing or feeding purposes and have the registered brand of the person
28 having or transporting such cattle.

29 **Sec. 78.** RCW 16.57.280 and 1991 c 110 s 5 are each amended to read
30 as follows:

31 No person shall knowingly have unlawful possession of any livestock
32 marked with a recorded brand or tattoo of another person unless:

33 (1) Such livestock lawfully bears the person's own healed recorded
34 brand~~((τ))~~i or

35 (2) Such livestock is accompanied by a certificate of permit from
36 the owner of the recorded brand or tattoo~~((τ))~~i or

1 (3) Such livestock is accompanied by a brand inspection
2 certificate(~~(7)~~)i or

3 (4) Such cattle is accompanied by a self-inspection slip; or

4 (5) Such livestock is accompanied by a bill of sale from the
5 previous owner or other satisfactory proof of ownership.

6 A violation of this section constitutes a gross misdemeanor
7 punishable to the same extent as a gross misdemeanor that is punishable
8 under RCW 9A.20.021.

9 **Sec. 79.** RCW 16.57.290 and 1989 c 286 s 23 are each amended to
10 read as follows:

11 All unbranded cattle and horses and those bearing brands not
12 recorded, in the current edition of this state's brand book, which are
13 not accompanied by a certificate of permit, and those bearing brands
14 recorded, in the current edition of this state's brand book, which are
15 not accompanied by a certificate of permit signed by the owner of the
16 brand when presented for inspection by the director, shall be sold by
17 the director or the director's representative, unless other
18 satisfactory proof of ownership is presented showing the person
19 presenting them to be lawfully in possession. Upon the sale of such
20 cattle or horses, the director or the director's representative shall
21 give the purchasers a bill of sale therefor, or, if theft is suspected,
22 the cattle or horses may be impounded by the director or the director's
23 representative.

24 **Sec. 80.** RCW 16.65.030 and 1994 c 46 s 12 are each amended to read
25 as follows:

26 (1) On and after June 10, 1959, no person shall operate a public
27 livestock market without first having obtained a license from the
28 director. Application for such license (~~(or renewal thereof)~~) shall be
29 in writing on forms prescribed by the director, and shall include the
30 following:

31 (a) A nonrefundable original license application fee of fifteen
32 hundred dollars.

33 (b) A legal description of the property upon which the public
34 livestock market shall be located.

35 (~~(b)~~) (c) A complete description and blueprints or plans of the
36 public livestock market physical plant, yards, pens, and all facilities
37 the applicant proposes to use in the operation of such public livestock

1 market.

2 ~~((e))~~ (d) A detailed statement showing all the assets and
3 liabilities of the applicant which must reflect a sufficient net worth
4 to construct or operate a public livestock market.

5 ~~((d))~~ (e) The schedule of rates and charges the applicant
6 proposes to impose on the owners of livestock for services rendered in
7 the operation of such livestock market.

8 ~~((e))~~ (f) The weekly or monthly sales day or days on which the
9 applicant proposes to operate his or her public livestock market sales.

10 ~~((f))~~ (g) Projected source and quantity of livestock, by county,
11 anticipated to be handled.

12 ~~((g))~~ (h) Projected income and expense statements for the first
13 year's operation.

14 ~~((h))~~ (i) Facts upon which are based the conclusion that the
15 trade area and the livestock industry will benefit because of the
16 proposed market.

17 ~~((i))~~ (j) Such other information as the director may reasonably
18 require.

19 (2) The director shall, after public hearing as provided by chapter
20 34.05 RCW, grant or deny an application for original license for a
21 public livestock market after considering evidence and testimony
22 relating to all of the requirements of this section and giving
23 reasonable consideration at the same hearing to:

24 (a) Benefits to the livestock industry to be derived from the
25 establishment and operation of the public livestock market proposed in
26 the application; and

27 (b) The present market services elsewhere available to the trade
28 area proposed to be served.

29 ~~(3) ((Such application shall be accompanied by a license fee based
30 on the average gross sales volume per official sales day of that
31 market:~~

32 ~~(a) Markets with an average gross sales volume up to and including
33 ten thousand dollars, a fee of no less than one hundred dollars or more
34 than one hundred fifty dollars;~~

35 ~~(b) Markets with an average gross sales volume over ten thousand
36 dollars and up to and including fifty thousand dollars, a fee of no
37 less than two hundred dollars or more than three hundred fifty dollars;~~
38 and

39 ~~(c) Markets with an average gross sales volume over fifty thousand~~

1 dollars, a fee of no less than three hundred dollars or more than four
2 hundred fifty dollars.

3 The fees for public livestock market licensees shall be set by the
4 director by rule subsequent to a hearing under chapter 34.05 RCW and in
5 conformance with RCW 16.57.015.

6 (4) Any applicant operating more than one public livestock market
7 shall make a separate application for a license to operate each such
8 public livestock market, and each such application shall be accompanied
9 by the appropriate license fee.

10 (5) Upon the approval of the application by the director and
11 compliance with the provisions of this chapter, the applicant shall be
12 issued a license or renewal thereof. Any license issued under the
13 provisions of this chapter shall only be valid at location and for the
14 sales day or days for which the license was issued)) Applications for
15 renewal under RCW 16.65.040 shall include all information under
16 subsection (1) of this section, except subsection (1)(a) of this
17 section.

18 NEW SECTION. Sec. 81. 1994 c 46 s 21 is repealed.

19 NEW SECTION. Sec. 82. A new section is added to chapter 16.65 RCW
20 to read as follows:

21 (1) Upon the approval of the application by the director and
22 compliance with the provisions of this chapter, the applicant shall be
23 issued a license or renewal thereof. Any license issued under the
24 provisions of this chapter shall only be valid at location and for the
25 sales day or days for which the license was issued.

26 (2) The license fee shall be based on the average gross sales
27 volume per official sales day of that market:

28 (a) Markets with an average gross sales volume up to and including
29 ten thousand dollars, a fee of no less than one hundred dollars or more
30 than one hundred fifty dollars;

31 (b) Markets with an average gross sales volume over ten thousand
32 dollars and up to and including fifty thousand dollars, a fee of no
33 less than two hundred dollars or more than three hundred fifty dollars;
34 and

35 (c) Markets with an average gross sales volume over fifty thousand
36 dollars, a fee of no less than three hundred dollars or more than four
37 hundred fifty dollars.

1 The fees for public livestock market licenses shall be set by the
2 director by rule subsequent to a hearing under chapter 34.05 RCW and in
3 conformance with RCW 16.57.015.

4 (3) Any applicant operating more than one public livestock market
5 shall make a separate application for a license to operate each such
6 public livestock market, and each such application shall be accompanied
7 by the appropriate application fee.

8 NEW SECTION. **Sec. 83.** A new section is added to chapter 16.65 RCW
9 to read as follows:

10 (1) Upon the approval of the application by the director and
11 compliance with the provisions of this chapter, the applicant shall be
12 issued a license or renewal thereof. Any license issued under the
13 provisions of this chapter shall only be valid at location and for the
14 sales day or days for which the license was issued.

15 (2) The license fee shall be based on the average gross sales
16 volume per official sales day of that market:

17 (a) Markets with an average gross sales volume up to and including
18 ten thousand dollars, a one hundred twenty dollar fee;

19 (b) Markets with an average gross sales volume over ten thousand
20 dollars and up to and including fifty thousand dollars, a two hundred
21 forty dollar fee; and

22 (c) Markets with an average gross sales volume over fifty thousand
23 dollars, a three hundred sixty dollar fee.

24 The fees for public market licenses shall be set by the director by
25 rule subsequent to a hearing under chapter 34.05 RCW and in conformance
26 with RCW 16.57.015.

27 (3) Any applicant operating more than one public livestock market
28 shall make a separate application for a license to operate each such
29 public livestock market, and each such application shall be accompanied
30 by the appropriate application fee.

31 NEW SECTION. **Sec. 84.** (1) Sections 75 and 83 of this act shall
32 take effect July 1, 1997.

33 (2) Sections 74 and 82 of this act shall expire July 1, 1997.

34 **Sec. 85.** RCW 15.44.033 and 1967 c 240 s 30 are each amended to
35 read as follows:

36 Producer members of the commission shall be nominated and elected

1 by producers within the district that such producer members represent
2 in the year in which a commission member's term shall expire. Such
3 producer members receiving the largest number of the votes cast in the
4 respective districts which they represent shall be elected. The
5 election shall be by secret mail ballot and under the supervision of
6 the director.

7 Nomination for candidates to be elected to the commission shall be
8 conducted by mail by the director. Such nomination forms shall be
9 mailed by the director to each producer in a district where a vacancy
10 is about to occur. Such mailing shall be made on or after April 1st,
11 but not later than April 10th of the year the commission vacancy will
12 occur. The nomination form shall provide for the name of the producer
13 being nominated and the names of five producers nominating such
14 nominee. The producers nominating such nominee shall affix their
15 signatures to such form and shall further attest that the said nominee
16 meets the qualifications for a producer member to serve on the
17 commission and that he or she will be willing to serve on the
18 commission if elected.

19 All nominations as provided for herein shall be returned to the
20 director by April 30th, and the director shall not accept any
21 nomination postmarked later than midnight April 30th, nor place the
22 candidate thereon on the election ballot.

23 Ballots for electing members to the commission will be mailed by
24 the director to all eligible producers no later than May 15th, in
25 districts where elections are to be held and such ballots to be valid
26 shall be returned postmarked no later than May 31st of the year mailed,
27 to the director in Olympia.

28 (~~Whenever producers fail to file any nominating petitions, the~~
29 ~~director shall nominate at least two, but not more than three,~~
30 ~~qualified producers and place their names on the secret mail election~~
31 ~~ballot as nominees:— PROVIDED, That any qualified producer may be~~
32 ~~elected by a write-in ballot, even though said producer's name was not~~
33 ~~placed in nomination for such election.)) If only one person is
34 nominated for a position on the commission, the director shall
35 determine whether the person possesses the qualifications required by
36 statute for the position and, if the director determines that the
37 person possesses such qualifications, the director shall declare that
38 the person has been duly elected.~~

1 **Sec. 86.** RCW 43.88.240 and 1981 c 225 s 3 are each amended to read
2 as follows:

3 Unless otherwise directed in the commodity commission enabling
4 statute, this chapter shall not apply to the Washington state ((apple
5 advertising commission, the Washington state fruit commission, the
6 Washington tree fruit research commission, the Washington state beef
7 commission, the Washington state dairy products commission, or any
8 agricultural)) commodity commissions created either under separate
9 statute or under the provisions of chapters 15.65 and 15.66 RCW:
10 PROVIDED, That all such commissions shall submit estimates and such
11 other necessary information as may be required for the development of
12 the budget and shall also be subject to audit by the appropriate state
13 auditing agency or officer.

14 NEW SECTION. Sec. 87. A new section is added to chapter 43.23 RCW
15 to read as follows:

16 For purposes of this chapter:

17 (1) "Department" means department of agriculture;

18 (2) "Person" means any individual, partnership, association,
19 corporation, or organized group of persons whether or not incorporated.

20 NEW SECTION. Sec. 88. A new section is added to chapter 43.23 RCW
21 to read as follows:

22 Except as otherwise specified by law, the director or his or her
23 designee has the authority to retain collection agencies licensed under
24 chapter 19.16 RCW for the purposes of collecting unpaid penalties,
25 assessments, and other debts owed to the department.

26 The director or his or her designee may also collect as costs
27 moneys paid to the collection agency as charges, or in the case of
28 credit cards or financial instruments, such as checks returned for
29 nonpayment, moneys paid to financial institutions.

30 NEW SECTION. Sec. 89. A new section is added to chapter 43.23 RCW
31 to read as follows:

32 Except as otherwise specified by law, any due and payable
33 assessment levied under the authority of the director or his or her
34 designee in such specified amount as may be determined by the
35 department shall constitute a personal debt of every person so assessed
36 or who otherwise owes the same, and the same shall be due and payable

1 to the department when payment is called for by the department. In the
2 event any person fails to pay the department the full amount of such
3 assessment or such other sum on or before the date due, the department
4 may, and is hereby authorized to, add to such unpaid assessment or
5 other sum an amount not exceeding ten percent of the same to defray the
6 cost of enforcing the collecting of the same. In the event of failure
7 of such person or persons to pay any such due and payable assessment or
8 other sum, the department may bring a civil action against such person
9 or persons in a court of competent jurisdiction for the collections
10 thereof, including all costs and reasonable attorneys' fees together
11 with the above specified ten percent, and such action shall be tried
12 and judgment rendered as in any other cause of action for debt due and
13 payable.

14 NEW SECTION. **Sec. 90.** A new section is added to chapter 43.23 RCW
15 to read as follows:

16 Except as otherwise specified by law, the department is authorized
17 to charge interest at the rate authorized under RCW 43.17.240 for all
18 unpaid balances for moneys owed to the department.

19 NEW SECTION. **Sec. 91.** A new section is added to chapter 43.23 RCW
20 to read as follows:

21 Except as otherwise specified by law, in the event a check or
22 negotiable instrument as defined by RCW 62A.3-104 is dishonored by
23 nonacceptance or nonpayment, the department is entitled to collect a
24 reasonable handling fee for each instrument. If the check or
25 instrument is not paid within fifteen days and proper notice is sent,
26 the department is authorized to recover the assessment, the handling
27 fee, and any other charges allowed by RCW 62A.3-515.

28 **Sec. 92.** RCW 15.58.070 and 1994 c 46 s 1 are each amended to read
29 as follows:

30 (1) Except as provided in subsection (~~(+2)~~) (4) of this section,
31 any person desiring to register a pesticide with the department shall
32 pay to the director an annual registration fee for each pesticide
33 registered by the department for such person. The registration fee for
34 the registration of pesticides for any one person during a calendar
35 year shall be: One hundred five dollars for each of the first twenty-
36 five pesticides registered; one hundred dollars for each of the twenty-

1 sixth through one-hundredth pesticides registered; seventy-five dollars
2 for each of the one hundred first through one hundred fiftieth
3 pesticides registered; and fifty dollars for each additional pesticide
4 registered. In addition, the department may establish by rule a
5 registration fee not to exceed ten dollars for each registered product
6 labeled and intended for home and garden use only.

7 (2) The revenue generated by the pesticide registration fees shall
8 be deposited in the agricultural local fund to support the activities
9 of the pesticide program within the department. The revenue generated
10 by the home and garden use only fees shall be deposited in the
11 agriculture local fund, to be used to assist in funding activities of
12 the pesticide incident reporting and tracking review panel.

13 (3) All pesticide registrations expire on December 31st of each
14 year. A registrant may elect to register a pesticide for a two-year
15 period by prepaying for a second year at the time of registration.

16 ~~((+2))~~ (4) A person desiring to register a label where a special
17 local need exists shall pay to the director a nonrefundable application
18 fee of two hundred dollars upon submission of the registration request.
19 In addition, a person desiring to renew an approved special local need
20 registration shall pay to the director an annual registration fee of
21 two hundred dollars for each special local needs label registered by
22 the department for such person. The revenue generated by the special
23 local needs application fees and the special local needs renewal fees
24 shall be deposited in the agricultural local fund to be used to assist
25 in funding the department's special local needs registration
26 activities. All special local needs registrations expire on December
27 31st of each year.

28 ~~((+3))~~ (5) Any registration approved by the director and in effect
29 on the 31st day of December for which a renewal application has been
30 made and the proper fee paid, continues in full force and effect until
31 the director notifies the applicant that the registration has been
32 renewed, or otherwise denied in accord with the provision of RCW
33 15.58.110.

34 NEW SECTION. Sec. 93. A new section is added to chapter 15.58 RCW
35 to read as follows:

36 All license fees collected under this chapter shall be paid to the
37 director for use exclusively in the enforcement of this chapter.

1 NEW SECTION. **Sec. 94.** RCW 15.58.410 and 1971 ex.s. c 190 s 41 are
2 each repealed.

3 **Sec. 95.** RCW 16.24.130 and 1975 1st ex.s. c 7 s 16 are each
4 amended to read as follows:

5 The brand inspector shall cause to be published once in a newspaper
6 published in the county where the animal was found, a notice of the
7 impounding.

8 The notice shall state:

9 (1) A description of the animal, including brand, tattoo or other
10 identifying characteristics;

11 (2) When and where found;

12 (3) Where impounded; and

13 (4) That if unclaimed, the animal will be sold at a public
14 livestock market sale or other public sale, and the date of such sale:
15 PROVIDED, That if no newspaper shall be published in such county,
16 copies of the notice shall be posted at four commonly frequented places
17 therein.

18 If the animal is marked with a brand or tattoo which is registered
19 with the director of agriculture, the brand inspector, on or before the
20 date of publication or posting, shall send a copy of the notice to the
21 owner of record by registered mail.

22 **Sec. 96.** RCW 16.24.150 and 1975 1st ex.s. c 7 s 17 are each
23 amended to read as follows:

24 If no person shall claim the animal within ten days after the date
25 of publication or posting of the notice, it shall be sold at the next
26 succeeding public livestock market sale to be held at the sales yard
27 where impounded, provided that in the director's discretion the
28 department of agriculture may otherwise cause the animal to be sold at
29 public sale.

30 The legislature intends this to be a clarification of existing law;
31 therefore, this section shall have retroactive effect as of December 1,
32 1994.

33 **Sec. 97.** RCW 15.76.140 and 1965 ex.s. c 32 s 1 are each amended to
34 read as follows:

35 (1) Before any agricultural fair may become eligible for state
36 allocations it must have conducted two successful consecutive annual

1 fairs immediately preceding application for such allocations, and have
2 its application therefor approved by the director.

3 (2) Beginning January 1, 1994, and until June 30, 1997, the director
4 may waive this requirement for an agricultural fair that through itself
5 or its predecessor sponsoring organization has successfully operated at
6 least two years as a county fair, has received a funding allocation as
7 a county fair under this act for those two years, and that reorganizes
8 as an area fair.

9 NEW SECTION. Sec. 98. Sections 9 through 20 of this act shall
10 constitute a new chapter in Title 69 RCW.

11 NEW SECTION. Sec. 99. Sections 50 through 59 of this act shall
12 constitute a new chapter in Title 16 RCW.

13 NEW SECTION. Sec. 100. Section 71 of this act takes effect
14 January 1, 1996.

15 NEW SECTION. Sec. 101. Sections 1 through 48, 76 through 79, and
16 85 through 94 of this act are necessary for the immediate preservation
17 of the public peace, health, or safety, or support of the state
18 government and its existing public institutions, and shall take effect
19 June 30, 1995.

20 NEW SECTION. Sec. 102. Sections 52, 95, and 96 of this act are
21 necessary for the immediate preservation of the public peace, health,
22 or safety, or support of the state government and its existing public
23 institutions, and shall take effect immediately."

24 **SSB 5315** - H COMM AMD
25 By Committee on Agriculture & Ecology

26
27 On page 1, line 1 of the title, after "marketing;" strike the
28 remainder of the title and insert "amending RCW 15.36.012, 15.36.071,
29 15.36.171, 15.36.221, 15.36.411, 15.36.441, 15.36.551, 69.07.100,
30 69.07.085, 69.25.020, 69.25.050, 69.25.150, 69.25.170, 69.25.250,
31 69.25.310, 69.25.320, 15.53.901, 15.53.9012, 15.53.9014, 15.53.9016,
32 15.53.9018, 15.53.902, 15.53.9022, 15.53.9024, 15.53.9038, 15.53.9042,

1 15.53.9053, 77.08.010, 16.36.005, 16.36.010, 16.36.020, 16.36.050,
2 16.36.040, 16.36.070, 16.36.080, 16.36.100, 16.57.010, 16.58.130,
3 16.57.220, 16.57.230, 16.57.240, 16.57.280, 16.57.290, 16.65.030,
4 15.44.033, 43.88.240, 15.58.070, 16.24.130, 16.24.150, and 15.76.140;
5 amending 1994 c 46 s 29 (uncodified); reenacting and amending RCW
6 69.07.040 and 16.57.220; reenacting RCW 15.36.431; adding a new section
7 to chapter 69.04 RCW; adding a new section to chapter 15.53 RCW; adding
8 a new section to chapter 16.49A RCW; adding new sections to chapter
9 16.65 RCW; adding new sections to chapter 43.23 RCW; adding a new
10 section to chapter 15.58 RCW; creating new sections; adding a new
11 chapter to Title 69 RCW; adding a new chapter to Title 16 RCW;
12 decodifying RCW 15.53.905 and 15.53.9052; repealing RCW 69.08.010,
13 69.08.020, 69.08.030, 69.08.040, 69.08.045, 69.08.050, 69.08.060,
14 69.08.070, 69.08.080, 69.08.090, 69.25.330, 69.25.340, 15.53.9036, and
15 15.58.410; repealing 1994 c 46 s 24; repealing 1994 c 46 s 21;
16 prescribing penalties; providing effective dates; providing an
17 expiration date; and declaring an emergency."

--- END ---