

2 SSB 5315 - H AMD 829 ADOPTED 4/13/95

3 By Representatives Chandler and Mastin

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.

1 "Ultrapasteurized" means the process by which milk or milk products
2 have been thermally processed in accordance with the time and
3 temperature standards of the PMO, so as to produce a product which has
4 an extended shelf life under refrigerated conditions.

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

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

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

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

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

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

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

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

3 Milk and milk products for consumption in the raw state or for
4 pasteurization shall be cooled within two hours of completion of
5 milking to forty degrees Fahrenheit or less and maintained at that
6 temperature until picked up, in accordance with RCW ((15.36.110))
7 15.36.201, so long as the blend temperature after the first and
8 following milkings does not exceed fifty degrees Fahrenheit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) Any penalty imposed under this section is due and payable upon
38 the issuance of the final order by the department. The penalty shall

1 be deducted by the violator's marketing organization from the
2 violator's final payment for the month following the issuance of the
3 final order. The department shall promptly notify the violator's
4 marketing organization of any penalties contained in the final order.

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

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

16 NEW SECTION. **Sec. 8.** For the purpose of this chapter:

17 (1) "Food storage warehouse" means any premises, establishment,
18 building, room area, facility, or place, in whole or in part, where
19 food is stored, kept, or held for wholesale distribution to other
20 wholesalers or to retail outlets, restaurants, and any such other
21 facility selling or distributing to the ultimate consumer. Food
22 storage warehouses include, but are not limited to, facilities where
23 food is kept or held refrigerated or frozen and include facilities
24 where food is stored to the account of another firm and/or is owned by
25 the food storage warehouse. "Food storage warehouse" does not include
26 grain elevators or fruit and vegetable storage and packing houses that
27 store, pack, and ship fresh fruit and vegetables even though they may
28 use refrigerated or controlled atmosphere storage practices in their
29 operation. However, this chapter applies to multiple food storage
30 operations that also distribute or ripen fruits and vegetables.

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

32 (3) "Director" means the director of the Washington department of
33 agriculture.

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

35 (5) "Independent sanitation consultant" means an individual,
36 partnership, cooperative, or corporation that by reason of education,
37 certification, and experience has satisfactorily demonstrated expertise
38 in food and dairy sanitation and is approved by the director to advise

1 on such areas including, but not limited to: Principles of cleaning
2 and sanitizing food processing plants and equipment; rodent, insect,
3 bird, and other pest control; principals of hazard analysis critical
4 control point; basic food product labeling; principles of proper food
5 storage and protection; proper personnel work practices and attire;
6 sanitary design, construction, and installation of food plant
7 facilities, equipment, and utensils; and other pertinent food safety
8 issues.

9 NEW SECTION. **Sec. 9.** The director or his or her representative
10 shall make annual inspections of each food storage warehouse for
11 compliance with the provisions of chapter 69.04 RCW and the rules
12 adopted under chapter 69.04 RCW, except that food storage warehouses
13 exempted from licensure by the provisions of this chapter shall be
14 inspected by the department as deemed necessary by the director. Any
15 food storage warehouse found to not be in substantial compliance with
16 chapter 69.04 RCW and the rules adopted under chapter 69.04 RCW will be
17 reinspected as deemed necessary by the director to determine
18 compliance. This does not preclude the director from using any other
19 remedies as provided under chapter 69.04 RCW to gain compliance or to
20 embargo products as provided under RCW 69.04.110 to protect the public
21 from adulterated foods.

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

31 The application shall include the full name of the applicant for
32 the license and the location of the food storage warehouse he or she
33 intends to operate. If such applicant is an individual, receiver,
34 trustee, firm, partnership, association, or corporation, the full name
35 of each member of the firm or partnership, or names of the officers of
36 the association or corporation must be given on the application. The
37 application shall further state the principal business address of the

1 applicant in the state and elsewhere and the name of a person domiciled
2 in this state authorized to receive and accept service of summons of
3 legal notices of all kinds for the applicant. Upon the approval of the
4 application by the director and compliance with the provisions of this
5 chapter, including the applicable regulations adopted under this
6 chapter by the department, the applicant shall be issued a license or
7 renewal thereof. The director shall waive licensure under this
8 chapter for firms that are licensed under the provisions of chapter
9 69.07 or 15.36 RCW.

10 NEW SECTION. **Sec. 11.** A food storage warehouse that is inspected
11 for compliance with the current good manufacturing practices (Title 21
12 C.F.R. part 110) on at least an annual basis by a state or federal
13 agency or by an independent sanitation consultant approved by the
14 department shall be exempted from licensure under this chapter.

15 A report identifying the inspector and the inspecting entity, the
16 date of the inspection, and any violations noted on such inspection
17 shall be forwarded to the department by the food storage warehouse
18 within sixty days of the completion of the inspection. An inspection
19 shall be conducted and an inspection report for a food storage
20 warehouse shall be filed with the department at least once every twelve
21 months or the warehouse shall be licensed under this chapter and
22 inspected by the department for a period of two years.

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

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

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

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

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

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

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

12 The provisions of this section requiring that a hearing be
13 conducted before an action may be taken against a license do not apply
14 to an action taken under section 14 of this act.

15 NEW SECTION. **Sec. 14.** (1) Whenever the director finds a food
16 storage warehouse operating under conditions that constitute an
17 immediate danger to public health or whenever the licensee or any
18 employee of the licensee actively prevents the director or the
19 director's representative, during an on-site inspection, from
20 determining whether such a condition exists, the director may summarily
21 suspend, pending a hearing, a license provided for in this chapter.

22 (2) Whenever a license is summarily suspended, the holder of the
23 license shall be notified in writing that the license is, upon service
24 of the notice, immediately suspended and that prompt opportunity for a
25 hearing will be provided.

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

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

1 NEW SECTION. **Sec. 16.** All moneys received by the department under
2 provisions of this chapter shall be paid into an account created in the
3 agricultural local fund established in RCW 43.23.230 and shall be used
4 solely to carry out provisions of this chapter and chapter 69.04 RCW.

5 NEW SECTION. **Sec. 17.** The department may use all the civil
6 remedies provided under chapter 69.04 RCW in carrying out and enforcing
7 the provisions of this chapter.

8 NEW SECTION. **Sec. 18.** (1) The department shall enforce and carry
9 out the provisions of this chapter and may adopt the necessary rules to
10 carry out its purpose.

11 (2) The adoption of rules under the provisions of this chapter are
12 subject to the applicable provisions of chapter 34.05 RCW, the
13 administrative procedure act.

14 NEW SECTION. **Sec. 19.** The director or director's deputies,
15 assistants, and inspectors are authorized to do all acts and things
16 necessary to carry out the provisions of this chapter, including the
17 taking of verified statements. The department personnel are empowered
18 to administer oaths of verification on the statement.

19 NEW SECTION. **Sec. 20.** A new section is added to chapter 69.04 RCW
20 to read as follows:

21 The director need not petition the superior court as provided for
22 in RCW 69.04.120 if the owner or claimant of such food or food products
23 agrees in writing to the disposition of such food or food products as
24 the director may order.

25 **Sec. 21.** RCW 69.07.040 and 1993 sp.s. c 19 s 11 and 1993 c 212 s
26 2 are each reenacted and amended to read as follows:

27 It shall be unlawful for any person to operate a food processing
28 plant or process foods in the state without first having obtained an
29 annual license from the department, which shall expire on a date set by
30 rule by the director. License fees shall be prorated where necessary
31 to accommodate staggering of expiration dates. Application for a
32 license shall be on a form prescribed by the director and accompanied
33 by the license fee. The license fee is determined by computing the
34 gross annual sales for the accounting year immediately preceding the

1 license year. If the license is for a new operator, the license fee
2 shall be based on an estimated gross annual sales for the initial
3 license period.

4	If gross annual sales are:	The license fee is:
5	\$0 to \$50,000	\$55.00
6	\$50,001 to \$500,000	\$110.00
7	\$500,001 to \$1,000,000	\$220.00
8	\$1,000,001 to \$5,000,000	\$385.00
9	\$5,000,001 to \$10,000,000	\$550.00
10	Greater than \$10,000,000	\$825.00

11 Such application shall include the full name of the applicant for the
12 license and the location of the food processing plant he or she intends
13 to operate. If such applicant is an individual, receiver, trustee,
14 firm, partnership, association or corporation, the full name of each
15 member of the firm or partnership, or names of the officers of the
16 association or corporation shall be given on the application. Such
17 application shall further state the principal business address of the
18 applicant in the state and elsewhere and the name of a person domiciled
19 in this state authorized to receive and accept service of summons of
20 legal notices of all kinds for the applicant. The application shall
21 also specify the type of food to be processed and the method or nature
22 of processing operation or preservation of that food and any other
23 necessary information. Upon the approval of the application by the
24 director and compliance with the provisions of this chapter, including
25 the applicable regulations adopted hereunder by the department, the
26 applicant shall be issued a license or renewal thereof.

27 Licenses shall be issued to cover only those products, processes,
28 and operations specified in the license application and approved for
29 licensing. Wherever a license holder wishes to engage in processing a
30 type of food product that is different than the type specified on the
31 application supporting the licensee's existing license and processing
32 that type of food product would require a major addition to or
33 modification of the licensee's processing facilities or has a high
34 potential for harm, the licensee shall submit an amendment to the
35 current license application. In such a case, the licensee may engage
36 in processing the new type of food product only after the amendment has
37 been approved by the department.

1 If upon investigation by the director, it is determined that a
2 person is processing food for retail sale and is not under permit,
3 license, or inspection by a local health authority, then that person
4 may be considered a food processor and subject to the provisions of
5 this chapter. The director may waive the licensure requirements of
6 this chapter for a person's operations at a facility if the person (~~is~~
7 ~~licensed under chapter 15.32 RCW or has a permit~~) has obtained a milk
8 processing plant license under chapter 15.36 RCW to conduct the same or
9 a similar operation at the facility.

10 **Sec. 22.** RCW 69.07.100 and 1988 c 5 s 4 are each amended to read
11 as follows:

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

14 (~~(1) (Chapter 15.32 RCW, the Dairies and dairy products act;~~
15 ~~(2))~~) Chapter 69.25 RCW, the Washington wholesome eggs and egg
16 products act;

17 (~~(3))~~) (2) Chapter 69.28 RCW, the Washington state honey act;

18 (~~(4))~~) (3) Chapter 16.49 RCW, the Meat inspection act;

19 (~~(5))~~) (4) Title 66 RCW, relating to alcoholic beverage control;
20 and

21 (~~(6))~~) (5) Chapter 69.30 RCW, the Sanitary control of shellfish
22 act: PROVIDED, That if any such establishments process foods not
23 specifically provided for in the above entitled acts, such
24 establishments shall be subject to the provisions of this chapter.

25 The provisions of this chapter shall not apply to restaurants or
26 food service establishments.

27 **Sec. 23.** RCW 69.07.085 and 1988 c 254 s 9 are each amended to read
28 as follows:

29 The department may issue sanitary certificates to food processors
30 under this chapter subject to such requirements as it may establish by
31 rule. The fee for issuance shall be (~~twenty~~) fifty dollars per
32 certificate. Fees collected under this section shall be deposited in
33 the agricultural local fund.

34 NEW SECTION. **Sec. 24.** The following acts or parts of acts are
35 each repealed:

36 (1) RCW 69.08.010 and 1971 c 27 s 1 & 1945 c 192 s 1;

- 1 (2) RCW 69.08.020 and 1945 c 192 s 4;
- 2 (3) RCW 69.08.030 and 1985 c 25 s 1 & 1945 c 192 s 2;
- 3 (4) RCW 69.08.040 and 1985 c 25 s 2 & 1945 c 192 s 3;
- 4 (5) RCW 69.08.045 and 1988 c 5 s 5 & 1971 c 27 s 2;
- 5 (6) RCW 69.08.050 and 1945 c 192 s 5;
- 6 (7) RCW 69.08.060 and 1945 c 192 s 6;
- 7 (8) RCW 69.08.070 and 1945 c 192 s 7;
- 8 (9) RCW 69.08.080 and 1945 c 192 s 8; and
- 9 (10) RCW 69.08.090 and 1945 c 192 s 9.

10 **Sec. 25.** RCW 69.25.020 and 1982 c 182 s 42 are each amended to
11 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (~~(j)~~) (k) If it has been intentionally subjected to radiation,
22 unless the use of the radiation was in conformity with a regulation or
23 exemption in effect pursuant to RCW 69.04.394; or

24 (~~(k)~~) (l) If any valuable constituent has been in whole or in
25 part omitted or abstracted therefrom; or if any substance has been
26 substituted, wholly or in part therefor; or if damage or inferiority
27 has been concealed in any manner; or if any substance has been added
28 thereto or mixed or packed therewith so as to increase its bulk or
29 weight, or reduce its quality or strength, or make it appear better or
30 of greater value than it is.

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

34 (6) "Intrastate commerce" means any eggs or egg products in
35 intrastate commerce, whether such eggs or egg products are intended for
36 sale, held for sale, offered for sale, sold, stored, transported, or
37 handled in this state in any manner and prepared for eventual
38 distribution in this state, whether at wholesale or retail.

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

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

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

7 (10) "Egg handler" or "dealer" means any person who produces,
8 contracts for or obtains possession or control of any eggs for the
9 purpose of sale to another dealer or retailer, or for processing and
10 sale to a dealer, retailer or consumer: PROVIDED, That for the purpose
11 of this chapter, "sell" or "sale" includes the following: Offer for
12 sale, expose for sale, have in possession for sale, exchange, barter,
13 trade, or as an inducement for the sale of another product.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (28) "Official plant" means any plant which is licensed under the
29 provisions of this chapter, at which inspection of the processing of
30 egg products is maintained by the United States department of
31 agriculture or by the state under cooperative agreements with the
32 United States department of agriculture or by the state.

33 (29) "Official standards" means the standards of quality, grades,
34 and weight classes for eggs, adopted under the provisions of this
35 chapter.

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

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

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

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

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

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

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

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

20 (38) "Master license system" means the mechanism established by
21 chapter 19.02 RCW by which master licenses, endorsed for individual
22 state-issued licenses, are issued and renewed utilizing a master
23 application and a master license expiration date common to each
24 renewable license endorsement.

25 (39) "Ambient temperature" means the atmospheric temperature
26 surrounding or encircling shell eggs.

27 **Sec. 26.** RCW 69.25.050 and 1982 c 182 s 43 are each amended to
28 read as follows:

29 No person shall act as an egg handler or dealer without first
30 obtaining an annual license and permanent dealer's number from the
31 department; such license shall expire on the master license expiration
32 date. Application for an egg dealer license or egg dealer branch
33 license, shall be made through the master license system. The annual
34 egg dealer license fee shall be (~~ten~~) thirty dollars and the annual
35 egg dealer branch license fee shall be (~~five~~) fifteen dollars. A
36 copy of the master license shall be posted at each location where such
37 licensee operates. Such application shall include the full name of the
38 applicant for the license and the location of each facility he intends

1 to operate. If such applicant is an individual, receiver, trustee,
2 firm, partnership, association or corporation, the full name of each
3 member of the firm or partnership or the names of the officers of the
4 association or corporation shall be given on the application. Such
5 application shall further state the principal business address of the
6 applicant in the state and elsewhere and the name of a person domiciled
7 in this state authorized to receive and accept service of summons of
8 legal notices of all kinds for the applicant and any other necessary
9 information prescribed by the director. Upon the approval of the
10 application and compliance with the provisions of this chapter,
11 including the applicable regulations adopted hereunder by the
12 department, the applicant shall be issued a license or renewal thereof.
13 Such license and permanent egg handler or dealer's number shall be
14 nontransferable.

15 **Sec. 27.** RCW 69.25.150 and 1992 c 7 s 47 are each amended to read
16 as follows:

17 (1) (~~Any person who commits any offense prohibited by RCW~~
18 ~~69.25.110 shall upon conviction be guilty of a gross misdemeanor.~~) (a)
19 Any person violating any provision of this chapter or any rule adopted
20 under this chapter is guilty of a misdemeanor and guilty of a gross
21 misdemeanor for any second and subsequent violation. Any offense
22 committed more than five years after a previous conviction shall be
23 considered a first offense. A misdemeanor under this section is
24 punishable to the same extent that a misdemeanor is punishable under
25 RCW 9A.20.021 and a gross misdemeanor under this section is punishable
26 to the same extent that a gross misdemeanor is punishable under RCW
27 9A.20.021.

28 (b) Whenever the director finds that a person has committed a
29 violation of any of the provisions of this chapter, and that violation
30 has not been punished pursuant to (a) of this subsection, the director
31 may impose upon and collect from the violator a civil penalty not
32 exceeding one thousand dollars per violation per day. Each violation
33 shall be a separate and distinct offense.

34 When construing or enforcing the provisions of RCW 69.25.110, the
35 act, omission, or failure of any person acting for or employed by any
36 individual, partnership, corporation, or association within the scope
37 of the person's employment or office shall in every case be deemed the

1 act, omission, or failure of such individual, partnership, corporation,
2 or association, as well as of such person.

3 (2) No carrier or warehouseman shall be subject to the penalties of
4 this chapter, other than the penalties for violation of RCW 69.25.140,
5 or subsection (3) of this section, by reason of his or her receipt,
6 carriage, holding, or delivery, in the usual course of business, as a
7 carrier or warehouseman of eggs or egg products owned by another person
8 unless the carrier or warehouseman has knowledge, or is in possession
9 of facts which would cause a reasonable person to believe that such
10 eggs or egg products were not eligible for transportation under, or
11 were otherwise in violation of, this chapter, or unless the carrier or
12 warehouseman refuses to furnish on request of a representative of the
13 director the name and address of the person from whom he or she
14 received such eggs or egg products and copies of all documents, if
15 there be any, pertaining to the delivery of the eggs or egg products
16 to, or by, such carrier or warehouseman.

17 (3) Notwithstanding any other provision of law any person who
18 forcibly assaults, resists, impedes, intimidates, or interferes with
19 any person while engaged in or on account of the performance of his or
20 her official duties under this chapter shall be punished by a fine of
21 not more than five thousand dollars or imprisonment in a state
22 correctional facility for not more than three years, or both. Whoever,
23 in the commission of any such act, uses a deadly or dangerous weapon,
24 shall be punished by a fine of not more than ten thousand dollars or by
25 imprisonment in a state correctional facility for not more than ten
26 years, or both.

27 **Sec. 28.** RCW 69.25.170 and 1975 1st ex.s. c 201 s 18 are each
28 amended to read as follows:

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

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

35 (b) The processing of egg products at any plant where the
36 facilities and operating procedures meet such sanitary standards as may
37 be prescribed by the director, and where the eggs received or used in
38 the manufacture of egg products contain no more restricted eggs than

1 are allowed by the official standards of the state consumer grades for
2 shell eggs, and the egg products processed at such plant;

3 (c) The sale of eggs by any poultry producer from his own flocks
4 directly to a household consumer exclusively for use by such consumer
5 and members of his household and his nonpaying guests and employees,
6 and the transportation, possession, and use of such eggs in accordance
7 with this subsection;

8 (d) The sale of eggs by shell egg packers on his own premises
9 directly to household consumers for use by such consumer and members of
10 his household and his nonpaying guests and employees, and the
11 transportation, possession, and use of such eggs in accordance with
12 this subsection;

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

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

18 **Sec. 29.** RCW 69.25.250 and 1993 sp.s. c 19 s 12 are each amended
19 to read as follows:

20 There is hereby levied an assessment not to exceed three mills per
21 dozen eggs entering intrastate commerce, as prescribed by rules and
22 regulations issued by the director. Such assessment shall be
23 applicable to all eggs entering intrastate commerce except as provided
24 in RCW 69.25.170 and 69.25.290. Such assessment shall be paid to the
25 director on a monthly basis on or before the tenth day following the
26 month such eggs enter intrastate commerce. The director may require
27 reports by egg handlers or dealers along with the payment of the
28 assessment fee. Such reports may include any and all pertinent
29 information necessary to carry out the purposes of this chapter. The
30 director may, by regulations, require egg container manufacturers to
31 report on a monthly basis all egg containers sold to any egg handler or
32 dealer and bearing such egg handler or dealer's (~~license~~) permanent
33 number.

34 **Sec. 30.** RCW 69.25.310 and 1975 1st ex.s. c 201 s 32 are each
35 amended to read as follows:

36 (1) All containers used by an egg handler or dealer to package eggs
37 shall bear the name and address or the permanent number issued by the

1 director to said egg handler or dealer. Such permanent number shall be
2 displayed in a size and location prescribed by the director. (~~It~~
3 ~~shall constitute a gross misdemeanor for any egg handler or dealer to~~
4 ~~reuse a container which bears the permanent number of another egg~~
5 ~~handler or dealer unless such number is totally obliterated prior to~~
6 ~~reuse.~~) It shall be a violation for any egg handler or dealer to use
7 a container that bears the permanent number of another egg handler or
8 dealer unless such number is totally obliterated prior to use. The
9 director may in addition require the obliteration of any or all
10 markings that may be on any container which will be (~~reused~~) used for
11 eggs by an egg handler or dealer.

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

19 **Sec. 31.** RCW 69.25.320 and 1975 1st ex.s. c 201 s 33 are each
20 amended to read as follows:

21 (1) In addition to any other records required to be kept and
22 furnished the director under the provisions of this chapter, the
23 director may require any person who sells to any retailer, or to any
24 restaurant, hotel, boarding house, bakery, or any institution or
25 concern which purchases eggs for serving to guests or patrons thereof
26 or for its use in preparation of any food product for human
27 consumption, candled or graded eggs other than those of his own
28 production sold and delivered on the premises where produced, to
29 furnish that retailer or other purchaser with an invoice covering each
30 such sale, showing the exact grade or quality, and the size or weight
31 of the eggs sold, according to the standards prescribed by the
32 director, together with the name and address of the person by whom the
33 eggs were sold. The person selling and the retailer or other purchaser
34 shall keep a copy of said invoice on file at his place of business for
35 a period of thirty days, during which time the copy shall be available
36 for inspection at all reasonable times by the director: PROVIDED, That
37 no retailer or other purchaser shall be guilty of a violation of this
38 chapter if he can establish a guarantee from the person from whom the

1 eggs were purchased to the effect that they, at the time of purchase,
2 conformed to the information required by the director on such invoice:
3 PROVIDED FURTHER, That if the retailer or other purchaser having
4 labeled any such eggs in accordance with the invoice keeps them for
5 such a time after they are purchased as to cause them to deteriorate to
6 a lower grade or standard, and sells them under the label of the
7 invoice grade or standard, he shall be guilty of a violation of this
8 chapter.

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

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

21 (4) No invoice shall be required on eggs when packed for sale to
22 the United States department of defense, or a component thereof, if
23 labeled with grades promulgated by the United States secretary of
24 agriculture.

25 NEW SECTION. Sec. 32. The following acts or parts of acts are
26 each repealed:

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

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

29 **Sec. 33.** RCW 15.53.901 and 1982 c 177 s 1 are each amended to read
30 as follows:

31 The definitions set forth in this section apply (~~through~~
32 ~~{throughout}~~) throughout this chapter.

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

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

1 ~~(3) "Distribute" means to import, consign, manufacture, produce,~~
2 ~~compound, mix, or blend commercial feed, or to offer for sale, sell,~~
3 ~~barter, or otherwise supply commercial feed in this state.~~
4 ~~(4) "Distributor" means any person who distributes.~~
5 ~~(5) "Sell" or "sale" includes exchange.~~
6 ~~(6) "Commercial feed" means all materials including customer-~~
7 ~~formula feed which are distributed for use as feed or for mixing in~~
8 ~~feed, for animals other than man.~~
9 ~~(7) "Feed ingredient" means each of the constituent materials~~
10 ~~making up a commercial feed.~~
11 ~~(8) "Customer formula feed" means a mixture of commercial feed~~
12 ~~and/or materials each batch of which is mixed according to the specific~~
13 ~~instructions of the final purchaser or contract feeder.~~
14 ~~(9) "Brand" means the term, design, trademark, or other specific~~
15 ~~designation under which an individual commercial feed is distributed in~~
16 ~~this state.~~
17 ~~(10) "Product" means the name of the commercial feed that~~
18 ~~identifies it as to kind, class, or specific use.~~
19 ~~(11) "Label" means a display of written, printed, or graphic matter~~
20 ~~upon or affixed to the container in which a commercial feed is~~
21 ~~distributed, or on the invoice or delivery slip with which a commercial~~
22 ~~feed is distributed.~~
23 ~~(12) "Labeling" means all labels and other written, printed, or~~
24 ~~graphic matter upon a commercial feed or any of its containers or~~
25 ~~wrappers, or otherwise accompanying such commercial feed.~~
26 ~~(13) "Ton" means a net weight of two thousand pounds avoirdupois.~~
27 ~~(14) "Percent" or "percentage" means percentage by weight.~~
28 ~~(15) "Official sample" means any sample of feed taken by the~~
29 ~~department, obtained and analyzed as provided in RCW 15.53.9024.~~
30 ~~(16) "Contract feeder" means an independent contractor, or any~~
31 ~~other person who feeds commercial feed to animals pursuant to an oral~~
32 ~~or written agreement whereby such commercial feed is supplied,~~
33 ~~furnished or otherwise provided to such person by any distributor and~~
34 ~~whereby such person's remuneration is determined all or in part by feed~~
35 ~~consumption, mortality, profits, or amount or quality of product:~~
36 ~~PROVIDED, That it shall not include a bona fide employee of a~~
37 ~~manufacturer or distributor of commercial feed.~~
38 ~~(17) "Retail" means to distribute to the ultimate consumer.))~~

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

4 (2) "Commercial feed" means all materials or combination of
5 materials that are distributed or intended for distribution for use as
6 feed or for mixing in feed, unless such materials are specifically
7 exempted. Unmixed whole seeds and physically altered entire unmixed
8 seeds, when such whole seeds or physically altered seeds are not
9 chemically changed or not adulterated within the meaning of RCW
10 15.53.902, are exempt. The department by rule may exempt from this
11 definition, or from specific provisions of this chapter, commodities
12 such as hay, straw, stover, silage, cobs, husks, hulls, and individual
13 chemical compounds or substances when such commodities, compounds, or
14 substances are not intermixed with other materials, and are not
15 adulterated within the meaning of RCW 15.53.902.

16 (3) "Contract feeder" means a person who is an independent
17 contractor and feeds commercial feed to animals pursuant to a contract
18 whereby such commercial feed is supplied, furnished, or otherwise
19 provided to such person and whereby such person's remuneration is
20 determined all or in part by feed consumption, mortality, profits, or
21 amount or quality of product.

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

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

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

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

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

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

38 (10) "Exempt buyer" means a licensee who has agreed to be
39 responsible for reporting tonnage and paying inspection fees for all

1 commercial feeds they distribute. An exempt buyer must apply for
2 exempt buyer status with the department. The department shall maintain
3 a list of all exempt buyers and make the list available on request.

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

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

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

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

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

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

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

21 (18) "Medicated feed" means a commercial feed containing a drug or
22 other medication.

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

25 (20) "Official sample" means a sample of feed taken by the
26 department, obtained and analyzed as provided in RCW 15.53.9024 (3),
27 (5), or (6).

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

29 (22) "Person" means an individual, firm, partnership, corporation,
30 or association.

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

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

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

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

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

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

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

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

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

10 **Sec. 34.** RCW 15.53.9012 and 1965 ex.s. c 31 s 3 are each amended
11 to read as follows:

12 (1) The department shall administer, enforce and carry out the
13 provisions of this chapter and may adopt rules necessary to carry out
14 its purpose. In adopting such rules, the director shall consider (a)
15 the official definitions of feed ingredients and official feed terms
16 adopted by the association of American feed control officials and
17 published in the official publication of that organization; and (b) any
18 regulation adopted pursuant to the authority of the Federal Food, Drug,
19 and Cosmetic Act (21 U.S.C. Sec. 301, et seq.), if the department would
20 have the authority under this chapter to adopt the regulations. The
21 adoption of rules shall be subject to a public hearing and all other
22 applicable provisions of chapter 34.05 RCW (Administrative Procedure
23 Act)(~~(, as enacted or hereafter amended)~~)).

24 (2) The director when adopting rules in respect to the feed
25 industry shall consult with affected parties, such as manufacturers and
26 distributors of commercial feed and any final rule adopted shall be
27 designed to promote orderly marketing and shall be reasonable and
28 necessary and based upon the requirements and condition of the industry
29 and shall be for the purpose of promoting the well-being of the members
30 of the feed industry as well as the well-being of the purchasers and
31 users of feed and for the general welfare of the people of the state.

32 NEW SECTION. **Sec. 35.** A new section is added to chapter 15.53 RCW
33 to read as follows:

34 (1) Beginning January 1, 1996, a person who manufactures a
35 commercial feed, is an initial distributor of a commercial feed, or
36 whose name appears as the responsible party on a commercial feed label
37 to be distributed in or into this state shall first obtain from the

1 department a commercial feed license for each facility. Sale of food
2 processing byproducts from fruit, vegetable, or potato processing
3 plants, freezing or dehydrating facilities, or juice or jelly
4 preserving plants, bona fide experimental feed on which accurate
5 records and experimental programs are maintained, and pet food and
6 specialty pet food are exempt from the requirement of a commercial feed
7 license. The sale of byproducts or products of sugar refineries are
8 not exempt from the requirement of a commercial feed license.

9 (2) Application for a commercial feed license shall be made
10 annually on forms provided by the department and shall be accompanied
11 by a fee of fifty dollars, except that for the period beginning January
12 1, 1996, and ending June 30, 1996, the fee shall be twenty-five
13 dollars. The commercial feed license shall expire on June 30th of each
14 year.

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

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

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

18 (4) After January 1, 1996, application for license renewal is due
19 July 1st of each year. If an application for license renewal provided
20 for in this section is not filed with the department prior to July
21 15th, a delinquency fee of fifty dollars shall be assessed and added to
22 the original fee and must be paid by the applicant before the renewal
23 license is issued. The assessment of the delinquency fee shall not
24 prevent the department from taking other action as provided for in this
25 chapter. The penalty does not apply if the applicant furnishes an
26 affidavit that he or she has not distributed a commercial feed
27 subsequent to the expiration of his or her prior license.

28 (5) The department may deny a license application if the applicant
29 is not in compliance with this chapter or applicable rules, and may
30 revoke a license if the licensee is not in compliance with this chapter
31 or applicable rules. Prior to denial or revocation of a license, the
32 department shall provide notice and an opportunity to correct
33 deficiencies. If an applicant or licensee fails to correct the
34 deficiency, the department shall deny or revoke the license. If
35 aggrieved by the decision, the applicant or licensee may request a
36 hearing as authorized under chapter 34.05 RCW.

37 (6) Notwithstanding the payment of a delinquency fee, it is a
38 violation to distribute a commercial feed by an unlicensed person, and

1 nothing in this chapter shall prevent the department from imposing a
2 penalty authorized by this chapter for the violation.

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

6 **Sec. 36.** RCW 15.53.9014 and 1993 sp.s. c 19 s 2 are each amended
7 to read as follows:

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

21 (a) ~~Beginning July 1, 1993, each registration for a commercial feed~~
22 ~~product distributed in packages of ten pounds or more shall be~~
23 ~~accompanied by a fee of eleven dollars. If such commercial feed is~~
24 ~~also distributed in packages of less than ten pounds it shall be~~
25 ~~registered under subsection (b) of this section.~~

26 (b) ~~Beginning July 1, 1993, each registration for a commercial feed~~
27 ~~product distributed in packages of less than ten pounds shall be~~
28 ~~accompanied by an annual registration fee of forty five dollars on each~~
29 ~~such commercial feed so distributed, but no inspection fee may be~~
30 ~~collected on packages of less than ten pounds of the commercial feed so~~
31 ~~registered)).~~

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

36 (3) Pet food and specialty pet food registration fees are as
37 follows:

1 (a) Each pet food and specialty pet food distributed in packages of
2 ten pounds or more shall be accompanied by a fee of eleven dollars,
3 except that for the period beginning January 1, 1996, and ending June
4 30, 1996, the fee shall be five dollars and fifty cents. If such
5 commercial feed is also distributed in packages of less than ten pounds
6 it shall be registered under (b) of this subsection.

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

13 (4) The department may require that ((such)) the application for
14 registration of pet food and specialty pet food be accompanied by a
15 label and/or other printed matter describing the product. ((All
16 registrations expire on December 31st of each year, and are renewable
17 unless such registration is canceled by the department or it has called
18 for a new registration, or unless canceled by the registrant.

19 ~~(4) The application shall include the information required by RCW~~
20 ~~15.53.9016(1)(b) through (1)(e).)~~

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

25 (6) Changes in the guarantee of either chemical or ingredient
26 composition of a ((commercial feed)) pet food or specialty pet food
27 registered under the provisions of this chapter may be permitted if
28 there is satisfactory evidence that such changes would not result in a
29 lowering of the feed value of the product for the purpose for which it
30 was designed.

31 (7) The department is ((empowered)) authorized to refuse
32 registration of any application not in compliance with the provisions
33 of this chapter and any rule adopted under this chapter and to cancel
34 any registration subsequently found to be not in compliance with any
35 provisions of this chapter((, but a registration shall not be refused
36 or canceled until the registrant has been given opportunity to be heard
37 before the department and to amend his application in order to comply
38 with the requirements of)) and any rule adopted under this chapter.
39 Prior to refusal or cancellation of a registration, the applicant or

1 registrant of an existing registered pet food or specialty pet food
2 shall be notified of the reasons and given an opportunity to amend the
3 application to comply. If the applicant does not make the necessary
4 corrections, the department shall refuse to register the feed. The
5 applicant or registrant of an existing registered pet food or specialty
6 pet food may request a hearing as provided for in chapter 34.05 RCW.

7 (8) After January 1, 1996, application for renewal of registration
8 is due July 1st of each year. If an application for renewal of the
9 registration provided for in this section is not filed prior to
10 ((January 1st)) July 15th of any one year, a penalty of ten dollars per
11 product shall be assessed and added to the original fee and shall be
12 paid by the applicant before the renewal registration may be issued,
13 unless the applicant furnishes an affidavit that he has not distributed
14 this feed subsequent to the expiration of his or her prior
15 registration.

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

20 **Sec. 37.** RCW 15.53.9016 and 1965 ex.s. c 31 s 5 are each amended
21 to read as follows:

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

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

27 ~~(b))~~ The product name ((or)) and the brand name, if any, under
28 which the commercial feed is distributed.

29 ~~((c) The guaranteed analysis of the commercial feed, listing the~~
30 ~~minimum percentage of crude protein, minimum percentage of crude fat,~~
31 ~~and maximum percentage of crude fiber. For mineral feeds the list~~
32 ~~shall include the following if added: Minimum and maximum percentages~~
33 ~~of calcium (Ca), minimum percentage of phosphorus (P), minimum~~
34 ~~percentage of iodine (I), and minimum and maximum percentages of salt~~
35 ~~(NaCl). Other substances or elements, determinable by laboratory~~
36 ~~methods, may be guaranteed by permission of the department. When any~~
37 ~~items are guaranteed, they shall be subject to inspection and analysis~~
38 ~~in accordance with the methods and regulations that may be prescribed~~

1 by the department. — Products distributed solely as mineral and/or
2 vitamin supplements and guaranteed as specified in this section need
3 not show guarantees for protein, fat, and fiber.

4 ~~(d))~~ (b) The guaranteed analysis stated in such terms as the
5 department by rule determines is required to advise the user of the
6 composition of the feed or to support claims made in the labeling. In
7 all cases the substances or elements must be determinable by laboratory
8 methods such as the methods published by the association of official
9 analytical chemists.

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

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

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

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

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

24 (2) When a commercial feed, except a customer-formula feed, is
25 distributed in this state in bags or other containers, the label shall
26 be placed on or affixed to the container; when a commercial feed,
27 except a customer-formula feed, is distributed in bulk the label shall
28 accompany delivery and be furnished to the purchaser at time of
29 delivery.

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

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

35 (b) Name and address of the purchaser;

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

37 (d) ~~((Brand name and number of pounds of each registered commercial~~
38 feed used in the mixture and the name and number of pounds of each
39 other feed ingredient added.

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

7 ~~(5) A customer formula feed shall be considered to be in violation~~
8 ~~of this chapter if it does not conform to the invoice labeling. Upon~~
9 ~~request of the department it shall be the duty of the person~~
10 ~~distributing the customer formula feed to supply the department with a~~
11 ~~copy of the invoice which represents that particular feed: PROVIDED,~~
12 ~~That such person shall not be required to keep such invoice for a~~
13 ~~period of longer than six months)) Product name and the net weight as~~
14 ~~required under chapter 19.94 RCW;~~

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

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

20 ~~(g) If a drug containing product is used:~~

21 ~~(i) The purpose of the medication (claim statement);~~

22 ~~(ii) The established name of each active drug ingredient and the~~
23 ~~level of each drug used in the final mixture expressed in accordance~~
24 ~~with rules established by the department.~~

25 ~~(4) The product name and quantity statement of each commercial feed~~
26 ~~and each other ingredient used in the customer formula feed must be on~~
27 ~~file at the plant producing the product. These records must be kept on~~
28 ~~file for one year after the last sale. This information shall be made~~
29 ~~available to the purchaser, the dealer making the sale, and the~~
30 ~~department on request.~~

31 **Sec. 38.** RCW 15.53.9018 and 1982 c 177 s 3 are each amended to
32 read as follows:

33 ~~(1) ((On or after June 30, 1981,)) Except as provided in subsection~~
34 ~~(4) of this section, each initial distributor of a commercial feed in~~
35 ~~this state shall pay to the department an inspection fee on all~~
36 ~~commercial feed sold by such person during the year. The fee shall be~~
37 ~~not less than four cents nor more than ((fourteen)) twelve cents per~~
38 ~~ton as prescribed by the director by rule: PROVIDED, That such fees~~

1 shall be used for routine enforcement (~~of RCW 15.53.9022 and for~~
2 ~~analysis for contaminants only when the department has reasonable cause~~
3 ~~to believe any lot of feed or any feed ingredient is adulterated)) and
4 administration of this chapter and rules adopted under this chapter.~~

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

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

24 (4) When more than one distributor is involved in the distribution
25 of a commercial feed, the (~~last registrant or~~) initial distributor
26 (~~who distributes to a nonregistrant (dealer or consumer))~~) is
27 responsible for reporting the tonnage and paying the inspection fee,
28 unless (~~the reporting and paying of fees have been made by a prior~~
29 ~~distributor of the feed~~) this sale or transaction is made to an exempt
30 buyer.

31 (~~(4)~~) (5) Each person made responsible by this chapter for the
32 payment of inspection fees for commercial feed sold in this state shall
33 file a report with the department on January 1st and July 1st of each
34 year showing the number of tons of such commercial feed sold during the
35 six calendar months immediately preceding the date the report is due.
36 The proper inspection fee shall be remitted with the report. The
37 person required to file the report and pay the fee shall have a thirty-
38 day period of grace immediately following the day the report and
39 payment are due to file the report, and pay the fee. Upon permission

1 of the department, an annual statement under oath may be filed by any
2 person distributing within the state less than one hundred tons for
3 each six-month period during any year, and upon filing such statement
4 such person shall pay the inspection fee at the rate provided for in
5 subsection (1) of this section. The minimum inspection fee shall be
6 twelve dollars and fifty cents for each six-month reporting period or
7 twenty-five dollars if reporting annually.

8 ~~((5) Each distributor shall keep such reasonable and practical~~
9 ~~records as may be necessary or required by the department to indicate~~
10 ~~accurately the tonnage of commercial feed distributed in this state,~~
11 ~~and the department has the right to examine such records to verify~~
12 ~~statements of tonnage. Failure to make an accurate statement of~~
13 ~~tonnage or to pay the inspection fee or comply as provided herein~~
14 ~~constitutes a violation of this chapter, and may result in the issuance~~
15 ~~of an order for "withdrawal from distribution" on any commercial feed~~
16 ~~being subsequently distributed.~~

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

23 ~~(7))~~ (6) For the purpose of determining accurate tonnage of
24 commercial feed distributed in this state or to identify or verify
25 semiannual tonnage reports, the department may require each registrant
26 or licensee, or both, to maintain records or file additional reports.

27 (7) The department may examine at reasonable times the records
28 maintained under this section. Records shall be maintained in usable
29 condition by the registrant or licensee for a period of two years
30 unless by rule this retention period is extended.

31 (8) The registrant or licensee shall maintain records required
32 under this section and submit these records to the department upon
33 request.

34 (9) Any person responsible for reporting tonnage or paying
35 inspection fees who fails to do so before the thirty-first day
36 following the last day of each reporting period, shall pay a penalty
37 equal to fifteen percent of the inspection fee due or fifty dollars,
38 whichever is greater. The penalty, together with any delinquent
39 inspection fee is due before the forty-first day following the last day

1 of each reporting period. The department may cancel registration of a
2 registrant or may revoke a license of a licensee who fails to pay the
3 penalty and delinquent inspection fees within that time period. The
4 applicant or licensee may request a hearing as authorized under chapter
5 34.05 RCW.

6 (10) The report required by subsection (~~(4)~~) (5) of this section
7 shall not be a public record, and it is a misdemeanor for any person to
8 divulge any information given in such report which would reveal the
9 business operation of the person making the report: PROVIDED, That
10 nothing contained in this subsection shall be construed to prevent or
11 make unlawful the use of information concerning the business operation
12 of a person if any action, suit, or proceeding instituted under the
13 authority of this chapter, including any civil action for collection of
14 unpaid inspection fees, which action is hereby authorized and which
15 shall be as an action at law in the name of the director of the
16 department.

17 (~~(8)~~) (11) Any commercial feed purchased by a consumer or
18 contract feeder outside the jurisdiction of this state and brought into
19 this state for use is subject to all the provisions of this chapter,
20 including inspection fees.

21 **Sec. 39.** RCW 15.53.902 and 1982 c 177 s 4 are each amended to read
22 as follows:

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

25 (1) If it bears or contains any poisonous or deleterious substance
26 which may render it injurious to health; but in case the substance is
27 not an added substance, such commercial feed shall not be considered
28 adulterated under this subsection if the quantity of such substance in
29 such commercial feed does not ordinarily render it injurious to health;
30 or

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

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

1 (4) If it is a raw agricultural commodity and it bears or contains
2 a pesticide chemical which is unsafe within the meaning of section
3 408(a) of the Federal Food, Drug, and Cosmetic Act: PROVIDED, That
4 where a pesticide chemical has been used in or on a raw agricultural
5 commodity in conformity with an exemption granted or a tolerance
6 prescribed under section 408 of the Federal Food, Drug, and Cosmetic
7 Act and such raw agricultural commodity has been subjected to
8 processing such as canning, cooking, freezing, dehydrating, or milling,
9 the residue of such pesticide chemical remaining in or on such
10 processed feed shall not be deemed unsafe if such residue in or on the
11 raw agricultural commodity has been removed to the extent possible in
12 good manufacturing practice and the concentration of such residue in
13 the processed feed is not greater than the tolerance prescribed for the
14 raw agricultural commodity unless the feeding of such processed feed
15 will result or is likely to result in a pesticide residue in the edible
16 product of the animal, which is unsafe within the meaning of section
17 408(a) of the Federal Food, Drug, and Cosmetic Act; or

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

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

24 (7) If any valuable constituent has been in whole or in part
25 omitted or abstracted therefrom or any less valuable substance
26 substituted therefor; or

27 ~~((+7))~~ (8) If its composition or quality falls below or differs
28 from that which it is purported or is represented to possess by its
29 labeling; or

30 ~~((+8))~~ (9) If it contains a drug and the methods used in or the
31 facilities or controls used for its manufacture, processing, or
32 packaging do not conform to current good manufacturing practice rules
33 adopted by the department to assure that the drug meets the
34 requirements of this chapter as to safety and has the identity and
35 strength and meets the quality and purity characteristics that it
36 purports or is represented to possess. In adopting such rules, the
37 department shall adopt the current good manufacturing practice
38 regulations for type A medicated articles and type B and type C
39 medicated feeds established under authority of the Federal Food, Drug,

1 and Cosmetic Act, unless the department determines that they are not
2 appropriate to the conditions that exist in this state; or

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

9 **Sec. 40.** RCW 15.53.9022 and 1965 ex.s. c 31 s 8 are each amended
10 to read as follows:

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

- 13 (1) If its labeling is false or misleading in any particular;
14 (2) If it is distributed under the name of another commercial feed;
15 (3) If it is not labeled as required in RCW 15.53.9016 and in
16 (~~regulations~~) rules prescribed under this chapter;
17 (4) If it purports to be or is represented as a commercial feed
18 (~~ingredient~~), or if it purports to contain or is represented as
19 containing a commercial feed or feed ingredient, unless such commercial
20 feed or feed ingredient conforms to the definition of identity, if any,
21 prescribed by (~~regulation~~) rule of the department. In the adopting
22 of such (~~regulations~~) rules the department may consider commonly
23 accepted definitions such as those issued by nationally recognized
24 associations or groups of feed control officials;
25 (5) If any word, statement, or other information required by or
26 under authority of this chapter to appear on the label or labeling is
27 not prominently placed thereon with such conspicuousness (as compared
28 with other words, statements, designs, or devices, in the labeling) and
29 in such terms as to render it likely to be read and understood by the
30 ordinary individual under customary conditions of purchase and use;
31 (6) If its composition or quality falls below or differs from that
32 which it is purported or is represented to possess by its labeling.

33 **Sec. 41.** RCW 15.53.9024 and 1965 ex.s. c 31 s 9 are each amended
34 to read as follows:

- 35 (1) (~~It shall be the duty of the department to sample, inspect,~~
36 ~~make analysis of, and test commercial feed distributed within this~~
37 ~~state at such time and place and to such an extent as it may deem~~

1 necessary to determine whether such feeds are in compliance with the
2 provisions of this chapter. The department is authorized to stop any
3 commercial vehicle transporting feed on the public highways and direct
4 it to the nearest scales approved by the department to check weights of
5 feeds being delivered. The department is also authorized, upon
6 presentation of proper identification, to enter any distributor's
7 premises including any vehicle of transport at all reasonable times in
8 order to have access to commercial feed and to records relating to
9 their distribution. This includes the determining of the weight of
10 packages and bulk shipments.

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

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

31 (2) A separate notice shall be given for each such inspection, but
32 a notice is not required for each entry made during the period covered
33 by the inspection. Each such inspection shall be commenced and
34 completed with reasonable promptness. Upon completion of the
35 inspection, the person in charge of the facility or vehicle shall be so
36 notified.

37 (3) If the inspector or employee making such inspection of a
38 factory, warehouse, or other establishment has obtained a sample in the
39 course of the inspection, upon completion of the inspection and prior

1 to leaving the premises, he or she shall give to the owner, operator,
2 or agent in charge, a receipt describing the samples obtained.

3 (4) If the owner of a factory, warehouse, or establishment
4 described in subsection (1) of this section, or his or her agent,
5 refuses to admit the director or his or her agent to inspect in
6 accordance with subsections (1) and (2) of this section, the director
7 or his or her agent is authorized to obtain from any court of competent
8 jurisdiction a warrant directing such owner or his or her agent to
9 submit the premises described in the warrant to inspection.

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

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

18 (7) The results of all analyses of official samples shall be
19 forwarded by the department to the person named on the label and to the
20 purchaser, if known. If the inspection and analysis of an official
21 sample indicates a commercial feed has been adulterated or misbranded
22 and upon request within thirty days following the receipt of the
23 analysis, the department shall furnish to the registrant or licensee a
24 portion of the sample concerned. If referee analysis is requested, a
25 portion of the official sample shall be furnished by the department and
26 shall be sent directly to an independent lab agreed to by all parties.

27 (8) The department, in determining for administrative purposes
28 whether a feed is deficient in any component, shall be guided solely by
29 the official sample as defined in RCW 15.53.901(~~(13)~~) (20) and
30 obtained and analyzed as provided for in this section.

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

36 ~~(5))~~ (9) Analysis of an official sample by the department shall be
37 accepted as prima facie evidence by any court of competent
38 jurisdiction.

1 **Sec. 42.** RCW 15.53.9038 and 1982 c 177 s 5 are each amended to
2 read as follows:

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

16 (2) Any lot of commercial feed not in compliance with the
17 provisions and ~~((regulations))~~ rules is subject to seizure on complaint
18 of the department to a court of competent jurisdiction in the area in
19 which the commercial feed is located. If the court finds the
20 commercial feed to be in violation of this chapter and orders the
21 condemnation of the commercial feed, it shall be disposed of in any
22 manner consistent with the quality of the commercial feed and the laws
23 of the state. The court shall first give the claimant an opportunity
24 to apply to the court for release of the commercial feed or for
25 permission to process or relabel the commercial feed to bring it into
26 compliance with this chapter.

27 **Sec. 43.** RCW 15.53.9042 and 1965 ex.s. c 31 s 18 are each amended
28 to read as follows:

29 The department shall publish at least annually, in such forms as it
30 may deem proper, information concerning the distribution of commercial
31 feed, together with such data on their production and use as it may
32 consider advisable, and a report of the results of the analyses of
33 official samples of commercial feed within the state as compared with
34 the analyses guaranteed ~~((in the registration and))~~ on the label or as
35 calculated from the invoice data for customer-formula feeds: PROVIDED,
36 That the information concerning production and use of commercial feeds
37 shall not disclose the operations of any person.

1 **Sec. 44.** RCW 15.53.9053 and 1975 1st ex.s. c 257 s 12 are each
2 amended to read as follows:

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

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

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

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

12 ~~(3))~~ All licenses and registrations in effect on July 1, ~~((1975))~~
13 1995, shall continue in full force and effect until their regular
14 expiration date, December 31, ~~((1975))~~ 1995. No registration or
15 license that has already been paid under the requirements of prior law
16 shall be refunded.

17 NEW SECTION. **Sec. 45.** (1) The following acts or parts of acts are
18 each repealed:

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

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

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

28 NEW SECTION. **Sec. 46.** RCW 15.53.9036 and 1989 c 175 s 51, 1975
29 1st ex.s. c 257 s 6, & 1965 ex.s. c 31 s 15 are each repealed.

30 NEW SECTION. **Sec. 47.** RCW 15.53.905 and 15.53.9052 are each
31 decodified.

32 **Sec. 48.** RCW 16.58.130 and 1994 c 46 s 15 are each amended to read
33 as follows:

34 Each licensee shall pay to the director a fee of no ~~((less))~~ more
35 than ten cents ~~((but no more than fifteen cents))~~ for each head of

1 cattle handled through the licensee's feed lot. The fee shall be set
2 by the director by rule after a hearing under chapter 34.05 RCW and in
3 conformance with RCW 16.57.015. Payment of such fee shall be made by
4 the licensee on a monthly basis. Failure to pay as required shall be
5 grounds for suspension or revocation of a certified feed lot license.
6 Further, the director shall not renew a certified feed lot license if
7 a licensee has failed to make prompt and timely payments.

8 This section shall expire June 30, 1997.

9 NEW SECTION. **Sec. 49.** 1994 c 46 s 24 is repealed.

10 **Sec. 50.** 1994 c 46 s 29 (uncodified) is amended to read as
11 follows:

12 Sections 21 through 23 and 25 of this act shall take effect July 1,
13 1997.

14 **Sec. 51.** RCW 16.57.220 and 1994 c 46 s 19 are each amended to read
15 as follows:

16 The director shall cause a charge to be made for all brand
17 inspection of cattle and horses required under this chapter and rules
18 adopted hereunder. Such charges shall be paid to the department by the
19 owner or person in possession unless requested by the purchaser and
20 then such brand inspection shall be paid by the purchaser requesting
21 such brand inspection. Except as provided by rule, such inspection
22 charges shall be due and payable at the time brand inspection is
23 performed and shall be paid upon billing by the department and if not
24 shall constitute a prior lien on the cattle or cattle hides or horses
25 or horse hides brand inspected until such charge is paid. The director
26 in order to best utilize the services of the department in performing
27 brand inspection may establish schedules by days and hours when a brand
28 inspector will be on duty to perform brand inspection at established
29 inspection points. The fees for brand inspection shall be not less
30 than fifty cents nor more than seventy-five cents per head for cattle
31 and not less than two dollars nor more than three dollars per head for
32 horses as prescribed by the director by rule subsequent to a hearing
33 under chapter 34.05 RCW and in conformance with RCW 16.57.015. Fees
34 for brand inspection of cattle and horses (~~(performed by the director)~~)
35 at points other than those designated by the director or not in accord
36 with the schedules established by the director shall be based on a fee

1 schedule not to exceed actual net cost to the department of performing
2 the brand inspection service. For the purpose of this section, actual
3 costs shall mean fifteen dollars per hour and the current mileage rate
4 set by the office of financial management.

5 **Sec. 52.** RCW 16.57.220 and 1994 c 46 s 25 and 1994 c 46 s 19 are
6 each reenacted and amended to read as follows:

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

33 **Sec. 53.** RCW 16.57.230 and 1959 c 54 s 23 are each amended to read
34 as follows:

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

1 **Sec. 54.** RCW 16.57.240 and 1991 c 110 s 4 are each amended to read
2 as follows:

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

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

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

22 **Sec. 55.** RCW 16.57.280 and 1991 c 110 s 5 are each amended to read
23 as follows:

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

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

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

30 (3) Such livestock is accompanied by a brand inspection
31 certificate((~~τ~~))i or

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

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

35 A violation of this section constitutes a gross misdemeanor
36 punishable to the same extent as a gross misdemeanor that is punishable
37 under RCW 9A.20.021.

1 **Sec. 56.** RCW 16.57.290 and 1989 c 286 s 23 are each amended to
2 read as follows:

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

16 **Sec. 57.** RCW 16.65.030 and 1994 c 46 s 12 are each amended to read
17 as follows:

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

23 (a) A nonrefundable original license application fee of fifteen
24 hundred dollars.

25 **(b)** A legal description of the property upon which the public
26 livestock market shall be located.

27 ~~((b))~~ **(c)** A complete description and blueprints or plans of the
28 public livestock market physical plant, yards, pens, and all facilities
29 the applicant proposes to use in the operation of such public livestock
30 market.

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

34 ~~((d))~~ **(e)** The schedule of rates and charges the applicant
35 proposes to impose on the owners of livestock for services rendered in
36 the operation of such livestock market.

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

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

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

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

8 ~~((i))~~ (j) Such other information as the director may reasonably
9 require.

10 (2) The director shall, after public hearing as provided by chapter
11 34.05 RCW, grant or deny an application for original license for a
12 public livestock market after considering evidence and testimony
13 relating to all of the requirements of this section and giving
14 reasonable consideration at the same hearing to:

15 (a) Benefits to the livestock industry to be derived from the
16 establishment and operation of the public livestock market proposed in
17 the application; and

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

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

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

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

30 ~~(c) Markets with an average gross sales volume over fifty thousand
31 dollars, a fee of no less than three hundred dollars or more than four
32 hundred fifty dollars.~~

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

36 ~~(4) Any applicant operating more than one public livestock market
37 shall make a separate application for a license to operate each such
38 public livestock market, and each such application shall be accompanied
39 by the appropriate license fee.~~

1 ~~(5) Upon the approval of the application by the director and~~
2 ~~compliance with the provisions of this chapter, the applicant shall be~~
3 ~~issued a license or renewal thereof. Any license issued under the~~
4 ~~provisions of this chapter shall only be valid at location and for the~~
5 ~~sales day or days for which the license was issued)) Applications for~~
6 ~~renewal under RCW 16.65.040 shall include all information under~~
7 ~~subsection (1) of this section, except subsection (1)(a) of this~~
8 ~~section.~~

9 NEW SECTION. Sec. 58. 1994 c 46 s 21 is repealed.

10 NEW SECTION. Sec. 59. A new section is added to chapter 16.65 RCW
11 to read as follows:

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 60.** A new section is added to chapter 16.65 RCW
2 to read as follows:

3 (1) Upon the approval of the application by the director and
4 compliance with the provisions of this chapter, the applicant shall be
5 issued a license or renewal thereof. Any license issued under the
6 provisions of this chapter shall only be valid at location and for the
7 sales day or days for which the license was issued.

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

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

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

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

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

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

24 NEW SECTION. **Sec. 61.** (1) Sections 52 and 60 of this act shall
25 take effect July 1, 1997.

26 (2) Sections 51 and 59 of this act shall expire July 1, 1997.

27 **Sec. 62.** RCW 15.44.033 and 1967 c 240 s 30 are each amended to
28 read as follows:

29 Producer members of the commission shall be nominated and elected
30 by producers within the district that such producer members represent
31 in the year in which a commission member's term shall expire. Such
32 producer members receiving the largest number of the votes cast in the
33 respective districts which they represent shall be elected. The
34 election shall be by secret mail ballot and under the supervision of
35 the director.

36 Nomination for candidates to be elected to the commission shall be
37 conducted by mail by the director. Such nomination forms shall be

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

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

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

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

31 **Sec. 63.** RCW 43.88.240 and 1981 c 225 s 3 are each amended to read
32 as follows:

33 Unless otherwise directed in the commodity commission enabling
34 statute, this chapter shall not apply to the Washington state ((apple
35 advertising commission, the Washington state fruit commission, the
36 Washington tree fruit research commission, the Washington state beef
37 commission, the Washington state dairy products commission, or any
38 agricultural)) commodity commissions created either under separate

1 statute or under the provisions of chapters 15.65 and 15.66 RCW:
2 PROVIDED, That all such commissions shall submit estimates and such
3 other necessary information as may be required for the development of
4 the budget and shall also be subject to audit by the appropriate state
5 auditing agency or officer.

6 NEW SECTION. Sec. 64. A new section is added to chapter 43.23 RCW
7 to read as follows:

8 For purposes of this chapter:

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

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

12 NEW SECTION. Sec. 65. A new section is added to chapter 43.23 RCW
13 to read as follows:

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

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

22 NEW SECTION. Sec. 66. A new section is added to chapter 43.23 RCW
23 to read as follows:

24 Except as otherwise specified by law, any due and payable
25 assessment levied under the authority of the director or his or her
26 designee in such specified amount as may be determined by the
27 department shall constitute a personal debt of every person so assessed
28 or who otherwise owes the same, and the same shall be due and payable
29 to the department when payment is called for by the department. In the
30 event any person fails to pay the department the full amount of such
31 assessment or such other sum on or before the date due, the department
32 may, and is hereby authorized to, add to such unpaid assessment or
33 other sum an amount not exceeding ten percent of the same to defray the
34 cost of enforcing the collecting of the same. In the event of failure
35 of such person or persons to pay any such due and payable assessment or
36 other sum, the department may bring a civil action against such person

1 or persons in a court of competent jurisdiction for the collections
2 thereof, including all costs and reasonable attorneys' fees together
3 with the above specified ten percent, and such action shall be tried
4 and judgment rendered as in any other cause of action for debt due and
5 payable.

6 NEW SECTION. Sec. 67. A new section is added to chapter 43.23 RCW
7 to read as follows:

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

11 NEW SECTION. Sec. 68. A new section is added to chapter 43.23 RCW
12 to read as follows:

13 Except as otherwise specified by law, in the event a check or
14 negotiable instrument as defined by RCW 62A.3-104 is dishonored by
15 nonacceptance or nonpayment, the department is entitled to collect a
16 reasonable handling fee for each instrument. If the check or
17 instrument is not paid within fifteen days and proper notice is sent,
18 the department is authorized to recover the assessment, the handling
19 fee, and any other charges allowed by RCW 62A.3-515.

20 **Sec. 69.** RCW 15.58.070 and 1994 c 46 s 1 are each amended to read
21 as follows:

22 (1) Except as provided in subsection (~~((2))~~) (4) of this section,
23 any person desiring to register a pesticide with the department shall
24 pay to the director an annual registration fee for each pesticide
25 registered by the department for such person. The registration fee for
26 the registration of pesticides for any one person during a calendar
27 year shall be: One hundred five dollars for each of the first twenty-
28 five pesticides registered; one hundred dollars for each of the twenty-
29 sixth through one-hundredth pesticides registered; seventy-five dollars
30 for each of the one hundred first through one hundred fiftieth
31 pesticides registered; and fifty dollars for each additional pesticide
32 registered. In addition, the department may establish by rule a
33 registration fee not to exceed ten dollars for each registered product
34 labeled and intended for home and garden use only.

35 (2) The revenue generated by the pesticide registration fees shall
36 be deposited in the agricultural local fund to support the activities

1 of the pesticide program within the department. The revenue generated
2 by the home and garden use only fees shall be deposited in the
3 agriculture local fund, to be used to assist in funding activities of
4 the pesticide incident reporting and tracking review panel.

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

8 ((+2)) (4) A person desiring to register a label where a special
9 local need exists shall pay to the director a nonrefundable application
10 fee of two hundred dollars upon submission of the registration request.
11 In addition, a person desiring to renew an approved special local need
12 registration shall pay to the director an annual registration fee of
13 two hundred dollars for each special local needs label registered by
14 the department for such person. The revenue generated by the special
15 local needs application fees and the special local needs renewal fees
16 shall be deposited in the agricultural local fund to be used to assist
17 in funding the department's special local needs registration
18 activities. All special local needs registrations expire on December
19 31st of each year.

20 ((+3)) (5) Any registration approved by the director and in effect
21 on the 31st day of December for which a renewal application has been
22 made and the proper fee paid, continues in full force and effect until
23 the director notifies the applicant that the registration has been
24 renewed, or otherwise denied in accord with the provision of RCW
25 15.58.110.

26 NEW SECTION. Sec. 70. A new section is added to chapter 15.58 RCW
27 to read as follows:

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

30 NEW SECTION. Sec. 71. RCW 15.58.410 and 1971 ex.s. c 190 s 41 are
31 each repealed.

32 Sec. 72. RCW 16.24.130 and 1975 1st ex.s. c 7 s 16 are each
33 amended to read as follows:

34 The brand inspector shall cause to be published once in a newspaper
35 published in the county where the animal was found, a notice of the
36 impounding.

1 The notice shall state:

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

4 (2) When and where found;

5 (3) Where impounded; and

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

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

15 **Sec. 73.** RCW 16.24.150 and 1975 1st ex.s. c 7 s 17 are each
16 amended to read as follows:

17 If no person shall claim the animal within ten days after the date
18 of publication or posting of the notice, it shall be sold at the next
19 succeeding public livestock market sale to be held at the sales yard
20 where impounded, provided that in the director's discretion the
21 department of agriculture may otherwise cause the animal to be sold at
22 public sale.

23 The legislature intends this to be a clarification of existing law;
24 therefore, this section shall have retroactive effect as of December 1,
25 1994.

26 **Sec. 74.** RCW 15.76.140 and 1965 ex.s. c 32 s 1 are each amended to
27 read as follows:

28 (1) Before any agricultural fair may become eligible for state
29 allocations it must have conducted two successful consecutive annual
30 fairs immediately preceding application for such allocations, and have
31 its application therefor approved by the director.

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

1 NEW SECTION. **Sec. 75.** Sections 8 through 19 of this act shall
2 constitute a new chapter in Title 69 RCW.

3 NEW SECTION. **Sec. 76.** Section 48 of this act takes effect January
4 1, 1996.

5 NEW SECTION. **Sec. 77.** Sections 1 through 47, 53 through 56, and
6 62 through 71 of this act are necessary for the immediate preservation
7 of the public peace, health, or safety, or support of the state
8 government and its existing public institutions, and shall take effect
9 June 30, 1995.

10 NEW SECTION. **Sec. 78.** Sections 72 and 73 of this act are
11 necessary for the immediate preservation of the public peace, health,
12 or safety, or support of the state government and its existing public
13 institutions, and shall take effect immediately."

14 **SSB 5315** - H AMD
15 By Representative Chandler

16

17 On page 1, line 1 of the title, after "marketing;" strike the
18 remainder of the title and insert "amending RCW 15.36.012, 15.36.071,
19 15.36.171, 15.36.221, 15.36.411, 15.36.441, 69.07.100, 69.07.085,
20 69.25.020, 69.25.050, 69.25.150, 69.25.170, 69.25.250, 69.25.310,
21 69.25.320, 15.53.901, 15.53.9012, 15.53.9014, 15.53.9016, 15.53.9018,
22 15.53.902, 15.53.9022, 15.53.9024, 15.53.9038, 15.53.9042, 15.53.9053,
23 16.58.130, 16.57.220, 16.57.230, 16.57.240, 16.57.280, 16.57.290,
24 16.65.030, 15.44.033, 43.88.240, 15.58.070, 16.24.130, 16.24.150, and
25 15.76.140; amending 1994 c 46 s 29 (uncodified); reenacting and
26 amending RCW 69.07.040 and 16.57.220; reenacting RCW 15.36.431; adding
27 a new section to chapter 69.04 RCW; adding a new section to chapter
28 15.53 RCW; adding new sections to chapter 16.65 RCW; adding new
29 sections to chapter 43.23 RCW; adding a new section to chapter 15.58
30 RCW; adding a new chapter to Title 69 RCW; decodifying RCW 15.53.905
31 and 15.53.9052; repealing RCW 69.08.010, 69.08.020, 69.08.030,
32 69.08.040, 69.08.045, 69.08.050, 69.08.060, 69.08.070, 69.08.080,
33 69.08.090, 69.25.330, 69.25.340, 15.53.9036, and 15.58.410; repealing
34 1994 c 46 s 24; repealing 1994 c 46 s 21; prescribing penalties;

1 providing effective dates; providing an expiration date; and declaring
2 an emergency."

3 EFFECT: The amendment differs from the Agriculture and Ecology
4 Committee amendment as follows:

5 (1) The alternative livestock and related disease control sections
6 of the committee amendment have been deleted.

7 (2) A section postponing the termination of an assessment for dairy
8 inspections has been deleted.

--- END ---