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**SENATE BILL 5315**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senators Rasmussen, Morton, Loveland, Newhouse and Roach; by request of Department of Agriculture

Read first time 01/18/95. Referred to Committee on Agriculture & Agricultural Trade & Development.

1 AN ACT Relating to agriculture and marketing; amending RCW  
2 15.36.012, 15.36.071, 15.36.171, 15.36.221, 15.36.411, 15.36.441,  
3 15.36.551, 69.04.060, 69.04.070, 69.07.100, 69.07.085, 69.25.020,  
4 69.25.050, 69.25.150, 69.25.170, 69.25.250, 69.25.310, 69.25.320,  
5 69.25.340, 15.53.901, 15.53.9012, 15.53.9014, 15.53.9016, 15.53.9018,  
6 15.53.902, 15.53.9022, 15.53.9024, 15.53.9038, 15.53.904, 15.53.9042,  
7 15.53.9053, 16.57.220, 16.57.230, 16.57.240, 16.57.280, 16.57.290,  
8 16.65.030, 15.44.033, and 43.88.240; reenacting and amending RCW  
9 69.07.040 and 16.57.220; reenacting RCW 15.36.431; adding a new section  
10 to chapter 69.04 RCW; adding a new section to chapter 15.53 RCW; adding  
11 new sections to chapter 16.65 RCW; adding new sections to chapter 43.23  
12 RCW; adding a new chapter to Title 69 RCW; repealing RCW 69.08.010,  
13 69.08.020, 69.08.030, 69.08.040, 69.08.045, 69.08.050, 69.08.060,  
14 69.08.070, 69.08.080, 69.08.090, 69.25.330, 15.53.9036, 15.53.905, and  
15 15.53.9052; repealing 1994 c 46 s 21; prescribing penalties; providing  
16 effective dates; providing an expiration date; and declaring an  
17 emergency.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

1       **Sec. 1.** RCW 15.36.012 and 1994 c 143 s 102 are each amended to  
2 read as follows:

3       For the purpose of this chapter:

4       "Adulterated milk" means milk that is deemed adulterated under  
5 appendix L of the PMO.

6       "Aseptic processing" means the process by which milk or milk  
7 products have been subjected to sufficient heat processing and packaged  
8 in a hermetically sealed container so as to meet the standards of the  
9 PMO.

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

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

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

20       "Dairy technician" means any person who takes samples of milk or  
21 cream or fluid derivatives thereof, on which sample tests are to be  
22 made as a basis of payment, or who grades, weighs, or measures milk or  
23 cream or the fluid derivatives thereof, the grade, weight, or measure  
24 to be used as a basis of payment, or who operates equipment wherein  
25 milk or products thereof are pasteurized.

26       "Department" means the state department of agriculture.

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

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

31       "Grade A milk processing plant" means any milk processing plant  
32 that meets all of the standards of the PMO to process grade A  
33 pasteurized milk or milk products.

34       "Grade A pasteurized milk" means grade A raw milk that has been  
35 pasteurized.

36       "Grade A raw milk" means raw milk produced upon dairy farms  
37 conforming with all of the items of sanitation contained in the PMO, in  
38 which the bacterial plate count does not exceed twenty thousand per

1 milliliter and the coliform count does not exceed ten per milliliter as  
2 determined in accordance with RCW (~~(15.36.110)~~) 15.36.201.

3 "Grade A raw milk for pasteurization" means raw milk produced upon  
4 dairy farms conforming with all of the same items of sanitation  
5 contained in the PMO of grade A raw milk, and the bacterial plate  
6 count, as delivered from the farm, does not exceed eighty thousand per  
7 milliliter as determined in accordance with RCW (~~(15.36.110)~~)  
8 15.36.201.

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

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

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

17 "Milk hauler" means a person who transports milk or milk products  
18 in bulk to or from a milk processing plant, receiving station, or  
19 transfer station.

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

25 "Milk processing plant" means a place, premises, or establishment  
26 where milk or milk products are collected, handled, processed, stored,  
27 bottled, pasteurized, aseptically processed, bottled, or prepared for  
28 distribution, except an establishment (~~whose activity is limited to~~  
29 ~~retail sales~~) that merely receives the processed milk products and  
30 serves them or sells them at retail.

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

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

36 "Official brucellosis adult vaccinated cattle" means those cattle,  
37 officially vaccinated over the age of official calthood vaccinated  
38 cattle, that the director has determined have been commingled with, or  
39 kept in close proximity to, cattle identified as brucellosis reactors,

1 and have been vaccinated against brucellosis in a manner and under the  
2 conditions prescribed by the director after a hearing and under rules  
3 adopted under chapter 34.05 RCW, the administrative procedure act.

4 "Official laboratory" means a biological, chemical, or physical  
5 laboratory that is under the direct supervision of the state or a local  
6 regulatory agency.

7 "Officially designated laboratory" means a commercial laboratory  
8 authorized to do official work by the department, or a milk industry  
9 laboratory officially designated by the department for the examination  
10 of grade A raw milk for pasteurization and commingled milk tank truck  
11 samples of raw milk for antibiotic residues and bacterial limits.

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

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

17 "Person" means an individual, partnership, firm, corporation,  
18 company, trustee, or association.

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

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

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

28 "Transfer station" means any place, premises, or establishment  
29 where milk or milk products are transferred directly from one milk tank  
30 truck to another.

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

35 "Ungraded processing plant" means a milk processing plant that  
36 meets all of the standards of the PMO to produce milk products other  
37 than grade A milk or milk products.

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

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

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

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

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

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

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

29 Milk and milk products for consumption in the raw state or for  
30 pasteurization shall be cooled within two hours of completion of  
31 milking to forty degrees Fahrenheit or less and maintained at that  
32 temperature until picked up, in accordance with RCW (~~((15.36.110))~~)  
33 15.36.201, so long as the blend temperature after the first and  
34 following milkings does not exceed fifty degrees Fahrenheit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (3) Any penalty imposed under this section is due and payable upon  
30 the issuance of the final order by the department. The penalty shall  
31 be deducted by the violator's marketing organization from the  
32 violator's final payment for the month following the issuance of the  
33 final order. The department shall promptly notify the violator's  
34 marketing organization of any penalties contained in the final order.

35 (4) All penalties received or recovered from violations of this  
36 section shall be remitted monthly by the violator's marketing  
37 organization to the Washington state dairy products commission and  
38 deposited in a revolving fund to be used solely for the purposes of

1 education and research. No appropriation is required for disbursements  
2 from this fund.

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

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

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

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

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

32 (1) "Food storage warehouse" means any premises, establishment,  
33 building, room area, facility, or place, in whole or in part, where  
34 food is stored, kept, or held for wholesale distribution to other  
35 wholesalers or to retail outlets, restaurants, and any such other  
36 facility selling or distributing to the ultimate consumer. Food  
37 storage warehouses include, but are not limited to, facilities where



1 food is kept or held refrigerated or frozen and include facilities  
2 where food is stored to the account of another firm and/or is owned by  
3 the food storage warehouse.

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

5 (3) "Director" means the director of the Washington department of  
6 agriculture.

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

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

18 NEW SECTION. **Sec. 11.** It shall be unlawful for any person to  
19 operate a food storage warehouse in the state without first having  
20 obtained an annual license from the department, which shall expire on  
21 a date set by rule by the director. License fees shall be prorated  
22 where necessary to accommodate staggering of expiration dates.  
23 Application for a license shall be on a form prescribed by the director  
24 and accompanied by the license fee. The license fee is determined by  
25 computing the gross annual sales for the accounting year immediately  
26 preceding the license year. If the license is for a new operator, the  
27 license fee shall be based on an estimated gross annual sales for the  
28 initial license period.

29	If gross annual sales are:	The license fee is:
30	\$0 to \$50,000	\$55.00
31	\$50,001 to \$500,000	\$110.00
32	\$500,001 to \$1,000,000	\$220.00
33	\$1,000,001 to \$5,000,000	\$385.00
34	\$5,000,001 to \$10,000,000	\$550.00
35	Greater than \$10,000,000	\$825.00

1 The application shall include the full name of the applicant for  
2 the license and the location of the food storage warehouse he or she  
3 intends to operate. If such applicant is an individual, receiver,  
4 trustee, firm, partnership, association, or corporation, the full name  
5 of each member of the firm or partnership, or names of the officers of  
6 the association or corporation must be given on the application. The  
7 application shall further state the principal business address of the  
8 applicant in the state and elsewhere and the name of a person domiciled  
9 in this state authorized to receive and accept service of summons of  
10 legal notices of all kinds for the applicant. Upon the approval of the  
11 application by the director and compliance with the provisions of this  
12 chapter, including the applicable regulations adopted under this  
13 chapter by the department, the applicant shall be issued a license or  
14 renewal thereof. The director may waive licensure under this chapter  
15 for firms that are licensed under the provisions of chapter 69.07 or  
16 15.36 RCW.

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

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

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

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

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

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

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

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

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

14 (2) Whenever a license is summarily suspended, the holder of the  
15 license shall be notified in writing that the license is, upon service  
16 of the notice, immediately suspended and that prompt opportunity for a  
17 hearing will be provided.

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

22 NEW SECTION. **Sec. 15.** It is unlawful to sell, offer for sale, or  
23 distribute in intrastate commerce food stored in a food storage  
24 warehouse that has not obtained a license, as provided for in this  
25 chapter, once notification by the director has been given to the  
26 persons selling, offering, or distributing food for sale, that the food  
27 is from an unlicensed food storage warehouse.

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

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

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

4        (2) The adoption of rules under the provisions of this chapter are  
5 subject to the applicable provisions of chapter 34.05 RCW, the  
6 administrative procedure act.

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

12        **Sec. 20.**    RCW 69.04.060 and 1945 c 257 s 24 are each amended to  
13 read as follows:

14        Any person who violates any provision of RCW 69.04.040 shall be  
15 guilty of a misdemeanor and shall on conviction thereof be subject to  
16 a fine of not more than two thousand five hundred dollars; but if the  
17 violation is committed after a conviction of such person under this  
18 section has become final, such person shall be subject to imprisonment  
19 for not more than thirty days, or a fine of not more than five  
20 (~~hundred~~) thousand dollars, or both such imprisonment and fine.

21        **Sec. 21.**    RCW 69.04.070 and 1945 c 257 s 25 are each amended to  
22 read as follows:

23        Notwithstanding the provisions of RCW 69.04.060, in case of a  
24 violation of any provision of RCW 69.04.040, with intent to defraud or  
25 mislead, the penalty shall be imprisonment for not more than ninety  
26 days, or a fine of not more than (~~one~~) ten thousand dollars, or both  
27 such imprisonment and fine.

28        NEW SECTION.    **Sec. 22.**    A new section is added to chapter 69.04 RCW  
29 to read as follows:

30        The director need not petition the superior court as provided for  
31 in RCW 69.04.120 if the owner or claimant of such food or food products  
32 agrees in writing to the disposition of such food or food products as  
33 the director may order.

1       **Sec. 23.** RCW 69.07.040 and 1993 sp.s. c 19 s 11 and 1993 c 212 s  
2 2 are each reenacted and amended to read as follows:

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

14	If gross annual sales are:	The license fee is:
15	\$0 to \$50,000	\$55.00
16	\$50,001 to \$500,000	\$110.00
17	\$500,001 to \$1,000,000	\$220.00
18	\$1,000,001 to \$5,000,000	\$385.00
19	\$5,000,001 to \$10,000,000	\$550.00
20	Greater than \$10,000,000	\$825.00

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

37 Licenses shall be issued to cover only those products, processes,  
38 and operations specified in the license application and approved for

1 licensing. Wherever a license holder wishes to engage in processing a  
2 type of food product that is different than the type specified on the  
3 application supporting the licensee's existing license and processing  
4 that type of food product would require a major addition to or  
5 modification of the licensee's processing facilities or has a high  
6 potential for harm, the licensee shall submit an amendment to the  
7 current license application. In such a case, the licensee may engage  
8 in processing the new type of food product only after the amendment has  
9 been approved by the department.

10 If upon investigation by the director, it is determined that a  
11 person is processing food for retail sale and is not under permit,  
12 license, or inspection by a local health authority, then that person  
13 may be considered a food processor and subject to the provisions of  
14 this chapter. The director may waive the licensure requirements of  
15 this chapter for a person's operations at a facility if the person (~~is~~  
16 ~~licensed under chapter 15.32 RCW or has a permit~~) has obtained a milk  
17 processing plant license under chapter 15.36 RCW to conduct the same or  
18 a similar operation at the facility.

19 **Sec. 24.** RCW 69.07.100 and 1988 c 5 s 4 are each amended to read  
20 as follows:

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

23 (1) (~~Chapter 15.32 RCW, the Dairies and dairy products act;~~  
24 ~~(2)~~) Chapter 69.25 RCW, the Washington wholesome eggs and egg  
25 products act;

26 ((~~3~~)) (2) Chapter 69.28 RCW, the Washington state honey act;

27 ((~~4~~)) (3) Chapter 16.49 RCW, the Meat inspection act;

28 ((~~5~~)) (4) Title 66 RCW, relating to alcoholic beverage control;  
29 and

30 ((~~6~~)) (5) Chapter 69.30 RCW, the Sanitary control of shellfish  
31 act: PROVIDED, That if any such establishments process foods not  
32 specifically provided for in the above entitled acts, such  
33 establishments shall be subject to the provisions of this chapter.

34 The provisions of this chapter shall not apply to restaurants or  
35 food service establishments.

36 **Sec. 25.** RCW 69.07.085 and 1988 c 254 s 9 are each amended to read  
37 as follows:

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

6       NEW SECTION.   **Sec. 26.** The following acts or parts of acts are  
7 each repealed:

- 8       (1) RCW 69.08.010 and 1971 c 27 s 1 & 1945 c 192 s 1;
- 9       (2) RCW 69.08.020 and 1945 c 192 s 4;
- 10      (3) RCW 69.08.030 and 1985 c 25 s 1 & 1945 c 192 s 2;
- 11      (4) RCW 69.08.040 and 1985 c 25 s 2 & 1945 c 192 s 3;
- 12      (5) RCW 69.08.045 and 1988 c 5 s 5 & 1971 c 27 s 2;
- 13      (6) RCW 69.08.050 and 1945 c 192 s 5;
- 14      (7) RCW 69.08.060 and 1945 c 192 s 6;
- 15      (8) RCW 69.08.070 and 1945 c 192 s 7;
- 16      (9) RCW 69.08.080 and 1945 c 192 s 8; and
- 17      (10) RCW 69.08.090 and 1945 c 192 s 9.

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

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

22       (1) "Department" means the department of agriculture of the state  
23 of Washington.

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

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

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

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

36       (b) If it bears or contains any added poisonous or added  
37 deleterious substance (other than one which is: (i) A pesticide

1 chemical in or on a raw agricultural commodity; (ii) a food additive;  
2 or (iii) a color additive) which may, in the judgment of the director,  
3 make such article unfit for human food;

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

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

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

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

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

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

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

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

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

32 ((k)) (l) If any valuable constituent has been in whole or in  
33 part omitted or abstracted therefrom; or if any substance has been  
34 substituted, wholly or in part therefor; or if damage or inferiority  
35 has been concealed in any manner; or if any substance has been added  
36 thereto or mixed or packed therewith so as to increase its bulk or  
37 weight, or reduce its quality or strength, or make it appear better or  
38 of greater value than it is.



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

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

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

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

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

15 (10) "Egg handler" or "dealer" means any person who produces,  
16 contracts for or obtains possession or control of any eggs for the  
17 purpose of sale to another dealer or retailer, or for processing and  
18 sale to a dealer, retailer or consumer: PROVIDED, That for the purpose  
19 of this chapter, "sell" or "sale" includes the following: Offer for  
20 sale, expose for sale, have in possession for sale, exchange, barter,  
21 trade, or as an inducement for the sale of another product.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (28) "Official plant" means any plant which is licensed under the  
37 provisions of this chapter, at which inspection of the processing of  
38 egg products is maintained by the United States department of

1 agriculture or by the state under cooperative agreements with the  
2 United States department of agriculture or by the state.

3 (29) "Official standards" means the standards of quality, grades,  
4 and weight classes for eggs, adopted under the provisions of this  
5 chapter.

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

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

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

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

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

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

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

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

29 (38) "Master license system" means the mechanism established by  
30 chapter 19.02 RCW by which master licenses, endorsed for individual  
31 state-issued licenses, are issued and renewed utilizing a master  
32 application and a master license expiration date common to each  
33 renewable license endorsement.

34 (39) "Ambient temperature" means the atmospheric temperature  
35 surrounding or encircling shell eggs.

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

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

25 **Sec. 29.** RCW 69.25.150 and 1992 c 7 s 47 are each amended to read  
26 as follows:

27 (1) (~~Any person who commits any offense prohibited by RCW~~  
28 ~~69.25.110 shall upon conviction be guilty of a gross misdemeanor.)) (a)  
29 Any person violating any provision of this chapter or any rule adopted  
30 under this chapter is guilty of a misdemeanor and guilty of a gross  
31 misdemeanor for any second and subsequent violation. Any offense  
32 committed more than five years after a previous conviction shall be  
33 considered a first offense. A misdemeanor under this section is  
34 punishable to the same extent that a misdemeanor is punishable under  
35 RCW 9A.20.021 and a gross misdemeanor under this section is punishable  
36 to the same extent that a gross misdemeanor is punishable under RCW  
37 9A.20.021.~~

1       (b) Whenever the director finds that a person has committed a  
2 violation of any of the provisions of this chapter, and that violation  
3 has not been punished pursuant to (a) of this subsection, the director  
4 may impose upon and collect from the violator a civil penalty not  
5 exceeding one thousand dollars per violation per day. Each violation  
6 shall be a separate and distinct offense.

7       When construing or enforcing the provisions of RCW 69.25.110, the  
8 act, omission, or failure of any person acting for or employed by any  
9 individual, partnership, corporation, or association within the scope  
10 of the person's employment or office shall in every case be deemed the  
11 act, omission, or failure of such individual, partnership, corporation,  
12 or association, as well as of such person.

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

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

37       **Sec. 30.** RCW 69.25.170 and 1975 1st ex.s. c 201 s 18 are each  
38 amended to read as follows:

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

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

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

13 (c) The sale of eggs by any poultry producer from his own flocks  
14 directly to a household consumer exclusively for use by such consumer  
15 and members of his household and his nonpaying guests and employees,  
16 and the transportation, possession, and use of such eggs in accordance  
17 with this subsection;

18 (d) The sale of eggs by shell egg packers on his own premises  
19 directly to household consumers for use by such consumer and members of  
20 his household and his nonpaying guests and employees, and the  
21 transportation, possession, and use of such eggs in accordance with  
22 this subsection;

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

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

28 **Sec. 31.** RCW 69.25.250 and 1993 sp.s. c 19 s 12 are each amended  
29 to read as follows:

30 There is hereby levied an assessment not to exceed three mills per  
31 dozen eggs entering intrastate commerce, as prescribed by rules and  
32 regulations issued by the director. Such assessment shall be  
33 applicable to all eggs entering intrastate commerce except as provided  
34 in RCW 69.25.170 and 69.25.290. Such assessment shall be paid to the  
35 director on a monthly basis on or before the tenth day following the  
36 month such eggs enter intrastate commerce. The director may require  
37 reports by egg handlers or dealers along with the payment of the  
38 assessment fee. Such reports may include any and all pertinent

1 information necessary to carry out the purposes of this chapter. The  
2 director may, by regulations, require egg container manufacturers to  
3 report on a monthly basis all egg containers sold to any egg handler or  
4 dealer and bearing such egg handler or dealer's (~~license~~) permanent  
5 number.

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

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

21 (2) Notwithstanding subsection (1) of this section and following  
22 written notice to the director, licensed egg handlers and dealers may  
23 use new containers bearing another dealer's permanent number on a  
24 temporary basis, in any event not longer than one year, for the purpose  
25 of using up existing container stocks. Sale of container stock shall  
26 constitute agreement by the parties to use the permanent number.

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

29 (1) In addition to any other records required to be kept and  
30 furnished the director under the provisions of this chapter, the  
31 director may require any person who sells to any retailer, or to any  
32 restaurant, hotel, boarding house, bakery, or any institution or  
33 concern which purchases eggs for serving to guests or patrons thereof  
34 or for its use in preparation of any food product for human  
35 consumption, candled or graded eggs other than those of his own  
36 production sold and delivered on the premises where produced, to  
37 furnish that retailer or other purchaser with an invoice covering each

1 such sale, showing the exact grade or quality, and the size or weight  
2 of the eggs sold, according to the standards prescribed by the  
3 director, together with the name and address of the person by whom the  
4 eggs were sold. The person selling and the retailer or other purchaser  
5 shall keep a copy of said invoice on file at his place of business for  
6 a period of thirty days, during which time the copy shall be available  
7 for inspection at all reasonable times by the director: PROVIDED, That  
8 no retailer or other purchaser shall be guilty of a violation of this  
9 chapter if he can establish a guarantee from the person from whom the  
10 eggs were purchased to the effect that they, at the time of purchase,  
11 conformed to the information required by the director on such invoice:  
12 PROVIDED FURTHER, That if the retailer or other purchaser having  
13 labeled any such eggs in accordance with the invoice keeps them for  
14 such a time after they are purchased as to cause them to deteriorate to  
15 a lower grade or standard, and sells them under the label of the  
16 invoice grade or standard, he shall be guilty of a violation of this  
17 chapter.

18 (2) Due to the perishable nature of shell eggs and their  
19 susceptibility to contamination by bacteria, chemicals, and other  
20 adulterants, every precaution must be taken to prevent contamination  
21 and to provide adequate protection at all times from breakage and  
22 temperature abuse.

23 (3) The repacking or salvage of shell eggs by retailers,  
24 distributors, or handlers not registered with the United States  
25 department of agriculture as shell egg graders due to past code dates,  
26 damage, or change in grade, is prohibited. Consumer size containers  
27 holding damaged eggs whereby the eggs contents are free to protrude  
28 shall be removed from the display area frequently. The damaged eggs  
29 must be destroyed at outlet locations or be returned to a licensed  
30 facility for reprocessing or other disposition. Damaged containers of  
31 eggs are required to be refrigerated in an area apart from the  
32 undamaged eggs.

33 (4) Retailers/distributors are responsible to take every precaution  
34 to prevent adulteration by storing shell eggs awaiting sale or  
35 displaying eggs under clean and sanitary conditions in areas free from  
36 rodents and insects. Shell eggs must be stored up off the floor away  
37 from strong odors, pesticides, and cleaners.

38 (5) After being received at the point of first purchase, all graded  
39 shell eggs packed in containers for the purpose of sale to consumers



1 shall be held and transported under refrigeration at ambient  
2 temperatures no greater than forty-five degrees Fahrenheit (seven and  
3 two-tenths degrees Celsius). This provision shall apply without  
4 limitation to retailers, institutional users, dealer/wholesalers, food  
5 handlers, transportation firms, or any person who handles eggs after  
6 the point of first purchase.

7 (6) No invoice shall be required on eggs when packed for sale to  
8 the United States department of defense, or a component thereof, if  
9 labeled with grades promulgated by the United States secretary of  
10 agriculture.

11 NEW SECTION. Sec. 34. RCW 69.25.330 and 1975 1st ex.s. c 201 s 34  
12 are each repealed.

13 **Sec. 35.** RCW 69.25.340 and 1975 1st ex.s. c 201 s 36 are each  
14 amended to read as follows:

15 Any person violating any provision of this chapter or regulations  
16 for which a penalty is not specifically provided for in this chapter,  
17 shall be guilty of a misdemeanor and guilty of a gross misdemeanor for  
18 any subsequent violation or can be assessed a civil penalty as the  
19 director deems appropriate: PROVIDED, That any offense committed more  
20 than five years after a previous conviction shall be considered a first  
21 offense.

22 **Sec. 36.** RCW 15.53.901 and 1982 c 177 s 1 are each amended to read  
23 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

18       (12) "~~Labeling~~" means all labels and other written, printed, or  
19 graphic matter upon a commercial feed or any of its containers or  
20 wrappers, or otherwise accompanying such commercial feed.

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

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

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

25       (16) "~~Contract feeder~~" means an independent contractor, or any  
26 other person who feeds commercial feed to animals pursuant to an oral  
27 or written agreement whereby such commercial feed is supplied,  
28 furnished or otherwise provided to such person by any distributor and  
29 whereby such person's remuneration is determined all or in part by feed  
30 consumption, mortality, profits, or amount or quality of product:  
31 PROVIDED, That it shall not include a bona fide employee of a  
32 manufacturer or distributor of commercial feed.

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

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

37       (2) "Commercial feed" means all materials or combination of  
38 materials that are distributed or intended for distribution for use as  
39 feed or for mixing in feed, unless such materials are specifically

1 exempted. Unmixed whole seeds and physically altered entire unmixed  
2 seeds, when such whole seeds or physically altered seeds are not  
3 chemically changed or not adulterated within the meaning of RCW  
4 15.53.902, are exempt. The department by rule may exempt from this  
5 definition, or from specific provisions of this chapter, commodities  
6 such as hay, straw, stover, silage, cobs, husks, hulls, and individual  
7 chemical compounds or substances when such commodities, compounds, or  
8 substances are not intermixed with other materials, and are not  
9 adulterated within the meaning of RCW 15.53.902.

10 (3) "Contract feeder" means a person who is an independent  
11 contractor and feeds commercial feed to animals pursuant to a contract  
12 whereby such commercial feed is supplied, furnished, or otherwise  
13 provided to such person and whereby such person's remuneration is  
14 determined all or in part by feed consumption, mortality, profits, or  
15 amount or quality of product.

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

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

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

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

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

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

32 (10) "Feed ingredient" means each of the constituent materials  
33 making up a commercial feed.

34 (11) "Final purchaser" means a person who purchases commercial feed  
35 to feed to animals in his or her care.

36 (12) "Initial distributor" means a person who first distributes a  
37 commercial feed in or into this state.

38 (13) "Label" means a display of written, printed, or graphic matter  
39 upon or affixed to the container in which a commercial feed is

1 distributed, or on the invoice or delivery slip with which a commercial  
2 feed is distributed.

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

6 (15) "Licensee" means a person who holds a commercial feed license  
7 as prescribed in this chapter.

8 (16) "Manufacture" means to grind, mix or blend, or further process  
9 a commercial feed for distribution.

10 (17) "Medicated feed" means a commercial feed containing a drug or  
11 other medication.

12 (18) "Mineral feed" means a commercial feed intended to supply  
13 primarily mineral elements or inorganic nutrients.

14 (19) "Official sample" means a sample of feed taken by the  
15 department, obtained and analyzed as provided in RCW 15.53.9024 (3),  
16 (5) or (6).

17 (20) "Percent" or "percentage" means percentage by weight.

18 (21) "Person" means an individual, firm, partnership, corporation,  
19 or association.

20 (22) "Pet" means a domesticated animal normally maintained in or  
21 near the household of the owner of the pet.

22 (23) "Pet food" means a commercial feed prepared and distributed  
23 for consumption by pets.

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

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

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

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

32 (28) "Specialty pet food" means a commercial feed prepared and  
33 distributed for consumption by specialty pets.

34 (29) "Ton" means a net weight of two thousand pounds avoirdupois.

35 (30) "Quantity statement" means the net weight (mass), net volume  
36 (liquid or dry), or count.

37 **Sec. 37.** RCW 15.53.9012 and 1965 ex.s. c 31 s 3 are each amended  
38 to read as follows:

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

13       (2) The director when adopting rules in respect to the feed  
14 industry shall consult with affected parties, such as manufacturers and  
15 distributors of commercial feed and any final rule adopted shall be  
16 designed to promote orderly marketing and shall be reasonable and  
17 necessary and based upon the requirements and condition of the industry  
18 and shall be for the purpose of promoting the well-being of the members  
19 of the feed industry as well as the well-being of the purchasers and  
20 users of feed and for the general welfare of the people of the state.

21       NEW SECTION. Sec. 38. A new section is added to chapter 15.53 RCW  
22 to read as follows:

23       (1) Beginning January 1, 1996, a person who manufactures a  
24 commercial feed, is an initial distributor of a commercial feed, or  
25 whose name appears as the responsible party on a commercial feed label  
26 to be distributed in or into this state shall first obtain from the  
27 department a commercial feed license for each facility. Sale of food  
28 processing byproducts from fruit, vegetable, or potato processing  
29 plants, freezing or dehydrating facilities, or juice or jelly  
30 preserving plants, bona fide experimental feed on which accurate  
31 records and experimental programs are maintained, and pet food and  
32 specialty pet food are exempt from the requirement of a commercial feed  
33 license. Byproducts or products of sugar refineries are not exempt  
34 from the requirement of a commercial feed license.

35       (2) Application for a commercial feed license shall be made on  
36 forms provided by the department and shall be accompanied by a fee of  
37 fifty dollars, except that for the period beginning January 1, 1996,

1 and ending June 30, 1996, the fee shall be twenty-five dollars. The  
2 commercial feed license shall expire on June 30th of each year.

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

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

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

6 (4) After January 1, 1996, application for license renewal is due  
7 July 1st of each year. If an application for license renewal provided  
8 for in this section is not filed with the department prior to July  
9 15th, a delinquency fee of fifty dollars shall be assessed and added to  
10 the original fee and must be paid by the applicant before the renewal  
11 license is issued. The assessment of the delinquency fee shall not  
12 prevent the department from taking other action as provided for in this  
13 chapter. The penalty does not apply if the applicant furnishes an  
14 affidavit that he or she has not distributed a commercial feed  
15 subsequent to the expiration of his or her prior license.

16 (5) The department may deny a license application if the applicant  
17 is not in compliance with this chapter or applicable rules, and may  
18 revoke a license if the licensee is not in compliance with this chapter  
19 or applicable rules. Prior to denial or revocation of a license, the  
20 department shall provide notice and an opportunity to correct  
21 deficiencies. If an applicant or licensee fails to correct the  
22 deficiency, the department shall deny or revoke the license. If  
23 aggrieved by the decision, the applicant or licensee may request a  
24 hearing as authorized under chapter 34.05 RCW.

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

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

32 **Sec. 39.** RCW 15.53.9014 and 1993 sp.s. c 19 s 2 are each amended  
33 to read as follows:

34 (1) Each (~~commercial feed~~) pet food and specialty pet food shall  
35 be registered with the department and such registration shall be  
36 renewed annually before such commercial feed may be distributed in this  
37 state(~~(: PROVIDED, That sales of food processing byproducts from~~  
38 ~~fruit, vegetable, or potato processing plants, freezing or dehydrating~~

1 facilities, or juice or jelly preserving plants; unmixed seed, whole or  
2 processed, made directly from the entire seed; unground hay, straw,  
3 stover, silage, cobs, husks, and hulls, when not mixed with other  
4 material; bona fide experimental feeds on which accurate records and  
5 experimental programs are maintained; and customer formula feeds are  
6 exempt from such registration. The exemption for byproducts provided  
7 by this subsection does not apply to byproducts or products of sugar  
8 refineries or to materials used in the preparation of pet foods.

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

14 (b) Beginning July 1, 1993, each registration for a commercial feed  
15 product distributed in packages of less than ten pounds shall be  
16 accompanied by an annual registration fee of forty-five dollars on each  
17 such commercial feed so distributed, but no inspection fee may be  
18 collected on packages of less than ten pounds of the commercial feed so  
19 registered).

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

24 (3) Pet food and specialty pet food registration fees are as  
25 follows:

26 (a) Each pet food and specialty pet food distributed in packages of  
27 ten pounds or more shall be accompanied by a fee of eleven dollars,  
28 except that for the period beginning January 1, 1996, and ending June  
29 30, 1996, the fee shall be five dollars and fifty cents. If such  
30 commercial feed is also distributed in packages of less than ten pounds  
31 it shall be registered under (b) of this subsection.

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

38 (4) The department may require that ((such)) the application for  
39 registration of pet food and specialty pet food be accompanied by a

1 label and/or other printed matter describing the product. ((All  
2 registrations expire on December 31st of each year, and are renewable  
3 unless such registration is canceled by the department or it has called  
4 for a new registration, or unless canceled by the registrant.

5 (4) ~~The application shall include the information required by RCW  
6 15.53.9016(1)(b) through (1)(e).)~~

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

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

17 (7) The department is ((empowered)) authorized to refuse  
18 registration of any application not in compliance with the provisions  
19 of this chapter and any rule adopted under this chapter and to cancel  
20 any registration subsequently found to be not in compliance with any  
21 provisions of this chapter(~~(, but a registration shall not be refused  
22 or canceled until the registrant has been given opportunity to be heard  
23 before the department and to amend his application in order to comply  
24 with the requirements of))~~ and any rule adopted under this chapter.  
25 Prior to refusal or cancellation of a registration, the applicant or  
26 registrant of an existing registered pet food or specialty pet food  
27 shall be notified of the reasons and given an opportunity to amend the  
28 application to comply. If the applicant does not make the necessary  
29 corrections, the department shall refuse to register the feed. The  
30 applicant or registrant of an existing registered pet food or specialty  
31 pet food may request a hearing as provided for in chapter 34.05 RCW.

32 (8) After January 1, 1996, application for renewal of registration  
33 is due July 1st of each year. If an application for renewal of the  
34 registration provided for in this section is not filed prior to  
35 ((January 1st)) July 15th of any one year, a penalty of ten dollars per  
36 product shall be assessed and added to the original fee and shall be  
37 paid by the applicant before the renewal registration may be issued,  
38 unless the applicant furnishes an affidavit that he has not distributed



1 this feed subsequent to the expiration of his or her prior  
2 registration.

3 (9) Notwithstanding the payment of a delinquency fee, it is a  
4 violation of this chapter to distribute an unregistered pet food or  
5 specialty pet food and nothing in this chapter shall prevent the  
6 department from imposing a penalty authorized by this chapter for the  
7 violation.

8 **Sec. 40.** RCW 15.53.9016 and 1965 ex.s. c 31 s 5 are each amended  
9 to read as follows:

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

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

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

17 (~~(c) The guaranteed analysis of the commercial feed, listing the~~  
18 ~~minimum percentage of crude protein, minimum percentage of crude fat,~~  
19 ~~and maximum percentage of crude fiber. For mineral feeds the list~~  
20 ~~shall include the following if added: Minimum and maximum percentages~~  
21 ~~of calcium (Ca), minimum percentage of phosphorus (P), minimum~~  
22 ~~percentage of iodine (I), and minimum and maximum percentages of salt~~  
23 ~~(NaCl). Other substances or elements, determinable by laboratory~~  
24 ~~methods, may be guaranteed by permission of the department. When any~~  
25 ~~items are guaranteed, they shall be subject to inspection and analysis~~  
26 ~~in accordance with the methods and regulations that may be prescribed~~  
27 ~~by the department. Products distributed solely as mineral and/or~~  
28 ~~vitamin supplements and guaranteed as specified in this section need~~  
29 ~~not show guarantees for protein, fat, and fiber.~~

30 (d)) (b) The guaranteed analysis stated in such terms as the  
31 department by rule determines is required to advise the user of the  
32 composition of the feed or to support claims made in the labeling. In  
33 all cases the substances or elements must be determinable by laboratory  
34 methods such as the methods published by the association of official  
35 analytical chemists.

36 (c) The common or usual name of each ingredient used in the  
37 manufacture of the commercial feed, except as the department may, by  
38 regulation, permit the use of a collective term for a group of

1 ingredients all of which perform the same function. An ingredient  
2 statement is not required for single standardized ingredient feeds  
3 which are officially defined.

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

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

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

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

12 (2) When a commercial feed, except a customer-formula feed, is  
13 distributed in this state in bags or other containers, the label shall  
14 be placed on or affixed to the container; when a commercial feed,  
15 except a customer-formula feed, is distributed in bulk the label shall  
16 accompany delivery and be furnished to the purchaser at time of  
17 delivery.

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

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

23 (b) Name and address of the purchaser;

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

25 ~~((Brand name and number of pounds of each registered commercial~~  
26 ~~feed used in the mixture and the name and number of pounds of each~~  
27 ~~other feed ingredient added.~~

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

34 ~~(5) A customer-formula feed shall be considered to be in violation~~  
35 ~~of this chapter if it does not conform to the invoice labeling. Upon~~  
36 ~~request of the department it shall be the duty of the person~~  
37 ~~distributing the customer-formula feed to supply the department with a~~  
38 ~~copy of the invoice which represents that particular feed: PROVIDED,~~  
39 ~~That such person shall not be required to keep such invoice for a~~

1 ~~period of longer than six months))~~ Product name and the net weight as  
2 required under chapter 19.94 RCW;

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

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

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

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

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

13 (4) The product name and quantity statement of each commercial feed  
14 and each other ingredient used in the customer formula feed must be on  
15 file at the plant producing the product. These records must be kept on  
16 file for one year after the last sale. This information shall be made  
17 available to the purchaser, the dealer making the sale, and the  
18 department on request.

19 **Sec. 41.** RCW 15.53.9018 and 1982 c 177 s 3 are each amended to  
20 read as follows:

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

31 (2) (~~In computing the tonnage on which the inspection fee must be~~  
32 paid, sales of: (a) Commercial feed to other feed registrants;)) An  
33 inspection fee is not required for: (a) Commercial feed distributed by  
34 a person having proof that inspection fees have been paid by his or her  
35 supplier (manufacturer); (b) commercial feed in packages weighing less  
36 than ten pounds; (c) commercial feed for shipment to points outside  
37 this state; (d) food processing byproducts from fruit, vegetable, or  
38 potato processing plants, freezing or dehydrating facilities, or juice

1 or jelly preserving plants; and (e) (~~unmixed seed, whole or processed,~~  
2 ~~made directly from the entire seed;~~ (f) ~~unground hay, straw, stover,~~  
3 ~~silage, cobs, husks, and hulls, when not mixed with other material;~~ and  
4 ~~(g)~~) bona fide experimental feeds on which accurate records and  
5 experimental programs are maintained (~~may be excluded. The exemption~~  
6 ~~for byproducts provided by this subsection does not apply to byproducts~~  
7 ~~or products of sugar refineries or to materials used in the preparation~~  
8 ~~of pet foods~~)).

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

12 (4) When more than one distributor is involved in the distribution  
13 of a commercial feed, the (~~last registrant or~~) initial distributor  
14 (~~who distributes to a nonregistrant (dealer or consumer)~~) is  
15 responsible for reporting the tonnage and paying the inspection fee,  
16 unless (~~the reporting and paying of fees have been made by a prior~~  
17 ~~distributor of the feed~~) he or she distributes to another licensee or  
18 registrant. If distribution is to another licensee or registrant, the  
19 last licensee or registrant who distributes to a final purchaser will  
20 be responsible for reporting the tonnage and paying the inspection fee.

21 (~~(4)~~) (5) Each person made responsible by this chapter for the  
22 payment of inspection fees for commercial feed sold in this state shall  
23 file a report with the department on January 1st and July 1st of each  
24 year showing the number of tons of such commercial feed sold during the  
25 six calendar months immediately preceding the date the report is due.  
26 The proper inspection fee shall be remitted with the report. The  
27 person required to file the report and pay the fee shall have a thirty-  
28 day period of grace immediately following the day the report and  
29 payment are due to file the report, and pay the fee. Upon permission  
30 of the department, an annual statement under oath may be filed by any  
31 person distributing within the state less than one hundred tons for  
32 each six-month period during any year, and upon filing such statement  
33 such person shall pay the inspection fee at the rate provided for in  
34 subsection (1) of this section. The minimum inspection fee shall be  
35 twelve dollars and fifty cents for each six-month reporting period or  
36 twenty-five dollars if reporting annually.

37 (~~(5)~~) ~~Each distributor shall keep such reasonable and practical~~  
38 ~~records as may be necessary or required by the department to indicate~~  
39 ~~accurately the tonnage of commercial feed distributed in this state,~~

1 and the department has the right to examine such records to verify  
2 statements of tonnage. Failure to make an accurate statement of  
3 tonnage or to pay the inspection fee or comply as provided herein  
4 constitutes a violation of this chapter, and may result in the issuance  
5 of an order for "withdrawal from distribution" on any commercial feed  
6 being subsequently distributed.

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

13 ~~(7))~~ (6) For the purpose of determining accurate tonnage of  
14 commercial feed distributed in this state or to identify or verify  
15 semiannual tonnage reports, the department may require each registrant  
16 or licensee, or both, to maintain records or file additional reports.

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

21 (8) The registrant or licensee shall maintain records required  
22 under this section and submit these records to the department upon  
23 request.

24 (9) Any person responsible for reporting tonnage or paying  
25 inspection fees who fails to do so before the thirty-first day  
26 following the last day of each reporting period, shall pay a penalty  
27 equal to fifteen percent of the inspection fee due or fifty dollars,  
28 whichever is greater. The penalty, together with any delinquent  
29 inspection fee is due before the forty-first day following the last day  
30 of each reporting period. The department may cancel registration of a  
31 registrant or may revoke a license of a licensee who fails to pay the  
32 penalty and delinquent inspection fees within that time period. The  
33 applicant or licensee may request a hearing as authorized under chapter  
34 34.05 RCW.

35 (10) The report required by subsection ((+4)) (5) of this section  
36 shall not be a public record, and it is a misdemeanor for any person to  
37 divulge any information given in such report which would reveal the  
38 business operation of the person making the report: PROVIDED, That  
39 nothing contained in this subsection shall be construed to prevent or

1 make unlawful the use of information concerning the business operation  
2 of a person if any action, suit, or proceeding instituted under the  
3 authority of this chapter, including any civil action for collection of  
4 unpaid inspection fees, which action is hereby authorized and which  
5 shall be as an action at law in the name of the director of the  
6 department.

7 ((+8)) (11) Any commercial feed purchased by a consumer or  
8 contract feeder outside the jurisdiction of this state and brought into  
9 this state for use is subject to all the provisions of this chapter,  
10 including inspection fees.

11 **Sec. 42.** RCW 15.53.902 and 1982 c 177 s 4 are each amended to read  
12 as follows:

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

15 (1) If it bears or contains any poisonous or deleterious substance  
16 which may render it injurious to health; but in case the substance is  
17 not an added substance, such commercial feed shall not be considered  
18 adulterated under this subsection if the quantity of such substance in  
19 such commercial feed does not ordinarily render it injurious to health;  
20 or

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

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

29 (4) If it is a raw agricultural commodity and it bears or contains  
30 a pesticide chemical which is unsafe within the meaning of section  
31 408(a) of the Federal Food, Drug, and Cosmetic Act: PROVIDED, That  
32 where a pesticide chemical has been used in or on a raw agricultural  
33 commodity in conformity with an exemption granted or a tolerance  
34 prescribed under section 408 of the Federal Food, Drug, and Cosmetic  
35 Act and such raw agricultural commodity has been subjected to  
36 processing such as canning, cooking, freezing, dehydrating, or milling,  
37 the residue of such pesticide chemical remaining in or on such  
38 processed feed shall not be deemed unsafe if such residue in or on the

1 raw agricultural commodity has been removed to the extent possible in  
2 good manufacturing practice and the concentration of such residue in  
3 the processed feed is not greater than the tolerance prescribed for the  
4 raw agricultural commodity unless the feeding of such processed feed  
5 will result or is likely to result in a pesticide residue in the edible  
6 product of the animal, which is unsafe within the meaning of section  
7 408(a) of the Federal Food, Drug, and Cosmetic Act; or

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

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

14 (7) If any valuable constituent has been in whole or in part  
15 omitted or abstracted therefrom or any less valuable substance  
16 substituted therefor; or

17 ~~((7))~~ (8) If its composition or quality falls below or differs  
18 from that which it is purported or is represented to possess by its  
19 labeling; or

20 ~~((8))~~ (9) If it contains a drug and the methods used in or the  
21 facilities or controls used for its manufacture, processing, or  
22 packaging do not conform to current good manufacturing practice rules  
23 adopted by the department to assure that the drug meets the  
24 requirements of this chapter as to safety and has the identity and  
25 strength and meets the quality and purity characteristics that it  
26 purports or is represented to possess. In adopting such rules, the  
27 department shall adopt the current good manufacturing practice  
28 regulations for type A medicated articles and type B and type C  
29 medicated feeds established under authority of the Federal Food, Drug,  
30 and Cosmetic Act, unless the department determines that they are not  
31 appropriate to the conditions that exist in this state; or

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

1       **Sec. 43.** RCW 15.53.9022 and 1965 ex.s. c 31 s 8 are each amended  
2 to read as follows:

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

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

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

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

9       (4) If it purports to be or is represented as a commercial feed  
10 (~~ingredient~~), or if it purports to contain or is represented as  
11 containing a commercial feed or feed ingredient, unless such commercial  
12 feed or feed ingredient conforms to the definition of identity, if any,  
13 prescribed by (~~regulation~~) rule of the department. In the adopting  
14 of such (~~regulations~~) rules the department may consider commonly  
15 accepted definitions such as those issued by nationally recognized  
16 associations or groups of feed control officials;

17       (5) If any word, statement, or other information required by or  
18 under authority of this chapter to appear on the label or labeling is  
19 not prominently placed thereon with such conspicuousness (as compared  
20 with other words, statements, designs, or devices, in the labeling) and  
21 in such terms as to render it likely to be read and understood by the  
22 ordinary individual under customary conditions of purchase and use;

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

25       **Sec. 44.** RCW 15.53.9024 and 1965 ex.s. c 31 s 9 are each amended  
26 to read as follows:

27       (1) (~~It shall be the duty of the department to sample, inspect,~~  
28 ~~make analysis of, and test commercial feed distributed within this~~  
29 ~~state at such time and place and to such an extent as it may deem~~  
30 ~~necessary to determine whether such feeds are in compliance with the~~  
31 ~~provisions of this chapter. The department is authorized to stop any~~  
32 ~~commercial vehicle transporting feed on the public highways and direct~~  
33 ~~it to the nearest scales approved by the department to check weights of~~  
34 ~~feeds being delivered. The department is also authorized, upon~~  
35 ~~presentation of proper identification, to enter any distributor's~~  
36 ~~premises including any vehicle of transport at all reasonable times in~~  
37 ~~order to have access to commercial feed and to records relating to~~



1 ~~their distribution. This includes the determining of the weight of~~  
2 ~~packages and bulk shipments.~~

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

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

23 ~~(2) A separate notice shall be given for each such inspection, but~~  
24 ~~a notice is not required for each entry made during the period covered~~  
25 ~~by the inspection. Each such inspection shall be commenced and~~  
26 ~~completed with reasonable promptness. Upon completion of the~~  
27 ~~inspection, the person in charge of the facility or vehicle shall be so~~  
28 ~~notified.~~

29 ~~(3) If the inspector or employee making such inspection of a~~  
30 ~~factory, warehouse, or other establishment has obtained a sample in the~~  
31 ~~course of the inspection, upon completion of the inspection and prior~~  
32 ~~to leaving the premises, he or she shall give to the owner, operator,~~  
33 ~~or agent in charge, a receipt describing the samples obtained.~~

34 ~~(4) If the owner of a factory, warehouse, or establishment~~  
35 ~~described in subsection (1) of this section, or his or her agent,~~  
36 ~~refuses to admit the director or his or her agent to inspect in~~  
37 ~~accordance with subsections (1) and (2) of this section, the director~~  
38 ~~or his or her agent is authorized to obtain from any court of competent~~

1 jurisdiction a warrant directing such owner or his or her agent to  
2 submit the premises described in the warrant to inspection.

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

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

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

20 (8) The department, in determining for administrative purposes  
21 whether a feed is deficient in any component, shall be guided solely by  
22 the official sample as defined in RCW 15.53.901(~~(+13)~~) (19) and  
23 obtained and analyzed as provided for in this section.

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

29 ~~(5))~~ (9) Analysis of an official sample by the department shall be  
30 accepted as prima facie evidence by any court of competent  
31 jurisdiction.

32 **Sec. 45.** RCW 15.53.9038 and 1982 c 177 s 5 are each amended to  
33 read as follows:

34 (1) When the department has reasonable cause to believe that any  
35 lot of commercial feed is adulterated or misbranded or is being  
36 distributed in violation of this chapter or any ~~((regulations))~~ rules  
37 hereunder it may issue and enforce a written or printed "withdrawal  
38 from distribution" order, or "stop sale" order, warning the distributor

1 not to dispose of the lot of feed in any manner until written  
2 permission is given by the department (~~((or a court of competent~~  
3 ~~jurisdiction))~~). The department shall release the lot of commercial  
4 feed so withdrawn when the provisions and (~~((regulations))~~) rules have  
5 been complied with. If compliance is not obtained within thirty days,  
6 parties may agree to an alternative disposition in writing or the  
7 department may (~~((begin))~~) institute condemnation proceedings (~~((for~~  
8 ~~condemnation))~~) in a court of competent jurisdiction.

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

20 **Sec. 46.** RCW 15.53.904 and 1965 ex.s. c 31 s 17 are each amended  
21 to read as follows:

22 (1) Any person convicted of violating any of the provisions of this  
23 chapter or the rules (~~((and regulations issued))~~) adopted thereunder or  
24 who shall impede, obstruct, hinder, or otherwise prevent or attempt to  
25 prevent the department in the performance of its duty in connection  
26 with the provisions of this chapter, shall be adjudged guilty of a  
27 misdemeanor and shall be fined not less than (~~((fifty))~~) one hundred  
28 dollars nor more than (~~((one))~~) two hundred and fifty dollars for the  
29 first violation, and not less than (~~((two))~~) five hundred dollars nor  
30 more than (~~((five hundred))~~) one thousand dollars for a subsequent  
31 violation. In all prosecutions under this chapter involving the  
32 composition of a lot of commercial feed, a certified copy of the  
33 official analysis signed by the department shall be accepted as prima  
34 facie evidence of the composition.

35 (2) Nothing in this chapter shall be construed as requiring the  
36 department to report for prosecution or for the institution of seizure  
37 proceedings as a result of minor violations of this chapter when it

1 believes that the public interest will be best served by a suitable  
2 notice of warning in writing.

3 (3) It shall be the duty of each prosecuting attorney to whom any  
4 violation is reported to cause appropriate proceedings to be instituted  
5 and prosecuted in a court of competent jurisdiction without delay.  
6 Before the department reports a violation for such prosecution, an  
7 opportunity shall be given the distributor to present his view in  
8 writing or orally to the department.

9 (4) The department is hereby authorized to apply for and the court  
10 to grant a temporary or permanent injunction restraining any person  
11 from violating or continuing to violate any of the provisions of this  
12 chapter or any rule (~~(or regulation promulgated)~~) adopted under this  
13 chapter notwithstanding the existence of other remedies at law. Said  
14 injunction to be issued without bond.

15 **Sec. 47.** RCW 15.53.9042 and 1965 ex.s. c 31 s 18 are each amended  
16 to read as follows:

17 The department shall publish at least annually, in such forms as it  
18 may deem proper, information concerning the distribution of commercial  
19 feed, together with such data on their production and use as it may  
20 consider advisable, and a report of the results of the analyses of  
21 official samples of commercial feed within the state as compared with  
22 the analyses guaranteed (~~(in the registration and)~~) on the label or as  
23 calculated from the invoice data for customer-formula feeds: PROVIDED,  
24 That the information concerning production and use of commercial feeds  
25 shall not disclose the operations of any person.

26 **Sec. 48.** RCW 15.53.9053 and 1975 1st ex.s. c 257 s 12 are each  
27 amended to read as follows:

28 (~~(1) The following acts or parts of acts are each repealed:~~  
29 ~~(a) Section 10, chapter 31, Laws of 1965 ex. sess., section 33,~~  
30 ~~chapter 240, Laws of 1967 and RCW 15.53.9026; and~~  
31 ~~(b) Sections 11 through 14, chapter 31, Laws of 1965 ex. sess. and~~  
32 ~~RCW 15.53.9028 through 15.53.9034.~~

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

1       ~~(3))~~) All licenses and registrations in effect on July 1, (~~(1975))~~  
2 1995, shall continue in full force and effect until their regular  
3 expiration date, December 31, (~~(1975))~~ 1995. No registration or  
4 license that has already been paid under the requirements of prior law  
5 shall be refunded.

6       NEW SECTION.   **Sec. 49.** The following acts or parts of acts are  
7 each repealed:

8       (1) RCW 15.53.9036 and 1989 c 175 s 51, 1975 1st ex.s. c 257 s 6,  
9 & 1965 ex.s. c 31 s 15;

10       (2) RCW 15.53.905 and 1965 ex.s. c 31 s 25; and

11       (3) RCW 15.53.9052 and 1965 ex.s. c 31 s 22.

12       **Sec. 50.** RCW 16.57.220 and 1994 c 46 s 19 are each amended to read  
13 as follows:

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

1 costs shall mean fifteen dollars per hour and the current mileage rate  
2 set by the office of financial management.

3 **Sec. 51.** RCW 16.57.220 and 1994 c 46 s 25 and 1994 c 46 s 19 are  
4 each reenacted and amended to read as follows:

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

31 **Sec. 52.** RCW 16.57.230 and 1959 c 54 s 23 are each amended to read  
32 as follows:

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

1       **Sec. 53.** 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. 54.** 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 livestock 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. 55.** 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. 56.** 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. 57. 1994 c 46 s 21 is repealed.

10       NEW SECTION. Sec. 58. 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. 59.**    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. 60.**    (1) Sections 51 and 59 of this act shall  
25 take effect July 1, 1997.

26        (2) Sections 50 and 58 of this act shall expire July 1, 1997.

27        **Sec. 61.**    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 nominee is  
26 nominated for a position on the board, the director shall deem that the  
27 nominee satisfies the requirements of the position and then the  
28 director shall deem that the nominee has been duly elected.

29 **Sec. 62.** RCW 43.88.240 and 1981 c 225 s 3 are each amended to read  
30 as follows:

31 Unless otherwise directed in the commodity commission enabling  
32 statute, this chapter shall not apply to the Washington state ((apple  
33 advertising commission, the Washington state fruit commission, the  
34 Washington tree fruit research commission, the Washington state beef  
35 commission, the Washington state dairy products commission, or any  
36 agricultural)) commodity commissions either created under separate  
37 statute or the provisions of chapters 15.65 and 15.66 RCW: PROVIDED,  
38 That all such commissions shall submit estimates and such other

1 necessary information as may be required for the development of the  
2 budget and shall also be subject to audit by the appropriate state  
3 auditing agency or officer.

4 NEW SECTION. **Sec. 63.** A new section is added to chapter 43.23 RCW  
5 to read as follows:

6 For purposes of this chapter:

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

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

10 NEW SECTION. **Sec. 64.** A new section is added to chapter 43.23 RCW  
11 to read as follows:

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

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

20 NEW SECTION. **Sec. 65.** A new section is added to chapter 43.23 RCW  
21 to read as follows:

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

1 with the above specified ten percent, and such action shall be tried  
2 and judgment rendered as in any other cause of action for debt due and  
3 payable.

4 NEW SECTION. **Sec. 66.** A new section is added to chapter 43.23 RCW  
5 to read as follows:

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

9 NEW SECTION. **Sec. 67.** A new section is added to chapter 43.23 RCW  
10 to read as follows:

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

18 NEW SECTION. **Sec. 68.** Sections 9 through 19 of this act shall  
19 constitute a new chapter in Title 69 RCW.

20 NEW SECTION. **Sec. 69.** Sections 1 through 49, 52 through 55, and  
21 61 through 68 of this act are necessary for the immediate preservation  
22 of the public peace, health, or safety, or support of the state  
23 government and its existing public institutions, and shall take effect  
24 June 30, 1995.

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