

*products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.*

\*Sec. 6 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 7. If any provision of this 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 House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor April 1, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1986.

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

"I am returning herewith, without my approval as to four sections, Substitute House Bill No. 1355, entitled:

"AN ACT Relating to the Department of Agriculture."

I am vetoing sections 3 and 4 because they duplicate language contained in Substitute Senate Bill No. 4769, sections 1 and 2.

I am vetoing sections 5 and 6 because they duplicate language contained in Substitute Senate Bill No. 4425 sections 1 and 2.

With the exception of Sections 3, 4, 5 and 6, the remainder of Substitute House Bill No. 1355 is approved."

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## CHAPTER 203

[Engrossed Substitute Senate Bill No. 5044]

HORTICULTURE INSPECTION SERVICES—APPLE ADVERTISING  
COMMISSION—PEST CONTROL—WAREHOUSE OPERATORS—GRAIN  
DEALERS—ORGANIC FOOD, FISH PRODUCTS, CHRISTMAS TREES—  
POPCORN—KOSHER FOOD—FLUID DAIRY PRODUCTS—RAPESEED—  
AGRICULTURAL COMMODITY COMMISSIONS

AN ACT Relating to the department of agriculture; amending RCW 15.04.100, 15.17-.230, 15.24.070, 15.58.220, 15.58.240, 16.38.060, 17.21.090, 17.21.120, 17.21.128, 17.21.130, 17.21.220, 17.21.305, 22.09.050, 22.09.055, 15.66.010, 69.04.398, 43.23.035, and 15.04.200; reenacting and amending RCW 15.65.020; adding a new section to chapter 15.65 RCW; adding a new section to chapter 15.66 RCW; adding a new section to chapter 69.04 RCW; adding a new section to chapter 15.36 RCW; creating a new section; prescribing penalties; and declaring an emergency.

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

Sec. 1. Section 15.04.100, chapter 11, Laws of 1961 as amended by section 1, chapter 76, Laws of 1969 ex. sess. and RCW 15.04.100 are each amended to read as follows:

The director shall establish a horticulture inspection trust fund to be derived from horticulture inspection district funds. The director shall adjust district payments so that the balance in the trust fund shall not exceed ~~((seventy-five))~~ three hundred thousand dollars. The director is authorized to make payments from the trust fund to:

(1) Pay fees and expenses provided in the inspection agreement between the state department of agriculture and the agricultural marketing service of the United States department of agriculture;

(2) Pay portions of salaries of inspectors—at-large as provided under RCW 15.04.040;

(3) Assist horticulture inspection districts in temporary financial distress as result of less than normal production of horticultural commodities: PROVIDED, That districts receiving such assistance shall make repayment to the trust fund as district funds shall permit;

(4) Pay necessary administrative expenses for the ~~((division of plant industry))~~ commodity inspection division attributable to the supervision of the horticulture inspection services.

Sec. 2. Section 23, chapter 122, Laws of 1963 as last amended by section 1, chapter 7, Laws of 1975 1st ex. sess. and RCW 15.17.230 are each amended to read as follows:

For the purpose of this chapter the state shall be divided into not less than ~~((four))~~ three horticulture inspection districts to which the director may assign one or more inspectors—at-large who as a representative of the director shall supervise and administer regulatory and inspection affairs of the districts: PROVIDED, That for purposes of efficiency and economy the director may by rule promulgated in accordance with the Administrative Procedure Act establish or adjust district boundaries or abolish any district: PROVIDED, HOWEVER, That there shall be at least ~~((four))~~ three districts in existence at all times.

Sec. 3. Section 15.24.070, chapter 11, Laws of 1961 as amended by section 5, chapter 145, Laws of 1963 and RCW 15.24.070 are each amended to read as follows:

The Washington state apple advertising commission is hereby declared and created a corporate body. The powers and duties of the commission shall include the following:

(1) To elect a chairman and such other officers as it deems advisable; and to adopt, rescind, and amend rules, regulations, and orders for the exercise of its powers hereunder, which shall have the force and effect of the law when not inconsistent with existing laws;

(2) To administer and enforce the provisions of this chapter, and do all things reasonably necessary to effectuate the purposes of this chapter;

(3) To employ and at its pleasure discharge a manager, secretary, agents, attorneys, and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;

(4) To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this chapter;

(5) To investigate and prosecute violations hereof;

(6) To conduct scientific research to develop and discover the health, food, therapeutic, and dietetic value of apples and products thereof;

(7) To keep accurate record of all of its dealings, which shall be open to inspection and audit by the state auditor;

(8) To sue and be sued, adopt a corporate seal, and have all of the powers of a corporation; and

(9) To expend funds for commodity-related education, training, and leadership programs as the commission deems expedient.

Sec. 4. Section 22, chapter 190, Laws of 1971 ex. sess. as amended by section 20, chapter 297, Laws of 1981 and RCW 15.58.220 are each amended to read as follows:

For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant as defined in RCW 15.58.030(23). No person shall act as a public pest control consultant on or after February 28, 1973 without first obtaining a nonfee license from the director (~~which~~). Public pest control consultant licenses shall expire on the ((third)) fifth December 31st from the date of issuance; PROVIDED, That all public pest control consultant licenses valid on December 31, 1985, shall expire on December 31, 1990. Application for a license shall be on a form prescribed by the director: PROVIDED, That federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or his duly authorized representative, and public operators licensed under RCW 17.21-.220 shall be exempt from this licensing provision.

Sec. 5. Section 24, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.240 are each amended to read as follows:

The director may classify licenses to be issued under the provisions of this chapter. Such classifications may include but not be limited to agricultural crops, ornamentals, or noncrop land herbicides. If the licensee has a classified license he shall be limited to practicing within these classifications. Each such classification shall be subject to separate testing procedures and requirements: PROVIDED, That no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section. The director may renew any applicant's license under the classification for which the applicant is licensed, subject to reexamination or other recertification standards as determined by the director when deemed necessary because new knowledge or new classifications are required to carry out the responsibilities of the licensee.

Sec. 6. Section 6, chapter 100, Laws of 1969 and RCW 16.38.060 are each amended to read as follows:

The director may, following a public hearing, establish a schedule of fees for services performed in carrying out such diagnostic service program. All fees collected under this provision shall be retained by the director of agriculture to be spent only for carrying out the purposes of this chapter.

Sec. 7. Section 9, chapter 249, Laws of 1961 as last amended by section 2, chapter 191, Laws of 1971 ex. sess. and RCW 17.21.090 are each amended to read as follows:

The director shall not issue a pesticide applicator's license until the applicant, if he is the sole owner of the business, or if there is more than one owner, the person managing the business, has passed an examination to demonstrate to the director (1) his knowledge of how to apply pesticides under the classifications he has applied for, manually or with the various apparatuses that he may have applied for a license to operate under the provisions of this chapter, and (2) his knowledge of the nature and effect of pesticides he may apply manually or with such apparatuses under such classifications. ~~((The director may renew any applicant's license under the classification for which such applicant is licensed, subject to examination for new knowledge that may be required to apply pesticides manually or with apparatuses the applicant has been licensed to operate.))~~ The pesticide applicator's license shall expire on December 31 following issuance. The director shall charge an examination fee of five dollars when an examination is necessary before a license may be issued or when application for such license and examination is made at other than a regularly scheduled examination date as provided for by the director.

Sec. 8. Section 12, chapter 249, Laws of 1961 as amended by section 7, chapter 177, Laws of 1967 and RCW 17.21.120 are each amended to read as follows:

The director shall not issue an operator's license before such applicant has passed an examination to demonstrate to the director (1) his ability to apply pesticides in the classifications he has applied for, manually or with the various apparatuses that he may have applied for a license to operate, and (2) his knowledge of the nature and effect of pesticides applied manually or used in such apparatuses under such classifications. ~~((The director may renew any applicant's license under the classification for which such applicant is licensed, subject to examination for new knowledge that may be required to apply pesticides manually or with apparatuses the applicant has been licensed to operate.))~~ The operator's license shall expire on December 31 following issuance. The director shall charge an examination fee of five dollars when an examination is necessary before a license may be issued and when application for such license and examination is made at other than a regularly scheduled examination date as provided for by the director.

Sec. 9. Section 9, chapter 92, Laws of 1979 and RCW 17.21.128 are each amended to read as follows:

The director may renew any (~~(private applicator's)~~) certification or (~~(private-commercial applicator's)~~) license issued under authority of this chapter under the classification for which such applicant is licensed or certified subject to (~~(demonstration of competency)~~) recertification standards as determined by the director or examination regarding new knowledge that may be required to apply pesticides (~~(manually or with apparatuses the applicant has been licensed to operate)~~).

Sec. 10. Section 13, chapter 249, Laws of 1961 and RCW 17.21.130 are each amended to read as follows:

Any license provided for in this chapter (~~(shall expire on December 31st following issuance unless it has been)~~) may be revoked or suspended (~~(prior thereto)~~) by the director for cause.

Sec. 11. Section 22, chapter 249, Laws of 1961 as last amended by section 24, chapter 297, Laws of 1981 and RCW 17.21.220 are each amended to read as follows:

(1) All state agencies, municipal corporations, and public utilities or any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of pesticides: PROVIDED, That the operators applying any pesticide restricted to use by certified applicators or in charge of any apparatuses used by any state agencies, municipal corporations and public utilities or any governmental agencies shall be subject to the provisions of RCW 17.21.100, 17.21.110 and 17.21.120: PROVIDED FURTHER, That the director shall issue a limited public operator license without a fee to such operators which shall be valid only when such operators are acting as (~~(operators on apparatuses used by such entities and which shall expire on the third December 31st from the date of issuance)~~) employees of a state agency, municipal corporation, public utility, or other government agency: AND PROVIDED FURTHER, That the jurisdictional health officer or his duly authorized representative is exempt from this licensing provision when applying pesticides not restricted to use by certified applicators to control pests other than weeds. Public operator licenses shall expire on the fifth December 31 from the date of issuance. All public operator licenses valid on December 31, 1985, shall expire on December 31, 1990.

(2) Such agencies, municipal corporations and public utilities shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred.

Sec. 12. Section 19, chapter 177, Laws of 1967 and RCW 17.21.305 are each amended to read as follows:

The provisions of this chapter requiring all structural pest control operators, exterminators and fumigators to license with the department shall not preclude a city of the first class with a population of one hundred thousand people or more, or the county in which it is situated, from also licensing structural pest control operators, exterminators and fumigators operating within the territorial confines of said city or county: PROVIDED, That when structural pest control operators, exterminators and fumigators are licensed by both ~~((such))~~ the city of the first class and the county in which ~~((such))~~ the city is situated, and there exists a joint county-city health department, then ~~((such))~~ the joint county-city health department may enforce the provisions of ~~((such))~~ the city and county as to the license requirements for ~~((said))~~ the structural pest control operators, exterminators and fumigators.

Sec. 13. Section 5, chapter 124, Laws of 1963 as last amended by section 22, chapter 305, Laws of 1983 and RCW 22.09.050 are each amended to read as follows:

Any application for a license to operate a warehouse shall be accompanied by a license fee of ~~((two))~~ four hundred dollars for a terminal warehouse, ~~((one hundred fifty))~~ three hundred dollars for a subterminal warehouse, and ~~((fifty))~~ one hundred dollars for a country warehouse. If a licensee operates more than one warehouse under one state license as provided for in RCW 22.09.030, the license fee shall be computed by multiplying the number of physically separated warehouses within the station by the applicable terminal, subterminal, or country warehouse license fee. If an application for renewal of a warehouse license or licenses is not received by the department prior to June 30th of any year, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying that he has not acted as a warehouseman subsequent to the expiration of his prior license.

Sec. 14. Section 23, chapter 305, Laws of 1983 and RCW 22.09.055 are each amended to read as follows:

An application for a license to operate as a grain dealer shall be accompanied by a license fee of ~~((one))~~ three hundred dollars unless the applicant is also a licensed warehouseman, in which case the fee for a grain dealer license shall be one hundred fifty dollars.

If an application for renewal of a grain dealer license is not received by the department before June 30th of any year, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying that he has not acted as a grain dealer after the expiration of his prior license.

Sec. 15. Section 2, chapter 256, Laws of 1961 as last amended by section 1, chapter 261, Laws of 1985 and by section 13, chapter 457, Laws of 1985 and RCW 15.65.020 are each reenacted and amended to read as follows:

The following terms are hereby defined:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative. The phrase "director or his designee" means the director unless, in the provisions of any marketing agreement or order, he has designated an administrator, board or other designee to act for him in the matter designated, in which case "director or his designee" means for such order or agreement the administrator, board or other person(s) so designated and not the director.

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

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

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

(5) "Agricultural commodity" means any animal or any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable, or animal product, including, but not limited to, products qualifying as organic food products under chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW 15.85.020 and other fish and fish products, either in its natural or processed state, including bees and honey and Christmas trees but not including timber or timber products. The director is hereby authorized to determine (on the basis of common usage and practice) what kinds, types or sub-types should be classed together as an agricultural commodity for the purposes of this chapter.

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

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

(8) "Affected unit" means in the case of marketing agreements and orders drawn on the basis of a production area, any unit of the commodity specified in or covered by such agreement or order which is produced in such area and sold or marketed or delivered for sale or marketing; and "affected unit" means, in the case of marketing agreements and orders drawn on the basis of marketing area, any unit of the commodity specified in or covered by such agreement or order which is stored in frozen condition or sold or marketed or delivered for sale or marketing within such marketing

area: PROVIDED, That in the case of marketing agreements "affected unit" shall include only those units which are produced by producers or handled by handlers who have assented to such agreement.

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

(10) "Producer" means any person engaged in the business of producing any agricultural commodity for market in commercial quantities. "Affected producer" means any producer of an affected commodity. "To produce" means to act as a producer. For the purposes of RCW 15.65.140 and 15.65.160 as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

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

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to any agricultural commodity. A producer-handler shall be deemed to be a producer with respect to the agricultural commodities which he produces, and a handler with respect to the agricultural commodities which he handles, including those produced by himself.

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

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

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



(16) "Commercial quantities" as applied to producers and/or production means such quantities per year (or other period of time) of an agricultural commodity as the director finds are not less than the minimum which a prudent man engaged in agricultural production would produce for the purpose of making such quantity of such commodity a substantial contribution to the economic operation of the farm on which such commodity is produced. "Commercial quantities" as applied to handlers and/or handling means such quantities per year (or other period of time) of an agricultural commodity or product thereof as the director finds are not less than the minimum which a prudent man engaged in such handling would handle for the purpose of making such quantity a substantial contribution to the handling operation in which such commodity or product thereof is so handled. In either case the director may in his discretion: (a) determine that substantial quantity is any amount above zero; and (b) apply the quantity so determined on a uniform rule applicable alike to all persons which he finds to be similarly situated.

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

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

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

(20) "Represented in a referendum" means that a written document evidencing approval or assent or disapproval or dissent is duly and timely filed with or mailed to the director by or on behalf of an affected producer and/or a volume of production of an affected commodity in a form which the director finds meets the requirements of this chapter.

(21) "Person" as used in this chapter shall mean any person, firm, association or corporation.

Sec. 16. Section 15.66.010, chapter 11, Laws of 1961 as last amended by section 14, chapter 457, Laws of 1985 and RCW 15.66.010 are each amended to read as follows:

For the purposes of this chapter:

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

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

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Agricultural commodity" means any animal or any distinctive type of agricultural, horticultural, viticultural, vegetable, and/or animal product, including, but not limited to, products qualifying as organic food products under chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW 15.85.020 and other fish and fish products, within its natural or processed state, including bees and honey and Christmas trees but not including timber or timber products. The director is authorized to determine what kinds, types or subtypes should be classed together as an agricultural commodity for the purposes of this chapter.

(5) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities any agricultural commodity. For the purposes of RCW 15.66.060, 15.66.090, and 15.66.120, as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Affected producer" means any producer of an affected commodity.

(7) "Affected commodity" means any agricultural commodity for which the director has established a list of producers pursuant to RCW 15.66.060.

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

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

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

(11) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.

(12) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of Congress of the United States, Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large 388 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering

service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

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

NEW SECTION. Sec. 17. A new section is added to chapter 69.04 RCW to read as follows:

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

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

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

Sec. 18. Section 36, chapter 7, Laws of 1975 1st ex. sess. and RCW 69.04.398 are each amended to read as follows:

(1) The purpose of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 is to promote uniformity of state legislation and regulations with the Federal Food, Drug and Cosmetic Act 21 USC 301 et seq. and regulations adopted thereunder. In accord with such declared purpose any regulation adopted under said federal food, drug and cosmetic act concerning food in effect on July 1, 1975, and not adopted under any other specific provision of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 are hereby deemed to have been adopted under the provision hereof. Further, to promote such uniformity any regulation adopted hereafter under the provisions of the federal food, drug and cosmetic act concerning food and published in the federal register shall be deemed to have been adopted under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 in accord with chapter 34.04 RCW as enacted or hereafter amended. The director may, however, within thirty days of the publication of the adoption of any such regulation under the federal food, drug and cosmetic act give public notice that a hearing will be held to determine if such regulation shall not be applicable under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and

69.04.396. Such hearing shall be in accord with the requirements of chapter 34.04 RCW as enacted or hereafter amended.

(2) The provisions of subsection (1) of this section do not apply to rules adopted by the director as necessary to permit the production of kosher food products as defined in RCW 69.90.010.

NEW SECTION. Sec. 19. A new section is added to chapter 15.36 RCW to read as follows:

(1) The director of agriculture shall adopt rules imposing a civil penalty for violations of the standards for component parts of fluid dairy products which are established by RCW 15.36.030 or adopted pursuant to RCW 69.04.398. The penalty shall not exceed ten thousand dollars and shall be such as is necessary to achieve proper enforcement of the standards. The rules shall be adopted before January 1, 1987, and shall become effective on July 1, 1987.

(2) The penalty is imposed by the department giving a written notice which is either personally served upon or transmitted by certified mail, return receipt requested, to the person incurring the penalty. The notice of the civil penalty shall be a final order of the department unless, within fifteen days after the notice is received, the person incurring the penalty appeals the penalty by filing a notice of appeal with the department. If a notice of appeal is filed in a timely manner, a contested case hearing shall be conducted on behalf of the department by the office of administrative hearings in accordance with chapters 34.04 and 34.12 RCW and, to the extent they are not inconsistent with this subsection, the provisions of RCW 15.36.580. At the conclusion of the hearing, the department shall determine whether the penalty should be affirmed, reduced, or not imposed and shall issue a final order setting forth the civil penalty assessed, if any. The order may be appealed to superior court in accordance with chapter 34.04 RCW. Tests performed for the component parts of milk products by a state laboratory of a milk sample collected by a department official shall be admitted as prima facie evidence of the amounts of milk components in the product.

(3) Any penalty imposed under this section is due and payable upon the issuance of the final order by the department.

(4) All penalties received or recovered from violations of this section shall be remitted by the violator to the department and deposited in the revolving fund of the Washington state dairy products commission. One-half of the funds received shall be used for purposes of education with the remainder one-half to be used for dairy processing and/or marketing research. No appropriation is required for disbursements from this fund.

(5) In case of a violation of the standards for the composition of milk products, an investigation shall be made to determine the cause of the violation which shall be corrected. Additional samples shall be taken as soon as possible and tested by the department.

NEW SECTION. Sec. 20. The director of agriculture shall establish a special study committee which shall identify and review issues related to packaged fluid dairy products standards and the enforcement of such standards. The committee shall include appropriate representatives of the department of agriculture, the dairy producers of this state, and the dairy processors of this state. The committee shall submit a report, with recommendation as to any proposed legislation, to the agriculture committees of the senate and the house of representatives no later than November 1, 1986.

NEW SECTION. Sec. 21. A new section is added to chapter 15.65 RCW to read as follows:

The legislature finds that the production of marketable rapeseed within this state is in the interest of the public welfare. The legislature further finds that the production of incompatible varieties of rapeseed in close geographical proximity adversely affects the purity and marketability of rapeseed, and that it is in the public interest to establish geographical districts and buffer zones wherein the production of rapeseed may be restricted by variety.

For the purpose of rapeseed production in the state of Washington, the director of the department of agriculture shall have the regulatory authority on the production of rapeseed by variety and geographic location until such time as a rapeseed commodity commission is formulated. Once formed, the rapeseed commodity commission shall assume the regulatory authority on the production of rapeseed by variety and geographic location in the state of Washington.

NEW SECTION. Sec. 22. A new section is added to chapter 15.66 RCW to read as follows:

For the purpose of rapeseed production in the state of Washington, the director of the department of agriculture shall have the regulatory authority on the production of rapeseed by variety and geographical location until such time as a rapeseed commodity commission is formulated. Once formed, the rapeseed commodity commission shall assume the regulatory authority on the production of rapeseed by variety and geographic location in the state of Washington.

***\*Sec. 23. Section 3, chapter 159, Laws of 1985 and RCW 43.23.035 are each amended to read as follows:***

***The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:***

- (1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;***
- (2) To collect, prepare, and analyze foreign and domestic market data;***

**(3) To establish a program to promote and assist the marketing of Washington-bred horses;**

**(4) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;**

**~~((4))~~ (5) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are produced and are, or could be, made available for sale;**

**~~((5))~~ (6) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;**

**~~((6))~~ (7) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;**

**~~((7))~~ (8) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;**

**~~((8))~~ (9) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;**

**~~((9))~~ (10) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;**

**~~((10))~~ (11) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;**

**~~((11))~~ (12) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and**

**~~((12))~~ (13) To develop a coordinated marketing program with the department of ~~((commerce))~~ trade and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.**

**As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming.**

\*Sec. 23 was vetoed, see message at end of chapter.

Sec. 24. Section 1, chapter 26, Laws of 1985 and RCW 15.04.200 are each amended to read as follows:

(1) Under the authority of Article VIII of the state Constitution as amended, agricultural commodity commission expenditures for agricultural development or trade promotion and promotional hosting by an agricultural commodities commission under chapters 15.24, 15.28, 15.44, 15.65, 15.66, and 16.67 RCW shall be pursuant to specific budget items as approved by the agricultural commodity commission at the annual public hearings on the agricultural commodity commission budget.

(2) Agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission

employees, agents or commissioners. The rules shall identify officials and agents authorized to make expenditures and the objectives of the expenditures. Individual agricultural commodity commission commissioners shall make promotional hosting expenditures, or seek reimbursements for these expenditures, only in those instances where the expenditures have been approved by the agricultural commodity commission. All payments and reimbursements shall be identified and supported on vouchers.

(3) Agricultural commodity commissions shall be exempt from the requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

NEW SECTION. Sec. 25. If any provision of this 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.

NEW SECTION. Sec. 26. Sections 21 and 22 of this act are 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 March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 1, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1986.

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

"I am returning herewith, without my approval as to section 23, Substitute Senate Bill No. 5044, entitled:

"AN ACT Relating to the Department of Agriculture."

I am vetoing section 23 because of duplicate language contained in section 1 of Substitute House Bill No. 1355.

With the exception of section 23, the remainder of Substitute Senate Bill No. 5044 is approved."

## CHAPTER 204

[House Bill No. 1337]

### WASHINGTON STATE DEVELOPMENT LOAN FUND COMMITTEE

AN ACT Relating to the Washington state development loan fund committee; amending RCW 43.168.100 and 43.168.050; and repealing RCW 42.18.350.

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

Sec. 1. Section 10, chapter 164, Laws of 1985 and RCW 43.168.100 are each amended to read as follows:

The committee may make grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants. These grants may only be made