

SHB 2049 - S COMM AMD

By Committee on Agriculture, Water, Natural Resources & Parks

ADOPTED 03/29/2019

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that the purpose of
4 this act is to improve the regulation of egg production and sales in
5 order to protect the health and welfare of consumers, promote food
6 safety, advance animal welfare, and protect against the negative
7 fiscal effects on the state associated with the lack of effective
8 regulation of egg production and sales.

9 **Sec. 2.** RCW 69.25.010 and 1975 1st ex.s. c 201 s 2 are each
10 amended to read as follows:

11 Eggs and egg products are an important source of the state's
12 total supply of food, and are used in food in various forms. They are
13 consumed throughout the state and the major portion thereof moves in
14 intrastate commerce. It is essential, in the public interest, that
15 the health and welfare of consumers be protected by the adoption of
16 measures prescribed herein for assuring that eggs and egg products
17 distributed to them and used in products consumed by them are
18 wholesome, otherwise not adulterated, and properly labeled and
19 packaged. Lack of effective regulation for the handling or
20 disposition of unwholesome, otherwise adulterated, or improperly
21 labeled or packaged egg products and certain qualities of eggs is
22 injurious to the public welfare and destroys markets for wholesome,
23 unadulterated, and properly labeled and packaged eggs and egg
24 products and results in sundry losses to producers and processors, as
25 well as injury to consumers. Unwholesome, otherwise adulterated, or
26 improperly labeled or packaged products can be sold at lower prices
27 and compete unfairly with the wholesome, unadulterated, and properly
28 labeled and packaged products, to the detriment of consumers and the
29 public generally. It is also essential to protect the health and
30 welfare of consumers, promote food safety, advance animal welfare,
31 and protect against the negative fiscal effects on the state

1 associated with the lack of effective regulation of egg production
2 and sales. It is hereby found that all egg products and the qualities
3 of eggs which are regulated under this chapter are either in
4 intrastate commerce, or substantially affect such commerce, and that
5 regulation by the director, as contemplated by this chapter, is
6 appropriate to protect the health and welfare of consumers.

7 **Sec. 3.** RCW 69.25.020 and 2013 c 144 s 44 are each reenacted and
8 amended to read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly otherwise requires.

11 (1) "Adulterated" applies to any egg or egg product under one or
12 more of the following circumstances:

13 (a) If it bears or contains any poisonous or deleterious
14 substance that may render it injurious to health; but in case the
15 substance is not an added substance, such article is not considered
16 adulterated under this clause if the quantity of such substance in or
17 on such article does not ordinarily render it injurious to health;

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

23 (c) If it is, in whole or in part, a raw agricultural commodity
24 and such commodity bears or contains a pesticide chemical (~~(which is~~
25 ~~unsafe within the meaning of RCW 69.04.392, as enacted or hereafter~~
26 ~~amended)) that renders it adulterated within the meaning of RCW
27 15.130.200(2);~~

28 (d) If it bears or contains any food additive (~~(which is unsafe~~
29 ~~within the meaning of RCW 69.04.394, as enacted or hereafter~~
30 ~~amended)) that renders it adulterated within the meaning of RCW
31 15.130.200(2);~~

32 (e) If it bears or contains any color additive (~~(which is unsafe~~
33 ~~within the meaning of RCW 69.04.396)) that renders it adulterated
34 within the meaning of RCW 15.130.200(2); however, an article which is
35 not otherwise deemed adulterated under (c), (d), or (e) of this
36 subsection are nevertheless deemed adulterated if use of the
37 pesticide chemical, food additive, or color additive, in or on such
38 article, is prohibited by regulations of the director in official
39 plants;~~

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

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

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

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

11 (j) If its container is composed, in whole or in part, of any
12 poisonous or deleterious substance which may render the contents
13 injurious to health;

14 (k) If it has been intentionally subjected to radiation, unless
15 the use of the radiation was in conformity with a regulation or
16 exemption in effect (~~pursuant to RCW 69.04.394~~) under chapter
17 15.130 RCW; or

18 (l) If any valuable constituent has been in whole or in part
19 omitted or abstracted therefrom; or if any substance has been
20 substituted, wholly or in part therefor; or if damage or inferiority
21 has been concealed in any manner; or if any substance has been added
22 thereto or mixed or packed therewith so as to increase its bulk or
23 weight, or reduce its quality or strength, or make it appear better
24 or of greater value than it is.

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

27 (3) "At retail" means any transaction in intrastate commerce
28 between a retailer and a consumer.

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

34 (5) "Candling" means the examination of the interior of eggs by
35 the use of transmitted light used in a partially dark room or place.

36 (6) "Capable of use as human food" applies to any egg or egg
37 product unless it is denatured, or otherwise identified, as required
38 by regulations prescribed by the director, to deter its use as human
39 food.

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

3 (8) "Clean and sound shell egg" means any egg whose shell is free
4 of adhering dirt or foreign material and is not cracked or broken.

5 (9) "Consumer" means any person who purchases eggs or egg
6 products for his or her own family use or consumption; or any
7 restaurant, hotel, boarding house, bakery, or other institution or
8 concern which purchases eggs or egg products for serving to guests or
9 patrons thereof, or for its own use in cooking or baking.

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

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

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

16 (13) "Dirty egg" means an egg that has a shell that is unbroken
17 and has adhering dirt or foreign material.

18 (14) "Egg" means the shell egg of the domesticated chicken,
19 turkey, duck, goose, or guinea, or any other specie of fowl.

20 (15) "Egg handler" or "dealer" means any person who produces,
21 contracts for or obtains possession or control of any eggs or egg
22 products for the purpose of sale to another dealer or retailer, or
23 for processing and sale to a dealer, retailer or consumer. For the
24 purpose of this chapter, "sell" or "sale" includes the following:
25 Offer for sale, expose for sale, have in possession for sale,
26 exchange, barter, trade, or as an inducement for the sale of another
27 product.

28 (16)(a) "Egg product" means any dried, frozen, or liquid eggs,
29 with or without added ingredients, excepting products which contain
30 eggs only in a relatively small proportion, or historically have not
31 been, in the judgment of the director, considered by consumers as
32 products of the egg food industry, and which may be exempted by the
33 director under such conditions as the director may prescribe to
34 assure that the egg ingredients are not adulterated and are not
35 represented as egg products.

36 (b) The following products are not included in the definition of
37 "egg product" if they are prepared from eggs or egg products that
38 have been either inspected by the United States department of
39 agriculture or by the department under a cooperative agreement with
40 the United States department of agriculture: Freeze-dried products,

1 imitation egg products, egg substitutes, dietary foods, dried no-bake
2 custard mixes, eggnog mixes, acidic dressings, noodles, milk and egg
3 dip, cake mixes, French toast, balut and other similar ethnic
4 delicacies, and sandwiches containing eggs or egg products.

5 (17) "Immediate container" means any consumer package, or any
6 other container in which egg products, not consumer-packaged, are
7 packed.

8 (18) "Incubator reject" means an egg that has been subjected to
9 incubation and has been removed from incubation during the hatching
10 operations as infertile or otherwise unhatchable.

11 (19) "Inedible" means eggs of the following descriptions: Black
12 rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs,
13 eggs with green whites, eggs with stuck yolks, moldy eggs, musty
14 eggs, eggs showing blood rings, and eggs containing embryo chicks (at
15 or beyond the blood ring stage).

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

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

22 (22) "Intrastate commerce" means any eggs or egg products in
23 intrastate commerce, whether such eggs or egg products are intended
24 for sale, held for sale, offered for sale, sold, stored, transported,
25 or handled in this state in any manner and prepared for eventual
26 distribution in this state, whether at wholesale or retail.

27 (23) "Leaker" means an egg that has a crack or break in the shell
28 and shell membranes to the extent that the egg contents are exposed
29 or are exuding or free to exude through the shell.

30 (24) "Loss" means an egg that is unfit for human food because it
31 is smashed or broken so that its contents are leaking; or overheated,
32 frozen, or contaminated; or an incubator reject; or because it
33 contains a bloody white, large meat spots, a large quantity of blood,
34 or other foreign material.

35 (25) "Misbranded" applies to egg products that are not labeled
36 and packaged in accordance with the requirements prescribed by
37 regulations of the director under RCW 69.25.100.

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

1 (27) "Official device" means any device prescribed or authorized
2 by the director for use in applying any official mark.

3 (28) "Official inspection legend" means any symbol prescribed by
4 regulations of the director showing that egg products were inspected
5 in accordance with this chapter.

6 (29) "Official mark" means the official inspection legend or any
7 other symbol prescribed by regulations of the director to identify
8 the status of any article under this chapter.

9 (30) "Official plant" means any plant which is licensed under the
10 provisions of this chapter, at which inspection of the processing of
11 egg products is maintained by the United States department of
12 agriculture or by the state under cooperative agreements with the
13 United States department of agriculture or by the state.

14 (31) "Official standards" means the standards of quality, grades,
15 and weight classes for eggs, adopted under the provisions of this
16 chapter.

17 (32) "Pasteurize" means the subjecting of each particle of egg
18 products to heat or other treatments to destroy harmful, viable
19 microorganisms by such processes as may be prescribed by regulations
20 of the director.

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

25 (34) "Pesticide chemical," "food additive," "color additive," and
26 "raw agricultural commodity" have the same meaning for purposes of
27 this chapter as (~~prescribed in chapter 69.04 RCW~~) defined in
28 chapter 15.130 RCW.

29 (35) "Plant" means any place of business where egg products are
30 processed.

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

34 (37) "Restricted egg" means any check, dirty egg, incubator
35 reject, inedible, leaker, or loss.

36 (38) "Retailer" means any person in intrastate commerce who sells
37 eggs or egg products to a consumer.

38 (39) "Shipping container" means any container used in packaging a
39 product packed in an immediate container.

1 (40) "Cage-free housing system" means an indoor or outdoor
2 controlled environment for egg-laying hens within which:

3 (a) Hens are free to roam unrestricted except by external walls;

4 (b) Hens are provided enrichments that allow them to exhibit
5 natural behaviors including, at a minimum, scratch areas, perches,
6 nest boxes, and dust bathing areas; and

7 (c) Farm employees can provide care while standing somewhere
8 within the hens' usable floor space.

9 (41) "Egg-laying hen" means any female domesticated chicken,
10 turkey, duck, goose, or guinea fowl kept for the purpose of egg
11 production.

12 (42) "Usable floor space" means the total square footage of floor
13 space provided to each egg-laying hen, calculated by dividing the
14 total square footage of floor space in an enclosure by the number of
15 hens in that enclosure. "Usable floor space" includes ground space
16 and elevated level or nearly level platforms to accommodate egg flow
17 upon which hens can roost, but does not include perches or ramps.

18 **Sec. 4.** RCW 69.25.065 and 2011 c 306 s 3 are each amended to
19 read as follows:

20 (1) All new and renewal applications submitted under RCW
21 69.25.050 before January 1, (~~2026~~) 2024, must include proof that
22 all eggs and egg products provided in intrastate commerce by the
23 applicant are produced by commercial egg layer operations:

24 (a) With a current certification under the 2010 version of the
25 united egg producers animal husbandry guidelines for United States
26 egg laying flocks for conventional cage systems or cage-free housing
27 systems or a subsequent version of the guidelines recognized by the
28 department in rule; or

29 (b) Operated in strict compliance with any standards, adopted by
30 the department in rule, that are equivalent to or more stringent than
31 the standards identified in (a) of this subsection.

32 (2) All new and renewal applications submitted under RCW
33 69.25.050 before January 1, 2017, must, in addition to complying with
34 subsection (1) of this section, include proof that all eggs and egg
35 products provided in intrastate commerce by the applicant are
36 produced by commercial egg layer operations whose housing facilities,
37 if built between January 1, 2012, and December 31, 2016, are either:

38 (a) Approved under, or convertible to, the American humane
39 association facility system plan for enriched colony housing in

1 effect on January 1, 2011, or a subsequent version of the plan
2 recognized by the department in rule and, in addition, are
3 convertible to the standards identified in RCW 69.25.107; or

4 (b) Operated in strict compliance with any standards, adopted by
5 the department in rule, that are equivalent to or more stringent than
6 the standards identified in (a) of this subsection.

7 (3) All new and renewal applications submitted under RCW
8 69.25.050 between January 1, 2017, and December 31, ~~((2025))~~ 2023,
9 must, in addition to complying with subsection (1) of this section,
10 include proof that all eggs and egg products provided in intrastate
11 commerce by the applicant are produced by commercial egg layer
12 operations whose housing facilities, if built on or after January 1,
13 2012, are either:

14 (a) Approved under the American humane association facility
15 system plan and audit protocol for enriched colony housing in effect
16 on January 1, 2011, or a subsequent version of the plan recognized by
17 the department in rule and, in addition, are operated to the
18 standards identified in RCW 69.25.107; or

19 (b) Operated in strict compliance with any standards, adopted by
20 the department in rule, that are equivalent to or more stringent than
21 the standards identified in (a) of this subsection.

22 (4) All new and renewal applications submitted under RCW
23 69.25.050 on or after January 1, ~~((2026))~~ 2024, must include proof
24 that all eggs and egg products provided in intrastate commerce by the
25 applicant are produced by commercial egg layer operations that are
26 either:

27 ~~((Approved under the American humane association facility
28 system plan and audit protocol for enriched colony housing in effect
29 on January 1, 2011))~~ Housing egg-laying hens with at a minimum the
30 amount of usable floor space per hen required by the 2017 edition of
31 the united egg producers' Animal Husbandry Guidelines for United
32 States Egg-Laying Flocks: Guidelines for Cage-Free Housing, or a
33 subsequent version of the plan recognized by the department in rule
34 as providing equal or more usable floor space per egg-laying hen and,
35 in addition, are operated to the standards identified in RCW
36 69.25.107; or

37 (b) Operated in strict compliance with any standards, adopted by
38 the department in rule, that are equivalent to or more stringent than
39 the standards identified in (a) of this subsection.

1 (5) The following are exempt from the requirements of subsections
2 (2) and (3) of this section:

3 (a) Applicants with fewer than three thousand laying chickens;
4 and

5 (b) Commercial egg layer operations when producing eggs or egg
6 products from turkeys, ducks, geese, guineas, or other species of
7 fowl other than domestic chickens.

8 **Sec. 5.** RCW 69.25.070 and 1975 1st ex.s. c 201 s 8 are each
9 amended to read as follows:

10 The department (~~may~~) shall deny, suspend, or revoke(~~(, or~~
11 ~~issue)~~) a license or a conditional license if it determines that an
12 applicant or licensee has committed any of the following acts:

13 (1) That the applicant or licensee is violating or has violated
14 any of the provisions of this chapter or rules and regulations
15 adopted thereunder.

16 (2) That the application contains any materially false or
17 misleading statement or involves any misrepresentation by any
18 officer, agent, or employee of the applicant.

19 (3) That the applicant or licensee has concealed or withheld any
20 facts regarding any violation of this chapter by any officer, agent,
21 or employee of the applicant or licensee.

22 **Sec. 6.** RCW 69.25.103 and 2011 c 306 s 4 are each amended to
23 read as follows:

24 Any egg handler or dealer involved with the in-state production
25 of eggs or egg products only intended for sale outside of the state
26 of Washington must ensure that the associated commercial egg layer
27 operation is in compliance with the applicable standards as provided
28 in RCW 69.25.065 and 69.25.107.

29 **Sec. 7.** RCW 69.25.107 and 2011 c 306 s 5 are each amended to
30 read as follows:

31 (1) All commercial egg layer operations required under RCW
32 69.25.065 to meet the American humane association facility system
33 plan, or an equivalent to the plan, must also ensure that all hens in
34 the operation are provided with:

35 (a) No less than one hundred sixteen and three-tenths square
36 inches of space per hen; and

37 (b) Access to areas for nesting, scratching, and perching.

1 (2) All commercial egg layer operations required under RCW
2 69.25.065 to house egg-laying hens with at a minimum the amount of
3 usable floor space per hen required by the 2017 edition of the united
4 egg producers' Animal Husbandry Guidelines for United States Egg-
5 Laying Flocks: Guidelines for Cage-Free Housing, or a subsequent
6 version of the plan recognized by the department in rule as providing
7 equal or more useable floor space per egg-laying hen, must ensure
8 that the hens are housed in a cage-free housing system.

9 (3) Subsection (2) of this section does not apply:

10 (a) During medical research;

11 (b) During examination, testing, individual treatment, or
12 operation for veterinary purposes;

13 (c) During transportation, or depopulation operations for periods
14 of no more than seven days in any eighteen-month period;

15 (d) During rodeo exhibitions, state or county fair exhibitions,
16 4-H programs, and similar exhibitions;

17 (e) During the slaughter of an egg-laying hen in accordance with
18 applicable laws and regulations; or

19 (f) During temporary periods for animal husbandry purposes of no
20 more than six hours in any twenty-four-hour period, and no more than
21 twenty-four hours in any thirty-day period.

22 (4) The requirements of this section apply for any commercial egg
23 layer operation on the same dates that RCW 69.25.065 requires
24 compliance with the American humane association facility system plan
25 or an equivalent to the plan, or requires housing egg-laying hens
26 with at a minimum the amount of usable floor space per hen required
27 by the united egg producers' Animal Husbandry Guidelines for United
28 States Egg-Laying Flocks: Guidelines for Cage-Free Housing or an
29 equivalent to the guidelines.

30 **Sec. 8.** RCW 69.25.110 and 2012 c 117 s 348 are each amended to
31 read as follows:

32 (1) No person shall buy, sell, or transport, or offer to buy or
33 sell, or offer or receive for transportation, in any business in
34 intrastate commerce any restricted eggs, capable of use as human
35 food, except as authorized by regulations of the director under such
36 conditions as he or she may prescribe to assure that only eggs fit
37 for human food are used for such purpose.

38 (2) No egg handler shall possess with intent to use, or use, any
39 restricted eggs in the preparation of human food for intrastate

1 commerce except that such eggs may be so possessed and used when
2 authorized by regulations of the director under such conditions as he
3 or she may prescribe to assure that only eggs fit for human food are
4 used for such purpose.

5 (3) No person shall process any egg products for intrastate
6 commerce at any plant except in compliance with the requirements of
7 this chapter.

8 (4) No person shall buy, sell, or transport, or offer to buy or
9 sell, or offer or receive for transportation, in intrastate commerce
10 any egg or egg product that was not produced in compliance with the
11 standards required by RCW 69.25.065 and 69.25.107. This prohibition
12 shall not apply to any sale undertaken at an official plant at which
13 mandatory inspection is maintained under the federal egg products
14 inspection act, 21 U.S.C. Sec. 1031 et seq. For the purposes of this
15 subsection, a sale is deemed to occur at the location where the buyer
16 takes physical possession of an item.

17 (5) No person shall buy, sell, or transport, or offer to buy or
18 sell, or offer or receive for transportation, in intrastate commerce
19 any egg products required to be inspected under this chapter unless
20 they have been so inspected and are labeled and packaged in
21 accordance with the requirements of RCW 69.25.100.

22 ~~((+5))~~ (6) No operator of any official plant shall allow any egg
23 products to be moved from such plant if they are adulterated or
24 misbranded and capable of use as human food.

25 ~~((+6))~~ (7) No person shall:

26 (a) Manufacture, cast, print, lithograph, or otherwise make any
27 device containing any official mark or simulation thereof, or any
28 label bearing any such mark or simulation, or any form of official
29 certificate or simulation thereof, except as authorized by the
30 director;

31 (b) Forge or alter any official device, mark, or certificate;

32 (c) Without authorization from the director, use any official
33 device, mark, or certificate, or simulation thereof, or detach,
34 deface, or destroy any official device or mark; or use any labeling
35 or container ordered to be withheld from use under RCW 69.25.100
36 after final judicial affirmance of such order or expiration of the
37 time for appeal if no appeal is taken under said section;

38 (d) Contrary to the regulations prescribed by the director, fail
39 to use, or to detach, deface, or destroy any official device, mark,
40 or certificate;

1 (e) Knowingly possess, without promptly notifying the director or
2 his or her representative, any official device or any counterfeit,
3 simulated, forged, or improperly altered official certificate or any
4 device or label, or any eggs or egg products bearing any counterfeit,
5 simulated, forged, or improperly altered official mark;

6 (f) Knowingly make any false statement in any shipper's
7 certificate or other nonofficial or official certificate provided for
8 in the regulations prescribed by the director;

9 (g) Knowingly represent that any article has been inspected or
10 exempted, under this chapter when in fact it has not been so
11 inspected or exempted; and

12 (h) Refuse access, at any reasonable time, to any representative
13 of the director, to any plant or other place of business subject to
14 inspection under any provisions of this chapter.

15 ~~((7))~~ (8) No person, while an official or employee of the state
16 or local governmental agency, or thereafter, shall use to his or her
17 own advantage, or reveal other than to the authorized representatives
18 of the United States government or the state in their official
19 capacity, or as ordered by a court in a judicial proceeding, any
20 information acquired under the authority of this chapter concerning
21 any matter which the originator or relator of such information claims
22 to be entitled to protection as a trade secret.

23 NEW SECTION. **Sec. 9.** The provisions of this act are in addition
24 to, and not in lieu of, any other laws protecting animal welfare.
25 This act shall not be construed to limit any other state laws or
26 regulations protecting the welfare of animals or to prevent a local
27 governing body from adopting and enforcing its own animal welfare
28 laws and regulations."

SHB 2049 - S COMM AMD

By Committee on Agriculture, Water, Natural Resources & Parks

ADOPTED 03/29/2019

29 On page 1, line 1 of the title, after "operations;" strike the
30 remainder of the title and insert "amending RCW 69.25.010, 69.25.065,
31 69.25.070, 69.25.103, 69.25.107, and 69.25.110; reenacting and
32 amending RCW 69.25.020; and creating new sections."

EFFECT: Corrects a cross-reference. Clarifies the definition of "adulterated" as it relates to the Food Safety and Security Act.

--- **END** ---