

to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the department, such conflicting part of this act is hereby declared to be inoperative solely to the extent of such conflict and with respect to the department, and such findings or determination shall not affect the operation of the remainder of this act in its application to the department.

Passed the House April 16, 1969.
Passed the Senate April 11, 1969.
Approved by the Governor April 24, 1969.
Filed in office of Secretary of State April 24, 1969.

CHAPTER 146
[Engrossed Substitute House Bill No. 42]
WASHINGTON WHOLESOME
POULTRY PRODUCTS ACT

AN ACT Relating to poultry inspecting; providing penalties; and adding a new chapter to Title 16 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. This act shall be known and designated as the "Washington wholesome poultry products act".

NEW SECTION. Sec. 2. The purposes of this act are to adopt new legislation governing poultry and poultry products and to promote uniformity of state legislation with the federal poultry products inspection act. Poultry and poultry products are an important source of the state's total supply of food. They are consumed throughout the state and the major portion thereof moves in intrastate commerce. It is essential in the public interest that the health and welfare of consumers be protected by assuring that poultry and poultry products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. Poultry and poultry products not reaching these standards are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry and poultry products, and result in sundry losses to poultry producers and processors of poultry and poultry products, as well as injury to consumers. The unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and com-

pete unfairly with the wholesome, not adulterated, and properly labeled and packaged articles, to the detriment of consumers and the public generally. It is hereby found that all articles and poultry which are regulated under this act substantially affect the public and that regulation by the director as contemplated by this act is appropriate to protect the health and welfare of consumers.

NEW SECTION. Sec. 3. The definitions in sections 4 through 28 of this act, unless the context otherwise requires, shall govern the construction of this act.

NEW SECTION. Sec. 4. "Department" means the department of agriculture of the state of Washington.

NEW SECTION. Sec. 5. "Director" means the director of the department of agriculture or his authorized representative.

NEW SECTION. Sec. 6. "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.

NEW SECTION. Sec. 7. "Poultry" includes but is not limited to chickens, turkeys, ducks, geese, or any other bird used for human consumption whether live or slaughtered.

NEW SECTION. Sec. 8. "Poultry products" means any poultry carcass, or part thereof; or any product which is made wholly or in part from any poultry carcass, or part thereof, excepting poultry products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry and which are exempted by the director from definition as a poultry product under such conditions as the director may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

NEW SECTION. Sec. 9. "Adulterated" shall apply to any poultry product under one or more of the following circumstances:

- (1) If it bears or contains any poisonous or deleterious sub-

stance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health.

(2) If it bears or contains (by reason of administration of any substance to the live poultry or otherwise) and is an added poisonous or added deleterious substance (other than one which is (a) a pesticide chemical in or on a raw agricultural commodity; (b) a food additive; or (c) a color additive) which may, in the judgment of the director make such article unfit for human food;

(3) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of RCW 69.04.392 as it is now or hereafter amended;

(4) If it bears or contains any food additive which is unsafe within the meaning of RCW 69.04.394 as it is now or hereafter amended;

(5) If it bears or contains any color additive which is unsafe within the meaning of RCW 69.04.396 as it is now or hereafter amended: PROVIDED, That an article which is not otherwise deemed adulterated under subsections (2), (3), or (4) of this section, shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the director in official establishments;

(6) If it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(7) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(8) If it is, in whole or in part, the product of any poultry which has died otherwise than by slaughter;

(9) If its container is composed, in whole or in part, of any

poisonous or deleterious substance which may render the contents injurious to health;

(10) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to RCW 69.04.394; or

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

NEW SECTION. Sec. 10. "Misbranded" shall apply to any poultry product under one or more of the following circumstances:

(1) If its labeling is false or misleading in any particular;

(2) If it is offered for sale under the name of another food;

(3) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;

(4) If its container is so made, formed, or filled as to be misleading;

(5) If in a package or other container unless it bears a label showing (a) the name and the place of business of the manufacturer, packer, or distributor; and (b) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count: PROVIDED, That under part (b) of this subsection (5), reasonable variations may be permitted, and exemptions as to small packages or articles not in packages or other containers may be established by regulations prescribed by the director;

(6) If any word, statement, or other information required by or under authority of this act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the

labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) If it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the director under section 34 of this act unless (a) it conforms to such definition and standard, and (b) its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(8) If it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the director under section 34 of this act, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

(9) If it is not subject to the provisions of subsection (7) of this section, unless its label bears (a) the common or usual name of the food, if there be any, and (b) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the director, be designated as spices, flavorings, and colorings without naming each: PROVIDED, That to the extent that compliance with the requirements of part (b) of this subsection (9) is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the director;

(10) If it purports to be or is represented for special dietary uses unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the director determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses;

(11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: PROVIDED, That, to the extent that compliance with the requirements of this subsection (11) is impracticable, exemptions shall be established by regulations promulgated by the director; or

(12) If it fails to bear on its containers, and in the case of nonconsumer packaged carcasses directly thereon, as the director may by regulations prescribe, the official inspection legend and official establishment number of the establishment where the article was processed, and, unrestricted by any of the foregoing, such other information as the director may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

NEW SECTION. Sec. 11. "Inspector" means an employee or official of the department authorized by the director to inspect poultry and poultry products under the authority of this act.

NEW SECTION. Sec. 12. "Official mark" means the official inspection legend or any other symbol prescribed by regulations of the director to identify the status of any article or poultry under this act.

NEW SECTION. Sec. 13. "Official inspection legend" means any symbol prescribed by regulations of the director showing that an article was inspected and passed in accordance with this act.

NEW SECTION. Sec. 14. "Official certificate" means any certificate prescribed by regulations of the director for issuance by an inspector or other person performing official functions under this act.

NEW SECTION. Sec. 15. "Official device" means any device prescribed or authorized by the director for use in applying any official mark.

NEW SECTION. Sec. 16. "Official establishment" means any es-

[1074]

tablissement licensed by the department at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained under the authority of this act.

NEW SECTION. Sec. 17. "Inspection service" means the animal industry division of the department having the responsibility for carrying out the provisions of this act.

NEW SECTION. Sec. 18. "Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

NEW SECTION. Sec. 19. "Label" means a display of written, printed, or graphic matter upon any article or the immediate container (not including package liners) of any article; and the term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

NEW SECTION. Sec. 20. "Shipping container" means any container used or intended for use in packaging the product packed in an immediate container.

NEW SECTION. Sec. 21. "Immediate container" means any consumer package, or any other container in which poultry products, not consumer packaged, are packed.

NEW SECTION. Sec. 22. "Capable of use as human food" means any carcass, or part or product of a carcass, of any poultry, unless it is denatured or otherwise identified as required by regulations prescribed by the director to deter its use as human food, or it is naturally inedible by humans.

NEW SECTION. Sec. 23. "Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

NEW SECTION. Sec. 24. "Uniform Washington food, drug and cosmetic act" means the act so entitled, as now or hereafter amended.

NEW SECTION. Sec. 25. "Pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" shall have the same meanings for purposes of this act as under the uniform Washing-

ton food, drug and cosmetic act as now or hereafter amended.

NEW SECTION. Sec. 26. "Poultry products broker" means any person engaged in the business of buying or selling poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person.

NEW SECTION. Sec. 27. "Renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of poultry, except rendering conducted under inspection or exemption under this act.

NEW SECTION. Sec. 28. "Animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of poultry.

NEW SECTION. Sec. 29. In order to protect the public health by preventing the processing and distribution of unwholesome or adulterated poultry products in this state, the director shall when he deems it necessary cause to be made by inspectors preslaughter inspection of poultry in each official establishment processing poultry or poultry products.

NEW SECTION. Sec. 30. The director, whenever processing operations are being conducted, shall cause to be made by inspectors post mortem inspection of the carcass of each bird processed, and at any time such quarantine, segregation and reinspection as he deems necessary of poultry and poultry products capable of use as a human food in each official establishment processing such poultry or poultry products.

NEW SECTION. Sec. 31. All poultry carcasses and parts thereof and other poultry products found to be adulterated shall be condemned and shall if no appeal be taken from such determination of condemnation be destroyed for human food purposes under the supervision of an inspector: PROVIDED, That carcasses, parts and products which by processing may be made not adulterated, need not be so condemned

and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the carcasses, parts, or products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal cost shall be at the cost of the appellant if the director determines the appeal is frivolous. If the determination of the condemnation is sustained the carcasses, parts and products shall be destroyed for human food purposes under the supervision of an inspector.

NEW SECTION. Sec. 32. Each official establishment slaughtering poultry or processing poultry products subject to the provisions of this act shall have such premises, facilities and equipment, and be operated in accordance with such sanitary practices, as are required by regulations promulgated by the director for the purpose of preventing the processing, distribution or sale of poultry products which are adulterated.

NEW SECTION. Sec. 33. All poultry products inspected at any official establishment under the authority of this act and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, on their shipping containers and immediate containers, and in the case of nonconsumer packaged carcasses directly thereon, as the director may require, the information required under section 10 of this act.

NEW SECTION. Sec. 34. The director whenever he determines such action is necessary for the protection of the public, may prescribe: (1) The styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling in marketing and labeling any articles or poultry subject to this act; (2) definitions and standards of identity or composition of articles subject to this act and standards of fill of container for such articles not inconsistent with any such standards established under the uniform Washington food, drug and cosmetic act.

NEW SECTION. Sec. 35. No article subject to this act shall

be sold or offered for sale by any person in intrastate commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers, which are not false or misleading and which are approved by the director, are permitted.

NEW SECTION. Sec. 36. If the director has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this act is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the marking, labeling, or container does not accept the determination of the director, such person may request a hearing, as provided for contested cases under chapter 34.04 RCW, as now or hereafter amended, but the use of the marking, labeling, or container shall, if the director so directs, be withheld pending hearing and final determination by the director. Any such determination by the director shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the superior court in the county in which such person has its principal place of business or to the superior court for Thurston county.

NEW SECTION. Sec. 37. No person shall:

(1) Slaughter any poultry or process any poultry products which are capable of use as human food at any establishment processing any such articles for intrastate commerce, except in compliance with the requirements of this act;

(2) Sell, knowingly transport, offer for sale or knowingly offer for transportation, or knowingly receive for transportation, in this state (a) any poultry products which are capable of use as human food and which are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for

transportation; or (b) any poultry products required to be inspected under this act unless they have been so inspected and passed;

(3) Do, with respect to any poultry products which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such products to be adulterated or misbranded;

(4) Sell, knowingly transport, offer for sale or transportation, knowingly receive for transportation, in this state or from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head or viscera have not been removed in accordance with regulations promulgated by the director, except as may be authorized by regulations of the director.

(5) Use to his own advantage, or reveal other than to the authorized representatives of this state, United States government or any other state in their official capacity, or as ordered by a court in any judicial proceedings, any information acquired under the authority of this act concerning any matter which is entitled to protection as a trade secret.

NEW SECTION. Sec. 38. No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the director.

NEW SECTION. Sec. 39. No person shall:

(1) Forge any official device, mark, or certificate;

(2) Without authorization from the director use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate;

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

(4) Possess, without promptly notifying the director or his

representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any poultry, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

(5) Make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the director; or

(6) Represent that any article has been inspected and passed, or exempted, under this act when, in fact, it has, respectively, not been so inspected and passed, or exempted.

NEW SECTION. Sec. 40. Inspection shall not be provided under this act at any establishment for the slaughter of poultry or the processing of any carcasses or parts or products of poultry, which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in this state, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the director to deter their use for human food. No person shall buy, sell, knowingly transport, or offer for sale or knowingly offer for transportation, or knowingly receive for transportation, in this state, or import, any poultry carcasses or parts or products thereof which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the director or are naturally inedible by humans.

NEW SECTION. Sec. 41. The following classes of persons shall, for such period of time as the director may by regulations prescribe, not to exceed two years unless otherwise directed by the director for good cause shown, keep such records as are properly necessary for the effective enforcement of this act in order to insure against adulterated or misbranded poultry products for the Washington consumer; and all persons subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the director, afford such representative access to their places of business and oppor-

tunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor:

(1) Any person who engages in the business of slaughtering any poultry or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any poultry, for intrastate commerce, for use as human food or animal food;

(2) Any person who engages in the business of buying or selling (as poultry products brokers, wholesalers or otherwise), or transporting, in intrastate commerce, or storing in or for intrastate commerce, or importing, any carcasses, or parts or products of carcasses, of any poultry;

(3) Any person who engages in business, in or for intrastate commerce, as a renderer, or engages in the business of buying, selling, or transporting, in intrastate commerce, or importing, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter.

NEW SECTION. Sec. 42. No person shall engage in business or intrastate commerce, as a poultry products broker, renderer or animal food manufacturer, or engage in business in intrastate commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any poultry, whether intended for human food or other purposes, or engage in business as a public warehouseman storing any such articles in or for intrastate commerce, or engage in the business of buying, selling, or transporting in intrastate commerce, or importing, any dead, dying, disabled, or diseased poultry, or parts of the carcasses of any poultry that died otherwise than by slaughter, unless, when required by regulations of the director, he has registered with the director his name, and the address of each place of business at which, and all trade names under which, he conducts such business.

NEW SECTION. Sec. 43. No person engaged in the business of buying, selling, or transporting in intrastate commerce, or importing, dead, dying, disabled, or diseased poultry, or any parts of the car-

casses of any poultry that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, or import, any dead, dying, disabled, or diseased poultry or parts of the carcasses of any poultry that died otherwise than by slaughter, unless such transaction, transportation or importation is made in accordance with such regulations as the director may prescribe to assure that such poultry, or the unwholesome parts or products thereof, will be prevented from being used for human food.

NEW SECTION. Sec. 44. (1) The director may by regulations prescribe conditions under which poultry products capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, or importing, such articles, whenever the director deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such regulation is an infraction punishable under section 61 of this act.

(2) Before any criminal proceedings are filed against a person for a violation of this act, such person shall be given reasonable notice of the alleged violation and an opportunity to present his views orally or in writing in regard to such contemplated action. Nothing in this act shall be construed as requiring the director to report for criminal prosecution violators of this act, whenever he believes that the public interest will be adequately served and compliance with the act obtained by a suitable written notice.

NEW SECTION. Sec. 45. Whenever the director shall deem it necessary in order to furnish proper, efficient and economical inspection of two or more establishments and the proper inspection of poultry or poultry products, the director, after a hearing on written notice to the licensee of each such establishment affected, may designate days and hours for the slaughter of poultry and the preparation or processing of poultry products at such establishments. The direc-

tor in making such designation of days and hours shall give consideration to the existing practices at the affected establishment fixing the time for slaughter of poultry and the preparation or processing of poultry products thereof.

NEW SECTION. Sec. 46. The director, whenever he finds any poultry or poultry products subject to the provisions of this act away from the establishment where such poultry or poultry products were prepared or anywhere in intrastate commerce that are adulterated or misbranded, shall render such poultry or poultry products unsalable or shall order the destruction of such poultry or poultry products which are hereby declared to be a public nuisance.

NEW SECTION. Sec. 47. The director may, when he finds, or has probable cause to believe that any poultry or poultry product subject to the provisions of this act which has been or may be introduced into intrastate commerce and such poultry or poultry products are so adulterated or misbranded that their embargo is necessary to protect the public from injury, affix on such poultry or poultry products a notice of their embargo prohibiting their sale or movement in intrastate commerce without a release from the director. The director shall subsequent to embargo, if he finds that such poultry or poultry products are not adulterated or misbranded so as to be in violation of this act, remove such embargo forthwith.

NEW SECTION. Sec. 48. When the director has embargoed any poultry or poultry products, he shall petition the superior court of the county in which the poultry or poultry product is located without delay and within twenty days for an order affirming such embargo. Such court shall then have jurisdiction, for cause shown and, after a prompt hearing to any claimant of poultry or poultry products, shall issue an order which directs the removal of such embargo or the destruction or the correction and release of such poultry or poultry products. An order for destruction or correction and release shall contain such provisions for the payment of pertinent court costs and fees and administrative expenses as is equitable and which the court

deems appropriate in the circumstances. An order for correction and release may contain such provisions for a bond, as the court finds indicated in the circumstance.

NEW SECTION. Sec. 49. The director need not petition the superior court as provided for in section 48 of this act, if the owner or the claimant of such poultry or poultry products agrees in writing to the disposition of such poultry or poultry products as the director may order.

NEW SECTION. Sec. 50. Two or more petitions under section 48 of this act, which pend at the same time and which present the same issue and claimant hereunder, may be consolidated for simultaneous determination by one court of competent jurisdiction, upon application to any court of jurisdiction by the director or by such claimant.

NEW SECTION. Sec. 51. The claimant in any proceeding by petition under section 48 of this act shall be entitled to receive a representative sample of the article subject to such proceedings, upon application to the court of competent jurisdiction made at any time after such petition and prior to the hearing thereon.

NEW SECTION. Sec. 52. No state court shall allow the recovery of damages from administrative action for condemnation under the provisions of this act, if the court finds that there was probable cause for such action.

NEW SECTION. Sec. 53. It shall be unlawful for any person to operate a poultry slaughtering or processing establishment without first having obtained an annual license from the department, which shall expire on the 31st day of March following issuance. A separate license shall be required for each such establishment. Application for a license shall be on a form prescribed by the director and accompanied by a twenty-five dollar annual license fee. Such application shall include the full name of the applicant for the license and the location of the poultry slaughtering or processing establishment he intends to operate. If such applicant is an individual, receiver, trustee, firm, partnership, association, or corporation, the full

name of each member of the firm or partnership, or names of the officers of the association or corporation shall be given on the application. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director. Upon the approval of the application by the director and compliance with the provisions of this act, including the applicable regulations adopted hereunder by the department, the applicant shall be issued a license or renewal thereof.

NEW SECTION. Sec. 54. If the application for renewal of any license provided for under this act is not filed prior to April 1st in any year, an additional fee of ten dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such additional fee shall not be charged if the applicant furnishes an affidavit certifying that he has not operated a poultry slaughtering or processing establishment subsequent to the expiration of his license.

NEW SECTION. Sec. 55. The director may, subsequent to a hearing thereon, deny, suspend or revoke any license provided for in this act if he determines that an applicant has committed any of the following acts:

(1) Refused, neglected or failed to comply with the provisions of this act, the rules and regulations adopted hereunder, or any lawful order of the director.

(2) Refused, neglected or failed to keep and maintain records required by this act, or to make such records available when requested pursuant to the provisions of this act.

(3) Refused the department access to any portion or area of the food processing plant for the purpose of carrying out the provisions of this act.

(4) Refused the department access to any records required to

be kept under the provisions of this act.

NEW SECTION. Sec. 56. The adoption of any rules and regulations under the provisions of this act, or the holding of a hearing in regard to a license issued or which may be issued under the provisions of this act shall be subject to the applicable provisions of chapter 34.04 RCW, the Administrative Procedure Act, as now or hereafter amended.

NEW SECTION. Sec. 57. The director may in order to carry out the purpose of this act enter into agreements with any federal, state or other governmental unit for joint inspection programs or for the receipt of moneys from such federal, state or other governmental units in carrying out the purpose of this act.

NEW SECTION. Sec. 58. Since the purpose of this act is to promote uniformity of state legislation with the federal poultry products inspection act, the director is hereby authorized to adopt insofar as applicable, the regulations from time to time promulgated under the federal act, and to make the regulations promulgated under this act conform insofar as practicable with those promulgated under the federal act.

NEW SECTION. Sec. 59. All moneys received by the department under the provisions of this act shall be paid into the state treasury.

NEW SECTION. Sec. 60. The enactment of this act shall not have the effect of terminating, or in any way modifying any liability, civil or criminal, which shall already be in existence on the date this act becomes effective.

NEW SECTION. Sec. 61. Any person violating any provisions of this act or any rules or regulations adopted hereunder shall be guilty of a misdemeanor and guilty of a gross misdemeanor for any second and subsequent violation: PROVIDED, That any offense committed more than five years after a previous conviction shall be considered a first offense.

NEW SECTION. Sec. 62. The provisions of this chapter shall

be cumulative and nonexclusive and shall not affect any other remedy.

NEW SECTION. Sec. 63. If any provision of this act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected.

NEW SECTION. Sec. 64. "Intrastate commerce" means any article in intrastate commerce whether such article is alive or processed and is intended for sale, held for sale, offered for sale, sold, stored, transported or handled in this state in any manner and prepared for eventual distribution to consumers in this state whether at wholesale or retail.

NEW SECTION. Sec. 65. (1) The director shall, by regulation and under such conditions as to sanitary standards, practices, and procedures as he may prescribe, exempt from specific provisions of this act--

(a) retail dealers with respect to poultry products sold directly to consumers in individual retail stores, if the only processing operation performed by such retail dealers is the cutting up and/or packaging of poultry products on the premises where such sales to consumers are made;

(b) for such period of time as the director determines that it would be impracticable to provide inspection and the exemption will aid in the effective administration of this act, any person engaged in the processing of poultry or poultry products for intrastate commerce and the poultry or poultry products processed by such person: PROVIDED, That no such exemption shall continue in effect on and after February 18, 1970; and

(c) persons slaughtering, processing, or otherwise handling poultry or poultry products which have been or are to be processed as required by recognized religious dietary laws, to the extent that the director determines necessary to avoid conflict with such requirements while still effectuating the purposes of this act.

(2) (a) The director shall, by regulation and under such con-

ditions, including sanitary standards, practices, and procedures, as he may prescribe, exempt from specific provisions of this act--

(i) the slaughtering by any person of poultry of his own raising, and the processing by him and transportation of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees; and

(ii) the custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees: PROVIDED, That the director may promulgate such rules and regulations as are necessary to prevent the commingling of inspected and uninspected poultry and poultry products.

(b) In addition to the specific exemptions provided herein, the director shall, when he determines that the protection of consumers from adulterated or misbranded poultry products will not be impaired by such action, provide by regulation, consistent with paragraph (c), for the exemption of the operations of poultry producers not exempted under paragraph (a), which are engaged in slaughtering and/or cutting up poultry for distribution as carcasses or parts thereof, from such provisions of this act as he deems appropriate, while still protecting the public from adulterated or misbranded products, under such conditions, including sanitary requirements, as he shall prescribe to effectuate the purposes of this act.

(c) The provisions of this act shall not apply to poultry producers with respect to poultry of their own raising on their own farms if--

(i) such producers slaughter not more than two hundred fifty turkeys, or not more than an equivalent number of birds of all species during the calendar year for which this exemption is being determined (four birds of other species being deemed the equivalent of one turkey);

(ii) such poultry producers do not engage in buying or selling poultry products other than those produced from poultry raised on

their own farms.

(3) The adulteration and misbranding provisions of this act, other than the requirement of the inspection legend, shall apply to articles which are exempted from inspection under this section, except as otherwise specified under subsections (1) and (2).

(4) The director may by order suspend or terminate any exemption under this section with respect to any person whenever he finds that such action will aid in effectuating the purposes of this act.

NEW SECTION. Sec. 66. The exemptions set forth in section 65 of this act shall not include an exemption from the licensing provisions set forth in section 53 of this act for persons slaughtering or processing poultry except as to retail dealers conforming to the provisions of section 65 (1) (a) of this act and producers conforming to the provisions of section 65 (2) (c) of this act: PROVIDED, That any city or county may, when its inspection service is equivalent to that required under the provisions of this act as determined by the director and the comparable federal agency administering the federal poultry inspection act, license and inspect any retail dealer's place of business subject to the provisions of this act when such retail dealer's place of business is situated within the jurisdiction of such city or county and such retail dealer sells at least fifty percent of the poultry and poultry products at each such place of business to the ultimate consumer.

NEW SECTION. Sec. 67. This act shall in no manner be construed to deny or limit the authority of a city or county to license and carry on the necessary inspection of poultry or poultry products, distribution facilities and equipment of retail poultry and poultry product distributors selling, offering for sale, holding for sale, or trading, delivering or bartering poultry or poultry products within their jurisdiction and/or prohibit the sale of poultry or poultry products within their jurisdiction when such poultry or poultry products are adulterated or distributed under unsanitary conditions.

NEW SECTION. Sec. 68. If any part of this act shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the department, such conflicting part of this act is hereby declared to be inoperative solely to the extent of such conflict and with respect to the department, and such findings or determination shall not affect the operation of the remainder of this act in its application to the department.

NEW SECTION. Sec. 69. This act shall constitute a new chapter in Title 16 RCW.

Passed the House April 16, 1969
Passed the Senate April 11, 1969
Approved by the Governor April 24, 1969
Filed in office of Secretary of State April 24, 1969

CHAPTER 147
[House Bill No. 92]
MUNICIPAL COURTS--
CITIES OVER 500,000

AN ACT Relating to municipal courts; amending section 35.20.100, chapter 7, Laws of 1965 as amended by section 2, chapter 241, Laws of 1967 and RCW 35.20.100; amending sections 35.20.090, 35.20.210, 35.20.220, 35.20.230 and 35.20.250, chapter 7, Laws of 1965 and RCW 35.20.090, 35.20.210, 35.20.220, 35.20.230 and 35.20.250; adding new sections to chapter 7, Laws of 1965 and to chapter 35.20 RCW; and repealing section 35.20.130, chapter 7, Laws of 1965 as amended by section 3, chapter 241, Laws of 1967 and RCW 35.20.130.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 35.20.100, chapter 7, Laws of 1965 as amended by section 2, chapter 241, Laws of 1967, and RCW 35.20.100 are each amended to read as follows:

There shall be three departments of the municipal court, which shall be designated as Department Nos. 1, 2 and 3: PROVIDED, That when the administration of justice and the accomplishment of the work of the court make additional departments necessary, the legislative body of the city (~~shall~~) may create one additional department for each additional (~~one-hundred~~) fifty thousand inhabitants over five
[1090]