

highway approach provided for in this amendatory act. This appropriation shall be considered a loan and repaid to the motor vehicle fund by the authority upon the sale of bonds as provided for under section 2 of this amendatory act at the discretion of the toll bridge authority from tolls on the Vernita toll bridge.

Passed the Senate February 21, 1963.

Passed the House March 12, 1963.

Approved by the Governor March 26, 1963.

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CHAPTER 198.

[ S. B. 262. ]

UNIFORM WASHINGTON FOOD, DRUG AND  
COSMETIC ACT.

AN ACT relating to the Uniform Washington Food, Drug and Cosmetic Act; amending section 39, chapter 257, Laws of 1945 and RCW 69.04.210; amending section 57, chapter 257, Laws of 1945 and RCW 69.04.390; amending section 58, chapter 257, Laws of 1945 and RCW 69.04.400; and adding ten new sections to chapter 69.04 RCW; and repealing section 41, chapter 257, Laws of 1945 and RCW 69.04.230; and repealing section 94, chapter 257, Laws of 1945 and RCW 69.04.760.

*Be it enacted by the Legislature of the State of Washington:*

RCW 69.04.210 amended.

SECTION 1. Section 39, chapter 257, Laws of 1945 and RCW 69.04.210 are each amended to read as follows:

Food—Adulteration by poisonous or deleterious substance.

A food shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(2) (a) If it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive, or (iii) a color additive) which is unsafe within the meaning of section 2 of this amendatory act, or (b) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 3 of this amendatory act, or (c) if it is, or it bears or contains, any food additive which is unsafe within the meaning of section 4 of this amendatory act: *Provided*, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 3 of this amendatory act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of sections 2 and 4 of this amendatory act, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or

(3) If it consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(4) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or

(5) If it is in whole or in part the product of a diseased animal or of an animal which has died

otherwise than by slaughter or which has been fed on the uncooked offal from a slaughterhouse; or

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

(7) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 4 of this amendatory act.

RCW 69.04.390 amended.

SEC. 2. Section 57, chapter 257, Laws of 1945 and RCW 69.04.390 are each amended to read as follows:

Food, drug, cosmetic act. Regulations permitting tolerance of harmful matter.

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed unsafe for purposes of the application of clause (2) (a) of section 1 of this amendatory act; but when such substance is so required or cannot be so avoided, the director shall promulgate regulations limiting the quantity therein or thereon to such extent as he finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed unsafe for purposes of the application of clause (2) (a) of section 1 of this amendatory act. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 1 of this amendatory act. In determining the quantity of such added substance to be tolerated in or on different articles of food, the director shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

SEC. 3. There is hereby added to chapter 69.04 RCW the following new section: New section.

(1) Any poisonous or deleterious pesticide chemical, or any pesticide chemical which generally is recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals as unsafe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purpose of the application of clause (2) of section 1 of this amendatory act unless: —Pesticide chemicals in or on raw agricultural commodities.

(a) A tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed pursuant to subsection (2) hereof and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or

(b) With respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance pursuant to subsection (2) hereof.

While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of clause (1) of section 1 of this amendatory act.

(2) The regulations promulgated under section 408 of the Federal Food, Drug and Cosmetic Act, as of the effective date of this amendatory act, setting forth the tolerances for pesticide chemicals in or on any raw agricultural commodity, are hereby adopted as the regulations for tolerances applicable to this chapter: *Provided*, That the director is hereby authorized to adopt by regulation any new or future amendments to such federal regulations for tolerances, including exemption from tolerance and zero Proviso.

Food, drug, cosmetic act—  
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tolerances; to the extent necessary to protect the public health. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein tolerances for pesticides, exemptions, and zero tolerances, upon his own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such regulation.

(3) In adopting any new or amended tolerances by regulation issued pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the necessity for the production of an adequate, wholesome, and economical food supply; (c) the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (d) the opinion of experts qualified by scientific training and experience to determine the proper tolerance to be allowed for any pesticide chemical.

New section.

SEC. 4. There is hereby added to chapter 69.04 RCW the following new section:

—Food additives.

(1) A food additive shall, with respect to any particular use or intended use of such additives, be deemed unsafe for the purpose of the application of

clause (2) (c) of section 1 of this amendatory act, unless:

(a) It and its use or intended use conform to the terms of an exemption granted, pursuant to a regulation under subsection (2) hereof providing for the exemption from the requirements of this section for any food additive, and any food bearing or containing such additive, intended solely for investigational use by qualified experts when in the director's opinion such exemption is consistent with the public health; or

(b) There is in effect, and it and its use or intended use are in conformity with a regulation issued or effective under subsection (2) hereof prescribing the conditions under which such additive may be safely used.

While such a regulation relating to a food additive is in effect, a food shall not, by reason of bearing or containing such an additive in accordance with the regulation, be considered adulterated within the meaning of clause (1) of section 1 of this amendatory act.

(2) The regulations promulgated under section 409 of the Federal Food, Drug and Cosmetic Act, as of the effective date of this amendatory act, prescribing the conditions under which such food additive may be safely used, are hereby adopted as the regulations applicable to this chapter: *Provided*, That Proviso. the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe the conditions under which a food additive may be safely used and exemptions where such food additive is to be used solely for investigational purposes; either upon his own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent

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upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect of such additive in the diet of man or animals, taking into account any chemically or pharmacologically related substance or substances in such diet; and (d) safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives are generally recognized as appropriate for the use of animal experimentation data.

New section.

SEC. 5. There is hereby added to chapter 69.04 RCW the following new section:

Food—Adul-  
teration by  
color additive.

A food shall be deemed to be adulterated if it is, or it bears or contains a color additive which is unsafe within the meaning of section 6 of this amendatory act.

New section.

SEC. 6. There is hereby added to chapter 69.04 RCW the following new section:

—Color  
additives.

(1) A color additive shall, with respect to any particular use (for which it is being used or in-

tended to be used or is represented as suitable) in or on food, be deemed unsafe for the purpose of the application of section 5 of this amendatory act, unless:

(a) There is in effect, and such color additive and such use are in conformity with, a regulation issued under this section listing such additive for such use, including any provision of such regulation prescribing the conditions under which such additive may be safely used;

(b) Such additive and such use thereof conform to the terms of an exemption for experimental use which is in effect pursuant to regulation under this section.

While there are in effect regulations under this section relating to a color additive or an exemption with respect to such additive a food shall not, by reason of bearing or containing such additive in all respects in accordance with such regulations or such exemption, be considered adulterated within the meaning of clause (1) of section 1 of this amendatory act.

(2) The regulations promulgated under section 706 of the Federal Food, Drug and Cosmetic Act, as of the effective date of this amendatory act, prescribing the use or limited use of such color additive, are hereby adopted as the regulations applicable to this chapter: *Provided*, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein the conditions under which a color additive may be safely used including exemptions for experimental purposes. Such a regulation may be issued either upon the director's own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon

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such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of, or other relevant exposure from, the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect, if any, of such additive in the diet of man or animals, taking into account the same or any chemically or pharmacologically related substance or substances in such diet; (d) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of color additives for the use or uses for which the additive is proposed to be listed, are generally recognized as appropriate for the use of animal experimentation data; (e) the availability of any needed practicable methods of analysis for determining the identity and quantity of (i) the pure dye and all intermediates and other impurities contained in such color additives, (ii) such additive in or on any article of food, and (iii) any substance formed in or on such article because of the use of such additive; and (f) the conformity by the manufacturer with the established standards in the industry relating to the proper

formation of such color additive so as to result in a finished product safe for use as a color additive.

SEC. 7. Section 58, chapter 257, Laws of 1945 and RCW 69.04.400 are each amended to read as follows:

The regulations promulgated under section 2 of this amendatory act shall conform, insofar as practicable, with those promulgated under section 406 of the federal act.

RCW 69.04.400 amended.

—Conformance with federal regulations.

SEC. 8. There is hereby added to chapter 69.04 RCW the following new section:

The word "package" shall include, and be construed to include, wrapped meats enclosed in papers or other materials as prepared by the manufacturers thereof for sale.

New section.

"Package" includes.

SEC. 9. There is hereby added to chapter 69.04 RCW the following new section:

The term "pesticide chemical" means any substance defined as an economic poison and/or agricultural pesticide in Title 15 as now enacted or hereafter amended.

New section.

"Pesticide chemical" defined.

SEC. 10. There is hereby added to chapter 69.04 RCW the following new section:

The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.

New section.

"Raw agricultural commodity" defined.

SEC. 11. There is hereby added to chapter 69.04 RCW the following new section:

(1) The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and includ-

New section.

"Food additive" defined.

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tive" defined.

ing any source of radiation intended for any such use), if such substance generally is recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958; through either scientific procedures or experience based on common use in food) to be unsafe under the conditions of its intended use; except that such term does not include; (a) a pesticide chemical in or on a raw agricultural commodity; or (b) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or (c) a color additive.

"Safe" defined.

(2) The term "safe" as used in the food additive definition has reference to the health of man or animal.

New section.

SEC. 12. There is hereby added to chapter 69.04 RCW the following new section:

"Color addi-  
tive" defined.

(1) The term "color additive" means a material which (a) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and (b) when added or applied to a food is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which the director, by regulation, determines is used (or intended to be used) solely for a purpose or purposes other than coloring.

(2) The term "color" includes black, white, and intermediate grays.

(3) Nothing in subsection (1) hereof shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise

affecting, directly or indirectly, the growth or other natural physiological processes of produce of the soil and thereby affecting its color, whether before or after harvest.

SEC. 13. There is hereby added to chapter 69.04 RCW the following new section: New section.

The director shall hold a public hearing upon a proposal to promulgate any new or amended regulation under this chapter. The procedure to be followed concerning such hearings shall comply in all respects with chapter 34.04 RCW (Administrative Procedure Act) as now enacted or hereafter amended. Hearings  
under chapter  
34.04 RCW.

SEC. 14. Section 41, chapter 257, Laws of 1945 and RCW 69.04.230 are each repealed. Repeal.

SEC. 15. Section 94, chapter 257, Laws of 1945 and RCW 69.04.760 are each repealed. Repeal.

Passed the Senate March 3, 1963.

Passed the House March 12, 1963.

Approved by the Governor March 26, 1963.