

SB 5631 - H COMM AMD

By Committee on Agriculture & Natural Resources

NOT CONSIDERED 04/22/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 69.04.331 and 1986 c 203 s 17 are each amended to  
4 read as follows:

5 (1) If a theater or other commercial food service establishment  
6 prepares and sells popcorn for human consumption, the establishment, at  
7 the point of sale, shall disclose by posting a sign in a conspicuous  
8 manner to prospective consumers a statement as to whether the butter or  
9 butter-like flavoring added to or attributed to the popcorn offered for  
10 sale is butter (~~as defined in RCW 15.32.010~~) or is some other  
11 product. If the flavoring is some other product, the establishment  
12 shall also disclose the ingredients of the product.

13 The director of agriculture shall adopt rules prescribing the size  
14 and content of the sign upon which the disclosure is to be made. Any  
15 popcorn sold by or offered for sale by such an establishment to a  
16 consumer in violation of this section or the rules of the director  
17 implementing this section shall be deemed to be misbranded for the  
18 purposes of this chapter.

19 (2) The provisions of subsection (1) of this section do not apply  
20 to packaged popcorn labeled so as to disclose ingredients as required  
21 by law for prepackaged foods.

22 (3) For purposes of this section, "butter" is defined as the food  
23 product usually known as butter, and which is made exclusively from  
24 milk or cream, or both, with or without common salt, and with or  
25 without additional coloring matter, and containing not less than eighty  
26 percent by weight of milkfat, all tolerance having been allowed for.

27 Sec. 2. RCW 15.53.902 and 2005 c 40 s 1 are each amended to read  
28 as follows:

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

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

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

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

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

21 (5) If it is a raw agricultural commodity and it bears or contains  
22 a pesticide chemical which is unsafe within the meaning of section  
23 408(a) of the federal food, drug, and cosmetic act: PROVIDED, That  
24 where a pesticide chemical has been used in or on a raw agricultural  
25 commodity in conformity with an exemption granted or a tolerance  
26 prescribed under section 408 of the federal food, drug, and cosmetic  
27 act and such raw agricultural commodity has been subjected to  
28 processing such as canning, cooking, freezing, dehydrating, or milling,  
29 the residue of such pesticide chemical remaining in or on such  
30 processed feed shall not be deemed unsafe if such residue in or on the  
31 raw agricultural commodity has been removed to the extent possible in  
32 good manufacturing practice and the concentration of such residue in  
33 the processed feed is not greater than the tolerance prescribed for the  
34 raw agricultural commodity unless the feeding of such processed feed  
35 will result or is likely to result in a pesticide residue in the edible  
36 product of the animal, which is unsafe within the meaning of section  
37 408(a) of the federal food, drug, and cosmetic act; or

1 (6) If it is, or it bears or contains any color additive which is  
2 unsafe within the meaning of section ((706)) 721 of the federal food,  
3 drug, and cosmetic act (21 U.S.C. Sec. 379e); or

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

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

10 (9) If its composition or quality falls below or differs from that  
11 which it is purported or is represented to possess by its labeling; or

12 (10) If it contains a drug and the methods used in or the  
13 facilities or controls used for its manufacture, processing, or  
14 packaging do not conform to current good manufacturing practice rules  
15 adopted by the department to assure that the drug meets the  
16 requirements of this chapter as to safety and has the identity and  
17 strength and meets the quality and purity characteristics that it  
18 purports or is represented to possess. In adopting such rules, the  
19 department shall adopt the current good manufacturing practice  
20 regulations for type A medicated articles and type B and type C  
21 medicated feeds established under authority of the federal food, drug,  
22 and cosmetic act, unless the department determines that they are not  
23 appropriate to the conditions that exist in this state; or

24 (11) If it contains viable, prohibited (primary) noxious weed seeds  
25 in excess of one per pound, or if it contains viable, restricted  
26 (secondary) noxious weed seeds in excess of twenty-five per pound. The  
27 primary and secondary noxious weed seeds shall be those as named  
28 pursuant to the provisions of chapter 15.49 RCW and rules adopted  
29 thereunder.

30 **Sec. 3.** RCW 15.65.033 and 2002 c 313 s 3 are each amended to read  
31 as follows:

32 This chapter and the rules adopted under it are only one aspect of  
33 the comprehensively regulated agricultural industry.

34 (1) Other laws applicable to agricultural commodities include the  
35 following chapters and the rules adopted thereunder:

36 Chapter 15.08 RCW Horticultural pests and diseases;

37 Chapter 15.09 RCW Horticultural pest and disease board;

1 Chapter 15.13 RCW Horticultural plants, Christmas trees, and  
2 facilities--Inspection and licensing;  
3 Chapter 15.14 RCW Planting stock;  
4 Chapter 15.15 RCW Certified seed potatoes;  
5 Chapter 15.17 RCW Standards of grades and packs;  
6 Chapter 15.19 RCW Certification and inspection of ginseng;  
7 Chapter 15.30 RCW Controlled atmosphere storage of fruits and  
8 vegetables;  
9 Chapter 15.49 RCW Seeds;  
10 Chapter 15.51 RCW Brassica seed production;  
11 Chapter 15.53 RCW Commercial feed;  
12 Chapter 15.54 RCW Fertilizers, minerals, and limes;  
13 Chapter 15.58 RCW Washington pesticide control act;  
14 Chapter 15.60 RCW Apiaries;  
15 Chapter 15.64 RCW Farm marketing;  
16 Chapter 15.83 RCW Agricultural marketing and fair practices;  
17 Chapter 15.85 RCW Aquaculture marketing;  
18 Chapter 15.86 RCW Organic (~~food~~) products;  
19 Chapter 15.92 RCW Center for sustaining agriculture and natural  
20 resources;  
21 Chapter 17.21 RCW Washington pesticide application act;  
22 Chapter 17.24 RCW Insect pests and plant diseases;  
23 Chapter 19.94 RCW Weights and measures;  
24 Chapter 20.01 RCW Agricultural products--Commission merchants,  
25 dealers, brokers, buyers, agents;  
26 Chapter 22.09 RCW Agricultural commodities;  
27 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including  
28 provisions of 21 C.F.R. relating to the general manufacturing  
29 practices, food labeling, food standards, food additives, and pesticide  
30 tolerances;  
31 Chapter 69.07 RCW Washington food processing act;  
32 Chapter 69.25 RCW Washington wholesome eggs and egg products act;  
33 Chapter 69.28 RCW Honey;  
34 7 U.S.C., section 136, Federal insecticide, fungicide, and  
35 rodenticide act.  
36 (2) In addition to the laws and regulations listed in subsection  
37 (1) of this section that apply to the agricultural industry as a whole,

1 the dry pea and lentil industry is regulated by or must comply with the  
2 additional laws and rules adopted under 7 U.S.C., chapter 38,  
3 agricultural marketing act.

4 **Sec. 4.** RCW 15.66.017 and 2002 c 313 s 41 are each amended to read  
5 as follows:

6 This chapter and the rules adopted under it are only one aspect of  
7 the comprehensively regulated agricultural industry.

8 (1) Other laws applicable to agricultural commodities include the  
9 following chapters and the rules adopted thereunder:

- 10 Chapter 15.08 RCW Horticultural pests and diseases;
- 11 Chapter 15.09 RCW Horticultural pest and disease board;
- 12 Chapter 15.13 RCW Horticultural plants, Christmas trees, and  
13 facilities--Inspection and licensing;
- 14 Chapter 15.14 RCW Planting stock;
- 15 Chapter 15.15 RCW Certified seed potatoes;
- 16 Chapter 15.17 RCW Standards of grades and packs;
- 17 Chapter 15.19 RCW Certification and inspection of ginseng;
- 18 Chapter 15.30 RCW Controlled atmosphere storage of fruits and  
19 vegetables;
- 20 Chapter 15.49 RCW Seeds;
- 21 Chapter 15.51 RCW Brassica seed production;
- 22 Chapter 15.53 RCW Commercial feed;
- 23 Chapter 15.54 RCW Fertilizers, minerals, and limes;
- 24 Chapter 15.58 RCW Washington pesticide control act;
- 25 Chapter 15.60 RCW Apiaries;
- 26 Chapter 15.64 RCW Farm marketing;
- 27 Chapter 15.83 RCW Agricultural marketing and fair practices;
- 28 Chapter 15.85 RCW Aquaculture marketing;
- 29 Chapter 15.86 RCW Organic (~~food~~) products;
- 30 Chapter 15.92 RCW Center for sustaining agriculture and natural  
31 resources;
- 32 Chapter 17.21 RCW Washington pesticide application act;
- 33 Chapter 17.24 RCW Insect pests and plant diseases;
- 34 Chapter 19.94 RCW Weights and measures;
- 35 Chapter 20.01 RCW Agricultural products--Commission merchants,  
36 dealers, brokers, buyers, agents;
- 37 Chapter 22.09 RCW Agricultural commodities;

1 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including  
2 provisions of 21 C.F.R. relating to the general manufacturing  
3 practices, food labeling, food standards, food additives, and pesticide  
4 tolerances;

5 Chapter 69.07 RCW Washington food processing act;

6 Chapter 69.25 RCW Washington wholesome eggs and egg products act;

7 Chapter 69.28 RCW Honey;

8 7 U.S.C., section 136, Federal insecticide, fungicide, and  
9 rodenticide act.

10 (2) In addition to the laws and regulations listed in subsection  
11 (1) of this section that apply to the agricultural industry as a whole,  
12 the potato industry is regulated by or must comply with the following  
13 additional laws and the rules or regulations adopted thereunder:

14 (a) 7 C.F.R., Part 51, United States standards for grades of  
15 potatoes;

16 (b) 7 C.F.R., Part 946, Federal marketing order for Irish potatoes  
17 grown in Washington;

18 (c) 7 C.F.R., Part 1207, Potato research and promotion plan.

19 (3) In addition to the laws and regulations listed in subsection  
20 (1) of this section that apply to the agricultural industry as a whole,  
21 the wheat and barley industries are regulated by or must comply with  
22 the following additional laws and the rules adopted thereunder:

23 (a) 7 U.S.C., section 1621, Agricultural marketing act;

24 (b) Chapter 70.94 RCW, Washington clean air act, agricultural  
25 burning.

26 (4) In addition to the laws and regulations listed in subsection  
27 (1) of this section that apply to the agricultural industry as a whole,  
28 the poultry industry is regulated by or must comply with the following  
29 additional laws and the rules adopted thereunder:

30 (a) 21 U.S.C., chapter 10, Poultry and poultry products inspection;

31 (b) 21 U.S.C., chapter 9, Packers and stockyards;

32 (c) 7 U.S.C., section 1621, Agricultural marketing act;

33 (d) Washington fryer commission labeling standards.

34 **Sec. 5.** RCW 15.24.900 and 2002 c 313 s 134 are each amended to  
35 read as follows:

36 (1) This chapter is passed:

1 (a) In the exercise of the police power of the state to assure,  
2 through this chapter, and other chapters, that the apple industry is  
3 highly regulated to protect the public health, to prevent fraudulent  
4 practices, to promote the welfare of the state, and to stabilize and  
5 protect the apple industry of the state as a vital and integral part of  
6 its economy for the benefit of all its citizens;

7 (b) Because the apple crop grown in Washington comprises one of the  
8 major agricultural crops of Washington, and that therefore the business  
9 of selling and distributing such crop and the expanding and protection  
10 of its market is of public interest;

11 (c) Because it is necessary and expedient to enhance the reputation  
12 of Washington apples in domestic and foreign markets;

13 (d) Because it is necessary to discover the health giving qualities  
14 and food and dietetic value of Washington apples, and to spread that  
15 knowledge throughout the world in order to increase the consumption of  
16 Washington apples;

17 (e) Because Washington grown apples are handicapped by high freight  
18 rates in competition with eastern and foreign grown apples in the  
19 markets of the world, and this disadvantage can only be overcome by  
20 education and advertising;

21 (f) Because the stabilizing and promotion of the apple industry,  
22 the enlarging of its markets, and the increasing of the consumption of  
23 apples are necessary to assure and increase the payment of taxes to the  
24 state and its subdivisions, to alleviate unemployment within the state,  
25 and increase wages for agricultural labor;

26 (g) To disseminate information giving the public full knowledge of  
27 the manner of production, the cost and expense thereof, the care taken  
28 to produce and sell only apples of the finest quality, the methods and  
29 care used in preparing for market, and the methods of sale and  
30 distribution to increase the amount secured by the producer therefor,  
31 so that they can pay higher wages and pay their taxes, and by such  
32 information to reduce the cost of distribution so that the spread  
33 between the cost to the consumer and the amount received by the  
34 producer will be reduced to the minimum absolutely necessary; and

35 (h) To protect the general public by educating it in reference to  
36 the various varieties and grades of Washington apples, the time to use  
37 and consume each variety, and the uses to which each variety should be  
38 put.

1 (2) The history, economy, culture, and future of Washington state's  
2 agricultural industry involves the apple industry. In order to develop  
3 and promote apples and apple products as part of an existing  
4 comprehensive scheme to regulate those products, the legislature  
5 declares:

6 (a) That it is vital to the continued economic well-being of the  
7 citizens of this state and their general welfare that its apple and  
8 apple products be properly promoted by establishing orderly, fair,  
9 sound, efficient, and unhampered marketing, grading, and standards of  
10 and for apples and apple products; and by working to stabilize the  
11 apple industry and by increasing consumption of apples and apple  
12 products within the state, nation, and internationally;

13 (b) That apple producers operate within a regulatory environment  
14 that imposes burdens on them for the benefit of society and the  
15 citizens of the state and includes restrictions on marketing autonomy.  
16 Those restrictions may impair the agricultural producer's ability to  
17 compete in local, domestic, and foreign markets;

18 (c) That it is in the overriding public interest that support for  
19 the apple industry be clearly expressed, that adequate protection be  
20 given to agricultural commodities, uses, activities, and operations,  
21 and that apples and apple products be promoted individually, as well as  
22 part of a comprehensive promotion of the agricultural industry to:

23 (i) Enhance the reputation and image of Washington state's  
24 agricultural industry;

25 (ii) Increase the sale and use of apples and apple products in  
26 local, domestic, and foreign markets;

27 (iii) Protect the public and consumers by correcting any false or  
28 misleading information and by educating the public in reference to the  
29 quality, care, and methods used in the production of apples and apple  
30 products, and in reference to the various sizes, grades, and varieties  
31 of apples and the uses to which each should be put;

32 (iv) Increase the knowledge of the health-giving qualities and  
33 dietetic value of apple products; and

34 (v) Support and engage in programs or activities that benefit the  
35 production, handling, processing, marketing, and uses of apples and  
36 apple products;

37 (d) That the apple industry is a highly regulated industry and that



1 this chapter and the rules adopted under it are only one aspect of the  
2 regulation of the industry. Other regulations and restraints  
3 applicable to the apple industry include:

- 4 (i) Washington agriculture general provisions, chapter 15.04 RCW;
- 5 (ii) Horticultural pests and diseases, chapter 15.08 RCW;
- 6 (iii) Horticultural pest and disease board, chapter 15.09 RCW;
- 7 (iv) Washington pesticide application act, chapter 17.21 RCW;
- 8 (v) Standards of grades and packs, chapter 15.17 RCW;
- 9 ~~((+iv))~~ (vi) Tree fruit research, chapter 15.26 RCW;
- 10 ~~((+v))~~ (vii) Controlled atmosphere storage, chapter 15.30 RCW;
- 11 ~~((+vi))~~ (viii) Higher education in agriculture, chapter ~~((28.30~~  
12 ~~{28B.30})~~) 28B.30 RCW;
- 13 ~~((+vii))~~ (ix) Department of agriculture, chapter 43.23 RCW;
- 14 ~~((+viii))~~ (x) Fertilizers, minerals, and limes under chapter 15.54  
15 RCW;
- 16 ~~((+ix))~~ (xi) Organic ~~((food))~~ products act under chapter 15.86  
17 RCW;
- 18 ~~((+x))~~ (xii) Intrastate commerce in food, drugs, and cosmetics  
19 under chapter 69.04 RCW and rules;
- 20 ~~((+xi))~~ (xiii) Horticultural plants, Christmas trees, and  
21 facilities--Inspection and licensing under chapter 15.13 RCW;
- 22 ~~((+xii))~~ (xiv) Planting stock under chapter 15.14 RCW;
- 23 ~~((+xiii))~~ (xv) Washington pesticide control act under chapter  
24 15.58 RCW;
- 25 ~~((+xiv))~~ (xvi) Farm marketing under chapter 15.64 RCW;
- 26 ~~((+xv))~~ (xvii) Insect pests and plant diseases under chapter 17.24  
27 RCW;
- 28 ~~((+xvi))~~ (xviii) Weights and measures under chapter 19.94 RCW;
- 29 ~~((+xvii))~~ (xix) Agricultural products--Commission merchants,  
30 dealers, brokers, buyers, and agents under chapter 20.01 RCW; and
- 31 ~~((+xviii))~~ (xx) The federal insecticide, fungicide, and  
32 rodenticide act under 7 U.S.C. Sec. 136; and
- 33 (e) That this chapter is in the exercise of the police powers of  
34 this state for the purposes of protecting the health, peace, safety,  
35 and general welfare of the people of this state.

36 **Sec. 6.** RCW 43.23.010 and 2002 c 354 s 244 are each amended to  
37 read as follows:

1 In order to obtain maximum efficiency and effectiveness within the  
2 department of agriculture, the director may create such administrative  
3 divisions within the department as he or she deems necessary. The  
4 director shall appoint a deputy director and a confidential secretary  
5 for the deputy director, as well as such assistant directors as shall  
6 be needed to administer the several divisions within the department.  
7 The director shall appoint no more than eight assistant directors. The  
8 officers appointed under this section are exempt from the provisions of  
9 the state civil service law as provided in RCW 41.06.070(1)(g), and  
10 shall be paid salaries to be fixed by the governor in accordance with  
11 the procedure established by law for the fixing of salaries for  
12 officers exempt from the operation of the state civil service law. The  
13 director shall also appoint and deputize a state veterinarian who shall  
14 be an experienced veterinarian properly licensed to practice veterinary  
15 medicine in this state.

16 The director of agriculture shall have charge and general  
17 supervision of the department and may assign supervisory and  
18 administrative duties other than those specified in RCW 43.23.070 to  
19 the division which in his or her judgment can most efficiently carry on  
20 those functions.

21 **Sec. 7.** RCW 16.65.440 and 2003 c 326 s 89 and 2003 c 53 s 116 are  
22 each reenacted to read as follows:

23 (1) Except as provided in subsection (2) of this section, any  
24 person who violates any provisions or requirements of this chapter or  
25 rules adopted by the director pursuant to this chapter is guilty of a  
26 misdemeanor.

27 (2) A second or subsequent violation is a gross misdemeanor.

28 **Sec. 8.** RCW 60.13.030 and 1985 c 412 s 3 are each amended to read  
29 as follows:

30 (1) Starting on the date a producer delivers grain, hay, or straw  
31 to a preparer, the producer has a first priority statutory lien,  
32 referred to as a "preparer lien."

33 (2) This preparer lien shall continue (~~(twenty)~~) for forty-five  
34 days after payment for the product is due and remains unpaid, without  
35 filing any notice of lien, for the contract price, if any, or the fair  
36 market value of the products delivered.



1 expenditures made to carry out the inspection, grading, and testing of  
2 hops.

3 (3) All moneys collected by the grain warehouse audit program,  
4 including grain warehouse license fees pursuant to RCW 22.09.050 and  
5 22.09.055, shall be deposited by the director into the grain warehouse  
6 audit account, hereby created within the agricultural local fund  
7 established in RCW 43.23.230. Moneys collected shall be used to  
8 support the grain warehouse audit program.

9 **Sec. 10.** RCW 16.24.120 and 1989 c 286 s 12 are each amended to  
10 read as follows:

11 Upon taking possession of any livestock at large contrary to the  
12 provisions of ((~~RCW 16.13.020~~)) this chapter, or any unclaimed  
13 livestock submitted or impounded, by any person, at any public  
14 livestock market or any other facility approved by the director, the  
15 sheriff or brand inspector shall cause it to be transported to and  
16 impounded at the nearest public livestock market licensed under chapter  
17 16.65 RCW or at such place as approved by the director. If the sheriff  
18 has impounded an animal in accordance with this section, ((~~he~~)) the  
19 sheriff shall forthwith notify the nearest brand inspector of the  
20 department of agriculture, who shall examine the animal and, by brand,  
21 tattoo, or other identifying characteristic, shall attempt to ascertain  
22 the ownership thereof.

23 **Sec. 11.** RCW 16.24.130 and 1995 c 374 s 69 are each amended to  
24 read as follows:

25 The brand inspector shall cause to be published once in a newspaper  
26 published in the county where the animal was found, a notice of the  
27 impounding.

28 The notice shall state:

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

31 (2) When and where found;

32 (3) Where impounded; and

33 (4) That if unclaimed, the animal will be sold at a public  
34 livestock market sale or other public sale, and the date of such sale:  
35 PROVIDED, That if no newspaper shall be published in such county,

1 copies of the notice shall be posted at four commonly frequented places  
2 therein.

3 If the animal is marked with a brand (~~(or tattoo)~~) which is  
4 registered with the director of agriculture, the brand inspector, on or  
5 before the date of publication or posting, shall send a copy of the  
6 notice to the owner of record by registered mail.

7 **Sec. 12.** RCW 16.04.025 and 1989 c 286 s 21 are each amended to  
8 read as follows:

9 If the owner or the person having in charge or possession such  
10 animals is unknown to the person sustaining the damage, the person  
11 retaining such animals shall, within twenty-four hours, notify the  
12 county sheriff or the nearest state brand inspector as to the number,  
13 description, and location of the animals. The county sheriff or brand  
14 inspector shall examine the animals by brand, tattoo, or other  
15 identifying characteristics and attempt to ascertain ownership. If the  
16 animal is marked with a brand (~~(or tattoo)~~) which is registered with  
17 the director of agriculture, the brand inspector or county sheriff  
18 shall furnish this information and other pertinent information to the  
19 person holding the animals who in turn shall send the notice required  
20 in RCW 16.04.020 to the animals' owner of record by certified mail.

21 If the county sheriff or the brand inspector determines that there  
22 is no apparent damage to the property of the person retaining the  
23 animals, or if the person sustaining the damage contacts the county  
24 sheriff or brand inspector to have the animals removed from his or her  
25 property, such animals shall be removed in accordance with chapter  
26 16.24 RCW. Such removal shall not prejudice the property owner's  
27 ability to recover damages through civil suit.

28 **Sec. 13.** RCW 16.72.040 and 1955 c 321 s 5 are each amended to read  
29 as follows:

30 The owners of any fox, mink, or marten may mark them by branding  
31 with tattoo or other marks for the purpose of identification(~~(, but no~~  
32 ~~person shall be entitled to ownership in or rights under any particular~~  
33 ~~branding marks unless and until the branding marks are recorded with~~  
34 ~~the department in the same manner and with like effect as brands of~~  
35 ~~other animals are recorded as provided in chapter 16.56 RCW)).~~

1       **Sec. 14.** RCW 15.80.420 and 1969 ex.s. c 100 s 13 are each amended  
2 to read as follows:

3       It shall be a violation of this chapter to transport by highway any  
4 hay, straw, or grain which has been purchased by weight or will be  
5 purchased by weight, unless it is weighed and a certified weight ticket  
6 is issued thereon, by the first licensed public weighmaster which would  
7 be encountered on the ordinary route to the destination where the hay,  
8 straw, or grain is to be unloaded(~~(+PROVIDED,)~~). If agreed upon in  
9 writing between a dealer or commission merchant and a grower or  
10 consigner, a certified vehicle tare weight and certified vehicle gross  
11 weight may be obtained from a hay or straw processing facility with a  
12 scale approved by the director. However, (~~That~~) this section shall  
13 not apply to the following:

14       (1) The transportation of, or sale of, hay, straw, or grain by the  
15 primary producer thereof;

16       (2) The transportation of hay, straw, or grain by an  
17 agriculturalist for use in his or her own growing, or animal or poultry  
18 husbandry endeavors;

19       (3) The transportation of grain by a party who is either a  
20 warehouseman or grain dealer and who is licensed under the grain  
21 warehouse laws and who makes such shipment in the course of the  
22 business for which he or she is so licensed;

23       (4) The transportation of hay, straw or grain by retail merchants,  
24 except for the provisions of RCW 15.80.430 and 15.80.440;

25       (5) The transportation of grain from a warehouse licensed under the  
26 grain warehouse laws when the transported grain is consigned directly  
27 to a public terminal warehouse.

28       **Sec. 15.** RCW 15.80.440 and 1969 ex.s. c 100 s 15 are each amended  
29 to read as follows:

30       (1) The driver of any vehicle previously weighed by a licensed  
31 public weighmaster may be required to reweigh the vehicle and load at  
32 the nearest scale.

33       (2) The driver of any vehicle operated by or for a retail merchant  
34 which vehicle contains hay, straw, or grain may be required to weigh  
35 the vehicle and load at the nearest scale(~~(, and)~~). If agreed upon in  
36 writing between a dealer or commission merchant and a grower or

1 consigner, a certified vehicle tare weight and certified vehicle gross  
2 weight may be obtained from a hay or straw processing facility with a  
3 scale approved by the director.

4 (3) If the weight is found to be less than the amount appearing on  
5 the invoice, a copy of which is required to be carried on the vehicle,  
6 the director shall report the finding to the consignee and may cause  
7 such retail merchant to be prosecuted in accordance with the provisions  
8 of this chapter.

9 **Sec. 16.** RCW 15.58.150 and 2003 c 212 s 3 are each amended to read  
10 as follows:

11 (1) It is unlawful for any person to distribute within the state or  
12 deliver for transportation or transport in intrastate commerce or  
13 between points within this state through any point outside this state  
14 any of the following:

15 (a) Any pesticide which has not been registered pursuant to the  
16 provisions of this chapter;

17 (b) Any pesticide if any of the claims made for it or any of the  
18 directions for its use or other labeling differs from the  
19 representations made in connection with its registration, or if the  
20 composition of a pesticide differs from its composition as represented  
21 in connection with its registration: PROVIDED, That at the discretion  
22 of the director, a change in the labeling or formula of a pesticide may  
23 be made within a registration period without requiring reregistration  
24 of the product;

25 (c) Any pesticide unless it is in the registrant's or the  
26 manufacturer's unbroken immediate container and there is affixed to  
27 such container, and to the outside container or wrapper of the retail  
28 package, if there is one through which the required information on the  
29 immediate container cannot be clearly read, a label bearing the  
30 information required in this chapter and the rules adopted under this  
31 chapter;

32 (d) Any pesticide (~~including arsenicals, fluorides, fluosilicates,~~  
33 ~~and/or any other white powdered pesticides~~) unless (~~they have~~) it  
34 has been distinctly denatured as to color, taste, odor, or form if so  
35 required by rule;

36 (e) Any pesticide which is adulterated or misbranded, or any device  
37 which is misbranded;

1 (f) Any pesticide in containers, violating rules adopted pursuant  
2 to RCW 15.58.040(2)(f) or pesticides found in containers which are  
3 unsafe due to damage.

4 (2) It shall be unlawful:

5 (a) To sell or deliver any pesticide to any person who is required  
6 by law or rules promulgated under such law to be certified, licensed,  
7 or have a permit to use or purchase the pesticide unless such person or  
8 the person's agent, to whom sale or delivery is made, has a valid  
9 certification, license, or permit to use or purchase the kind and  
10 quantity of such pesticide sold or delivered: PROVIDED, That, subject  
11 to conditions established by the director, such permit may be obtained  
12 immediately prior to sale or delivery from any person designated by the  
13 director;

14 (b) For any person to detach, alter, deface or destroy, wholly or  
15 in part, any label or labeling provided for in this chapter or rules  
16 adopted under this chapter, or to add any substance to, or take any  
17 substance from, a pesticide in a manner that may defeat the purpose of  
18 this chapter or the rules adopted thereunder;

19 (c) For any person to use or cause to be used any pesticide  
20 contrary to label directions or to regulations of the director if those  
21 regulations differ from or further restrict the label directions:  
22 PROVIDED, The compliance to the term "contrary to label directions" is  
23 enforced by the director consistent with the intent of this chapter;

24 (d) For any person to use for his or her own advantage or to  
25 reveal, other than to the director or proper officials or employees of  
26 the state, or to the courts of the state in response to a subpoena, or  
27 to physicians, or in emergencies to pharmacists and other qualified  
28 persons for use in the preparation of antidotes, any information  
29 relative to formulas of products acquired by authority of RCW  
30 15.58.060;

31 (e) For any person to make false, misleading, or erroneous  
32 statements or reports concerning any pest during or after a pest  
33 inspection or to fail to comply with criteria established by rule for  
34 structural pest inspections;

35 (f) For any person to make false, misleading, or erroneous  
36 statements or reports in connection with any pesticide complaint or  
37 investigation;



1 (g) For any person to act as, or advertise that they perform the  
2 services of, a structural pest inspector without having a license to  
3 act as a structural pest inspector;

4 (h) For a business to conduct one or more complete wood destroying  
5 organism inspections without first having obtained a structural pest  
6 inspection company license from the department.

7 NEW SECTION. **Sec. 17.** The following acts or parts of acts are  
8 each repealed:

9 (1) RCW 15.58.370 (Results of analyses to be published) and 1971  
10 ex.s. c 190 s 37; and

11 (2) RCW 19.94.505 (Gasoline containing alcohol--Dispensing device  
12 label required--Carbon monoxide nonattainment area--Penalty) and 2000  
13 c 171 s 65, 1992 c 237 s 34, & 1984 c 61 s 1.

14 **Sec. 18.** RCW 15.26.120 and 1969 c 129 s 12 are each amended to  
15 read as follows:

16 There is hereby levied on all commercial tree fruit produced in  
17 this state or held out as being produced in this state for fresh or  
18 processing use, an assessment, initially not to exceed ten cents per  
19 ton on all such tree fruits, except that such assessment for apples for  
20 fresh shipment shall be at the rate of one-half cent per one hundred  
21 pounds gross billing weight. Such assessment on all such commercial  
22 tree fruit shall not become effective until approved by a majority of  
23 such commercial producers of tree fruit voting in a referendum  
24 conducted jointly by the Washington apple (~~(advertising)~~) commission,  
25 Washington state fruit commission, and the department. The respective  
26 commissions shall supply all known producers of tree fruits subject to  
27 their respective commissions with a ballot for the referendum and the  
28 department shall supply all known tree fruit producers not subject to  
29 either of the commissions with a ballot wherein all known producers may  
30 approve or disapprove such assessment. The commission may waive the  
31 payment of assessments by any class of producers of minimal amounts of  
32 tree fruit when the commission determines subsequent to a hearing that  
33 the cost of collecting and keeping records of such assessments is  
34 disproportionate to the return to the commission.



1 decision within twenty days. The department shall provide the decision  
2 to the complainant if the name and address were provided to the  
3 department, and to the dairy producer subject to the complaint, and the  
4 department shall place the decision in the department's administrative  
5 records.

6 (5) The report of findings of any inspection conducted as the  
7 result of either an oral or a written complaint shall be placed in the  
8 department's administrative records. Only findings of violations shall  
9 be entered into the database identified in RCW 90.64.130.

10 (6) A dairy farm that is determined to be a significant contributor  
11 of pollution based on actual water quality tests, photographs, or other  
12 pertinent information is subject to the provisions of this chapter and  
13 to the enforcement provisions of chapters 43.05 and 90.48 RCW,  
14 including civil penalties levied under RCW 90.48.144.

15 (7) If the department determines that an unresolved water quality  
16 problem from a dairy farm requires immediate corrective action, the  
17 department shall notify the producer and the district in which the  
18 problem is located. When corrective actions are required to address  
19 such unresolved water quality problems, the department shall provide  
20 copies of all final dairy farm inspection reports and documentation of  
21 all formal regulatory and enforcement actions taken by the department  
22 against that particular dairy farm to the local conservation district  
23 and to the appropriate dairy farm within twenty days.

24 (8) For a violation of water quality laws that is a first offense  
25 for a dairy producer, the penalty may be waived to allow the producer  
26 to come into compliance with water quality laws. The department shall  
27 record all legitimate violations and subsequent enforcement actions.

28 (9) A discharge, including a storm water discharge, to surface  
29 waters of the state shall not be considered a violation of this  
30 chapter, chapter 90.48 RCW, or chapter 173-201A WAC, and shall  
31 therefore not be enforceable by the department of ecology or a third  
32 party, if at the time of the discharge, a violation is not occurring  
33 under RCW 90.64.010(~~(+18+)~~) (17). In addition, a dairy producer shall  
34 not be held liable for violations of this chapter, chapter 90.48 RCW,  
35 chapter 173-201A WAC, or the federal clean water act due to the  
36 discharge of dairy nutrients to waters of the state resulting from  
37 spreading these materials on lands other than where the nutrients were

1 generated, when the nutrients are spread by persons other than the  
2 dairy producer or the dairy producer's agent.

3 (10) As provided under RCW 7.48.305, agricultural activities  
4 associated with the management of dairy nutrients are presumed to be  
5 reasonable and shall not be found to constitute a nuisance unless the  
6 activity has a substantial adverse effect on public health and safety.

7 (11) This section specifically acknowledges that if a holder of a  
8 general or individual national pollutant discharge elimination system  
9 permit complies with the permit and the dairy nutrient management plan  
10 conditions for appropriate land application practices, the permit  
11 provides compliance with the federal clean water act and acts as a  
12 shield against citizen or agency enforcement for any additions of  
13 pollutants to waters of the state or of the United States as authorized  
14 by the permit.

15 (12) A dairy producer who fails to have an approved dairy nutrient  
16 management plan by July 1, 2002, or a certified dairy nutrient  
17 management plan by December 31, 2003, and for which no appeals have  
18 been filed with the pollution control hearings board, is in violation  
19 of this chapter. Each month beyond these deadlines that a dairy  
20 producer is out of compliance with the requirement for either plan  
21 approval or plan certification shall be considered separate violations  
22 of chapter 90.64 RCW that may be subject to penalties. Such penalties  
23 may not exceed one hundred dollars per month for each violation up to  
24 a combined total of five thousand dollars. The department has  
25 discretion in imposing penalties for failure to meet deadlines for plan  
26 approval or plan certification if the failure to comply is due to lack  
27 of state funding for implementation of the program. Failure to  
28 register as required in RCW 90.64.017 shall subject a dairy producer to  
29 a maximum penalty of one hundred dollars. Penalties shall be levied by  
30 the department.

31 **Sec. 21.** RCW 15.48.280 and 1967 c 114 s 15 are each amended to  
32 read as follows:

33 Seed bailment contracts for the increase of agricultural seeds  
34 shall not create a security interest under the terms of the Uniform  
35 Commercial Code, chapter 62A.9A RCW. No filing, recording, or notice  
36 of a seed bailment contract shall be required under any of the laws of  
37 the state to establish, during the term of a seed bailment contract the

1 validity of any such contracts, nor to establish and confirm in the  
2 bailor the title to all seed, seed stock, plant life and the resulting  
3 seed crop thereof grown or produced by the bailee under the terms of a  
4 bailment contract.

5 **Sec. 22.** RCW 15.60.065 and 1993 c 89 s 18 are each amended to read  
6 as follows:

7 When the county legislative authority determines that it would be  
8 desirable to establish an apiary coordinated area or areas in their  
9 county, they shall make an order fixing a time and place when a hearing  
10 will be held, notice of which shall be published at least once each  
11 week for two successive weeks in a newspaper having general circulation  
12 within the county. It shall be the duty of the county legislative  
13 authority at the time fixed for such hearing, to hear all persons  
14 interested in the establishment of apiary coordinated areas as defined  
15 in this section and RCW ((~~15.60.180, 15.60.190, and 15.60.210~~))  
16 15.60.075 and 15.60.085.

17 **Sec. 23.** RCW 15.60.085 and 1989 c 354 s 68 are each amended to  
18 read as follows:

19 When the county legislative authority of any county deems it  
20 advisable to change the boundary or boundaries of any apiary  
21 coordinated area, a hearing shall be held in the same manner as  
22 provided in RCW ((~~15.60.180~~)) 15.60.065. If the county legislative  
23 authority decides to change the boundary or boundaries of any apiary  
24 coordinated area or areas, they shall within thirty days after the  
25 conclusion of such hearing make an order describing the change or  
26 changes. Such order shall be entered upon the records of the county  
27 and published in a newspaper having general circulation in the county  
28 once each week for four successive weeks.

29 **Sec. 24.** RCW 15.60.095 and 1993 c 89 s 20 are each amended to read  
30 as follows:

31 The county legislative authority of any county with a population of  
32 from forty thousand to less than seventy thousand located east of the  
33 Cascade crest and bordering in the southern side of the Snake river  
34 shall have the power to designate by an order made and published, as  
35 provided in RCW ((~~15.60.190~~)) 15.60.075, certain territories as apiary

1 coordinated areas in which they may designate the number of colonies  
2 per apiary, the distance between apiaries, the minimum required setback  
3 distance from property lines, and the time of year the regulations  
4 shall be in effect. No territory so designated shall be less than two  
5 square miles in area.

6 **Sec. 25.** RCW 15.65.375 and 2002 c 313 s 32 are each amended to  
7 read as follows:

8 Any marketing agreement or order may authorize the members of a  
9 commodity board, or their agents or designees, to participate in  
10 federal or state hearings or other proceedings concerning regulation of  
11 the manufacture, distribution, sale, or use of any pesticide as defined  
12 by RCW 15.58.030(~~(+30)~~) or any agricultural chemical which is of use  
13 or potential use in producing the affected commodity. Any marketing  
14 agreement or order may authorize the expenditure of commodity board  
15 funds for this purpose.

16 **Sec. 26.** RCW 15.66.245 and 2002 c 313 s 63 are each amended to  
17 read as follows:

18 Any marketing agreement or order may authorize the members of a  
19 commodity commission, or their agents or designees, to participate in  
20 federal or state hearings or other proceedings concerning regulation of  
21 the manufacture, distribution, sale, or use of any pesticide as defined  
22 by RCW 15.58.030(~~(+30)~~) or any agricultural chemical which is of use  
23 or potential use in producing the affected commodity. Any marketing  
24 agreement or order may authorize the expenditure of commodity  
25 commission funds for this purpose.

26 **Sec. 27.** RCW 15.76.115 and 2010 1st sp.s. c 37 s 912 are each  
27 amended to read as follows:

28 The fair fund is created in the custody of the state treasury. All  
29 moneys received by the department of agriculture for the purposes of  
30 this fund and from RCW 67.16.105(~~(+4)~~) (7) shall be deposited into the  
31 fund. At the beginning of fiscal year 2002 and each fiscal year  
32 thereafter, the state treasurer shall transfer into the fair fund from  
33 the general fund the sum of two million dollars, except for fiscal year  
34 2011 the state treasurer shall transfer into the fair fund from the  
35 general fund the sum of one million one hundred three thousand dollars.

1 Expenditures from the fund may be used only for assisting fairs in the  
2 manner provided in this chapter. Only the director of agriculture or  
3 the director's designee may authorize expenditures from the fund. The  
4 fund is subject to allotment procedures under chapter 43.88 RCW, but no  
5 appropriation is required for expenditures.

6 **Sec. 28.** RCW 17.21.150 and 1994 c 283 s 18 are each amended to  
7 read as follows:

8 A person who has committed any of the following acts is declared to  
9 be in violation of this chapter:

- 10 (1) Made false or fraudulent claims through any media,  
11 misrepresenting the effect of materials or methods to be utilized;
- 12 (2) Applied worthless or improper pesticides;
- 13 (3) Operated a faulty or unsafe apparatus;
- 14 (4) Operated in a faulty, careless, or negligent manner;
- 15 (5) Refused or neglected to comply with the provisions of this  
16 chapter, the rules adopted hereunder, or of any lawful order of the  
17 director including a final order of the director directing payment of  
18 a civil penalty. In an adjudicative proceeding arising from the  
19 department's denial of a license for failure to pay a civil penalty the  
20 subject shall be limited to whether the payment was made and the  
21 proceeding may not be used to collaterally attack the final order;
- 22 (6) Refused or neglected to keep and maintain the pesticide  
23 application records required by rule, or to make reports when and as  
24 required;
- 25 (7) Made false or fraudulent records, invoices, or reports;
- 26 (8) Acted as a certified applicator without having provided direct  
27 supervision to an unlicensed person (~~as defined in RCW~~  
28 ~~17.21.020(12)~~);
- 29 (9) Operated an unlicensed apparatus or an apparatus without a  
30 license plate issued for that particular apparatus;
- 31 (10) Used fraud or misrepresentation in making an application for  
32 a license or renewal of a license;
- 33 (11) Is not qualified to perform the type of pest control under the  
34 conditions and in the locality in which he or she operates or has  
35 operated, regardless of whether or not he or she has previously passed  
36 a pesticide license examination;

1 (12) Aided or abetted a licensed or an unlicensed person to evade  
2 the provisions of this chapter, combined or conspired with such a  
3 licensed or an unlicensed person to evade the provisions of this  
4 chapter, or allowed one's license to be used by an unlicensed person;

5 (13) Knowingly made false, misleading, or erroneous statements or  
6 reports during or after an inspection concerning any infestation or  
7 infection of pests found on land or in connection with any pesticide  
8 complaint or investigation;

9 (14) Impersonated any state, county or city inspector or official;

10 (15) Applied a restricted use pesticide without having a certified  
11 applicator in direct supervision;

12 (16) Operated a commercial pesticide application business: (a)  
13 Without an individual licensed as a commercial pesticide applicator or  
14 (b) with a licensed commercial pesticide applicator not licensed in the  
15 classification or classifications in which the business operates; or

16 (17) Operated as a commercial pesticide applicator without meeting  
17 the financial responsibility requirements including not having a  
18 properly executed financial responsibility insurance certificate or  
19 surety bond form on file with the department.

20 **Sec. 29.** RCW 17.26.020 and 2003 c 39 s 10 are each amended to read  
21 as follows:

22 (1) Facilitating the control of spartina and purple loosestrife is  
23 a high priority for all state agencies.

24 (2) The department of natural resources is responsible for spartina  
25 and purple loosestrife control on state-owned aquatic lands managed by  
26 the department of natural resources.

27 (3) The department of fish and wildlife is responsible for spartina  
28 and purple loosestrife control on state-owned aquatic lands managed by  
29 the department of fish and wildlife.

30 (4) The state parks and recreation commission is responsible for  
31 spartina and purple loosestrife control on state-owned aquatic lands  
32 managed by the state parks and recreation commission.

33 (5) Unless the context clearly requires otherwise, the definitions  
34 in this subsection apply throughout this chapter, RCW 90.48.020,  
35 90.58.030, and (~~77.55.150~~) 77.55.081:

36 (a) "Spartina" means *Spartina alterniflora*, *Spartina anglica*,  
37 *Spartina x townsendii*, and *Spartina patens*.



1 (b) "Purple loosestrife" means *Lythrum salicaria* and *Lythrum*  
2 *virgatum*.

3 (c) "Aquatic noxious weed" means an aquatic weed on the state  
4 noxious weed list adopted under RCW 17.10.080.

5 **Sec. 30.** RCW 15.65.280 and 2010 c 8 s 6075 are each amended to  
6 read as follows:

7 The powers and duties of the board shall be:

8 (1) To elect a chair and such other officers as it deems advisable;

9 (2) To advise and counsel the director with respect to the  
10 administration and conduct of such marketing agreement or order;

11 (3) To recommend to the director administrative rules and orders  
12 and amendments thereto for the exercise of his or her powers in  
13 connection with such agreement or order;

14 (4) To advise the director upon (~~any and~~) all assessments  
15 provided pursuant to the terms of such agreement or order and upon the  
16 collection, deposit, withdrawal, disbursement and paying out of all  
17 moneys;

18 (5) To assist the director in the collection of such necessary  
19 information and data as the director may deem necessary in the proper  
20 administration of this chapter;

21 (6) To administer the order or agreement as its administrative  
22 board if the director designates it so to do in such order or  
23 agreement;

24 (7) To work cooperatively with other local, state, and federal  
25 agencies; universities; and national organizations for the purposes  
26 provided in the board's marketing order or agreement;

27 (8) To enter into contracts or interagency agreements with any  
28 private or public agency, whether federal, state, or local, to carry  
29 out the purposes provided in the board's marketing order or agreement.  
30 Personal service contracts must comply with chapter 39.29 RCW;

31 (9) To accept and expend or retain any gifts, bequests,  
32 contributions, or grants from private persons or private and public  
33 agencies to carry out the purposes provided in the board's marketing  
34 order or agreement;

35 (10) To retain in emergent situations the services of private legal  
36 counsel to conduct legal actions on behalf of a board. The retention

1 of a private attorney is subject to review by the office of the  
2 attorney general;

3 (11) To engage in appropriate fund-raising activities for the  
4 purpose of supporting activities of the board authorized by the  
5 marketing order or agreement;

6 (12) To enter into contracts or agreements for research in the  
7 production, irrigation, processing, transportation, marketing, use, or  
8 distribution of an affected commodity;

9 (13) To participate in international, federal, state, and local  
10 hearings, meetings, and other proceedings relating to the production,  
11 irrigation, manufacture, regulation, transportation, distribution,  
12 sale, or use of affected commodities including activities authorized  
13 under RCW ((~~42.17.190~~)) 42.17A.635, including the reporting of those  
14 activities to the public disclosure commission;

15 (14) To maintain a list of the names and addresses of affected  
16 producers that may be compiled from information used to collect  
17 assessments under the marketing order or agreement, and data on the  
18 value of each producer's production for a minimum three-year period;

19 (15) To maintain a list of the names and addresses of persons who  
20 handle the affected commodity within the affected area and data on the  
21 amount and value of the commodity handled for a minimum three-year  
22 period by each person; and

23 (16) To perform such other duties as the director may prescribe in  
24 the marketing agreement or order.

25 Any agreement or order under which the commodity board administers  
26 the order or agreement shall (if so requested by the affected producers  
27 within the affected area in the proposal or promulgation hearing)  
28 contain provisions whereby the director reserves the power to approve  
29 or disapprove every order, rule or directive issued by the board, in  
30 which event such approval or disapproval shall be based on whether or  
31 not the director believes the board's action has been carried out in  
32 conformance with the purposes of this chapter.

33 **Sec. 31.** RCW 15.66.140 and 2003 c 396 s 2 are each amended to read  
34 as follows:

35 Every commodity commission shall have such powers and duties in  
36 accordance with provisions of this chapter as may be provided in the  
37 marketing order and shall have the following powers and duties:

- 1 (1) To elect a chair and such other officers as determined  
2 advisable;
- 3 (2) To adopt, rescind, and amend rules and regulations reasonably  
4 necessary for the administration and operation of the commission and  
5 the enforcement of its duties under the marketing order;
- 6 (3) To administer, enforce, direct and control the provisions of  
7 the marketing order and of this chapter relating thereto;
- 8 (4) To employ and discharge at its discretion such administrators  
9 and additional personnel, attorneys, advertising and research agencies  
10 and other persons and firms that it may deem appropriate and pay  
11 compensation to the same;
- 12 (5) To acquire personal property and purchase or lease office space  
13 and other necessary real property and transfer and convey the same;
- 14 (6) To institute and maintain in its own name any and all legal  
15 actions, including actions by injunction, mandatory injunction or civil  
16 recovery, or proceedings before administrative tribunals or other  
17 governmental authorities necessary to carry out the provisions of this  
18 chapter and of the marketing order;
- 19 (7) To keep accurate records of all its receipts and disbursements,  
20 which records shall be open to inspection and audit by the state  
21 auditor or private auditor designated by the state auditor at least  
22 every five years;
- 23 (8) Borrow money and incur indebtedness;
- 24 (9) Make necessary disbursements for routine operating expenses;
- 25 (10) To expend funds for commodity-related education, training, and  
26 leadership programs as each commission deems expedient;
- 27 (11) To work cooperatively with other local, state, and federal  
28 agencies; universities; and national organizations for the purposes  
29 provided in the commission's marketing order;
- 30 (12) To enter into contracts or interagency agreements with any  
31 private or public agency, whether federal, state, or local, to carry  
32 out the purposes provided in the commission's marketing order.  
33 Personal service contracts must comply with chapter 39.29 RCW;
- 34 (13) To accept and expend or retain any gifts, bequests,  
35 contributions, or grants from private persons or private and public  
36 agencies to carry out the purposes provided in the commission's  
37 marketing order;

1 (14) To enter into contracts or agreements for research in the  
2 production, irrigation, processing, transportation, marketing, use, or  
3 distribution of an affected commodity;

4 (15) To retain in emergent situations the services of private legal  
5 counsel to conduct legal actions on behalf of a commission. The  
6 retention of a private attorney is subject to review by the office of  
7 the attorney general;

8 (16) To engage in appropriate fund-raising activities for the  
9 purpose of supporting activities of the commission authorized by the  
10 marketing order;

11 (17) To participate in international, federal, state, and local  
12 hearings, meetings, and other proceedings relating to the production,  
13 irrigation, manufacture, regulation, transportation, distribution,  
14 sale, or use of affected commodities including activities authorized  
15 under RCW ((42.17.190)) 42.17A.635, including the reporting of those  
16 activities to the public disclosure commission;

17 (18) To maintain a list of the names and addresses of affected  
18 producers that may be compiled from information used to collect  
19 assessments under the provisions of the marketing order and data on the  
20 value of each producer's production for a minimum three-year period;

21 (19) To maintain a list of the names and addresses of persons who  
22 handle the affected commodity within the affected area and data on the  
23 amount and value of the commodity handled for a minimum three-year  
24 period by each person;

25 (20) To request records and audit the records of producers or  
26 handlers of the affected commodity during normal business hours to  
27 determine whether the appropriate assessment has been paid;

28 (21) To acquire or own intellectual property rights, licenses, or  
29 patents and to collect royalties resulting from commission-funded  
30 research related to the affected commodity; and

31 (22) Such other powers and duties that are necessary to carry out  
32 the purposes of this chapter.

33 **Sec. 32.** RCW 15.89.070 and 2009 c 373 s 9 are each amended to read  
34 as follows:

35 The commission shall:

36 (1) Elect a chair and officers. The officers must include a  
37 treasurer who is responsible for all receipts and disbursements by the

1 commission and the faithful discharge of whose duties shall be  
2 guaranteed by a bond at the sole expense of the commission. The  
3 commission must adopt rules for its own governance that provide for the  
4 holding of an annual meeting for the election of officers and the  
5 transaction of other business and for other meetings the commission may  
6 direct;

7 (2) Do all things reasonably necessary to effect the purposes of  
8 this chapter. However, the commission has no rule-making power except  
9 as provided in this chapter;

10 (3) Employ and discharge managers, secretaries, agents, attorneys,  
11 and employees and engage the services of independent contractors;

12 (4) Retain, as necessary, the services of private legal counsel to  
13 conduct legal actions on behalf of the commission. The retention of a  
14 private attorney is subject to review by the office of the attorney  
15 general;

16 (5) Receive donations of beer from producers for promotional  
17 purposes under subsections (6) and (7) of this section and for fund-  
18 raising purposes under subsection (8) of this section. Donations of  
19 beer for promotional purposes may only be disseminated without charge;

20 (6) Engage directly or indirectly in the promotion of Washington  
21 beer, including, without limitation, the acquisition in any lawful  
22 manner and the dissemination without charge of beer. This  
23 dissemination is not deemed a sale for any purpose and the commission  
24 is not deemed a producer, supplier, or manufacturer, or the clerk,  
25 servant, or agent of a producer, supplier, distributor, or  
26 manufacturer. This dissemination without charge shall be for  
27 agricultural development or trade promotion, and not for fund-raising  
28 purposes under subsection (8) of this section. Dissemination for  
29 promotional purposes may include promotional hosting and must in the  
30 good faith judgment of the commission be in the aid of the marketing,  
31 advertising, sale of beer, or of research related to such marketing,  
32 advertising, or sale;

33 (7) Promote Washington beer by conducting unique beer tastings  
34 without charge;

35 (8) Beginning July 1, 2007, fund the Washington beer commission  
36 through sponsorship of up to twelve beer festivals annually at which  
37 beer may be sold to festival participants. For this purpose, the  
38 commission would qualify for issue of a special occasion license as an

1 exception to WAC 314-05-020 but must comply with laws under Title 66  
2 RCW and rules adopted by the liquor control board under which such  
3 events may be conducted;

4 (9) Participate in international, federal, state, and local  
5 hearings, meetings, and other proceedings relating to the production,  
6 regulation, distribution, sale, or use of beer including activities  
7 authorized under RCW (~~(42.17.190)~~) 42.17A.635, including the reporting  
8 of those activities to the public disclosure commission;

9 (10) Acquire and transfer personal and real property, establish  
10 offices, incur expenses, and enter into contracts, including contracts  
11 for the creation and printing of promotional literature. The contracts  
12 are not subject to chapter 43.78 RCW, and are cancelable by the  
13 commission unless performed under conditions of employment that  
14 substantially conform to the laws of this state and the rules of the  
15 department of labor and industries. The commission may create debt and  
16 other liabilities that are reasonable for proper discharge of its  
17 duties under this chapter;

18 (11) Maintain accounts with one or more qualified public  
19 depositories as the commission may direct, for the deposit of money,  
20 and expend money for purposes authorized by this chapter by drafts made  
21 by the commission upon such institutions or by other means;

22 (12) Cause to be kept and annually closed, in accordance with  
23 generally accepted accounting principles, accurate records of all  
24 receipts, disbursements, and other financial transactions, available  
25 for audit by the state auditor;

26 (13) Create and maintain a list of producers and disseminate  
27 information among and solicit the opinions of producers with respect to  
28 the discharge of the duties of the commission, directly or by  
29 arrangement with trade associations or other instrumentalities;

30 (14) Employ, designate as an agent, act in concert with, and enter  
31 into contracts with any person, council, commission, or other entity to  
32 promote the general welfare of the beer industry and particularly to  
33 assist in the sale and distribution of Washington beer in domestic and  
34 foreign commerce. The commission shall expend money necessary or  
35 advisable for this purpose and to pay its proportionate share of the  
36 cost of any program providing direct or indirect assistance to the sale  
37 and distribution of Washington beer in domestic or foreign commerce,  
38 employing and paying for vendors of professional services of all kinds;

1 (15) Sue and be sued as a commission, without individual liability  
2 for acts of the commission within the scope of the powers conferred  
3 upon it by this chapter;

4 (16) Serve as liaison with the liquor control board on behalf of  
5 the commission and not for any individual producer;

6 (17) Receive such gifts, grants, and endowments from public or  
7 private sources as may be made from time to time, in trust or  
8 otherwise, for the use and benefit of the purposes of the commission  
9 and expend the same or any income therefrom according to the terms of  
10 the gifts, grants, or endowments.

11 **Sec. 33.** RCW 15.115.140 and 2009 c 33 s 14 are each amended to  
12 read as follows:

13 (1) The commission is an agency of the Washington state government  
14 subject to oversight by the director. In exercising its powers and  
15 duties, the commission shall carry out the following purposes:

16 (a) To establish plans and conduct programs for advertising and  
17 sales promotion, to maintain present markets, or to create new or  
18 larger markets for wheat and barley grown in Washington;

19 (b) To engage in cooperative efforts in the domestic or foreign  
20 marketing of wheat and barley grown in Washington;

21 (c) To provide for carrying on research studies to find more  
22 efficient methods of production, irrigation, processing,  
23 transportation, handling, and marketing of wheat and barley grown in  
24 Washington;

25 (d) To adopt rules to provide for improving standards and grades by  
26 defining, establishing, and providing labeling requirements with  
27 respect to wheat and (~~barely~~) barley grown in Washington;

28 (e) To investigate and take necessary action to prevent unfair  
29 trade practices relating to wheat and barley grown in Washington;

30 (f) To provide information or communicate on matters pertaining to  
31 the production, irrigation, processing, transportation, marketing, or  
32 uses of wheat and barley grown in Washington to any elected official or  
33 officer or employee of any agency;

34 (g) To provide marketing information and services for producers of  
35 wheat and barley in Washington;

36 (h) To provide information and services for meeting resource  
37 conservation objectives of producers of wheat and barley in Washington;

1 (i) To provide for education and training related to wheat and  
2 barley grown in Washington; and

3 (j) To assist and cooperate with the department or any local,  
4 state, or federal government agency in the investigation and control of  
5 exotic pests and diseases that could damage or affect the production or  
6 trade of wheat and barley grown in Washington.

7 (2) The commission has the following powers and duties:

8 (a) To collect the assessments of producers as provided in this  
9 chapter and to expend the same in accordance with this chapter;

10 (b) To maintain a list of the names and addresses of affected  
11 producers that may be compiled from information used to collect  
12 assessments authorized under this chapter and data on the value of each  
13 producer's production for a minimum three-year period;

14 (c) To maintain a list of the names and addresses of persons who  
15 handle wheat or barley within the affected area and data on the amount  
16 and value of the wheat and barley handled for a minimum three-year  
17 period by each person;

18 (d) To request records and audit the records of producers or  
19 handlers of wheat or barley during normal business hours to determine  
20 whether the appropriate assessment has been paid;

21 (e) To fund, conduct, or otherwise participate in scientific  
22 research relating to wheat or barley, including but not limited to  
23 research to find more efficient methods of irrigation, production,  
24 processing, handling, transportation, and marketing of wheat or barley,  
25 or regarding pests, pesticides, food safety, irrigation,  
26 transportation, and environmental stewardship related to wheat or  
27 barley;

28 (f) To work cooperatively with local, state, and federal agencies,  
29 universities, and national organizations for the purposes provided in  
30 this chapter;

31 (g) To establish a foundation using commission funds as grant money  
32 when the foundation benefits the wheat or barley industry in Washington  
33 and implements the purposes provided in this chapter;

34 (h) To acquire or own intellectual property rights, licenses, or  
35 patents and to collect royalties resulting from commission-funded  
36 research related to wheat or barley;

37 (i) To enter into contracts or interagency agreements with any  
38 private or public agency, whether federal, state, or local, to carry



1 out the purposes and powers provided in this chapter, including  
2 specifically contracts or agreements for research described in (e) of  
3 this subsection. Personal service contracts must comply with chapter  
4 39.29 RCW;

5 (j) To institute and maintain in its own name any and all legal  
6 actions necessary to carry out the provisions of this chapter,  
7 including actions by injunction, mandatory injunction or civil  
8 recovery, or proceedings before administrative tribunals or other  
9 governmental authorities;

10 (k) To retain in emergent situations the services of private legal  
11 counsel to conduct legal actions on behalf of the commission. The  
12 retention of a private attorney is subject to review and approval by  
13 the office of the attorney general;

14 (l) To elect a chair and other officers as determined advisable;

15 (m) To employ and discharge at its discretion administrators and  
16 additional personnel, advertising and research agencies, and other  
17 persons and firms as appropriate and pay compensation;

18 (n) To acquire personal property and purchase or lease office space  
19 and other necessary real property and transfer and convey that real  
20 property;

21 (o) To keep accurate records of all its receipts and disbursements  
22 by commodity, which records must be open to inspection and audit by the  
23 state auditor or private auditor designated by the state auditor at  
24 least every five years;

25 (p) To borrow money and incur indebtedness;

26 (q) To make necessary disbursements for routine operating expenses;

27 (r) To expend funds for commodity-related education, training, and  
28 leadership programs as the commission deems expedient;

29 (s) To accept and expend or retain any gifts, bequests,  
30 contributions, or grants from private persons or private and public  
31 agencies to carry out the purposes provided in this chapter;

32 (t) To apply for and administer federal market access programs or  
33 similar programs or projects and provide matching funds as may be  
34 necessary;

35 (u) To engage in appropriate fund-raising activities for the  
36 purpose of supporting activities of the commission authorized in this  
37 chapter;

1 (v) To participate in international, federal, state, and local  
2 hearings, meetings, and other proceedings relating to the production,  
3 irrigation, manufacture, regulation, transportation, distribution,  
4 sale, or use of wheat or barley; or the regulation of the manufacture,  
5 distribution, sale, or use of any pesticide, as defined in chapter  
6 15.58 RCW, or any agricultural chemical which is of use or potential  
7 use in producing wheat or barley. This participation may include  
8 activities authorized under RCW (~~(42.17.190)~~) 42.17A.635, including the  
9 reporting of those activities to the public disclosure commission;

10 (w) To speak on behalf of the Washington state government on a  
11 nonexclusive basis regarding issues related to wheat and barley,  
12 including but not limited to trade negotiations and market access  
13 negotiations and to fund industry organizations engaging in those  
14 activities;

15 (x) To adopt, rescind, and amend rules and regulations reasonably  
16 necessary for the administration and operation of the commission and  
17 the enforcement of its duties under this chapter;

18 (y) To administer, enforce, direct, and control the provisions of  
19 this chapter and any rules adopted under this chapter; and

20 (z) Other powers and duties that are necessary to carry out the  
21 purposes of this chapter.

22 **Sec. 34.** RCW 15.65.243 and 2002 c 313 s 24 are each amended to  
23 read as follows:

24 (1) This section (~~(or RCW 15.65.245)~~) applies when the director  
25 appoints a majority of the board positions as set forth under RCW  
26 15.65.220(3).

27 (2) Candidates for director-appointed board positions on a  
28 commodity board shall be nominated under RCW 15.65.250.

29 (3) The director shall cause an advisory vote to be held for the  
30 director-appointed positions. Not less than ten days in advance of the  
31 vote, advisory ballots shall be mailed to all producers or handlers  
32 entitled to vote, if their names appear upon the list of affected  
33 parties or affected producers or handlers, whichever is applicable.  
34 Notice of every advisory vote for board membership shall be published  
35 in a newspaper of general circulation within the affected area defined  
36 in the order or agreement not less than ten days in advance of the date  
37 of the vote. The advisory ballot shall be conducted in a manner so

1 that it is a secret ballot. The names of the two candidates receiving  
2 the most votes in the advisory vote shall be forwarded to the director  
3 for potential appointment to the board. In the event there are only  
4 two candidates nominated for a board position, an advisory vote may not  
5 be held and the candidates' names shall be forwarded to the director  
6 for potential appointment.

7 (4) The candidates whose names are forwarded to the director for  
8 potential appointment shall submit to the director a letter stating why  
9 (~~he or she~~) the candidate wishes to be appointed to the board. The  
10 director may select either person for the position.

11 **Sec. 35.** RCW 15.65.510 and 1989 c 354 s 29 are each amended to  
12 read as follows:

13 All parties to a marketing agreement, all persons subject to a  
14 marketing order, and all producers, dealers, and handlers of a  
15 commodity governed by the provisions of a marketing agreement or order  
16 shall severally from time to time, upon the request of the director,  
17 the director's designee, or the commodity board established under the  
18 marketing agreement or order, furnish such information and permit such  
19 inspections as the director, the director's designee, or the commodity  
20 board finds to be necessary to effectuate the declared policies of this  
21 chapter and the purposes of such agreement or order. Information and  
22 inspections may also be required by the director, the director's  
23 designee, or the commodity board to ascertain and determine the extent  
24 to which such agreement or order has been carried out or has  
25 effectuated such policies and purposes, or to determine whether or not  
26 there has been any abuse of the privilege of exemption from laws  
27 relating to trusts, monopolies and restraints of trade. Such  
28 information shall be furnished in accordance with forms and reports to  
29 be prescribed by the director, the director's designee, or the  
30 commodity board. The director, the director's designee, or a designee  
31 of the commodity board is hereby authorized to inspect crops and  
32 examine such books, papers, records, copies of tax reports, accounts,  
33 correspondence, contracts, documents, or memoranda as he or she deems  
34 relevant and which are within the control:

35 (1) Of any such party to such marketing agreement or, any person  
36 subject to any marketing order from whom such report was requested, or

1 (2) Of any person having, either directly or indirectly, actual or  
2 legal control of or over such party, producer or handler of such  
3 records, or

4 (3) Of any subsidiary of any such party, producer, handler or  
5 person.

6 To carry out the purposes of this section the director or the  
7 director's designee upon giving due notice, may hold hearings, take  
8 testimony, administer oaths, subpoena witnesses and issue subpoenas for  
9 the production of books, records, documents or other writings of any  
10 kind. RCW (~~(15.65.080,)~~) 15.65.090, 15.65.100 and 15.65.110, together  
11 with such other regulations consistent therewith as the director may  
12 from time to time prescribe, shall apply with respect to any such  
13 hearing. All information furnished to or acquired by the director or  
14 the director's designee pursuant to this section shall be kept  
15 confidential by all officers and employees of the director or the  
16 director's designee and only such information so furnished or acquired  
17 as the director deems relevant shall be disclosed by the director or  
18 them, and then only in a suit or administrative hearing brought at the  
19 direction or upon the request of the director or to which the director  
20 or the director's designee or any officer of the state of Washington is  
21 a party, and involving the marketing agreement or order with reference  
22 to which the information so to be disclosed was furnished or acquired.

23 Nothing in this section shall prohibit:

24 (1) The issuance of general statements based upon the reports of a  
25 number of persons subject to any marketing agreement or order, which  
26 statements do not identify the information furnished by any person; or

27 (2) The publication by the director or the director's designee of  
28 the name of any person violating any marketing agreement or order,  
29 together with a statement of the particular provisions and the manner  
30 of the violation of the marketing agreement or order so violated by  
31 such person.

32 **Sec. 36.** RCW 15.65.550 and 2010 c 8 s 6091 are each amended to  
33 read as follows:

34 Upon the request of the director or his or her designee, it shall  
35 be the duty of the attorney general of the state of Washington and of  
36 the several prosecuting attorneys in their respective counties to  
37 institute proceedings to enforce the remedies and to collect the moneys

1 provided for or pursuant to this chapter. Whenever the director and/or  
2 his or her designee has reason to believe that any person has violated  
3 or is violating the provisions of any marketing agreement or order  
4 issued pursuant to this chapter, the director and/or his or her  
5 designee shall have and is hereby granted the power to institute an  
6 investigation and, after due notice to such person, to conduct a  
7 hearing in order to determine the facts for the purpose of referring  
8 the matter to the attorney general or to the appropriate prosecuting  
9 attorney for appropriate action. The provisions contained in RCW  
10 ((15.65.080,)) 15.65.090, 15.65.100 and 15.65.110 shall apply with  
11 respect to such hearings.

12 **Sec. 37.** RCW 15.66.113 and 2002 c 313 s 52 are each amended to  
13 read as follows:

14 (1) This section ((or RCW 15.66.115)) applies when the director  
15 appoints a majority of the positions of the commission as set forth  
16 under RCW 15.66.110(3).

17 (2) Candidates for director-appointed positions on a commission  
18 shall be nominated under RCW 15.66.120(1).

19 (3) Not less than sixty days nor more than seventy-five days prior  
20 to the commencement of a commission member's term, the director shall  
21 cause an advisory vote to be held for the director-appointed positions.  
22 Advisory ballots shall be mailed to all affected producers and shall be  
23 returned to the director not less than thirty days prior to the  
24 commencement of the term. The advisory ballot shall be conducted in a  
25 manner so that it is a secret ballot. The names of the two candidates  
26 receiving the most votes in the advisory vote shall be forwarded to the  
27 director for potential appointment to the commission. In the event  
28 there are only two candidates nominated for a position, an advisory  
29 vote may not be held and the candidates' names shall be forwarded to  
30 the director for potential appointment.

31 (4) The candidates whose names are forwarded to the director for  
32 potential appointment shall submit to the director a letter stating why  
33 he or she wishes to be appointed to the commission. The director may  
34 select either person for the position.

35 **Sec. 38.** RCW 20.01.205 and 1997 c 58 s 855 are each amended to  
36 read as follows:

1 The director shall immediately suspend the license or certificate  
2 of a person who has been certified pursuant to RCW 74.20A.320 by the  
3 department of social and health services as a person who is not in  
4 compliance with a support order (~~or a residential or visitation~~  
5 ~~order~~). If the person has continued to meet all other requirements  
6 for reinstatement during the suspension, reissuance of the license or  
7 certificate shall be automatic upon the director's receipt of a release  
8 issued by the department of social and health services stating that the  
9 licensee is in compliance with the order.

10 **Sec. 39.** RCW 15.65.020 and 2009 c 549 s 1007 are each reenacted  
11 and amended to read as follows:

12 The following terms are hereby defined:

13 (1) "Affected commodity" means that part or portion of any  
14 agricultural commodity which is covered by or forms the subject matter  
15 of any marketing agreement or order or proposal, and includes all  
16 affected units thereof as herein defined and no others.

17 (2) "Affected parties" means any producer, affected producer,  
18 handler, or commodity board member.

19 (3) "Affected unit" means in the case of marketing agreements and  
20 orders drawn on the basis of a production area, any unit of the  
21 commodity specified in or covered by such agreement or order which is  
22 produced in such area and sold or marketed or delivered for sale or  
23 marketing; and "affected unit" means, in the case of marketing  
24 agreements and orders drawn on the basis of marketing area, any unit of  
25 the commodity specified in or covered by such agreement or order which  
26 is stored in frozen condition or sold or marketed or delivered for sale  
27 or marketing within such marketing area: PROVIDED, That in the case of  
28 marketing agreements "affected unit" shall include only those units  
29 which are produced by producers or handled by handlers who have  
30 assented to such agreement.

31 (4) "Agricultural commodity" means any of the following commodities  
32 or products: Llamas, alpacas, or any other animal or any distinctive  
33 type of agricultural, horticultural, viticultural, floricultural,  
34 vegetable, or animal product, including, but not limited to, products  
35 qualifying as organic (~~food~~) products under chapter 15.86 RCW and  
36 private sector cultured aquatic products as defined in RCW 15.85.020  
37 and other fish and fish products, either in its natural or processed

1 state, including beehives containing bees and honey and Christmas trees  
2 but not including timber or timber products. The director is hereby  
3 authorized to determine (on the basis of common usage and practice)  
4 what kinds, types or sub-types should be classed together as an  
5 agricultural commodity for the purposes of this chapter.

6 (5) "Assessment" means the monetary amount established in a  
7 marketing order or agreement that is to be paid by each affected  
8 producer to a commodity board in accordance with the schedule  
9 established in the marketing order or agreement.

10 (6) "Commercial quantities" as applied to producers and/or  
11 production means such quantities per year (or other period of time) of  
12 an agricultural commodity as the director finds are not less than the  
13 minimum which a prudent person engaged in agricultural production would  
14 produce for the purpose of making such quantity of such commodity a  
15 substantial contribution to the economic operation of the farm on which  
16 such commodity is produced. "Commercial quantities" as applied to  
17 handlers and/or handling means such quantities per year (or other  
18 period of time) of an agricultural commodity or product thereof as the  
19 director finds are not less than the minimum which a prudent person  
20 engaged in such handling would handle for the purpose of making such  
21 quantity a substantial contribution to the handling operation in which  
22 such commodity or product thereof is so handled. In either case, the  
23 director may in his or her discretion: (a) Determine that substantial  
24 quantity is any amount above zero; and (b) apply the quantity so  
25 determined on a uniform rule applicable alike to all persons which he  
26 or she finds to be similarly situated.

27 (7) "Commodity board" means any board established pursuant to RCW  
28 15.65.220. "Board" means any such commodity board unless a different  
29 board is expressly specified.

30 (8) "Cooperative association" means any incorporated or  
31 unincorporated association of producers which conforms to the  
32 qualifications set out in the act of congress of the United States of  
33 February 18, 1922 as amended, known as the "Capper-Volstead Act" and  
34 which is engaged in making collective sales or in marketing any  
35 agricultural commodity or product thereof or in rendering service for  
36 or advancing the interests of the producers of such commodity on a  
37 nonprofit cooperative basis.

1 (9) "Department" means the department of agriculture of the state  
2 of Washington.

3 (10) "Director" means the director of agriculture of the state of  
4 Washington or his or her duly appointed representative. The phrase  
5 "director or his or her designee" means the director unless, in the  
6 provisions of any marketing agreement or order, he or she has  
7 designated an administrator, board, or other designee to act in the  
8 matter designated, in which case "director or his or her designee"  
9 means for such order or agreement the administrator, board, or other  
10 person(s) so designated and not the director.

11 (11) "Handler" means any person who acts, either as principal,  
12 agent or otherwise, in processing, selling, marketing or distributing  
13 an agricultural commodity or storage of a frozen agricultural commodity  
14 which was not produced by him or her. "Handler" does not mean a common  
15 carrier used to transport an agricultural commodity. "Affected  
16 handler" means any handler of an affected commodity. "To handle" means  
17 to act as a handler.

18 (12) "List of affected handlers" means a list containing the names  
19 and addresses of affected handlers. This list shall contain the names  
20 and addresses of all affected handlers and, if requested by the  
21 director, the amount, by unit, of the affected commodity handled during  
22 a designated period under this chapter.

23 (13) "List of affected parties" means a list containing the names  
24 and mailing addresses of affected parties. This list shall contain the  
25 names and addresses of all affected parties and, if requested by the  
26 director, the amount, by unit, of the affected commodity produced  
27 during a designated period under this chapter.

28 (14) "List of affected producers" means a list containing the names  
29 and mailing addresses of affected producers. This list shall contain  
30 the names and addresses of all affected producers and, if requested by  
31 the director, the amount, by unit, of the affected commodity produced  
32 during a designated period under this chapter.

33 (15) "Mail" or "send" for purposes of any notice relating to rule  
34 making, referenda, or elections means regular mail or electronic  
35 distribution, as provided in RCW 34.05.260 for rule making.  
36 "Electronic distribution" or "electronically" means distribution by  
37 electronic mail or facsimile mail.



1 (16) "Marketing agreement" means an agreement entered into and  
2 issued by the director pursuant to this chapter.

3 (17) "Marketing order" means an order adopted by the director under  
4 this chapter that establishes a commodity board for an agricultural  
5 commodity or agricultural commodities with like or common qualities or  
6 producers.

7 (18) "Member of a cooperative association" means any producer who  
8 markets his or her product through such cooperative association and who  
9 is a voting stockholder of or has a vote in the control of or is a  
10 party to a marketing agreement with such cooperative association with  
11 respect to such product.

12 (19) "Percent by numbers" means the percent of those persons on the  
13 list of affected parties or affected producers.

14 (20) "Person" means any individual, firm, corporation, limited  
15 liability company, trust, association, partnership, society, or any  
16 other organization of individuals, or any unit or agency of local,  
17 state, or federal government.

18 (21) "Producer" means any person engaged in the business of  
19 producing any agricultural commodity for market in commercial  
20 quantities. "Affected producer" means any producer who is subject to  
21 a marketing order or agreement. "To produce" means to act as a  
22 producer. For the purposes of RCW 15.65.140 and 15.65.160 as now or  
23 hereafter amended "producer" shall include bailees who contract to  
24 produce or grow any agricultural product on behalf of a bailor who  
25 retains title to the seed and its resulting agricultural product or the  
26 agricultural product delivered for further production or increase.

27 (22) "Producer-handler" means any person who acts both as a  
28 producer and as a handler with respect to any agricultural commodity.  
29 A producer-handler shall be deemed to be a producer with respect to the  
30 agricultural commodities which he or she produces, and a handler with  
31 respect to the agricultural commodities which he or she handles,  
32 including those produced by himself or herself.

33 (23) "Producer marketing" or "marketed by producers" means any or  
34 all operations performed by any producer or cooperative association of  
35 producers in preparing for market and marketing, and shall include:  
36 (a) selling any agricultural commodity produced by such producer(s) to  
37 any handler; (b) delivering any such commodity or otherwise disposing  
38 of it for commercial purposes to or through any handler.

1 (24) "Production area" and "marketing area" means any area defined  
2 as such in any marketing order or agreement in accordance with RCW  
3 15.65.350. "Affected area" means the marketing or production area so  
4 defined in such order, agreement or proposal.

5 (25) "Represented in a referendum" means that a written document  
6 evidencing approval or assent or disapproval or dissent is duly and  
7 timely filed with or mailed to the director by or on behalf of an  
8 affected producer and/or a volume of production of an affected  
9 commodity in a form which the director finds meets the requirements of  
10 this chapter. "Referendum" means a vote by the affected parties or  
11 affected producers which is conducted by secret ballot.

12 (26) "Rule-making proceedings" means the rule-making provisions as  
13 outlined in chapter 34.05 RCW.

14 (27) "Section" means a section of this chapter unless some other  
15 statute is specifically mentioned. The present includes the past and  
16 future tenses, and the past or future the present. The masculine  
17 gender includes the feminine and neuter. The singular number includes  
18 the plural and the plural includes the singular.

19 (28) "Sell" includes offer for sale, expose for sale, have in  
20 possession for sale, exchange, barter or trade.

21 (29) "Unit" of an agricultural commodity means a unit of volume,  
22 weight, quantity, or other measure in which such commodity is commonly  
23 measured. The director shall designate in each marketing order and  
24 agreement the unit to be used therein.

25 (30) "Vacancy" means that a board member leaves or is removed from  
26 a board position prior to the end of a term, or a nomination process  
27 for the beginning of a term concludes with no candidates for a  
28 position.

29 (31) "Volume of production" means the percent of the average volume  
30 of production of the affected commodity of those on the list of  
31 affected parties or affected producers for a production period. For  
32 the purposes of this chapter, a production period is a minimum three-  
33 year period or as specified in the marketing order or agreement.

34 **Sec. 40.** RCW 15.65.033 and 2002 c 313 s 3 are each amended to read  
35 as follows:

36 This chapter and the rules adopted under it are only one aspect of  
37 the comprehensively regulated agricultural industry.

1 (1) Other laws applicable to agricultural commodities include the  
2 following chapters and the rules adopted thereunder:  
3 Chapter 15.08 RCW Horticultural pests and diseases;  
4 Chapter 15.13 RCW Horticultural plants, Christmas trees, and  
5 facilities--Inspection and licensing;  
6 Chapter 15.14 RCW Planting stock;  
7 Chapter 15.15 RCW Certified seed potatoes;  
8 Chapter 15.17 RCW Standards of grades and packs;  
9 Chapter 15.19 RCW Certification and inspection of ginseng;  
10 Chapter 15.30 RCW Controlled atmosphere storage of fruits and  
11 vegetables;  
12 Chapter 15.49 RCW Seeds;  
13 Chapter 15.53 RCW Commercial feed;  
14 Chapter 15.54 RCW Fertilizers, minerals, and limes;  
15 Chapter 15.58 RCW Washington pesticide control act;  
16 Chapter 15.60 RCW Apiaries;  
17 Chapter 15.64 RCW Farm marketing;  
18 Chapter 15.83 RCW Agricultural marketing and fair practices;  
19 Chapter 15.85 RCW Aquaculture marketing;  
20 Chapter 15.86 RCW Organic (~~food~~) products;  
21 Chapter 15.92 RCW Center for sustaining agriculture and natural  
22 resources;  
23 Chapter 17.24 RCW Insect pests and plant diseases;  
24 Chapter 19.94 RCW Weights and measures;  
25 Chapter 20.01 RCW Agricultural products--Commission merchants,  
26 dealers, brokers, buyers, agents;  
27 Chapter 22.09 RCW Agricultural commodities;  
28 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including  
29 provisions of 21 C.F.R. relating to the general manufacturing  
30 practices, food labeling, food standards, food additives, and pesticide  
31 tolerances;  
32 Chapter 69.07 RCW Washington food processing act;  
33 Chapter 69.25 RCW Washington wholesome eggs and egg products act;  
34 Chapter 69.28 RCW Honey;  
35 7 U.S.C., section 136, Federal insecticide, fungicide, and  
36 rodenticide act.

37 (2) In addition to the laws and regulations listed in subsection  
38 (1) of this section that apply to the agricultural industry as a whole,

1 the dry pea and lentil industry is regulated by or must comply with the  
2 additional laws and rules adopted under 7 U.S.C., chapter 38,  
3 agricultural marketing act.

4 **Sec. 41.** RCW 15.66.010 and 2002 c 313 s 39 are each amended to  
5 read as follows:

6 For the purposes of this chapter:

7 (1) "Director" means the director of agriculture of the state of  
8 Washington or any qualified person or persons designated by the  
9 director of agriculture to act for him or her concerning some matter  
10 under this chapter.

11 (2) "Department" means the department of agriculture of the state  
12 of Washington.

13 (3) "Marketing order" means an order adopted by rule by the  
14 director that establishes a commodity commission for an agricultural  
15 commodity pursuant to this chapter.

16 (4) "Agricultural commodity" means any of the following commodities  
17 or products: Llamas, alpacas, or any other animal or any distinctive  
18 type of agricultural, horticultural, viticultural, vegetable, and/or  
19 animal product, including, but not limited to, products qualifying as  
20 organic (~~feed~~) products under chapter 15.86 RCW and private sector  
21 cultured aquatic products as defined in RCW 15.85.020 and other fish  
22 and fish products, within its natural or processed state, including  
23 beehives containing bees and honey and Christmas trees but not  
24 including timber or timber products. The director is authorized to  
25 determine what kinds, types or subtypes should be classed together as  
26 an agricultural commodity for the purposes of this chapter.

27 (5) "Producer" means any person engaged in the business of  
28 producing or causing to be produced for market in commercial quantities  
29 any agricultural commodity. "To produce" means to act as a producer.  
30 For the purposes of this chapter, "producer" shall include bailees who  
31 contract to produce or grow any agricultural product on behalf of a  
32 bailor who retains title to the seed and its resulting agricultural  
33 product or the agricultural product delivered for further production or  
34 increase.

35 (6) "Affected producer" means any producer who is subject to a  
36 marketing order.

1 (7) "Affected commodity" means the agricultural commodity that is  
2 specified in the marketing order.

3 (8) "Commodity commission" or "commission" means a commission  
4 formed to carry out the purposes of this chapter under a particular  
5 marketing order concerning an affected commodity.

6 (9) "Unit" means a unit of volume, quantity or other measure in  
7 which an agricultural commodity is commonly measured.

8 (10) "Unfair trade practice" means any practice which is unlawful  
9 or prohibited under the laws of the state of Washington including but  
10 not limited to Titles 15, 16 and 69 RCW and chapters 9.16, 19.77,  
11 19.80, 19.84, and 19.83 RCW, or any practice, whether concerning  
12 interstate or intrastate commerce that is unlawful under the provisions  
13 of the act of Congress of the United States, September 26, 1914,  
14 chapter 311, section 5, 38 U.S. Statutes at Large 719 as amended, known  
15 as the "Federal Trade Commission Act of 1914", or the violation of or  
16 failure accurately to label as to grades and standards in accordance  
17 with any lawfully established grades or standards or labels.

18 (11) "Person" includes any individual, firm, corporation, limited  
19 liability company, trust, association, partnership, society, or any  
20 other organization of individuals or any unit or agency of local,  
21 state, or federal government.

22 (12) "Cooperative association" means any incorporated or  
23 unincorporated association of producers which conforms to the  
24 qualifications set out in the act of Congress of the United States,  
25 Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large  
26 388 as amended, known as the "Capper-Volstead Act" and which is engaged  
27 in making collective sales or in marketing any agricultural commodity  
28 or product thereof or in rendering service for or advancing the  
29 interests of the producers of such commodity on a nonprofit cooperative  
30 basis.

31 (13) "Member of a cooperative association" or "member" means any  
32 producer of an agricultural commodity who markets his or her product  
33 through such cooperative association and who is a voting stockholder of  
34 or has a vote in the control of or is under a marketing agreement with  
35 such cooperative association with respect to such product.

36 (14) "Affected handler" means any handler of an affected commodity.

37 (15) "Affected parties" means any producer, affected producer,  
38 handler, or commodity commission member.

1 (16) "Assessment" means the monetary amount established in a  
2 marketing order that is to be paid by each affected producer to a  
3 commission in accordance with the schedule established in the marketing  
4 order.

5 (17) "Mail" or "send," for purposes of any notice relating to rule  
6 making, referenda, or elections, means regular mail or electronic  
7 distribution, as provided in RCW 34.05.260 for rule making.  
8 "Electronic distribution" or "electronically" means distribution by  
9 electronic mail or facsimile mail.

10 (18) "Handler" means any person who acts, either as principal,  
11 agent, or otherwise, in the processing, selling, marketing, or  
12 distributing of an agricultural commodity that is not produced by the  
13 handler. "Handler" does not include a common carrier used to transport  
14 an agricultural commodity. "To handle" means to act as a handler.

15 (19) "List of affected parties" means a list containing the names  
16 and mailing addresses of affected parties. This list must contain the  
17 names and addresses of all affected parties and, if requested by the  
18 director, the amount, by unit, of the affected commodity produced  
19 during a designated period under this chapter.

20 (20) "List of affected producers" means a list containing the names  
21 and mailing addresses of affected producers. This list must contain  
22 the names and addresses of all affected producers and, if requested by  
23 the director, the amount, by unit, of the affected commodity produced  
24 during a designated period under this chapter.

25 (21) "List of affected handlers" means a list containing the names  
26 and addresses of affected handlers. This list must contain the names  
27 and addresses of all affected handlers and, if requested by the  
28 director, the amount, by unit, of the affected commodity handled during  
29 a designated period under this chapter.

30 (22) "Percent by numbers" means the percent of those persons on the  
31 list of affected parties or affected producers.

32 (23) "Referendum" means a vote by the affected parties or affected  
33 producers which is conducted by secret ballot.

34 (24) "Rule-making proceedings" means rule making under chapter  
35 34.05 RCW.

36 (25) "Vacancy" means that a commission member leaves or is removed  
37 from a position on the commission prior to the end of a term, or a

1 nomination process for the beginning of a term concludes with no  
2 candidates for a position.

3 (26) "Volume of production" means the percent of the average volume  
4 of production of the affected commodity of those on the list of  
5 affected parties or affected producers for a production period. For  
6 the purposes of this chapter, a production period is a minimum three-  
7 year period or as specified in the marketing order.

8 **Sec. 42.** RCW 15.66.017 and 2002 c 313 s 41 are each amended to  
9 read as follows:

10 This chapter and the rules adopted under it are only one aspect of  
11 the comprehensively regulated agricultural industry.

12 (1) Other laws applicable to agricultural commodities include the  
13 following chapters and the rules adopted thereunder:

14 Chapter 15.08 RCW Horticultural pests and diseases;

15 Chapter 15.13 RCW Horticultural plants, Christmas trees, and  
16 facilities--Inspection and licensing;

17 Chapter 15.14 RCW Planting stock;

18 Chapter 15.15 RCW Certified seed potatoes;

19 Chapter 15.17 RCW Standards of grades and packs;

20 Chapter 15.19 RCW Certification and inspection of ginseng;

21 Chapter 15.30 RCW Controlled atmosphere storage of fruits and  
22 vegetables;

23 Chapter 15.49 RCW Seeds;

24 Chapter 15.53 RCW Commercial feed;

25 Chapter 15.54 RCW Fertilizers, minerals, and limes;

26 Chapter 15.58 RCW Washington pesticide control act;

27 Chapter 15.60 RCW Apiaries;

28 Chapter 15.64 RCW Farm marketing;

29 Chapter 15.83 RCW Agricultural marketing and fair practices;

30 Chapter 15.85 RCW Aquaculture marketing;

31 Chapter 15.86 RCW Organic (~~food~~) products;

32 Chapter 15.92 RCW Center for sustaining agriculture and natural  
33 resources;

34 Chapter 17.24 RCW Insect pests and plant diseases;

35 Chapter 19.94 RCW Weights and measures;

36 Chapter 20.01 RCW Agricultural products--Commission merchants,  
37 dealers, brokers, buyers, agents;

1 Chapter 22.09 RCW Agricultural commodities;  
2 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including  
3 provisions of 21 C.F.R. relating to the general manufacturing  
4 practices, food labeling, food standards, food additives, and pesticide  
5 tolerances;  
6 Chapter 69.07 RCW Washington food processing act;  
7 Chapter 69.25 RCW Washington wholesome eggs and egg products act;  
8 Chapter 69.28 RCW Honey;  
9 7 U.S.C., section 136, Federal insecticide, fungicide, and  
10 rodenticide act.

11 (2) In addition to the laws and regulations listed in subsection  
12 (1) of this section that apply to the agricultural industry as a whole,  
13 the potato industry is regulated by or must comply with the following  
14 additional laws and the rules or regulations adopted thereunder:

15 (a) 7 C.F.R., Part 51, United States standards for grades of  
16 potatoes;

17 (b) 7 C.F.R., Part 946, Federal marketing order for Irish potatoes  
18 grown in Washington;

19 (c) 7 C.F.R., Part 1207, Potato research and promotion plan.

20 (3) In addition to the laws and regulations listed in subsection  
21 (1) of this section that apply to the agricultural industry as a whole,  
22 the wheat and barley industries are regulated by or must comply with  
23 the following additional laws and the rules adopted thereunder:

24 (a) 7 U.S.C., section 1621, Agricultural marketing act;

25 (b) Chapter 70.94 RCW, Washington clean air act, agricultural  
26 burning.

27 (4) In addition to the laws and regulations listed in subsection  
28 (1) of this section that apply to the agricultural industry as a whole,  
29 the poultry industry is regulated by or must comply with the following  
30 additional laws and the rules adopted thereunder:

31 (a) 21 U.S.C., chapter 10, Poultry and poultry products inspection;

32 (b) 21 U.S.C., chapter 9, Packers and stockyards;

33 (c) 7 U.S.C., section 1621, Agricultural marketing act;

34 (d) Washington fryer commission labeling standards.

35 **Sec. 43.** RCW 15.28.015 and 2002 c 313 s 103 are each amended to  
36 read as follows:

37 The history, economy, culture, and the future of Washington state's



1 agriculture involves the production of soft tree fruits. In order to  
2 develop and promote Washington's soft tree fruits as part of an  
3 existing comprehensive regulatory scheme the legislature declares:

4 (1) That the Washington state fruit commission is created;

5 (2) That it is vital to the continued economic well-being of the  
6 citizens of this state and their general welfare that its soft tree  
7 fruits be properly promoted by (a) enabling the soft tree fruit  
8 industry to help themselves in establishing orderly, fair, sound,  
9 efficient, and unhampered cooperative marketing, grading, and  
10 standardizing of soft tree fruits they produce; and (b) working to  
11 stabilize the soft tree fruit industry by increasing consumption of  
12 soft tree fruits within the state, the nation, and internationally;

13 (3) That producers of soft tree fruits operate within a regulatory  
14 environment that imposes burdens on them for the benefit of society and  
15 the citizens of the state and includes restrictions on marketing  
16 autonomy. Those restrictions may impair the producers of soft tree  
17 fruits in their ability to compete in local, domestic, and foreign  
18 markets;

19 (4) That it is in the overriding public interest that support for  
20 the soft tree fruit industry be clearly expressed, that adequate  
21 protection be given to agricultural commodities, uses, activities, and  
22 operations, and that soft tree fruits be promoted individually, and as  
23 part of a comprehensive industry to:

24 (a) Enhance the reputation and image of Washington state's  
25 agriculture industry;

26 (b) Increase the sale and use of Washington state's soft tree  
27 fruits in local, domestic, and foreign markets;

28 (c) Protect the public by educating the public in reference to the  
29 quality, care, and methods used in the production of Washington state's  
30 soft tree fruits;

31 (d) Increase the knowledge of the health-giving qualities and  
32 dietetic value of soft tree fruits;

33 (e) Support and engage in cooperative programs or activities that  
34 benefit the production, handling, processing, marketing, and uses of  
35 soft tree fruits produced in Washington state;

36 (5) That this chapter is enacted in the exercise of the police  
37 powers of this state for the purpose of protecting the health, peace,

1 safety, and general welfare of the people of this state and to  
2 stabilize and protect the soft tree fruit industry of the state; and  
3 (6) That the production and marketing of soft tree fruit is a  
4 highly regulated industry and that the provisions of this chapter and  
5 the rules adopted under it are only one aspect of the regulated  
6 industry. Other regulations and restraints applicable to the soft tree  
7 fruit industry include:  
8 (a) The federal marketing order under 7 C.F.R. Part 922 (apricots);  
9 (b) The federal marketing order under 7 C.F.R. Part 923 (sweet  
10 cherries);  
11 (c) The federal marketing order under 7 C.F.R. Part 924 (prunes);  
12 (d) The federal marketing order under 7 C.F.R. Part 930 (tart  
13 cherries);  
14 (e) The federal marketing order under 7 C.F.R. Part 931 (Bartlett  
15 pears);  
16 (f) Tree fruit research act under chapter 15.26 RCW;  
17 (g) Controlled atmosphere storage of fruits and vegetables under  
18 chapter 15.30 RCW;  
19 (h) Organic (~~food~~) products act under chapter 15.86 RCW;  
20 (i) Intrastate commerce in food, drugs, and cosmetics under chapter  
21 69.04 RCW and rules;  
22 (j) Washington food processing act under chapter 69.07 RCW;  
23 (k) Washington food storage warehouses act under chapter 69.10 RCW;  
24 (l) Weighmasters under chapter 15.80 RCW;  
25 (m) Horticultural pests and diseases under chapter 15.08 RCW;  
26 (n) Horticultural plants, Christmas trees, and facilities--  
27 Inspection and licensing under chapter 15.13 RCW;  
28 (o) Planting stock under chapter 15.14 RCW;  
29 (p) Standards of grades and packs under chapter 15.17 RCW;  
30 (q) Washington pesticide control act under chapter 15.58 RCW;  
31 (r) Farm marketing under chapter 15.64 RCW;  
32 (s) Insect pests and plant diseases under chapter 17.24 RCW;  
33 (t) Weights and measures under chapter 19.94 RCW;  
34 (u) Agricultural products--Commission merchants, dealers, brokers,  
35 buyers, and agents under chapter 20.01 RCW; and  
36 (v) Rules under the Washington Administrative Code, Title 16.

1           **Sec. 44.** RCW 15.44.015 and 2002 c 313 s 87 are each amended to  
2 read as follows:

3           The history, economy, culture, and the future of Washington state's  
4 agriculture involves the dairy industry. In order to develop and  
5 promote Washington's dairy products as part of an existing  
6 comprehensive scheme to regulate those products the legislature  
7 declares:

8           (1) That the Washington state dairy products commission is created.  
9 The commission may also take actions under the name "the dairy farmers  
10 of Washington";

11           (2) That it is vital to the continued economic well-being of the  
12 citizens of this state and their general welfare that its dairy  
13 products be properly promoted by (a) enabling the dairy industry to  
14 help themselves in establishing orderly, fair, sound, efficient, and  
15 unhampered marketing, grading, and standardizing of the dairy products  
16 they produce; and (b) working to stabilize the dairy industry by  
17 increasing consumption of dairy products within the state, the nation,  
18 and internationally;

19           (3) That dairy producers operate within a regulatory environment  
20 that imposes burdens on them for the benefit of society and the  
21 citizens of the state and includes restrictions on marketing autonomy.  
22 Those restrictions may impair the dairy producer's ability to compete  
23 in local, domestic, and foreign markets;

24           (4) That it is in the overriding public interest that support for  
25 the dairy industry be clearly expressed, that adequate protection be  
26 given to agricultural commodities, uses, activities, and operations,  
27 and that dairy products be promoted individually, and as part of a  
28 comprehensive industry to:

29           (a) Enhance the reputation and image of Washington state's  
30 agriculture industry;

31           (b) Increase the sale and use of Washington state's dairy products  
32 in local, domestic, and foreign markets;

33           (c) Protect the public by educating the public in reference to the  
34 quality, care, and methods used in the production of Washington state's  
35 dairy products;

36           (d) Increase the knowledge of the health-giving qualities and  
37 dietetic value of dairy products; and

1 (e) Support and engage in programs or activities that benefit the  
2 production, handling, processing, marketing, and uses of dairy products  
3 produced in Washington state;

4 (5) That this chapter is enacted in the exercise of the police  
5 powers of this state for the purpose of protecting the health, peace,  
6 safety, and general welfare of the people of this state; and

7 (6) That the dairy industry is a highly regulated industry and that  
8 this chapter and the rules adopted under it are only one aspect of the  
9 regulated industry. Other regulations and restraints applicable to the  
10 dairy industry include the:

11 (a) Federal marketing order under 7 C.F.R., Part 1124;

12 (b) Dairy promotion program under the dairy and tobacco adjustment  
13 act of 1983, Subtitle B;

14 (c) Milk and milk products act under chapter 15.36 RCW and rules,  
15 including:

16 (i) The national conference of interstate milk shippers pasteurized  
17 milk ordinance;

18 (ii) The national conference of interstate milk shippers dry milk  
19 ordinance;

20 (iii) Standards for the fabrication of single-service containers;

21 (iv) Procedures governing cooperative state-public health service;

22 (v) Methods of making sanitation ratings of milk supplies;

23 (vi) Evaluation and certification of milk laboratories; and

24 (vii) Interstate milk shippers;

25 (d) Milk and milk products for animal food act under chapter 15.37  
26 RCW and rules;

27 (e) Organic (~~food~~) products act under chapter 15.86 RCW and  
28 rules;

29 (f) Intrastate commerce in food, drugs, and cosmetics act under  
30 chapter 69.04 RCW and rules, including provisions of 21 C.F.R. relating  
31 to the general manufacturing practices, milk processing, food labeling,  
32 food standards, and food additives;

33 (g) Washington food processing act under chapter 69.07 RCW and  
34 rules;

35 (h) Washington food storage warehouses act under chapter 69.10 RCW  
36 and rules;

37 (i) Animal health under chapter 16.36 RCW and rules;

38 (j) Weighmasters under chapter 15.80 RCW and rules; and

1 (k) Dairy nutrient management act under chapter 90.64 RCW and  
2 rules.

3 **Sec. 45.** RCW 15.88.025 and 2002 c 313 s 110 are each amended to  
4 read as follows:

5 The history, economy, culture, and future of Washington state's  
6 agriculture involves the wine industry. In order to develop and  
7 promote wine grapes and wine as part of an existing comprehensive  
8 scheme to regulate those products the legislature declares:

9 (1) That it is vital to the continued economic well-being of the  
10 citizens of this state and their general welfare that its wine grapes  
11 and wine be properly promoted by (a) enabling the wine industry to help  
12 themselves in establishing orderly, fair, sound, efficient, and  
13 unhampered marketing of wine grapes and wines they produce; and (b)  
14 working to stabilize the wine industry by increasing markets for wine  
15 grapes and wine within the state, the nation, and internationally;

16 (2) That wine grape growers and wine producers operate within a  
17 regulatory environment that imposes burdens on them for the benefit of  
18 society and the citizens of the state and includes restrictions on  
19 marketing autonomy. Those restrictions may impair the wine grape  
20 growers' and wine producers' ability to compete in local, domestic, and  
21 foreign markets;

22 (3) That it is in the overriding public interest that support for  
23 the wine industry be clearly expressed; that adequate protection be  
24 given to agricultural commodities, uses, activities, and operations;  
25 and that wine grapes and wine be promoted individually, and as part of  
26 a comprehensive industry to:

27 (a) Enhance the reputation and image of Washington state's  
28 agriculture industry;

29 (b) Increase the sale and use of wine grapes and wine in local,  
30 domestic, and foreign markets;

31 (c) Protect the public by educating the public in reference to the  
32 quality, care, and methods used in the production of wine grapes and  
33 wine;

34 (d) Increase the knowledge of the qualities and value of  
35 Washington's wine grapes and wine; and

36 (e) Support and engage in programs or activities that benefit the

1 production, handling, processing, marketing, and uses of wine grapes  
2 and wine;

3 (4) That this chapter is enacted in the exercise of the police  
4 powers of this state for the purpose of protecting the health, peace,  
5 safety, and general welfare of the people of this state; and

6 (5) That the production and marketing of wine grapes and wine is a  
7 highly regulated industry and that the provisions of this chapter and  
8 the rules adopted under it are only one aspect of the regulated  
9 industry. Other regulations and restraints applicable to the wine  
10 grape and wine industry include:

11 (a) Organic (~~food~~) products act under chapter 15.86 RCW;

12 (b) Horticultural pests and diseases under chapter 15.08 RCW;

13 (c) Horticultural plants, Christmas trees, and facilities--  
14 Inspection and licensing under chapter 15.13 RCW;

15 (d) Planting stock under chapter 15.14 RCW;

16 (e) Washington pesticide control act under chapter 15.58 RCW;

17 (f) Insect pests and plant diseases under chapter 17.24 RCW;

18 (g) Wholesale distributors and suppliers of wine and malt beverages  
19 under chapter 19.126 RCW;

20 (h) Weights and measures under chapter 19.94 RCW;

21 (i) Title 66 RCW, alcoholic beverage control;

22 (j) Title 69 RCW, food, drugs, cosmetics, and poisons including  
23 provisions of 21 C.F.R. relating to the general manufacturing  
24 practices, food labeling, food standards, food additives, and pesticide  
25 tolerances;

26 (k) Chapter 69.07 RCW, Washington food processing act;

27 (l) 27 U.S.C., Secs. 201 through 211, 213 through 219a, and 122A;

28 (m) 27 C.F.R., Parts 1, 6, 9, 10, 12, 16, 240, 251, 252; and

29 (n) Rules under Titles 16 and 314 WAC, and rules adopted under  
30 chapter 15.88 RCW.

31 **Sec. 46.** RCW 15.89.025 and 2006 c 330 s 3 are each amended to read  
32 as follows:

33 The history, economy, culture, and future of Washington state's  
34 agriculture involve the beer industry. In order to develop and promote  
35 beer as part of an existing comprehensive scheme to regulate those  
36 products, the legislature declares that:

1 (1) It is vital to the continued economic well-being of the  
2 citizens of this state and their general welfare that beer produced in  
3 Washington state be properly promoted;

4 (2) It is in the overriding public interest that support for the  
5 Washington beer industry be clearly expressed and that beer be promoted  
6 individually, and as part of a comprehensive industry to:

7 (a) Enhance the reputation and image of Washington state's  
8 agriculture industry;

9 (b) Protect the public by educating the public in reference to the  
10 quality, care, and methods used in the production of beer;

11 (c) Increase the knowledge of the qualities and value of  
12 Washington's beer; and

13 (d) Support and engage in programs or activities that benefit the  
14 production, handling, processing, marketing, and uses of beer;

15 (3) This chapter is enacted in the exercise of the police powers of  
16 this state to protect the health, peace, safety, and general welfare of  
17 the people of this state; and

18 (4) The production and marketing of beer is a highly regulated  
19 industry and this chapter and the rules adopted under it are only one  
20 aspect of the regulated industry. Other laws applicable to the beer  
21 industry include:

22 (a) The organic (~~food~~) products act, chapter 15.86 RCW;

23 (b) The wholesale distributors and suppliers of malt beverages,  
24 chapter 19.126 RCW;

25 (c) Weights and measures, chapter 19.94 RCW;

26 (d) Title 66 RCW, alcoholic beverage control;

27 (e) Title 69 RCW, food, drugs, cosmetics, and poisons;

28 (f) 21 C.F.R. as it relates to general manufacturing practices,  
29 food labeling, food standards, food additives, and pesticide  
30 tolerances;

31 (g) Chapter 69.07 RCW, Washington food processing act;

32 (h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;

33 (i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and

34 (j) Rules under Title 314 WAC.

35 **Sec. 47.** RCW 15.92.010 and 1995 c 390 s 4 are each amended to read  
36 as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

3 (1) "Agricultural commodity" means any distinctive type of  
4 agricultural, horticultural, viticultural, floricultural, vegetable, or  
5 animal product, including but not limited to, products qualifying as  
6 organic (~~food~~) products under chapter 15.86 RCW, private sector  
7 cultured aquatic products as defined in RCW 15.85.020, bees and honey,  
8 and Christmas trees but not including timber or timber products.

9 (2) "Center" means the center for sustaining agriculture and  
10 natural resources established at Washington State University.

11 (3) "Laboratory" means the food and environmental quality  
12 laboratory established at Washington State University at Tri-Cities.

13 (4) "Integrated pest management" is a strategy that uses various  
14 combinations of pest control methods, biological, cultural, and  
15 chemical, in a compatible manner to achieve satisfactory control and  
16 ensure favorable economic and environmental consequences.

17 (5) "IR-4 program" means interregional research project number  
18 four, clearances of chemicals and biologics for minor or special uses,  
19 established in 1963 by the cooperative state research service of the  
20 United States department of agriculture, the coordinated national  
21 program involving land-grant universities and the United States  
22 department of agriculture to provide data required for the registration  
23 of pesticides needed for the production of minor crops.

24 (6) "Minor crop" means an agricultural crop considered to be minor  
25 in the national context of registering pesticides.

26 (7) "Minor use" means a pesticide use considered to be minor in the  
27 national context of registering pesticides including, but not limited  
28 to, a use for a special local need.

29 (8) "Natural resources" means soil, water, air, forests, wetlands,  
30 wildlands, and wildlife.

31 (9) "Pesticide" means chemical or biologic used to control pests  
32 such as insect, rodent, nematode, snail, slug, weed, virus, or any  
33 organism the director of agriculture may declare to be a pest.

34 (10) "Registration" means use of a pesticide approved by the state  
35 department of agriculture.

36 (11) "Sustainable agriculture" means a systems approach to farming,  
37 ranching, and natural resource production that builds on and supports  
38 the physical, biological, and ecological resource base upon which



1 agriculture depends. The goals of sustainable agriculture are to  
2 provide human food and fiber needs in an economically viable manner for  
3 the agriculture industry and in a manner which protects the environment  
4 and contributes to the overall safety and quality of life.

5 **Sec. 48.** RCW 15.115.020 and 2009 c 33 s 2 are each amended to read  
6 as follows:

7 The wheat and barley industries are highly regulated industries,  
8 and this chapter and the rules adopted under it are only one aspect of  
9 the regulation of those industries. Other regulations and restraints  
10 applicable to the wheat and barley industries include:

- 11 (1) Chapter 15.04 RCW, Washington agriculture general provisions;
- 12 (2) Chapter 15.08 RCW, horticultural pests and diseases;
- 13 (3) Chapter 15.14 RCW, planting stock;
- 14 (4) Chapter 15.49 RCW, seeds;
- 15 (5) Chapter 15.54 RCW, fertilizers, minerals, and limes;
- 16 (6) Chapter 15.58 RCW, Washington pesticide control act;
- 17 (7) Chapter 15.64 RCW, farm marketing;
- 18 (8) Chapter 15.83 RCW, agricultural marketing and fair practices;
- 19 (9) Chapter 15.86 RCW, organic (~~food~~) products;
- 20 (10) Chapter 15.92 RCW, center for sustaining agriculture and  
21 natural resources;
- 22 (11) Chapter 17.24 RCW, insect pests and plant diseases;
- 23 (12) Chapter 19.94 RCW, weights and measures;
- 24 (13) Chapter 20.01 RCW, agricultural products--commission  
25 merchants, dealers, brokers, buyers, agents;
- 26 (14) Chapter 22.09 RCW, agricultural commodities;
- 27 (15) Chapter 43.23 RCW, department of agriculture;
- 28 (16) Chapter 69.04 RCW, food, drugs, cosmetics, and poisons  
29 including provisions of Title 21 U.S.C. relating to the general  
30 manufacturing practices, food labeling, food standards, food additives,  
31 and pesticide tolerances;
- 32 (17) Chapter 70.94 RCW, Washington clean air act, agricultural  
33 burning;
- 34 (18) 7 U.S.C., Sec. 136, federal insecticide, fungicide, and  
35 rodenticide act; and
- 36 (19) 7 U.S.C., Sec. 1621, agricultural marketing act.

1           **Sec. 49.** RCW 16.67.035 and 2002 c 313 s 79 are each amended to  
2 read as follows:

3           The history, economy, culture, and the future of Washington state's  
4 agriculture involves the beef industry. In order to develop and  
5 promote beef and beef products as part of an existing comprehensive  
6 scheme to regulate those products the legislature declares:

7           (1) That the Washington state beef commission is created;

8           (2) That it is vital to the continued economic well-being of the  
9 citizens of this state and their general welfare that its beef and beef  
10 products be properly promoted by (a) enabling the beef industry to help  
11 themselves in establishing orderly, fair, sound, efficient, and  
12 unhampered marketing, grading, and standardizing of beef and beef  
13 products they produce; and (b) working to stabilize the beef industry  
14 by increasing consumption of beef and beef products within the state,  
15 the nation, and internationally;

16           (3) That beef producers operate within a regulatory environment  
17 that imposes burdens on them for the benefit of society and the  
18 citizens of the state and includes restrictions on marketing autonomy.  
19 Those restrictions may impair the beef producer's ability to compete in  
20 local, domestic, and foreign markets;

21           (4) That it is in the overriding public interest that support for  
22 the beef industry be clearly expressed, that adequate protection be  
23 given to agricultural commodities, uses, activities, and operations,  
24 and that beef and beef products be promoted individually, and as part  
25 of a comprehensive industry to:

26           (a) Enhance the reputation and image of Washington state's  
27 agriculture industry;

28           (b) Increase the sale and use of beef products in local, domestic,  
29 and foreign markets;

30           (c) Protect the public by educating the public in reference to the  
31 quality, care, and methods used in the production of beef and beef  
32 products, and in reference to the various cuts and grades of beef and  
33 the uses to which each should be put;

34           (d) Increase the knowledge of the health-giving qualities and  
35 dietetic value of beef products; and

36           (e) Support and engage in programs or activities that benefit the  
37 production, handling, processing, marketing, and uses of beef and beef  
38 products;

1 (5) That this chapter is enacted in the exercise of the police  
2 powers of this state for the purpose of protecting the health, peace,  
3 safety, and general welfare of the people of this state; and

4 (6) That the beef industry is a highly regulated industry and that  
5 this chapter and the rules adopted under it are only one aspect of the  
6 regulated industry. Other regulations and restraints applicable to the  
7 beef industry include the:

8 (a) Beef promotion and research act of 1985, U.S.C. Title 7,  
9 chapter 62;

10 (b) Beef promotion and research, 7 C.F.R., Part 1260;

11 (c) Agricultural marketing act, 7 U.S.C., section 1621;

12 (d) USDA meat grading, certification, and standards, 7 C.F.R., Part  
13 54;

14 (e) Mandatory price reporting, 7 C.F.R., Part 57;

15 (f) Grazing permits, 43 C.F.R., Part 2920;

16 (g) Capper-Volstead act, U.S.C. Title 7, chapters 291 and 292;

17 (h) Livestock identification under chapter 16.57 RCW and rules;

18 (i) Organic (~~food~~) products act under chapter 15.86 RCW and  
19 rules;

20 (j) Intrastate commerce in food, drugs, and cosmetics act under  
21 chapter 69.04 RCW and rules, including provisions of 21 C.F.R. relating  
22 to the general manufacturing practices, food labeling, food standards,  
23 food additives, and pesticide tolerances;

24 (k) Washington food processing act under chapter 69.07 RCW and  
25 rules;

26 (l) Washington food storage warehouses act under chapter 69.10 RCW  
27 and rules;

28 (m) Animal health under chapter 16.36 RCW and rules; and

29 (n) Weights and measures under chapter 19.94 RCW and rules.

30 **Sec. 50.** RCW 15.58.030 and 2004 c 100 s 6 are each amended to read  
31 as follows:

32 As used in this chapter the words and phrases defined in this  
33 section shall have the meanings indicated unless the context clearly  
34 requires otherwise.

35 (1) "Active ingredient" means any ingredient which will prevent,  
36 destroy, repel, control, or mitigate pests, or which will act as a  
37 plant regulator, defoliant, desiccant, or spray adjuvant.

1 (2) "Antidote" means the most practical immediate treatment in case  
2 of poisoning and includes first aid treatment.

3 (3) "Arthropod" means any invertebrate animal that belongs to the  
4 phylum arthropoda, which in addition to insects, includes allied  
5 classes whose members are wingless and usually have more than six legs;  
6 for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

7 (4) "Complete wood destroying organism inspection" means inspection  
8 for the purpose of determining evidence of infestation, damage, or  
9 conducive conditions as part of the transfer, exchange, or refinancing  
10 of any structure in Washington state. Complete wood destroying  
11 organism inspections include any wood destroying organism inspection  
12 that is conducted as the result of telephone solicitation by an  
13 inspection, pest control, or other business, even if the inspection  
14 would fall within the definition of a specific wood destroying organism  
15 inspection.

16 (5) "Defoliant" means any substance or mixture of substances  
17 intended to cause the leaves or foliage to drop from a plant with or  
18 without causing abscission.

19 (6) "Department" means the Washington state department of  
20 agriculture.

21 (7) "Desiccant" means any substance or mixture of substances  
22 intended to artificially accelerate the drying of plant tissues.

23 (8) "Device" means any instrument or contrivance intended to trap,  
24 destroy, control, repel, or mitigate pests, or to destroy, control,  
25 repel or mitigate fungi, nematodes, or such other pests, as may be  
26 designated by the director, but not including equipment used for the  
27 application of pesticides when sold separately from the pesticides.

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

30 (10) "Distribute" means to offer for sale, hold for sale, sell,  
31 barter, or supply pesticides in this state.

32 (11) "EPA" means the United States environmental protection agency.

33 (12) "EPA restricted use pesticide" means any pesticide with  
34 restricted uses as classified for restricted use by the administrator,  
35 EPA.

36 (13) "FIFRA" means the federal insecticide, fungicide, and  
37 rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

1 (14) "Fungi" means all nonchlorophyll-bearing thallophytes (all  
2 nonchlorophyll-bearing plants of a lower order than mosses and  
3 liverworts); for example, rusts, smuts, mildews, molds, yeasts, and  
4 bacteria, except those on or in living persons or other animals.

5 (15) "Fungicide" means any substance or mixture of substances  
6 intended to prevent, destroy, repel, or mitigate any fungi.

7 (16) "Herbicide" means any substance or mixture of substances  
8 intended to prevent, destroy, repel, or mitigate any weed.

9 (17) "Inert ingredient" means an ingredient which is not an active  
10 ingredient.

11 (18) "Ingredient statement" means a statement of the name and  
12 percentage of each active ingredient together with the total percentage  
13 of the inert ingredients in the pesticide, and when the pesticide  
14 contains arsenic in any form, the ingredient statement shall also  
15 include percentages of total and water soluble arsenic, each calculated  
16 as elemental arsenic. The ingredient statement for a spray adjuvant  
17 must be consistent with the labeling requirements adopted by rule.

18 (19) "Insect" means any of the numerous small invertebrate animals  
19 whose bodies are more or less obviously segmented, and which for the  
20 most part belong to the class insecta, comprising six-legged, usually  
21 winged forms, for example, beetles, bugs, bees, flies, and to other  
22 allied classes of arthropods whose members are wingless and usually  
23 have more than six legs, for example, spiders, mites, ticks,  
24 centipedes, and isopod crustaceans.

25 (20) "Insecticide" means any substance or mixture of substances  
26 intended to prevent, destroy, repel, or mitigate any insects which may  
27 be present in any environment whatsoever.

28 (21) "Inspection control number" means a number obtained from the  
29 department that is recorded on wood destroying organism inspection  
30 reports issued by a structural pest inspector in conjunction with the  
31 transfer, exchange, or refinancing of any structure.

32 (22) "Label" means the written, printed, or graphic matter on, or  
33 attached to, the pesticide, device, or immediate container, and the  
34 outside container or wrapper of the retail package.

35 (23) "Labeling" means all labels and other written, printed, or  
36 graphic matter:

37 (a) Upon the pesticide, device, or any of its containers or  
38 wrappers;

1 (b) Accompanying the pesticide, or referring to it in any other  
2 media used to disseminate information to the public; and

3 (c) To which reference is made on the label or in literature  
4 accompanying or referring to the pesticide or device except when  
5 accurate nonmisleading reference is made to current official  
6 publications of the department, United States departments of  
7 agriculture; interior; education; health and human services; state  
8 agricultural colleges; and other similar federal or state institutions  
9 or agencies authorized by law to conduct research in the field of  
10 pesticides.

11 (24) "Land" means all land and water areas, including airspace and  
12 all plants, animals, structures, buildings, devices and contrivances,  
13 appurtenant thereto or situated thereon, fixed or mobile, including any  
14 used for transportation.

15 (25) "Master license system" means the mechanism established by  
16 chapter 19.02 RCW by which master licenses, endorsed for individual  
17 state-issued licenses, are issued and renewed using a master  
18 application and a master license expiration date common to each  
19 renewable license endorsement.

20 (26) "Nematocide" means any substance or mixture of substances  
21 intended to prevent, destroy, repel, or mitigate nematodes.

22 (27) "Nematode" means any invertebrate animal of the phylum  
23 nemathelminthes and class nematoda, that is, unsegmented round worms  
24 with elongated, fusiform, or saclike bodies covered with cuticle, and  
25 inhabiting soil, water, plants or plant parts, may also be called nemas  
26 or eelworms.

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

29 (29) "Pest" means, but is not limited to, any insect, rodent,  
30 nematode, snail, slug, weed and any form of plant or animal life or  
31 virus, except virus on or in a living person or other animal, which is  
32 normally considered to be a pest or which the director may declare to  
33 be a pest.

34 (30) "Pest control consultant" means any individual who sells or  
35 offers for sale at other than a licensed pesticide dealer outlet or  
36 location where they are employed, or who offers or supplies technical  
37 advice or makes recommendations to the user of:

38 (a) Highly toxic pesticides, as determined under RCW 15.58.040;

1 (b) EPA restricted use pesticides or restricted use pesticides  
2 which are restricted by rule to distribution by licensed pesticide  
3 dealers only; or

4 (c) Any other pesticide except those pesticides which are labeled  
5 and intended for home and garden use only.

6 (31) "Pesticide" means, but is not limited to:

7 (a) Any substance or mixture of substances intended to prevent,  
8 destroy, control, repel, or mitigate any insect, rodent, snail, slug,  
9 fungus, weed, and any other form of plant or animal life or virus,  
10 except virus on or in a living person or other animal which is normally  
11 considered to be a pest or which the director may declare to be a pest;

12 (b) Any substance or mixture of substances intended to be used as  
13 a plant regulator, defoliant or desiccant; and

14 (c) Any spray adjuvant.

15 ~~(32) ("Pesticide advisory board" means the pesticide advisory~~  
16 ~~board as provided for in the Washington pesticide application act.~~

17 ~~(+33))~~ "Pesticide dealer" means any person who distributes any of  
18 the following pesticides:

19 (a) Highly toxic pesticides, as determined under RCW 15.58.040;

20 (b) EPA restricted use pesticides or restricted use pesticides  
21 which are restricted by rule to distribution by licensed pesticide  
22 dealers only; or

23 (c) Any other pesticide except those pesticides which are labeled  
24 and intended for home and garden use only.

25 ~~(+34))~~ (33) "Pesticide dealer manager" means the owner or other  
26 individual supervising pesticide distribution at one outlet holding a  
27 pesticide dealer license.

28 ~~(+35))~~ (34) "Plant regulator" means any substance or mixture of  
29 substances intended through physiological action, to accelerate or  
30 retard the rate of growth or maturation, or to otherwise alter the  
31 behavior of ornamental or crop plants or their produce, but shall not  
32 include substances insofar as they are intended to be used as plant  
33 nutrients, trace elements, nutritional chemicals, plant inoculants, or  
34 soil amendments.

35 ~~(+36))~~ (35) "Registrant" means the person registering any  
36 pesticide under the provisions of this chapter.

37 ~~(+37))~~ (36) "Restricted use pesticide" means any pesticide or  
38 device which, when used as directed or in accordance with a widespread

1 and commonly recognized practice, the director determines, subsequent  
2 to a hearing, requires additional restrictions for that use to prevent  
3 unreasonable adverse effects on the environment including people,  
4 lands, beneficial insects, animals, crops, and wildlife, other than  
5 pests.

6 ~~((+38+))~~ (37) "Rodenticide" means any substance or mixture of  
7 substances intended to prevent, destroy, repel, or mitigate rodents, or  
8 any other vertebrate animal which the director may declare by rule to  
9 be a pest.

10 ~~((+39+))~~ (38) "Specific wood destroying organism inspection" means  
11 an inspection of a structure for purposes of identifying or verifying  
12 evidence of an infestation of wood destroying organisms prior to pest  
13 management activities.

14 ~~((+40+))~~ (39) "Spray adjuvant" means any product intended to be  
15 used with a pesticide as an aid to the application or to the effect of  
16 the pesticide, and which is in a package or container separate from the  
17 pesticide. Spray adjuvant includes, but is not limited to, acidifiers,  
18 compatibility agents, crop oil concentrates, defoaming agents, drift  
19 control agents, modified vegetable oil concentrates, nonionic  
20 surfactants, organosilicone surfactants, stickers, and water  
21 conditioning agents. Spray adjuvant does not include products that are  
22 only intended to mark the location where a pesticide is applied.

23 ~~((+41+))~~ (40) "Special local needs registration" means a  
24 registration issued by the director pursuant to provisions of section  
25 24(c) of FIFRA.

26 ~~((+42+))~~ (41) "Structural pest inspector" means any individual who  
27 performs the service of conducting a complete wood destroying organism  
28 inspection or a specific wood destroying organism inspection.

29 ~~((+43+))~~ (42) "Unreasonable adverse effects on the environment"  
30 means any unreasonable risk to people or the environment taking into  
31 account the economic, social, and environmental costs and benefits of  
32 the use of any pesticide, or as otherwise determined by the director.

33 ~~((+44+))~~ (43) "Weed" means any plant which grows where not wanted.

34 ~~((+45+))~~ (44) "Wood destroying organism" means insects or fungi  
35 that consume, excavate, develop in, or otherwise modify the integrity  
36 of wood or wood products. Wood destroying organism includes, but is  
37 not limited to, carpenter ants, moisture ants, subterranean termites,



1 dampwood termites, beetles in the family Anobiidae, and wood decay  
2 fungi (wood rot).

3 ~~((46))~~ (45) "Wood destroying organism inspection report" means  
4 any written document that reports or comments on the presence or  
5 absence of wood destroying organisms, their damage, and/or conducive  
6 conditions leading to the establishment of such organisms.

7 **Sec. 51.** RCW 17.15.030 and 1997 c 357 s 4 are each amended to read  
8 as follows:

9 (1) A state agency or institution listed in RCW 17.15.020 shall  
10 provide integrated pest management training for employees responsible  
11 for pest management. ~~((The training programs shall be developed in  
12 cooperation with the interagency integrated pest management  
13 coordinating committee created under RCW 17.15.040.))~~

14 (2) A state agency or institution listed in RCW 17.15.020 shall  
15 designate an integrated pest management coordinator ~~((and the  
16 department of labor and industries and the office of the superintendent  
17 of public instruction shall each designate one representative to serve  
18 on the committee established in RCW 17.15.040)).~~

19 **Sec. 52.** RCW 17.21.100 and 1994 c 283 s 9 are each amended to read  
20 as follows:

21 (1) Certified applicators licensed under the provisions of this  
22 chapter, persons required to be licensed under this chapter, all  
23 persons applying pesticides to more than one acre of agricultural land  
24 in a calendar year, including public entities engaged in roadside  
25 spraying of pesticides, and all other persons making landscape  
26 applications of pesticides to types of property listed in RCW  
27 17.21.410(1) (b), (c), (d), and (e), shall keep records for each  
28 application which shall include the following information:

29 (a) The location of the land where the pesticide was applied;

30 (b) The year, month, day and beginning and ending time of the  
31 application of the pesticide each day the pesticide was applied;

32 (c) The product name used on the registered label and the United  
33 States environmental protection agency registration number, if  
34 applicable, of the pesticide which was applied;

35 (d) The crop or site to which the pesticide was applied;

1 (e) The amount of pesticide applied per acre or other appropriate  
2 measure;

3 (f) The concentration of pesticide that was applied;

4 (g) The number of acres, or other appropriate measure, to which the  
5 pesticide was applied;

6 (h) The licensed applicator's name, address, and telephone number  
7 and the name of the individual or individuals making the application  
8 and their license number, if applicable;

9 (i) The direction and estimated velocity of the wind during the  
10 time the pesticide was applied. This subsection (i) shall not apply to  
11 applications of baits in bait stations and pesticide applications  
12 within structures; and

13 (j) Any other reasonable information required by the director in  
14 rule.

15 (2)(a) The required information shall be recorded on the same day  
16 that a pesticide is applied.

17 (b) A commercial pesticide applicator who applies a pesticide to an  
18 agricultural crop or agricultural lands shall provide a copy of the  
19 records required under subsection (1) of this section for the  
20 application to the owner, or to the lessee if applied on behalf of the  
21 lessee, of the lands to which the pesticide is applied. Records  
22 provided by a commercial pesticide applicator to the owner or lessee of  
23 agricultural lands under this subsection need not be provided on a form  
24 adopted by the department.

25 (3) The records required under this section shall be maintained and  
26 preserved by the licensed pesticide applicator or such other person or  
27 entity applying the pesticides for no less than seven years from the  
28 date of the application of the pesticide to which such records refer.  
29 If the pesticide was applied by a commercial pesticide applicator to  
30 the agricultural crop or agricultural lands of a person who employs one  
31 or more employees, as "employee" is defined in RCW 49.70.020, the  
32 records shall also be kept by the employer for a period of seven years  
33 from the date of the application of the pesticide to which the records  
34 refer.

35 (4)(a) The pesticide records shall be readily accessible to the  
36 department for inspection. Copies of the records shall be provided on  
37 request to: The department; the department of labor and industries;  
38 treating health care personnel initiating diagnostic testing or therapy

1 for a patient with a suspected case of pesticide poisoning; the  
2 department of health; (~~the pesticide incident reporting and tracking~~  
3 ~~review panel~~;) and, in the case of an industrial insurance claim filed  
4 under Title 51 RCW with the department of labor and industries, the  
5 employee or the employee's designated representative. In addition, the  
6 director may require the submission of the records on a routine basis  
7 within thirty days of the application of any restricted use pesticide  
8 in prescribed areas controlling the use of the restricted use  
9 pesticide. When a request for records is made under this subsection by  
10 treating health care personnel and the record is required for  
11 determining treatment, copies of the record shall be provided  
12 immediately. For all other requests, copies of the record shall be  
13 provided within seventy-two hours.

14 (b) Copies of records provided to a person or entity under this  
15 subsection (4) shall, if so requested, be provided on a form adopted  
16 under subsection (7) of this section. Information for treating health  
17 care personnel shall be made immediately available by telephone, if  
18 requested, with a copy of the records provided within twenty-four  
19 hours.

20 (5) If a request for a copy of the record is made under this  
21 section from an applicator referred to in subsection (1) of this  
22 section and the applicator refuses to provide a copy, the requester may  
23 notify the department of the request and the applicator's refusal.  
24 Within seven working days, the department shall request that the  
25 applicator provide the department with all pertinent copies of the  
26 records, except that in a medical emergency the request shall be made  
27 within two working days. The applicator shall provide copies of the  
28 records to the department within twenty-four hours after the  
29 department's request.

30 (6) The department shall include inspection of the records required  
31 under this section as part of any on-site inspection conducted under  
32 this chapter on agricultural lands. The inspection shall determine  
33 whether the records are readily transferable to a form adopted by the  
34 department and are readily accessible to employees. However, no person  
35 subject to a department inspection may be inspected under this  
36 subsection (6) more than once in any calendar year, unless a previous  
37 inspection has found recordkeeping violations. If recordkeeping  
38 violations are found, the department may conduct reasonable multiple

1 inspections, pursuant to rules adopted by the department. Nothing in  
2 this subsection (6) limits the department's inspection of records  
3 pertaining to pesticide-related injuries, illnesses, fatalities,  
4 accidents, or complaints.

5 (7) The department of agriculture and the department of labor and  
6 industries shall jointly adopt, by rule, forms that satisfy the  
7 information requirements of this section.

8 **Sec. 53.** RCW 19.94.015 and 1995 c 355 s 1 are each amended to read  
9 as follows:

10 (1) Except as provided in subsection (4) of this section for the  
11 initial registration of an instrument or device, no weighing or  
12 measuring instrument or device may be used for commercial purposes in  
13 the state unless its commercial use is registered annually. If its  
14 commercial use is within a city that has a city sealer and a weights  
15 and measures program as provided by RCW 19.94.280, the commercial use  
16 of the instrument or device shall be registered with the city if the  
17 city has adopted fees pursuant to subsection (2) of this section. If  
18 its commercial use is outside of such a city, the commercial use of the  
19 instrument or device shall be registered with the department.

20 (2) A city with such a sealer and program may establish an annual  
21 fee for registering the commercial use of such a weighing or measuring  
22 instrument or device with the city. The annual fee shall not exceed  
23 the fee established in RCW 19.94.175 for registering the use of a  
24 similar instrument or device with the department. Fees upon weighing  
25 or measuring instruments or devices within the jurisdiction of the city  
26 that are collected under this subsection by city sealers shall be  
27 deposited into the general fund, or other account, of the city as  
28 directed by the governing body of the city.

29 (3) Registrations with the department are accomplished as part of  
30 the master license system under chapter 19.02 RCW. Payment of the  
31 registration fee for a weighing or measuring instrument or device under  
32 the master license system constitutes the registration required by this  
33 section.

34 (4) The fees established by or under RCW 19.94.175 for registering  
35 a weighing or measuring instrument or device shall be paid to the  
36 department of licensing concurrently with an application for a master  
37 license or with the annual renewal of a master license under chapter

1 19.02 RCW. A weighing or measuring instrument or device shall be  
2 initially registered with the state at the time the owner applies for  
3 a master license for a new business or at the first renewal of the  
4 license that occurs after the instrument or device is first placed into  
5 commercial use. (~~However, the use of an instrument or device that is~~  
6 ~~in commercial use on the effective date of this act shall be initially~~  
7 ~~registered at the time the first renewal of the master license of the~~  
8 ~~owner of the instrument or device is due following the effective date~~  
9 ~~of this act.)) The department of licensing shall remit to the  
10 department of agriculture all fees collected under this provision less  
11 reasonable collection expenses.~~

12 (5) Each city charging registration fees under this section shall  
13 notify the department of agriculture at the time such fees are adopted  
14 and whenever changes in the fees are adopted.

15 **Sec. 54.** RCW 20.01.010 and 2004 c 212 s 1 are each amended to read  
16 as follows:

17 As used in this title the terms defined in this section have the  
18 meanings indicated unless the context clearly requires otherwise.

19 (1) "Director" means the director of agriculture or a duly  
20 authorized representative.

21 (2) "Person" means any natural person, firm, partnership, exchange,  
22 association, trustee, receiver, corporation, and any member, officer,  
23 or employee thereof or assignee for the benefit of creditors.

24 (3) "Agricultural product" means any unprocessed horticultural,  
25 vermicultural and its by-products, viticultural, berry, poultry,  
26 poultry product, grain, bee, or other agricultural products.  
27 "Agricultural product" also includes (a) mint or mint oil processed by  
28 or for the producer thereof, hay and straw baled or prepared for market  
29 in any manner or form and livestock; and (b) agricultural seed, flower  
30 seed, vegetable seed, other crop seed, and seeds, as defined in chapter  
31 15.49 RCW, however, any disputes regarding responsibilities for seed  
32 clean out are governed exclusively by contracts between the producers  
33 of the seed and conditioners or processors of the seed.

34 (4) "Producer" means any person engaged in the business of growing  
35 or producing any agricultural product, whether as the owner of the  
36 products, or producing the products for others holding the title  
37 thereof.

1 (5) "Consignor" means any producer, person, or his or her agent who  
2 sells, ships, or delivers to any commission merchant, dealer, cash  
3 buyer, or agent, any agricultural product for processing, handling,  
4 sale, or resale.

5 (6) "Commission merchant" means any person who receives on  
6 consignment for sale or processing and sale from the consignor thereof  
7 any agricultural product for sale on commission on behalf of the  
8 consignor, or who accepts any farm product in trust from the consignor  
9 thereof for the purpose of resale, or who sells or offers for sale on  
10 commission any agricultural product, or who in any way handles for the  
11 account of or as an agent of the consignor thereof, any agricultural  
12 product.

13 (7) "Dealer" means any person other than a cash buyer, as defined  
14 in subsection (10) of this section, who solicits, contracts for, or  
15 obtains from the consignor thereof for reselling or processing, title,  
16 possession, or control of any agricultural product, or who buys or  
17 agrees to buy any agricultural product from the consignor thereof for  
18 sale or processing and includes any person, other than one who acts  
19 solely as a producer, who retains title in an agricultural product and  
20 delivers it to a producer for further production or increase. For the  
21 purposes of this chapter, the term dealer includes any person who  
22 purchases livestock on behalf of and for the account of another, or who  
23 purchases cattle in another state or country and imports these cattle  
24 into this state for resale.

25 (8) "Limited dealer" means any person who buys, agrees to buy, or  
26 pays for the production or increase of any agricultural product by  
27 paying to the consignor at the time of obtaining possession or control  
28 of any agricultural product the full agreed price of the agricultural  
29 product and who operates under the alternative bonding provision in RCW  
30 20.01.211.

31 (9) "Broker" means any person other than a commission merchant,  
32 dealer, or cash buyer who negotiates the purchase or sale of any  
33 agricultural product, but no broker may handle the agricultural  
34 products involved or proceeds of the sale.

35 (10) "Cash buyer" means any person other than a commission  
36 merchant, dealer, or broker, who obtains from the consignor thereof for  
37 the purpose of resale or processing, title, possession, or control of  
38 any agricultural product or who contracts for the title, possession, or

1 control of any agricultural product, or who buys or agrees to buy for  
2 resale any agricultural product by paying to the consignor at the time  
3 of obtaining possession or control of any agricultural product the full  
4 agreed price of the agricultural product, in coin or currency(~~(, lawful~~  
5 ~~money of the United States)~~). However, a cashier's check, certified  
6 check, credit card, or bankdraft may be used for the payment. For the  
7 purposes of this subsection, "agricultural product," does not include  
8 hay, grain, straw, or livestock.

9 (11) "Agent" means any person who, on behalf of any commission  
10 merchant, dealer, broker, or cash buyer, acts as liaison between a  
11 consignor and a principal, or receives, contracts for, or solicits any  
12 agricultural product from the consignor thereof or who negotiates the  
13 consignment or purchase of any agricultural product on behalf of any  
14 commission merchant, dealer, broker, or cash buyer and who transacts  
15 all or a portion of that business at any location other than at the  
16 principal place of business of his or her employer. With the exception  
17 of an agent for a commission merchant or dealer handling horticultural  
18 products, an agent may operate only in the name of one principal and  
19 only to the account of that principal.

20 (12) "Retail merchant" means any person operating from a bona fide  
21 or established place of business selling agricultural products twelve  
22 months of each year.

23 (13) "Fixed or established place of business" for the purpose of  
24 this chapter means any permanent warehouse, building, or structure, at  
25 which necessary and appropriate equipment and fixtures are maintained  
26 for properly handling those agricultural products generally dealt in,  
27 and at which supplies of the agricultural products being usually  
28 transported are stored, offered for sale, sold, delivered, and  
29 generally dealt with in quantities reasonably adequate for and usually  
30 carried for the requirements of such a business, and that is recognized  
31 as a permanent business at such place, and carried on as such in good  
32 faith and not for the purpose of evading this chapter, and where  
33 specifically designated personnel are available to handle transactions  
34 concerning those agricultural products generally dealt in, which  
35 personnel are available during designated and appropriate hours to that  
36 business, and shall not mean a residence, barn, garage, tent, temporary  
37 stand or other temporary quarters, any railway car, or permanent  
38 quarters occupied pursuant to any temporary arrangement.

1 (14) "Processor" means any person, firm, company, or other  
2 organization that purchases agricultural crops from a consignor and  
3 that cans, freezes, dries, dehydrates, cooks, presses, powders, or  
4 otherwise processes those crops in any manner whatsoever for eventual  
5 resale.

6 (15) "Pooling contract" means any written agreement whereby a  
7 consignor delivers a horticultural product to a commission merchant  
8 under terms whereby the commission merchant may commingle the  
9 consignor's horticultural products for sale with others similarly  
10 agreeing, which must include all of the following:

11 (a) A delivery receipt for the consignor that indicates the variety  
12 of horticultural product delivered, the number of containers, or the  
13 weight and tare thereof;

14 (b) Horticultural products received for handling and sale in the  
15 fresh market shall be accounted for to the consignor with individual  
16 pack-out records that shall include variety, grade, size, and date of  
17 delivery. Individual daily packing summaries shall be available within  
18 forty-eight hours after packing occurs. However, platform inspection  
19 shall be acceptable by mutual contract agreement on small deliveries to  
20 determine variety, grade, size, and date of delivery;

21 (c) Terms under which the commission merchant may use his or her  
22 judgment in regard to the sale of the pooled horticultural product;

23 (d) The charges to be paid by the consignor as filed with the state  
24 of Washington;

25 (e) A provision that the consignor shall be paid for his or her  
26 pool contribution when the pool is in the process of being marketed in  
27 direct proportion, not less than eighty percent of his or her interest  
28 less expenses directly incurred, prior liens, and other advances on the  
29 grower's crop unless otherwise mutually agreed upon between grower and  
30 commission merchant.

31 (16) "Date of sale" means the date agricultural products are  
32 delivered to the person buying the products.

33 (17) "Conditioner" means any person, firm, company, or other  
34 organization that receives seeds from a consignor for drying or  
35 cleaning.

36 (18) "Seed bailment contract" means any contract meeting the  
37 requirements of chapter 15.48 RCW.



1 (19) "Proprietary seed" means any seed that is protected under the  
2 Federal Plant Variety Protection Act.

3 (20) "Licensed public weighmaster" means any person, licensed under  
4 the provisions of chapter 15.80 RCW, who weighs, measures, or counts  
5 any commodity or thing and issues therefor a signed certified  
6 statement, ticket, or memorandum of weight, measure, or count upon  
7 which the purchase or sale of any commodity or upon which the basic  
8 charge of payment for services rendered is based.

9 (21) "Certified weight" means any signed certified statement or  
10 memorandum of weight, measure or count issued by a licensed public  
11 weighmaster in accordance with the provisions of chapter 15.80 RCW.

12 (22) "Licensee" means any person or business licensed under this  
13 chapter as a commission merchant, dealer, limited dealer, broker, cash  
14 buyer, or agent.

15 (23) "Seed" means agricultural seed, flower seed, vegetable seed,  
16 other crop seed, and seeds, as defined in chapter 15.49 RCW.

17 (24) "Seed clean out" means the process of removing impurities from  
18 raw seed product.

19 **Sec. 55.** RCW 20.01.475 and 1971 ex.s. c 182 s 13 are each amended  
20 to read as follows:

21 It shall be prima facie evidence that a licensee licensed under the  
22 provisions of this (~~(1971-amendatory-act)~~) chapter is acting as such in  
23 the handling of any agricultural product.

24 **Sec. 56.** RCW 20.01.510 and 1971 ex.s. c 182 s 16 are each amended  
25 to read as follows:

26 In order to carry out the purposes of this (~~(1971-amendatory-act)~~)  
27 chapter, the director may require a processor to annually complete a  
28 form prescribed by the director, which, when completed, will show the  
29 maximum processing capacity of each plant operated by the processor in  
30 the state of Washington. Such completed form shall be returned to the  
31 director by a date prescribed by him or her.

32 **Sec. 57.** RCW 20.01.520 and 1971 ex.s. c 182 s 17 are each amended  
33 to read as follows:

34 By a date or dates prescribed prior to planting time by the

1 director, the director, in order to carry out the purposes of this  
2 ((1971 amandatory act)) chapter, may require a processor to have filed  
3 with ((him)) the director:

4 (1) A copy of each contract ((he)) the processor has entered into  
5 with a grower for the purchase of acres of crops and/or quantity of  
6 crops to be harvested during the present or next growing season; and

7 (2) A notice of each oral commitment ((he)) the processor has given  
8 to growers for the purchase of acres of crops and/or quantity of crops  
9 to be harvested during the present or next growing season, and such  
10 notice shall disclose the amount of acres and/or quantity to which the  
11 processor has committed himself or herself.

12 **Sec. 58.** RCW 17.24.210 and 1982 c 153 s 3 are each amended to read  
13 as follows:

14 The director of agriculture may, on the behalf of the state of  
15 Washington, enter into indemnity contracts wherein the state of  
16 Washington agrees to repay any person, firm, corporation, or other  
17 entity acting under the direction or control of the proper authority to  
18 provide plant pest or plant disease prevention, control, or eradication  
19 measures as provided in this chapter or any rule adopted pursuant to  
20 the provisions of this chapter, for losses and damages incurred as a  
21 result of such prevention, control, or eradication measures if all of  
22 the following conditions occur:

23 (1) At the time of the incident the worker is performing services  
24 as an emergency measures worker and is acting within the course of his  
25 or her duties as an emergency measures worker;

26 (2) At the time of the injury, loss, or damage, the organization  
27 providing emergency measures by which the worker is employed is an  
28 approved organization for providing emergency measures;

29 (3) The injury, loss, or damage is proximately caused by his or her  
30 service either with or without negligence as an emergency measures  
31 worker;

32 (4) The injury, loss, or damage is not caused by the intoxication  
33 of the worker; and

34 (5) The injury, loss, or damage is not due to ((wilful)) willful  
35 misconduct or gross negligence on the part of a worker.

36 Where an act or omission by an emergency services provider in the  
37 course of providing emergency services injures a person or property,

1 the provider and the state may be jointly and severally liable for the  
2 injury, if state liability is proved under existing or hereafter  
3 enacted law.

4 ~~((Each person, firm, corporation, or other entity authorized to  
5 provide the prevention, control, or eradication measures implementing  
6 a program approved under RCW 17.24.200 shall be identified on a list  
7 approved by the director. For the purposes of this section, each  
8 person on the list shall be known, for the duration of the person's  
9 services under the program, as "an emergency measures worker."))~~

10 NEW SECTION. **Sec. 59.** RCW 15.58.380 (Board to advise director)  
11 and 1971 ex.s. c 190 s 38 are each repealed.

12 NEW SECTION. **Sec. 60.** If any provision of this act or its  
13 application to any person or circumstance is held invalid, the  
14 remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected."

16 Correct the title.

EFFECT: Corrects a typographical error.

Increases the number of days (from 20-45) after the payment for a delivered grain, hay, or straw product is due that a first priority preparer lien is viable.

Removes the provision that eliminates the prohibition on the sale of year-old apples as fresh product after October 1st of any year.

Makes corrections to outdated provisions, obsolete statutory cross-references, redundant provisions, nongender neutral terms, and other anachronistic terminology in the statutes administered by the Washington state department of agriculture.

--- END ---