
SUBSTITUTE SENATE BILL 5190

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Agriculture & Rural Economic Development
(originally sponsored by Senators Fraser, Schoesler, Rasmussen and Swecker)

READ FIRST TIME 02/17/05.

1 AN ACT Relating to adulteration of commercial feed; amending RCW
2 15.53.902 and 15.53.904; and prescribing penalties.

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

4 **Sec. 1.** RCW 15.53.902 and 1995 c 374 s 39 are each amended to read
5 as follows:

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

8 (1) If it bears or contains any poisonous or deleterious substance
9 which may render it injurious to health; but in case the substance is
10 not an added substance, such commercial feed shall not be considered
11 adulterated under this subsection if the quantity of such substance in
12 such commercial feed does not ordinarily render it injurious to health;
13 or

14 (2) If it bears or contains any added poisonous, added deleterious,
15 or added nonnutritive substance which is unsafe within the meaning of
16 section 406 of the federal food, drug, and cosmetic act (other than one
17 which is (a) a pesticide chemical in or on a raw agricultural
18 commodity; or (b) a food additive); or

1 (3) If it is, or it bears, or contains any food additive which is
2 unsafe within the meaning of section 409 of the federal food, drug, and
3 cosmetic act (21 U.S.C. Sec. 348); or

4 (4) If it is ruminant feed and is, bears, or contains any animal
5 protein prohibited in ruminant feed that is unsafe within the meaning
6 of federal regulations promulgated under section 409 of the federal
7 food, drug, and cosmetic act (21 U.S.C. Sec. 348); or

8 (5) If it is a raw agricultural commodity and it bears or contains
9 a pesticide chemical which is unsafe within the meaning of section
10 408(a) of the federal food, drug, and cosmetic act: PROVIDED, That
11 where a pesticide chemical has been used in or on a raw agricultural
12 commodity in conformity with an exemption granted or a tolerance
13 prescribed under section 408 of the Federal Food, Drug, and Cosmetic
14 Act and such raw agricultural commodity has been subjected to
15 processing such as canning, cooking, freezing, dehydrating, or milling,
16 the residue of such pesticide chemical remaining in or on such
17 processed feed shall not be deemed unsafe if such residue in or on the
18 raw agricultural commodity has been removed to the extent possible in
19 good manufacturing practice and the concentration of such residue in
20 the processed feed is not greater than the tolerance prescribed for the
21 raw agricultural commodity unless the feeding of such processed feed
22 will result or is likely to result in a pesticide residue in the edible
23 product of the animal, which is unsafe within the meaning of section
24 408(a) of the federal food, drug, and cosmetic act; or

25 ((+5)) (6) If it is, or it bears or contains any color additive
26 which is unsafe within the meaning of section 706 of the federal food,
27 drug, and cosmetic act; or

28 ((+6)) (7) If it is, or it bears or contains any new animal drug
29 that is unsafe within the meaning of section 512 of the federal food,
30 drug, and cosmetic act (21 U.S.C. Sec. 360b); or

31 ((+7)) (8) If any valuable constituent has been in whole or in
32 part omitted or abstracted therefrom or any less valuable substance
33 substituted therefor; or

34 ((+8)) (9) If its composition or quality falls below or differs
35 from that which it is purported or is represented to possess by its
36 labeling; or

37 ((+9)) (10) If it contains a drug and the methods used in or the
38 facilities or controls used for its manufacture, processing, or

1 packaging do not conform to current good manufacturing practice rules
2 adopted by the department to assure that the drug meets the
3 requirements of this chapter as to safety and has the identity and
4 strength and meets the quality and purity characteristics that it
5 purports or is represented to possess. In adopting such rules, the
6 department shall adopt the current good manufacturing practice
7 regulations for type A medicated articles and type B and type C
8 medicated feeds established under authority of the federal food, drug,
9 and cosmetic act, unless the department determines that they are not
10 appropriate to the conditions that exist in this state; or

11 ~~((+10+))~~ (11) If it contains viable, prohibited (primary) noxious
12 weed seeds in excess of one per pound, or if it contains viable,
13 restricted (secondary) noxious weed seeds in excess of twenty-five per
14 pound. The primary and secondary noxious weed seeds shall be those as
15 named pursuant to the provisions of chapter 15.49 RCW and rules adopted
16 thereunder.

17 **Sec. 2.** RCW 15.53.904 and 1965 ex.s. c 31 s 17 are each amended to
18 read as follows:

19 (1) Any person convicted of violating any of the provisions of this
20 chapter or the rules and regulations issued thereunder or who shall
21 impede, obstruct, hinder, or otherwise prevent or attempt to prevent
22 the department in the performance of its duty in connection with the
23 provisions of this chapter, shall be adjudged guilty of a misdemeanor
24 ~~((and shall be fined not less than fifty dollars nor more than one
25 hundred dollars for the first violation, and not less than two hundred
26 dollars nor more than five hundred dollars for a subsequent violation))~~
27 as provided in RCW 9A.20.021. In all prosecutions under this chapter
28 involving the composition of a lot of commercial feed, a certified copy
29 of the official analysis signed by the department shall be accepted as
30 prima facie evidence of the composition.

31 (2) Any person convicted of intentionally violating RCW
32 15.53.902(4) or the rules issued thereunder is guilty of a gross
33 misdemeanor as provided in RCW 9A.20.021.

34 (3) Nothing in this chapter shall be construed as requiring the
35 department to report for prosecution or for the institution of seizure
36 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)) (4) It shall be the duty of each prosecuting attorney to
4 whom any violation is reported to cause appropriate proceedings to be
5 instituted and prosecuted in a court of competent jurisdiction without
6 delay. Before the department reports a violation for such prosecution,
7 an opportunity shall be given the distributor to present ((his)) the
8 distributor's view in writing or orally to the department.

9 ((+4)) (5) The department is hereby authorized to apply for and
10 the court to grant a temporary or permanent injunction restraining any
11 person from violating or continuing to violate any of the provisions of
12 this chapter or any rule or regulation promulgated under this chapter
13 notwithstanding the existence of other remedies at law. Said
14 injunction to be issued without bond.

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