

2 EHB 2132 - S COMM AMD

3 By Committee on Agriculture & Agricultural Trade & Development

4 ADOPTED 3/1/96

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

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

9 For the purpose of this chapter:

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

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

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

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

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

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

1 in size or comply with the specific horticultural plant or product for  
2 which the director in prescribing standards for grading and classifying  
3 has prescribed size variations or if such size variations are  
4 prescribed by law.

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

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

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

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

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

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

1 can directly or indirectly injure or cause disease or damage in any  
2 plant or parts thereof, or any processed, manufactured, or other  
3 products of plants.

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

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

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

19 The director shall adopt rules requiring that records be maintained  
20 by dealers who purchase or sell American ginseng for the purpose of  
21 foreign export.

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

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

32 The department shall not disclose information obtained under this  
33 section regarding the purchases, sales, or production of an individual  
34 American ginseng dealer, except for providing reports to the United  
35 States fish and wildlife service. This information is exempt from  
36 public disclosure required by chapter 42.17 RCW.

1       **Sec. 3.** RCW 15.36.021 and 1994 c 143 s 103 are each amended to  
2 read as follows:

3       The director of agriculture (~~may~~) is authorized to:

4       (1) Adopt rules necessary to carry out the purposes of chapters  
5 15.36 and 15.38 RCW, which includes rules governing the farm storage  
6 tank and bulk milk tanker requirements, however the rules may not  
7 restrict the display or promotion of products covered under this  
8 section.

9       (2) By rule, establish, amend, or both, definitions and standards  
10 for milk and milk products. Such definitions and standards established  
11 by the director shall conform, insofar as practicable, with the  
12 definitions and standards for milk and milk products adopted by the  
13 federal food and drug administration. The director of agriculture, by  
14 rule, may likewise establish, amend, or both, definitions and standards  
15 for products whether fluid, powdered or frozen, compounded or  
16 manufactured to resemble or in semblance or imitation of genuine dairy  
17 products as defined under the provisions of this chapter. Such  
18 products made to resemble or in semblance or imitation of genuine dairy  
19 products shall conform with all the provisions of chapter 15.38 RCW and  
20 be made wholly of nondairy products.

21       All such products compounded or manufactured to resemble or in  
22 semblance or imitation of a genuine dairy product shall set forth on  
23 the container or labels the specific generic name of each ingredient  
24 used.

25       In the event any product compounded or manufactured to resemble or  
26 in semblance or imitation of a genuine dairy product contains vegetable  
27 fat or oil, the generic name of such fat or oil shall be set forth on  
28 the label. If a blend or variety of oils is used, the ingredient  
29 statement shall contain the term "vegetable oil" in the appropriate  
30 place in the ingredient statement, with the qualifying phrase following  
31 the ingredient statement, such as "vegetable oils are soybean,  
32 cottonseed and coconut oils" or "vegetable oil, may be cottonseed,  
33 coconut or soybean oil."

34       The labels or containers of such products compounded or  
35 manufactured to resemble or in semblance or imitation of genuine dairy  
36 products shall not use dairy terms or words or designs commonly  
37 associated with dairying or genuine dairy products, except as to the  
38 extent that such words or terms are necessary to meet legal

1 requirements for labeling. The term "nondairy" may be used as an  
2 informative statement.

3 (3) By rule adopt the PMO, DMO, and supplemental documents by  
4 reference to establish requirements for grade A pasteurized and grade  
5 A raw milk.

6 (4) Adopt rules establishing standards for grade A pasteurized and  
7 grade A raw milk that are more stringent than the PMO based upon  
8 current industry or public health information for the enforcement of  
9 this chapter whenever he or she determines that any such rules are  
10 necessary to carry out the purposes of this section and RCW 15.36.481.  
11 The adoption of rules under this chapter, or the holding of a hearing  
12 in regard to a license issued or that may be issued under this chapter  
13 are subject to the applicable provisions of chapter 34.05 RCW, the  
14 administrative procedure act.

15 (5) By rule, certify an officially designated laboratory to analyze  
16 milk for standard of quality, adulteration, contamination, and  
17 unwholesomeness.

18 **Sec. 4.** RCW 15.58.040 and 1991 c 264 s 2 are each amended to read  
19 as follows:

20 (1) The director shall administer and enforce the provisions of  
21 this chapter and rules adopted under this chapter. All the authority  
22 and requirements provided for in chapter 34.05 RCW (Administrative  
23 Procedure Act) and chapter 42.30 RCW shall apply to this chapter in the  
24 adoption of rules including those requiring due notice and a hearing  
25 for the adoption of permanent rules.

26 (2) The director is authorized to adopt appropriate rules for  
27 carrying out the purpose and provisions of this chapter, including but  
28 not limited to rules providing for:

29 (a) Declaring as a pest any form of plant or animal life or virus  
30 which is injurious to plants, people, animals (domestic or otherwise),  
31 land, articles, or substances;

32 (b) Determining that certain pesticides are highly toxic to people.  
33 For the purpose of this chapter, highly toxic pesticide means any  
34 pesticide that conforms to the criteria in 40 C.F.R. Sec. 162.10 for  
35 toxicity category I due to oral inhalation or dermal toxicity. The  
36 director shall publish a list of all pesticides, determined to be  
37 highly toxic, by their common or generic name and their trade or brand

1 name if practical. Such list shall be kept current and shall, upon  
2 request, be made available to any interested party;

3 (c) Determining standards for denaturing pesticides by color,  
4 taste, odor, or form;

5 (d) The collection and examination of samples of pesticides or  
6 devices;

7 (e) The safe handling, transportation, storage, display,  
8 distribution, and disposal of pesticides and their containers;

9 (f) Restricting or prohibiting the use of certain types of  
10 containers or packages for specific pesticides. These restrictions may  
11 apply to type of construction, strength, and/or size to alleviate  
12 danger of spillage, breakage, misuse, or any other hazard to the  
13 public. The director shall be guided by federal regulations concerning  
14 pesticide containers;

15 (g) Procedures in making of pesticide recommendations;

16 (h) Adopting a list of restricted use pesticides for the state or  
17 for designated areas within the state if the director determines that  
18 such pesticides may require rules restricting or prohibiting their  
19 distribution or use. The director may include in the rule the time and  
20 conditions of distribution or use of such restricted use pesticides and  
21 may, if it is found necessary to carry out the purpose and provisions  
22 of this chapter, require that any or all restricted use pesticides  
23 shall be purchased, possessed, or used only under permit of the  
24 director and under the director's direct supervision in certain areas  
25 and/or under certain conditions or in certain quantities or  
26 concentrations. The director may require all persons issued such  
27 permits to maintain records as to the use of all the restricted use  
28 pesticides;

29 (i) Label requirements of all pesticides required to be registered  
30 under provisions of this chapter;

31 (j) Regulating the labeling of devices; (~~and~~)

32 (k) The establishment of criteria governing the conduct of a  
33 structural pest control inspection; and

34 (l) Declaring crops, when grown to produce seed specifically for  
35 crop reproduction purposes, to be nonfood and/or nonfeed sites of  
36 pesticide application. The director may include in the rule any  
37 restrictions or conditions regarding: (i) The application of  
38 pesticides to the designated crops; and (ii) the disposition of any  
39 portion of the treated crop.

1 (3) For the purpose of uniformity and to avoid confusion  
2 endangering the public health and welfare the director may adopt rules  
3 in conformity with the primary pesticide standards, particularly as to  
4 labeling, established by the United States environmental protection  
5 agency or any other federal agency.

6 **Sec. 5.** RCW 16.70.040 and 1971 c 72 s 4 are each amended to read  
7 as follows:

8 (1) The secretary, with the advice and concurrence of the director  
9 of the department of agriculture, shall be authorized to develop rules  
10 (~~and regulations~~) for proposed adoption by the board relating to the  
11 importation, movement, sale, transfer, or possession of pet animals as  
12 defined (~~herein~~) in RCW 16.70.020 which are reasonably necessary for  
13 the protection and welfare of the people of this state.

14 (2) The director of the department of agriculture shall also be  
15 authorized to adopt rules to allow administration of permits for those  
16 pet animals under subsection (1) of this section by the state  
17 veterinarian.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 42.17 RCW  
19 to read as follows:

20 Except under section 3 of this act, information obtained regarding  
21 the purchases, sales, or production of an individual American ginseng  
22 dealer is exempt from disclosure under this chapter."

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25 ADOPTED 3/1/96

26 On page 1, line 2 of the title, after "authority;" strike the  
27 remainder of the title and insert "amending RCW 15.17.020, 15.36.021,  
28 15.58.040, and 16.70.040; adding a new section to chapter 15.17 RCW;  
29 and adding a new section to chapter 42.17 RCW."

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