

(9) Section 5, chapter 10, Laws of 1965, section 11, chapter 108, Laws of 1975-'76 2nd ex. sess., section 35, chapter 3, Laws of 1981 and RCW 43.31.300;

(10) Section 8, chapter 10, Laws of 1965 and RCW 43.31.310;

(11) Section 9, chapter 10, Laws of 1965 and RCW 43.31.320;

(12) Section 7, chapter 10, Laws of 1965 and RCW 43.31.330;

(13) Section 16, chapter 99, Laws of 1979 and RCW 43.131.179;

(14) Section 58, chapter 99, Laws of 1979 and RCW 43.131.180; and

(15) Section 4, chapter 207, Laws of 1961, section 4, chapter 10, Laws of 1965 and RCW 70.98.040.

NEW SECTION. Sec. 17. Sections 1 through 5, 7 through 9, and 12 of this act are each added to chapter 43.21F RCW.

NEW SECTION. Sec. 18. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 24, 1981.

Passed the House April 15, 1981.

Approved by the Governor May 18, 1981, with the exception of Section 15, which is vetoed.

Filed in Office of Secretary of State May 18, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section Substitute Senate Bill No. 4085 entitled:

"AN ACT Relating to the energy office."

Section 15 would delete the Energy Office from membership on the Energy Facility Site Evaluation Council (EFSEC). To the extent that the Energy Office can provide its expertise and viewpoint on EFSEC it should do so.

I have therefore vetoed Section 15. The remainder of the bill is approved."

CHAPTER 296

[Engrossed Senate Bill No. 3355]

AGRICULTURAL ACTIVITIES

AN ACT Relating to activities regulated by the state department of agriculture or the director thereof; amending section 15.04.020, chapter 11, Laws of 1961 as amended by section 7, chapter 75, Laws of 1977 and RCW 15.04.020; amending section 15.04.030, chapter 11, Laws of 1961 and RCW 15.04.030; amending section 15.04.070, chapter 11, Laws of 1961 and RCW 15.04.070; amending section 15.08.010, chapter 11, Laws of 1961 and RCW 15.08.010; amending section 2, chapter 27, Laws of 1965 and RCW 15.08.025; amending section 15.08.230, chapter 11, Laws of 1961 and RCW 15.08.230; amending section 15.60.030, chapter 11, Laws of 1961 as last amended by section 3, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.030; amending section 15.60.040, chapter 11, Laws of 1961 as amended by section 4, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.040; amending section 9, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.043; amending section 15.60.100, chapter 11, Laws of 1961 as amended by section 7, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.100; amending section 15.60.120, chapter 11,

Laws of 1961 and RCW 15.60.120; amending section 15.60.140, chapter 11, Laws of 1961 and RCW 15.60.140; amending section 5, chapter 22, Laws of 1957 and RCW 16.36.110; amending section 1, chapter 54, Laws of 1959 as last amended by section 17, chapter 154, Laws of 1979 and RCW 16.57.010; amending section 16, chapter 54, Laws of 1959 as amended by section 4, chapter 135, Laws of 1971 ex. sess. and RCW 16.57.160; amending section 22, chapter 54, Laws of 1959 as last amended by section 5, chapter 135, Laws of 1971 ex. sess. and RCW 16.57.220; amending section 24, chapter 54, Laws of 1959 and RCW 16.57.240; amending section 26, chapter 54, Laws of 1959 and RCW 16.57.260; amending section 29, chapter 54, Laws of 1959 as last amended by section 18, chapter 154, Laws of 1979 and RCW 16.57.290; amending section 30, chapter 54, Laws of 1959 and RCW 16.57.300; amending section 1, chapter 38, Laws of 1974 ex. sess. and RCW 16.57.380; amending section 3, chapter 38, Laws of 1974 ex. sess. and RCW 16.57.400; amending section 2, chapter 292, Laws of 1927 and RCW 17.24.030; amending section 3, chapter 292, Laws of 1927 and RCW 17.24.035; amending section 7, chapter 292, Laws of 1927 and RCW 17.24.100; amending section 1, chapter 156, Laws of 1947 and RCW 17.24.105; amending section 2, chapter 156, Laws of 1947 as amended by section 5, chapter 169, Laws of 1977 ex. sess. and RCW 17.24.110; amending section 5, chapter 156, Laws of 1947 and RCW 17.24.140; amending section 1, chapter 139, Laws of 1959 as last amended by section 1, chapter 115, Laws of 1979 ex. sess. and RCW 20.01.010; amending section 3, chapter 139, Laws of 1959 as last amended by section 2, chapter 115, Laws of 1979 ex. sess. and RCW 20.01.030; amending section 33, chapter 139, Laws of 1959 as last amended by section 8, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.330; amending section 38, chapter 139, Laws of 1959 as amended by section 4, chapter 232, Laws of 1963 and RCW 20.01.380; amending section 1, chapter 124, Laws of 1963 as last amended by section 12, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.010; amending section 13, chapter 124, Laws of 1963 as amended by section 16, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.130; creating new sections; adding a new section to chapter 16.57 RCW; adding a new section to chapter 17.24 RCW; repealing section 15.04.050, chapter 11, Laws of 1961 and RCW 15.04.050; repealing section 1, chapter 195, Laws of 1967 and RCW 15.04.130; repealing section 2, chapter 195, Laws of 1967 and RCW 15.04.140; declaring an emergency as to a section hereof; and providing penalties.

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

Section 1. Section 15.04.020, chapter 11, Laws of 1961 as amended by section 7, chapter 75, Laws of 1977 and RCW 15.04.020 are each amended to read as follows:

The director (~~(shall)~~) may:

(1) Furnish to the board of county commissioners of each county annually, on or before September 1st, an estimate of the expenses for the ensuing year of inspecting and disinfecting the horticultural plants, fruits, vegetables and nursery stock and the places in the county where such articles are grown, packed, stored, shipped, held for shipment or delivery, or offered for sale;

(2) Appoint inspectors to enforce and carry out the provisions of this title, who may be of two classes: Inspectors—at-large and local inspectors(~~(; but no more than twenty inspectors—at-large shall be appointed)~~);

(3) Adopt, promulgate and enforce such rules and regulations as are necessary to or will facilitate his carrying out of the horticultural laws he is authorized and directed to administer and enforce; and

(4) Adopt, promulgate and enforce rules and regulations:

(a) governing the grading, packing, and size and dimensions of commercial containers of fruits, vegetables, and nursery stock;

(b) fixing commercial grades of fruits, vegetables and nursery stock, and providing for the inspection thereof and issuance of certificates of inspection therefor;

(c) for the inspection, grading and certifying of growing crops of agricultural and vegetable seeds and the fixing and collecting of fees for such services;

(d) covering the collection of native plants and parts thereof, and when the manner of collection is destructive of the plants, prohibiting such collecting;

(e) establishing quarantine measures and methods for the protection of agricultural and horticultural crops and products and the control or eradication of pests and diseases injurious thereto(;

~~(f) he may appoint any officer or member of a local fruit protective association to act as inspector, vested with power only to enter premises and inspect orchards and report to the inspector-at-large. Such inspectors shall receive no compensation for services and need not take the regular examination required of other inspectors)).~~

Sec. 2. Section 15.04.030, chapter 11, Laws of 1961 and RCW 15.04.030 are each amended to read as follows:

The director, supervisor and horticultural inspectors (~~shall~~) may:

(1) Inspect all horticultural premises, fruits, vegetables, nursery stock, horticultural supplies, and other properties which are subject to infection by pests or diseases; require the owners or persons in charge of any infected property to disinfect the same; disinfect the same in case the owner or person in charge fails, after notice, to do so; condemn and destroy properties which cannot be successfully disinfected; have free access to any such premises or properties at any time;

(2) Require all such products held for shipment which are partially infected, to be sorted and repacked, and if the owner or person in charge after notice fails to do so, they (~~shall~~) may condemn and destroy them: PROVIDED, That no inspector shall destroy more than ten percent of any variety of nursery stock in any lot or shipment of fifty or more trees, vines, or shrubs without five days' notice to the shipper, during which time the owner or shipper may appeal to the supervisor;

(3) At the request of the owner, inspect his fruit, vegetables, and nursery stock and all other horticultural plants and products and premises where growing or grown, for diseases and pests, and report to him the result of such investigation and prescribe proper remedies;

(4) Issue certificates of inspection to licensed nurserymen and dealers in nursery stock, on stock inspected and approved; and

(5) Inspect or audit, during business hours, the records of any grower of or dealer in nursery stock, to determine the kind of license required by him.

Sec. 3. Section 15.04.070, chapter 11, Laws of 1961 and RCW 15.04.070 are each amended to read as follows:

Said local inspectors shall satisfy the director, by examination, that their knowledge and experience qualifies them to successfully perform horticultural inspection work. ~~((Their salaries, as fixed by the board, and actual and necessary traveling expenses shall be paid from the county current expense fund on vouchers verified by them, approved by the director and ordered paid by the board.))~~ All local inspectors are under the direction and control of the director and supervisor.

Sec. 4. Section 15.08.010, chapter 11, Laws of 1961 and RCW 15.08.010 are each amended to read as follows:

As used in this chapter:

(1) "Supervisor" means an assistant director known as the supervisor of ~~((horticulture;))~~ plant industry.

(2) "Horticultural premises" includes orchards, vineyards, nurseries, berry farms, vegetable farms, cultivated cranberry marshes, packing houses, dryhouses, warehouses, depots, docks, cars, vessels and other places where nursery stock, fruits, vegetables and other horticultural products are grown, stored, packed, shipped, held for shipment or delivery, sold or otherwise disposed of~~((;))~~.

(3) "Nursery stock" includes ~~((fruit trees, vines and bushes; fruit tree stock; rose bushes and stock; forest, ornamental and shade trees and shrubs (deciduous and evergreen); fruit bearing plants and parts thereof; plant products for planting or propagation (except vegetable plants;))~~, but is not limited to, any horticultural, floricultural, viticultural, and vegetable plant, for planting, propagation or ornamentation, growing or otherwise, including cut plant material.

(4) "Pests and diseases" ~~((includes the following pests injurious to and diseases of nursery stock, fruit and vegetables:~~

(1) Bacterial diseases—fire blight of apple, pear and quince, crown gall or root gall, and hairy root;

(2) fungus diseases—black spot canker, pear scab, apple scab, apple powdery mildew, peach leaf curl, peach mildew, brown rot of peach, cherry and prune, chestnut blight, potato wart, powdery scab of potato and peach twig blight, blue stem of black raspberry, black stem rust of barberry and wheat, eastern filbert blight, European apple canker;

(3) insect pests—chewing insects, such as bud moth, peach twig borer caterpillars, pear slug, flat-headed borer, round-headed borer, imported cabbage worm, potato tuber moth, potato nematode or cel worm, potato leaf mold, Mediterranean fruit fly, lesser apple worm, tussock moth, gypsy moth, brown tail moth, codling moth, fruit tree leaf roller, cherry maggot, cherry fruit saw-fly, satin moth, currant maggot, Colorado potato beetle, strawberry weevil, European earwig, Japanese beetle, pear thrips, and larvae of any thereof;

(4) sucking insects—San Jose scale, scurfy scale, oyster-shell bark louse, aphids, pear leaf blistermites and red spider;

~~(5) and such other bacterial and fungus diseases and insect pests identified as such by science and described as being injurious to horticulture in circulars issued by the director;))~~ means, but is not limited to, any living stage of any insect, mite, nematode, slug, snail, protozoa, or other invertebrate animal, bacteria, fungus, other parasitic plant, weed, or reproductive part thereof, virus or any organism similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage in or to any plant or parts thereof, or any processed, manufactured, or other products of plants.

(5) "Nuisance" means any plant((s)), produce or property found in any commercial area upon which is found any pest or disease ((recognized in this chapter)) that is or may be a source of infestation of other properties((:)).

~~(("Nuisance per se" means any nuisance, as above defined, which will or is likely to cause damage or infection to other property;))~~

(6) "Commercial area" means a district where any horticultural product is being produced to the extent that a producer is dependent thereon, in whole or in part, for his livelihood((:)).

(7) "Infect," and its derivatives "infected," "infecting," and "infection," means affected by or infested with pests or diseases as above defined((:)).

(8) "Disinfect," and its derivatives, means the control, cure, or eradication of such pests or diseases by cutting or destroying infected parts or the application of ((fungicides, insecticides, or other)) effective ((solutions or emulsions;)) pesticides.

~~(("Agent" means any person acting as agent, salesman, solicitor, or representative of a licensed nurseryman or licensed dealer in nursery stock, who sells from a catalog or samples and makes no deliveries at the time of solicitation:))~~

Sec. 5. Section 2, chapter 27, Laws of 1965 and RCW 15.08.025 are each amended to read as follows:

The method for disinfecting fruit trees required to be disinfected under the provisions of this chapter((:)) shall be as prescribed in((, and shall include the mandatory use of all procedures and formulations provided for in the "extension bulletin 419" published by the extension service, institute of agricultural sciences, Washington State University, as published and in effect on June 10, 1965;)) the official published recommendations of the Washington State University for the proper prevention, control and eradication of pests and diseases of fruit trees((: PROVIDED, That the department of agriculture may adopt any subsequent change or amendment to said "extension bulletin 419").

Whenever specific recommendations for disinfecting fruit trees are not set forth in the ((said "extension bulletin 419", then)) official published

recommendations of the Washington State University, the generally accepted horticultural practices for the prevention, control and eradication of any pests and diseases in the producing area shall be used.

The burden of proving that the proper procedures as set forth in this section have been followed(;) shall be upon the person ordered to disinfect fruit trees.

The disinfection of fruit trees as in this section set forth shall in no way limit the authority of the inspection board to determine that such fruit trees constitute a nuisance and thus shall be subject to removal as provided for in this chapter.

Sec. 6. Section 15.08.230, chapter 11, Laws of 1961 and RCW 15.08-.230 are each amended to read as follows:

The director (~~(and)~~) may require the governing body of counties, cities, towns and irrigation and school districts (~~(shall)~~) or other political subdivisions of the state to disinfect or destroy all infected trees, (~~(or)~~) shrubs, or other nursery stock growing upon public property within their respective jurisdictions, (~~and they may expend funds of their county, city, town or district in carrying out the provisions of this section. The director may compel compliance herewith by an action in the name of the state upon the relation of the director~~) or the director may disinfect or destroy such infected trees, shrubs, or other nursery stock.

Sec. 7. Section 15.60.030, chapter 11, Laws of 1961 as last amended by section 3, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.030 are each amended to read as follows:

Each person owning or having bees in his possession shall register with the director(;) the (~~(location of the bee yard,)~~) name, address, and phone number of the owner, and (~~(post at)~~) identify the bee yard (~~(a registration number)~~) as provided for herein, on or before April 1st each year. A registration fee may be set by the department of agriculture in compliance with chapter 34.04 RCW for the sole purpose of covering the expenses of the apiary board.

The director shall issue to each apiarist owning or operating more than twenty-five colonies in the state who is registered with the department (~~(a registration)~~) an identification number(, transferable, which shall be posted conspicuously at the entrance of each apiary at all times, not more than one hundred fifty feet from the bees). Yards shall be identified by displaying the assigned identification number in at least four inch characters on the side and top of some colonies in each yard. The identification shall be in a color that contrasts with the color of the hive. This identification shall be conspicuous to anyone approaching the bee yard: PROVIDED, That any identification number assigned to an apiarist prior to September 21, 1977 shall be assigned to such apiarist as his (~~(registration)~~) identification number. (~~(Bees placed in orchards for pollination shall be exempt from posting during placement. PROVIDED, That)~~) Any apiarist (~~(with)~~) owning or

operating no more than twenty-five colonies shall, when placing bees on other than his own property, post his name and address in the apiary.

Sec. 8. Section 15.60.040, chapter 11, Laws of 1961 as amended by section 4, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.040 are each amended to read as follows:

(1) The director shall make or cause to be made whenever he deems it necessary, inspections of all apiaries.

(2) Whenever a disease exists in any apiary, the inspector making the inspection shall plainly mark the hives containing diseased bees. The inspector shall, in writing, notify the owner or person in charge or in possession of such apiary by certified or registered mail, stating in the notice the nature of the disease found in each colony, identifying such colony by reference to the mark placed upon the hive thereof, and ordering eradication of such disease in accordance with subsections (3) and (4) of this section within a specified time. When the owner or person in charge or in possession of any apiary is not known, the notice shall be served by posting in a conspicuous place in the apiary, or by mailing a copy thereof to the owner's registered address.

(3) The owner or person in charge or in possession of any diseased bees must eradicate such disease within the time specified in the notice. If the disease is American foul brood, the time specified in the notice shall not be less than twenty-four hours nor more than one hundred and twenty hours from the time of serving the notice.

(4) The owner or person in charge or in possession of any hive infected with American foul brood shall eradicate such disease by~~(;)~~:

(a) Burning the diseased hive including bees, combs, frames, honey, and wax, and burying the ashes by means approved by the director; or

(b) Delivering the hive, comb intact, to a wax salvage plant or authorized fumigation chamber which has been designated by the director as suitable for such purposes which shall disinfect the hive by means approved by the director.

(5) Any apiary which is found to be infected with American foul brood and to be dangerous to the health of any apiary in this state may be summarily quarantined by the department. Notice of the quarantine shall be posted prominently on the apiary, and the owner notified of such quarantine. The quarantine shall not be removed until the department reasonably determines that no further infection exists. During the quarantine period, no bees, honey, appliances, equipment, or other materials may be removed from the apiary without first procuring a permit from the department. However, such bees, honey, appliances, equipment, or other materials may be removed for the purpose of eradicating the disease.

(6) ~~((a))~~ If the inspector finds that American foul brood disease has infected more than two hives of ninety-nine hives or fewer, or more than

two percent of hives of one hundred or more, he may, if he deems it necessary, make a complete inspection of all hives in the apiary and the owner of the apiary shall pay the actual and necessary costs of the complete inspection.

~~((b))~~ (7) Every apiary in which American foul brood is found shall be declared a public nuisance. Whenever any such nuisance exists and the owner refuses or neglects to abate it within the time specified in the notice issued under subsection (2) of this section, the inspector shall abate said nuisance ~~((by burning the condemned hive and its contents, including bees, hive bodies, frames and wax, bottom boards, and covers, within forty-eight hours after the time specified in the notice))~~. The owner shall pay the actual and necessary costs of abatement.

~~((7))~~ (8) The owner or operator of any colony of bees found to be infected with American foul brood shall upon his request be entitled to a scientific analysis of such colony before it is declared a public nuisance by the director. The results of such analysis shall be conclusive as to whether the colony is diseased. The costs of such scientific analysis shall be paid by the apiarist owning or operating the colonies being analyzed if it is found to be diseased. In case the colony is found not to be diseased, the department shall pay the cost of the scientific analysis. The laboratory performing such scientific analysis shall be approved by the director.

Sec. 9. Section 9, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.043 are each amended to read as follows:

An owner of bees or his pollination customer may request the director to make a colony strength inspection of any colony of bees. The director, subject to the availability of qualified personnel, shall make such inspection but shall provide the apiarist with advance notice, ~~((in writing))~~ when possible, of the inspection date. The director shall charge the person requesting such inspection the costs of such inspection, including per diem and travel expenses of the inspector. A copy of the certificate report shall be sent to the person or persons owning the bees within forty-eight hours of the colony strength inspection.

The colony strength requirement shall be decided on a yearly basis by the director, in cooperation with the apiary board created by RCW 15.60.025.

Sec. 10. Section 15.60.100, chapter 11, Laws of 1961 as amended by section 7, chapter 362, Laws of 1977 ex. sess. and RCW 15.60.100 are each amended to read as follows:

It shall be unlawful for any person, or any railroad or transportation company, or other common carrier, to bring into this state for any purpose any bees or used appliances without first having secured an official certificate, certified by the state bee inspector of the state of origin that such bees and appliances are not infected with disease. Written notice shall be given

by the owner to the director within three days after the date of arrival, giving the date of arrival, destination and/or location of bees or used appliances, and a copy of the inspection certificate issued by the state of origin. Each apiary or location shall be marked for identification by placing the name ~~((or recognized abbreviation of the state of origin, and the initials))~~ and address of the person importing the bees, hives, or used appliances in letters at least one inch in height. If evidence of any disease is found such imported bees or appliances shall be subject to the same provisions as local bees or appliances. Each person who brings colonies of bees into this state shall register such colonies, as provided by RCW 15.60.030, within three days.

A resident beekeeper of Washington state who obtains a valid inspection certificate and moves his bees out of state for wintering shall not be required to obtain an inspection certificate from the state from which they are being returned, provided that the bees are returned to the state prior to May 15th each year.

Sec. 11. Section 15.60.120, chapter 11, Laws of 1961 and RCW 15.60-.120 are each amended to read as follows:

Every person rearing queen bees for sale shall have each queen rearing apiary inspected whenever necessary and when conditions are favorable for inspection. If the inspection discloses any contagious or infectious disease in any apiary the owner, lessee, or person in charge of such apiary shall not ship any queen bees therefrom until he receives a certificate in writing from the inspector that such apiary is apparently free from ~~((att))~~ disease.

Sec. 12. Section 15.60.140, chapter 11, Laws of 1961 and RCW 15.60-.140 are each amended to read as follows:

Any person who violates any provisions of this chapter shall be guilty of a misdemeanor ~~((, and upon conviction thereof, shall be subject to a fine of not more than one hundred dollars))~~. Upon a second and subsequent violation and conviction, the same shall constitute a gross misdemeanor.

Sec. 13. Section 15.60.150, chapter 11, Laws of 1961 and RCW 15.60-.150 are each amended to read as follows:

No person shall wilfully or maliciously kill honey bees in an apiary, or, for the purpose of injuring honey bees place any poisonous or sweetened substance in a place where it is accessible to them within this state.

Any person who violates any provision of this section shall be ~~((fined not less than ten or more than one hundred dollars))~~ guilty of a misdemeanor.

Sec. 14. Section 5, chapter 22, Laws of 1957 and RCW 16.36.110 are each amended to read as follows:

A violation of or a failure to comply with any provision of this chapter shall be a misdemeanor: PROVIDED, That any violation of RCW 16.36-.030, 16.36.040, 16.36.050, or that part of 16.36.060 which makes it unlawful for any person to wilfully hinder, obstruct, or resist the director of

agriculture or any duly authorized representative, or any peace officer acting under him or them when engaged in the performance of the duties or in the exercise of the powers conferred by this chapter shall be a gross misdemeanor. Each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of RCW 16.36.005, 16.36.020, 16.36.103, 16.36.105, 16.36.107, 16.36.108 or 16.36.109 may be enjoined from continuing such violation.

Sec. 15. Section 1, chapter 54, Laws of 1959 as last amended by section 17, chapter 154, Laws of 1979 and RCW 16.57.010 are each amended to read as follows:

For the purpose of this chapter:

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

(2) "Director" means the director of the department or his duly appointed representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

(4) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, poultry and rabbits(~~(: PROVIDED, That livestock when used herein under the provisions of RCW 16.57.160 through 16.57.200, 16.57.220 through 16.57.260, and 16.57.280 through 16.57.330 shall mean and include only cattle of whatever species, breed or age)).~~

(5) "Brand" means a permanent fire brand or any artificial mark, other than an individual identification symbol, approved by the director to be used in conjunction with a brand or by itself.

(6) "Production record brand" means a number brand which shall be used for production identification purposes only.

(7) "Brand inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides and/or the application of any artificial identification such as back tags or ear clips necessary to preserve the identity of the livestock or livestock hides examined.

(8) "Class I estray" means any ((~~livestock~~)) cattle or horses at large contrary to the provisions of RCW 16.13.010 as now or hereafter amended, or any unclaimed ((~~livestock~~)) cattle or horses submitted or impounded by any person at any public livestock market or any other facility approved by the director.

(9) "Class II estray" means any ((~~livestock~~)) cattle or horses identified as estray that ((~~is~~)) are offered for sale and as provided for in RCW 16.57.290 as now or hereafter amended.

(10) "Individual identification symbol" means a permanent mark placed on a horse for the purpose of individually identifying and registering the horse and which has been approved for use as such by the director.

(11) "Registering agency" means any person issuing an individual identification symbol for the purpose of individually identifying and registering a horse.

Sec. 16. Section 16, chapter 54, Laws of 1959 as amended by section 4, chapter 135, Laws of 1971 ex. sess. and RCW 16.57.160 are each amended to read as follows:

Brand inspection of cattle shall be mandatory at the following points:

(1) Prior to being moved out of state to any point where brand inspection is not maintained by the director, directly or in agreement with another state.

(2) Subsequent to delivery to a public livestock market and prior to sale at such public livestock market unless such cattle are exempt from brand inspection by law or regulation((s)) adopted by the director ~~((because of prior brand inspection or if such cattle are shipped directly to a public livestock market from another state and accompanied by a brand inspection certificate specifically identifying such cattle issued by the state of origin or a lawful agency thereof))~~ in order to avoid duplication and/or to allow for efficient administration of this chapter.

(3) Prior to slaughter at any point of slaughter unless such cattle are exempt from such brand inspection by law or regulations adopted by the director because of prior brand inspection or if such cattle are immediate slaughter cattle shipped directly to a point of slaughter from another state and accompanied by a brand inspection certificate specifically identifying such cattle issued by the state of origin or a lawful agency thereof.

(4) Prior to the branding of any cattle except as otherwise provided by law or regulation.

(5) Prior to the sale of any cattle except as otherwise provided by law or regulation.

The director may by regulation adopted subsequent to a public hearing designate any other point for mandatory brand inspection of cattle or the furnishing of proof that cattle passing or being transported through such points have been brand inspected and are lawfully being moved. Further, the director may stop vehicles carrying cattle to determine if such cattle are identified or branded as immediate slaughter cattle, and if so that such cattle are not being diverted for other purposes to points other than the specified point of slaughter.

Sec. 17. Section 22, chapter 54, Laws of 1959 as last amended by section 5, chapter 135, Laws of 1971 ex. sess. and RCW 16.57.220 are each amended to read as follows:

The director shall cause a charge to be made for all brand inspection of cattle required under this chapter and rules and regulations adopted hereunder. Such charges shall be paid to the department by the owner or person in possession unless requested by the purchaser and then such brand inspection shall be paid by the purchaser requesting such brand inspection. Such inspection charges shall be due and payable at the time brand inspection is performed and if not shall constitute a prior lien on the ~~((livestock))~~ cattle or ~~((livestock))~~ cattle hides brand inspected until such charge is paid. The director in order to best utilize the services of the department in performing brand inspection shall establish schedules by days and hours when a brand inspector will be on duty ~~((or))~~ to perform brand inspection at established inspection points. The fees for brand inspection performed at inspection points according to schedules established by the director shall be not less than ~~((twenty))~~ thirty cents nor more than ~~((thirty))~~ fifty cents as prescribed by the director subsequent to a hearing. Fees for brand inspection performed by the director at points other than those designated by the director or not in accord with the schedules established by him shall be based on a fee schedule not to exceed actual net cost to the department of performing the brand inspection service. Such schedule of fees shall be established subsequent to a hearing and all regulations concerning fees shall be adopted in accord with the provisions of chapter 34.04 RCW, the Administrative Procedure Act, concerning the adoption of rules as enacted or hereafter amended.

Sec. 18. Section 24, chapter 54, Laws of 1959 and RCW 16.57.240 and each amended to read as follows:

Any person purchasing, selling, holding for sale, trading, bartering, transferring title, slaughtering, handling, or transporting ~~((livestock))~~ cattle shall keep a record on forms prescribed by the director. Such forms shall show the number, specie, brand or other method of identification of such ~~((livestock))~~ cattle and any other necessary information required by the director. Such records shall be made in triplicate; the original shall be forwarded to the director forthwith, one copy shall accompany the ~~((livestock))~~ cattle to ~~((its))~~ their destination and one copy shall be kept by the person handling the transaction for a period of at least twelve months following the transaction and shall be subject to inspection at any time by the director or any peace officer or member of the state patrol: PROVIDED, That in the following instances only, ~~((livestock))~~ cattle may be moved or transported within this state without being accompanied by a certificate of permit or an official brand inspection certificate or bill of sale:

(1) When such ~~((livestock-is))~~ cattle are moved or transported upon lands under the exclusive control of the person moving or transporting such ~~((livestock))~~ cattle;

(2) When such ~~((livestock-is))~~ cattle are being moved or transported for temporary grazing or feeding purposes and ~~((has))~~ have the registered

brand of the person having or transporting such (~~(livestock, or accompanied by a certificate of permit)~~) cattle.

Sec. 19. Section 26, chapter 54, Laws of 1959 and RCW 16.57.260 are each amended to read as follows:

It shall be unlawful for any person to remove or cause to be removed or accept for removal from this state, any (~~(livestock)~~) cattle or horses which (~~(is)~~) are not accompanied at all times by an official brand inspection certificate issued by the director on such (~~(livestock)~~) cattle or horses, except as provided in RCW 16.57.160.

Sec. 20. Section 29, chapter 54, Laws of 1959 as last amended by section 18, chapter 154, Laws of 1979 and RCW 16.57.290 are each amended to read as follows:

All unbranded cattle and horses and those bearing brands not recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit, and those bearing brands recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit signed by the owner of the brand when presented for inspection, are hereby declared to be class II estrays, unless other satisfactory proof of ownership is presented showing the person presenting them to be lawfully in possession. Such estrays shall be sold by the director or his representative who shall give the purchasers a bill of sale therefor, or, if theft is suspected, the horse may be impounded by the director or the director's representative.

Sec. 21. Section 30, chapter 54, Laws of 1959 and RCW 16.57.300 are each amended to read as follows:

The proceeds from the sale of (~~(such)~~) class II estrays, after paying the cost thereof, shall be paid to the director, who shall make a record showing the brand or marks or other method of identification of the animals and the amount realized from the sale thereof. However, the proceeds from a sale of class II estrays at a licensed public livestock market shall be held by the licensee for a reasonable period not to exceed thirty days to permit the consignor to establish ownership or the right to sell such (~~(livestock)~~) cattle or horses. If such consignor fails to establish legal ownership or the right to sell such (~~(livestock)~~) cattle or horses, such proceeds shall be paid to the director to be disposed of as any other estray proceeds.

Sec. 22. Section 1, chapter 38, Laws of 1974 ex. sess. and RCW 16.57-.380 are each amended to read as follows:

Brand inspection of horses shall be mandatory at the following points:

(1) Prior to being moved out of state to any point where brand inspection is not maintained by the director, directly or in agreement with another state.

(2) Subsequent to delivery to a public livestock market and prior to sale at such public livestock market unless such horses are exempt from brand

inspection by law, or regulations adopted by the director (~~((because of prior brand inspection or if such horses are shipped directly to a public livestock market from another state and accompanied by a brand inspection certificate specifically identifying such horses issued by the state of origin or a lawful agency thereof))~~) in order to avoid duplication and/or to allow for efficient administration of this chapter.

(3) Prior to slaughter at any point of slaughter unless such horses are exempt from such brand inspection by law, or regulations adopted by the director (~~((because of prior brand inspection or if such horses are immediate slaughter horses shipped directly to a point of slaughter from another state and accompanied by a brand inspection certificate specifically identifying such horses issued by the state of origin or a lawful agency thereof))~~) in order to avoid duplication and/or to allow for efficient administration of this chapter.

(4) Prior to the branding of any horses except as otherwise provided by law or regulation.

(5) Prior to the sale of any horses except as otherwise provided by law or regulation.

The director may by regulation adopted subsequent to a public hearing designate any other point for mandatory brand inspection of horses or the furnishing of proof that horses passing or being transported through such points have been brand inspected and are lawfully being moved. Further, the director may stop vehicles carrying horses to determine if such horses are identified or branded as immediate slaughter horses, and if so that such horses are not being diverted for other purposes to points other than the specified point of slaughter.

Sec. 23. Section 3, chapter 38, Laws of 1974 ex. sess. and RCW 16.57-.400 are each amended to read as follows:

The director may provide by rules and regulations adopted pursuant to chapter 34.04 RCW for the issuance of individual horse identification certificates or other means of horse identification deemed appropriate. Such certificates or other means of identification shall be valid only for the use of the horse owner in whose name it is issued.

Horses identified pursuant to the provisions of this section and the rules and regulations adopted hereunder shall not be subject to brand inspection except when sold at points provided for in RCW 16.57.380. The director shall charge (~~(an annual)~~) a fee for the certificates or other means of identification authorized pursuant to this section and no identification shall be issued until the director has received the fee. The schedule of fees shall be established in accordance with the provisions of chapter 34.04 RCW.

Sec. 24. Section 2, chapter 292, Laws of 1927 and RCW 17.24.030 are each amended to read as follows:

The director of agriculture (~~((by and with the approval of the governor))~~) may after investigation establish, maintain and enforce such obligatory

quarantine regulations as may be deemed necessary to protect the forest, agricultural, horticultural, ornamental and floral trees, shrubs and plants, and the products thereof in the state of Washington, ~~((against))~~ from contagion or infestation ~~((by))~~ from injurious plant disease, insect~~((s))~~, or animal or weed pest~~((s))~~, by establishing such quarantine at the boundaries of this state or elsewhere within the state, and he may make and enforce, any and all such obligatory rules and regulations as may be deemed necessary to prevent any infested or infested forest, agricultural, horticultural, ornamental and floral trees, shrubs, and plants, ~~((and the products thereof in the state of Washington))~~ or any nonhorticultural article which may harbor such plant disease, insect, or animal or weed pests from passing over any quarantine line established and proclaimed pursuant to ~~((RCW 17.24.020 through 17.24.100))~~ chapter 17.24 RCW, as now or hereafter amended, and all such articles ~~((shall))~~ may, during the maintenance of such quarantine, be inspected by such director or by horticultural or other inspectors thereto appointed, and he and the inspectors so conducting such inspection ~~((shall not permit))~~ may prevent any such article from passing over such quarantine boundary or may require any such article ~~((to pass))~~ passing over such quarantine ~~((fine during such quarantine, except upon))~~ boundary to be accompanied by a certificate of inspection, signed by such director or in his name by such inspector who has made such inspection. ~~((All approvals by the governor given or made pursuant to RCW 17.24.020 through 17.24.100 shall be in writing and signed by the governor in duplicate, and one copy thereof shall be filed in the office of the secretary of state and the other in the office of said director before such approval shall take effect.))~~ The director shall, when adopting rules or regulations under the provisions of this chapter, hold a public hearing and satisfy all the requirements of chapter 34.04 RCW, the Administrative Procedure Act, as now or hereafter amended, concerning the adoption of rules and regulations.

Sec. 25. Section 3, chapter 292, Laws of 1927 and RCW 17.24.035 are each amended to read as follows:

Upon information received by ~~((such))~~ the director of agriculture of the existence of any infectious plant disease, insect or other animal or weed pest, dangerous to any plant or commodity or to the interests of the plant industry of this state, or that there is a probability of the introduction of any such infectious plant disease, insect or other animal or weed pest~~((s))~~ into this state or across the boundaries thereof, he ~~((shall))~~ may proceed to thoroughly investigate same and may establish, maintain and enforce quarantine as hereinbefore provided, and may make and enforce such regulations as are in his opinion, necessary to circumscribe and exterminate such infectious plant diseases, insect or other animal or weed pest~~((s))~~ and prevent the spread thereof. Such director may disinfect, or take such other action with reference to any tree~~((s))~~, shrub~~((s))~~, plant~~((s))~~, vine~~((s))~~, cutting~~((s))~~, graft~~((s))~~, scion~~((s))~~, bud~~((s))~~, fruit-pit~~((s))~~, fruit, seed~~((s))~~,

vegetable((s)) or any crop((s)) or crop product((s)), and any ~~((containers thereof, and any packing material used therewith))~~ nonhorticultural article infested or infected with, or which, in his opinion may have been exposed to infection or infestation by, any such infectious plant disease((s)), insect or other animal or weed pest((s)), as in his discretion shall seem necessary to carry out and give effect to the provisions of ~~((RCW 17.24.020 through 17.24.100))~~ chapter 17.24 RCW, as now or hereafter amended. Such director, his deputies and inspectors are hereby authorized to enter upon any ground or premises to inspect the same or to inspect any tree, shrub, plant, vine, cutting, graft, scion, bud, fruit—pit, fruit, seed, vegetable, or other article of horticulture or ~~((implement thereof or box or package or packing material pertaining thereto, or connected therewith or that has been used in packing, shipping or handling the same, and to open any such package))~~ any nonhorticultural article which may harbor such plant disease, insect, or animal or weed pest, and ~~((generally))~~ to do~~((, with the least injury possible under the conditions to property or business))~~ all acts and things necessary to carry out the provisions of ~~((RCW 17.24.020 through 17.24.100.~~ The said director shall at once notify the governor of all quarantine lines established under or pursuant to RCW 17.24.020 through 17.24.100, and if the governor approve or shall have approved of the same or any portion thereof, the same shall be in effect and the governor may issue his proclamation proclaiming the boundaries of such quarantine and the nature thereof, and the order, rules or regulations prescribed for the maintenance and enforcement of the same, and may publish said proclamation in such manner as he may deem expedient to give proper notice thereof)) chapter 17.24 RCW, as now or hereafter amended, with the least possible injury to property and business.

~~((All orders, rules and regulations issued by the director of agriculture pursuant to RCW 17.24.020 through 17.24.100 shall have the force and effect of law:))~~

Sec. 26. Section 7, chapter 292, Laws of 1927 and RCW 17.24.100 are each amended to read as follows:

Every person who shall violate or fail to comply with any rule or regulation adopted and promulgated by the director of agriculture in accordance with and under the provision of ~~((RCW 17.24.020 through 17.24.100))~~ chapter 17.24 RCW, as now or hereafter amended, shall be guilty of a misdemeanor, and for a second and each subsequent violation or failure to comply with the ~~((same))~~ provisions of this chapter or rule or regulation adopted hereunder, shall be ~~((punished by imprisonment in the county jail for not less than thirty days or more than one year, or by a fine of not less than one hundred dollars, or more than one thousand dollars or both such fine and imprisonment))~~ guilty of a gross misdemeanor.

Sec. 27. Section 1, chapter 156, Laws of 1947 and RCW 17.24.105 are each amended to read as follows:

The director of agriculture of the state of Washington (~~(, and the supervisor of horticulture of the department of agriculture of the state of Washington, are)~~) is authorized and empowered to apply such quarantine control methods as may be necessary to prevent the introduction of insect pests or plant diseases, including ~~((the))~~ virus diseases ~~((known as potato leaf roll))~~ that may ~~((be destructive to))~~ become a public nuisance or endanger the agricultural or horticultural industries of the state of Washington, and to apply such methods as may be necessary for quarantine, and/or eradication, and/or control of insect pests or plant diseases that are now established or later become established in the state of Washington that may ~~((seriously))~~ endanger the agricultural or horticultural industries of the state of Washington.

Sec. 28. Section 2, chapter 156, Laws of 1947 as amended by section 5, chapter 169, Laws of 1977 ex. sess. and RCW 17.24.110 are each amended to read as follows:

The director of agriculture ~~((and the supervisor of horticulture are))~~ is authorized to cooperate with any individual, group of citizens, municipalities and counties of the state of Washington, Washington State University or any of its experiment stations, and/or with the secretary of agriculture of the United States and such agencies as the secretary may designate, and/or with any other state or states, agency or group the director of agriculture may designate, to carry out the provisions of ~~((RCW 17.24.105 through 17.24.140))~~ chapter 17.24 RCW, as now or hereafter amended.

Sec. 29. Section 5, chapter 156, Laws of 1947 and RCW 17.24.140 are each amended to read as follows:

The director of agriculture ~~((, acting by and through the supervisor of horticulture))~~ of the state of Washington, may, in his discretion, provide funds for technical or scientific services, labor, materials and supplies for the purposes specified in ~~((RCW 17.24.105 through 17.24.130))~~ chapter 17.24 RCW, as now or hereafter amended.

Sec. 30. Section 1, chapter 139, Laws of 1959 as last amended by section 1, chapter 115, Laws of 1979 ex. sess. and RCW 20.01.010 are each amended to read as follows:

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

(1) "Director" means the director of agriculture or his duly authorized representative.

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

(3) "Agricultural product" means any unprocessed horticultural, vermicultural and its byproducts, viticultural, berry, poultry, poultry product, grain, bee, or other agricultural products, and includes mint or

mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form by or for the producer thereof, and livestock except horses, mules, and donkeys: PROVIDED, That horses, mules, and donkeys purchased or sold for slaughter shall be considered agricultural products for the purposes of this chapter.

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

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

(6) "Commission merchant" means any person who shall receive on consignment for sale or processing and sale from the consignor thereof any agricultural product for sale on commission on behalf of such consignor, or who shall accept any farm product in trust from the consignor thereof for the purpose of resale, or who shall sell or offer for sale on commission any agricultural product, or who shall in any way handle for the account of or as an agent of the consignor thereof, any agricultural product.

(7) "Dealer" means any person other than a (~~commission merchant or~~) cash buyer, as defined in subsection (~~((9) - ((10)))~~) (10) of this section, who solicits, contracts for, or obtains from the consignor thereof for reselling or processing, title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product from the consignor thereof for sale or processing and includes any person, other than one who acts solely as a producer, who retains title in an agricultural product and delivers it to a producer for further production or increase: PROVIDED, That for the purpose of this chapter the term dealer includes any person who purchases livestock on behalf of and for the account of another, or who purchases cattle in another state or country and imports these cattle into this state for resale.

(8) "Limited dealer" means any person operating under the alternative bonding provision in RCW 20.01.211, as now or hereafter amended.

(9) "Broker" means any person other than a commission merchant, dealer, or cash buyer who negotiates the purchase or sale of any agricultural product: PROVIDED, That no broker may handle the agricultural products involved or proceeds of such sale.

(10) "Cash buyer" means any person other than a commission merchant, dealer, or broker, who obtains from the consignor thereof for the purpose of resale or processing, title, possession or control of any agricultural product or who contracts for the title, possession or control of any agricultural product, or who buys or agrees to buy any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of such agricultural product, in

coin or currency, lawful money of the United States. However, a cashier's check, certified check or bankdraft may be used for such payment.

(11) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, acts as liaison between a consignor and a principal, or receives, contracts for, or solicits any agricultural product from the consignor thereof or who negotiates the consignment or purchase of any agricultural product on behalf of any commission merchant, dealer, broker, or cash buyer and who transacts all or a portion of such business at any location other than at the principal place of business of his employer: PROVIDED, That, with the exception of an agent for a commission merchant or dealer handling horticultural products, an agent may operate only in the name of one principal and only to the account of said principal.

(12) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products twelve months of each year: PROVIDED, That any retailer may occasionally wholesale any agricultural product which he has in surplus; however, such wholesaling shall not be in excess of two percent of such retailer's gross business.

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

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

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

(a) A delivery receipt for the consignor which shall indicate the variety of horticultural product delivered, the number of containers, or the weight and tare thereof.

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

(c) Terms under which the commission merchant may use his judgment in regard to the sale of the pooled horticultural product.

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

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

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

Sec. 31. Section 3, chapter 139, Laws of 1959 as last amended by section 2, chapter 115, Laws of 1979 ex. sess. and RCW 20.01.030 are each amended to read as follows:

This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW or chapter 24.32 RCW, except as to that portion of the activities of such association or federation as involves the handling or dealing in the agricultural products of nonmembers of such organization: PROVIDED, That such associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: PROVIDED FURTHER, That if such cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets such processed agricultural crops on behalf of the grower or its own behalf, said association or federation shall be subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: PROVIDED FURTHER, That none of the foregoing exemptions in this subsection shall apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW.

(2) Any person who sells exclusively his own agricultural products as the producer thereof.

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of such public livestock market's obligation: PROVIDED, That any such market operating as a livestock dealer and/or order buyer shall be subject to all

provisions of this chapter except for the payment of the license fee required in RCW 20.01.040 as now or hereafter amended.

(4) Any retail merchant having bona fide fixed or permanent place of business in this state.

(5) Any person buying farm products for his own use or consumption.

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act, chapter 22.09 RCW, with respect to his operations as a licensee under that act.

(7) Any nurseryman who is required to be licensed under the horticultural laws of the state with respect to his operations as such licensee.

(8) Any person licensed under the now existing dairy laws of the state with respect to his operations as such licensee.

(9) Any producer who purchases less than fifteen percent of his volume to complete orders.

Sec. 32. Section 33, chapter 139, Laws of 1959 as last amended by section 8, chapter 304, Laws of 1977 ex. sess. and RCW 20.01.330 are each amended to read as follows:

The director may refuse to grant a license or renew a license and may revoke or suspend a license or issue a conditional or probationary order if he is satisfied after a hearing, as herein provided, of the existence of any of the following facts, which are hereby declared to be a violation of this chapter:

(1) That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale or storage of, or for rendering of any service in connection with the handling, sale or storage of any agricultural product.

(2) That the applicant, or licensee, has failed or refused to render a true account of sales, or to make a settlement thereon, or to pay for agricultural products received, within the time and in the manner required by this chapter.

(3) That the applicant, or licensee, has made any false statement as to the condition, quality or quantity of agricultural products received, handled, sold or stored by him.

(4) That the applicant, or licensee, directly or indirectly has purchased for his own account agricultural products received by him upon consignment without prior authority from the consignor together with the price fixed by consignor or without promptly notifying the consignor of such purchase. This shall not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of agricultural products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(5) That the applicant, or licensee, has intentionally made any false or misleading statement as to the conditions of the market for any agricultural products.

(6) That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the consignor.

(7) That a commission merchant to whom any consignment is made has re-consigned such consignment to another commission merchant and has received, collected, or charged by such means more than one commission for making the sale thereof, for the consignor, unless by written consent of such consignor.

(8) That the licensee was guilty of fraud or deception in the procurement of such license.

(9) That the licensee or applicant has failed or refused to file with the director a schedule of his charges for services in connection with agricultural products handled on account of or as an agent of another, or that the applicant, or licensee, has indulged in any unfair practice.

(10) That the licensee has rejected, without reasonable cause, or has failed or refused to accept, without reasonable cause, any agricultural product bought or contracted to be bought from a consignor by such licensee; or failed or refused, without reasonable cause, to furnish or provide boxes or other containers, or hauling, harvesting, or any other service contracted to be done by licensee in connection with the acceptance, harvesting, or other handling of said agricultural products bought or handled or contracted to be bought or handled; or has used any other device to avoid acceptance or unreasonably to defer acceptance of agricultural products bought or handled or contracted to be bought or handled.

(11) That the licensee has otherwise violated any provision of this chapter and/or rules and regulations adopted hereunder.

(12) That the licensee has knowingly employed an agent, as defined in this chapter, without causing said agent to comply with the licensing requirements of this chapter applicable to agents.

(13) That the applicant or licensee has, in the handling of any agricultural products, been guilty of fraud, deceit, or negligence.

(14) That the licensee has failed or refused, upon demand, to permit the director or his agents to make the investigations, examination or audits, as provided in this chapter, or that the licensee has removed or sequestered any books, records, or papers necessary to any such investigations, examination, or audits, or has otherwise obstructed the same.

(15) That the licensee, without reasonable cause, has failed or refused to execute or carry out a lawful contract with a consignor.

(16) That the licensee has failed or refused to keep and maintain the records as required by this chapter and/or rules and regulations adopted hereunder.

(17) That the licensee has attempted payment by check with insufficient funds to cover such check.

(18) That the licensee has been guilty of fraud or deception in his dealings with purchasers including misrepresentation of goods as to grade,

quality, weights, quantity, or any other essential fact in connection therewith.

(19) That the licensee has permitted an agent to in fact operate his own separate business under cover of the licensee's license and bond.

(20) That a commission merchant or dealer (~~(in livestock, hay, grain, or straw)~~) has failed to furnish additional bond coverage within fifteen days of when it was requested in writing by the director.

(21) That the licensee has discriminated in the licensee's dealings with consignors on the basis of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap.

Sec. 33. Section 38, chapter 139, Laws of 1959 as amended by section 4, chapter 232, Laws of 1963 and RCW 20.01.380 are each amended to read as follows:

Every dealer or cash buyer purchasing any agricultural products from the consignor thereof shall promptly make and keep for one year a correct record showing in detail the following:

- (1) The name and address of the consignor.
- (2) The date received.
- (3) The terms of the sale.
- (4) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.
- (5) An itemized statement of any charges paid by the dealer or cash buyer for the account of the consignor.

(6) The name and address of the purchaser: PROVIDED, That the name and address of the purchaser may be deleted from the record furnished to the consignor.

A copy of such record containing the above matters shall be forwarded to the consignor forthwith.

Livestock dealers must also maintain individual animal identification and disposition records as may be required by law, or regulation adopted by the director.

NEW SECTION. Sec. 34. Section 16 of this amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 35. There is added to chapter 16.57 RCW a new section to read as follows:

(1) No person may act as a registering agency without a permit issued by the department. The director may issue a permit to any person or organization to act as a registering agency for the purpose of issuing permanent identification symbols for horses in a manner prescribed by the director. Application for such permit, or the renewal thereof by January 1

of each year, shall be on a form prescribed by the director, and accompanied by the proof of registration to be issued, any other documents required by the director, and a fee of one hundred dollars.

(2) Each registering agency shall maintain a permanent record for each individual identification symbol. The record shall include, but need not be limited to, the name, address, and phone number of the horse owner and a general description of the horse. A copy of each permanent record shall be forwarded to the director, if requested by the director.

(3) Individual identification symbols shall be inspected as required for brands under RCW 16.57.380 and 16.57.390. Any horse presented for inspection and bearing such a symbol, but not accompanied by proof of registration and certificate of permit, shall be considered a class II estray under RCW 16.57.290 through 16.57.330.

(4) The director shall adopt such rules as are necessary for the effective administration of this section pursuant to chapter 34.04 RCW.

NEW SECTION. Sec. 36. There is added to chapter 17.24 RCW a new section to read as follows:

(1) "Plant pest" means, but is not limited to, any living stage of any insect, mite, nematode, slug, snail, protozoa, or other invertebrate animal, bacteria, fungus, other parasitic plant, weed, or reproductive part thereof, virus or any organism similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage in any plant or part thereof, or any processed, manufactured, or other products of plants.

(2) "Nuisance" means any plant, or part thereof, or property found in any commercial area upon which is found any pest or disease that is a source of infestation of other properties.

(3) "Commercial area" means a district where any horticultural product is being produced to the extent that a producer is dependent thereon, in whole or in part, for his livelihood.

(4) "Infect" and its derivatives "infected," "infecting," and "infection," means affected by or infested with pests or diseases as above defined.

(5) "Disinfect" and its derivatives means the control, cure or eradication of such pests or diseases by cutting or destroying infected parts or the application of effective pesticides.

Sec. 37. Section 1, chapter 124, Laws of 1963 as last amended by section 12, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.010 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, cooperative, port district, or two or more persons having a joint or common interest.

(4) "Agricultural commodities," hereinafter referred to as "commodities," means, but is not limited to, all the grains, hay, peas, hops, grain and hay products, beans, lentils, corn, sorghums, malt, peanuts, flax, and other similar agricultural products, and shall also include agricultural seeds but only when stored by a warehouseman who issues negotiable warehouse receipts therefor.

(5) "Public warehouse," hereinafter referred to as "warehouse," means any elevator, mill, warehouse, subterminal grain warehouse, public warehouse, terminal warehouse, or other structure or facility in which commodities are received from the public for storage, shipment, or handling, for compensation, and in the case of hay any yard or other enclosure within five miles thereof: PROVIDED, That this shall not include any warehouse storing or handling fresh fruits and/or vegetables or any warehouse used exclusively for cold storage.

(6) "Terminal warehouse" means any warehouse designated as a terminal by the department, and located at an inspection point where inspection facilities are maintained by the department and where commodities are ordinarily received and shipped by common carrier.

(7) "Inspection point" means a city, town, or other place wherein the department maintains inspection and weighing facilities.

(8) "Station" means two or more warehouses between which commodities are commonly transferred in the ordinary course of business and which are (a) immediately adjacent to each other, or (b) located within the corporate limits of any city or town and subject to the same transportation tariff zone, or (c) at any railroad siding or switching area and subject to the same transportation tariff zone, or (d) at one location in the open country off rail, or (e) in any area which can be reasonably audited by the department as a station under the provisions of this chapter and which has been established as such by the director by rule or regulation adopted pursuant to chapter 34.04 RCW, or (f) within twenty miles of each other but separated by the border between Washington and Idaho or Oregon when the books and records for such station are maintained at the warehouse located in Washington.

(9) "Depositor" means any person who deposits a commodity in a warehouse for storage, handling, or shipment, or who is the owner or legal holder of a warehouse receipt, outstanding scale weight ticket, or other evidence of such deposit or any person whose agricultural commodity has been sold to or is under control of the warehouseman for selling, processing, or handling for compensation, whether or not such commodity is in the warehouse.

(10) "Warehouse receipt" means a negotiable or nonnegotiable warehouse receipt as provided for in Article 7 of Title 62A RCW, as enacted or hereafter amended.

(11) "Warehouseman" means any person owning, operating, or controlling a warehouse.

(12) "Scale weight ticket" means a load slip or other evidence of deposit, serially numbered, not including warehouse receipts as defined in subsection (10) of this section, given a depositor on request upon initial delivery of the commodity to the warehouse and shall show the warehouse name, and state number, type of commodity, weight thereof, name of depositor, and the date delivered.

(13) "Subterminal warehouse" means any warehouse which performs an intermediate function in which agricultural commodities are customarily received from dealers rather than producers and where the commodities are accumulated prior to shipment to a terminal warehouse.

(14) "Put through" means agricultural commodities which are deposited in a warehouse for receiving, handling, conditioning, or shipping, and on which the depositor has concluded satisfactory arrangements with the warehouseman for the immediate or impending shipment of the commodity.

(15) "Historical depositor" means any person who in the normal course of business operations has consistently made deposits in the same warehouse of commodities produced on the same land. In addition the purchaser, lessee, and/or inheritor of such land from the original historical depositor with reference to the land shall be considered a historical depositor with regard to the commodities produced on the land.

Sec. 38. Section 13, chapter 124, Laws of 1963 as amended by section 16, chapter 238, Laws of 1979 ex. sess. and RCW 22.09.130 are each amended to read as follows:

(1) Every warehouseman shall receive for storage, handling, or shipment, so far as the capacity and facilities of his warehouse will permit, all commodities included in the provisions of this chapter, in suitable condition for storage, tendered him in the usual course of business from historical depositors and shall issue therefor a warehouse receipt or receipts in form prescribed by the department as herein provided or a scale weight ticket. Warehousemen may accept agricultural commodities from new depositors who qualify to the extent of the capacity of that warehouse. The deposit for storage, shipment, or handling of such commodity must be credited to the depositor in the books of the warehouseman within seven days from the date of such deposit. If the commodity has been graded a warehouse receipt shall be issued within ten days after demand by the owner.

(2) If requested by the depositor, each lot of his commodity shall be kept in a special pile or special bin, if available, but in the case of a bulk commodity, if the lot or any portion of it does not equal the capacity of any

available bin, the depositor may exercise his option to require the commodity to be specially binned only on agreement to pay charges based on the capacity of the available bin most nearly approximating the required capacity.

(3) A warehouseman may refuse to accept for storage, commodities which are wet, damaged, insect-infested, or in other ways unsuitable for storage.

(4) Terminal and subterminal warehousemen shall receive put through agricultural commodities to the extent satisfactory transportation arrangements can be made, but may not be required to receive agricultural commodities for storage.

NEW SECTION. Sec. 39. The following acts or parts of acts are each repealed:

(1) Section 15.04.050, chapter 11, Laws of 1961 and RCW 15.04.050;

(2) Section 1, chapter 195, Laws of 1967 and RCW 15.04.130; and

(3) Section 2, chapter 195, Laws of 1967 and RCW 15.04.140.

These repeals shall not be construed as affecting any existing right acquired under the statutes repealed or under any rule, regulation, or order adopted pursuant thereto; nor as affecting any proceeding instituted thereunder.

NEW SECTION. Sec. 40. If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 19, 1981.

Filed in Office of Secretary of State May 19, 1981.

CHAPTER 297

[Substitute House Bill No. 252]

AGRICULTURAL ACTIVITIES

AN ACT Relating to agriculture; amending section 15.36.110, chapter 11, Laws of 1961 and RCW 15.36.110; amending section 15.36.120, chapter 11, Laws of 1961 and RCW 15.36.120; amending section 15.36.140, chapter 11, Laws of 1961 and RCW 15.36.140; amending section 15.36.290, chapter 11, Laws of 1961 and RCW 15.36.290; amending section 15.36.320, chapter 11, Laws of 1961 and RCW 15.36.320; amending section 22, chapter 63, Laws of 1969 and RCW 15.49.220; amending section 28, chapter 63, Laws of 1969 and RCW 15.49.280; amending section 29, chapter 63, Laws of 1969 and RCW 15.49.290; amending section 31, chapter 63, Laws of 1969 and RCW 15.49.310; amending section 32, chapter 63, Laws of 1969 and RCW 15.49.320; amending section 33, chapter 63, Laws of 1969 as amended by section 1, chapter 154, Laws of 1979 and RCW 15.49.330; amending section 34, chapter 63, Laws of 1969 as amended by section 3, chapter 26, Laws of 1977 ex. sess. and RCW 15.49.340; amending section 35, chapter 63, Laws of 1969 and RCW 15.49.350; amending section 37, chapter 63, Laws of 1969 and RCW 15.49.370; amending section 38, chapter 63, Laws of 1969 and RCW 15.49.380; amending