

**FOOD SAFETY**  
**State and Federal Standards and Regulations**

***Washington***

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## WASHINGTON

Washington regulates food quality statutory provisions regarding intrastate commerce in food, drugs, and cosmetics (formerly the Food, Drug, and Cosmetic Act),<sup>2780</sup> the Washington Meat Inspection Act and related provisions regarding the inspection of meat storage or sale locations;<sup>2781</sup> the Washington Wholesome Poultry Products Act;<sup>2782</sup> the Washington Food Processing Act;<sup>2783</sup> the Washington Wholesome Eggs and Egg Products Act;<sup>2784</sup> provisions concerning the sanitary control of shellfish;<sup>2785</sup> provisions concerning aquaculture disease control;<sup>2786</sup> statutory provisions concerning dairies and dairy products;<sup>2787</sup> and provisions on commercial feed.<sup>2788</sup> All provisions, except the sanitary control of shellfish and the provisions concerning fluid milk, are enforced by the Department of Agriculture. The department shares regulatory responsibility with the Director of Fisheries to enforce the provisions of aquaculture disease control. The state Department of Health regulates the sanitary control of shellfish and shares regulatory control of the provisions concerning fluid milk with the Department of Agriculture.

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<sup>2780</sup> WASH. REV. CODE ANN. § 69.04.001 *et seq.* (West 1997).

<sup>2781</sup> §§ 16.49 A.010 *et seq.* 16.48.010 *et seq.* (West 1992 & Supp. 1999).

<sup>2782</sup> § 16.74.010 *et seq.*

<sup>2783</sup> § 69.07.005 *et seq.*

<sup>2784</sup> § 69.25.010 *et seq.*

<sup>2785</sup> § 69.30.005 *et seq.*

<sup>2786</sup> § 75.58.010 *et seq.* (West 1994 & Supp. 1999).

<sup>2787</sup> § 15.32.010 *et seq.* (West 1993 & Supp. 1999).

<sup>2788</sup> § 15.53.901 *et seq.* (West 1993 & Supp. 1999).

## **Intrastate Commerce in Food, Drugs, and Cosmetics (formerly Food, Drug, and Cosmetic Act)**

A “food” includes articles used for food or drink for people or other animals; bottled water; chewing gum; and articles used for components of these articles.<sup>2789</sup> The Act prohibits the sale, receipt, or delivery of any adulterated or misbranded food.<sup>2790</sup>

### **Inspection**

The Act does not contain any provisions regarding inspection.

### **Adulteration**

The Act defines adulteration in a manner consistent with federal regulations.<sup>2791</sup> The adulteration of food, or the sale, receipt, or delivery of adulterated food, is prohibited.<sup>2792</sup>

### **Misbranding**

The Act defines misbranding in a manner consistent with federal regulations.<sup>2793</sup> The misbranding of food, or the sale, receipt, or delivery of adulterated food, is prohibited.<sup>2794</sup> The department shall promulgate regulations establishing reasonable definitions and standards of identity, quality, and/or fill of container. The director may establish standards for labeling.<sup>2795</sup>

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<sup>2789</sup> § 69.04.008.

<sup>2790</sup> § 69.04.040.

<sup>2791</sup> §§ 69.04.210, .220.

<sup>2792</sup> § 69.04.040.

<sup>2793</sup> §§ 69.04.250, .334.

<sup>2794</sup> § 69.04.040.

<sup>2795</sup> § 69.04.200.

## Permitting

The director may require permits to distribute any class of food that may be injurious to health as a result of contamination with microorganisms during manufacture, processing, or packaging.<sup>2796</sup>

## Enforcement

An agent of the department has authority to condemn and destroy any article found to be adulterated or misbranded.<sup>2797</sup> The department is also authorized to embargo any article that is in violation of the Act.<sup>2798</sup>

If any article subject to this chapter is so adulterated or misbranded so as to be unfit or unsafe for human use, the director is authorized to condemn and destroy the article or make it unsaleable for human use.<sup>2799</sup>

In addition to the procedures related to seizure and condemnation, district courts are authorized to grant temporary or permanent injunctions to restrain any violations of the Act.<sup>2800</sup> Penalties may also be imposed for violations, but, if the violations are minor, the department may give a suitable notice or warning rather than report the matter for institution of court proceedings.<sup>2801</sup>

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<sup>2796</sup> § 69.04.350.

<sup>2797</sup> § 69.04.100.

<sup>2798</sup> §§ 69.04.110, .120.

<sup>2799</sup> § 69.04.100.

<sup>2800</sup> § 69.04.050.

<sup>2801</sup> §§ 69.04.160, .170.

## **Department of Livestock**

The Department of Livestock supervises disease control, branding, containment, marketing, and slaughter of livestock. Additionally, the Department sets out provisions for supervision of poultry, eggs, and dairy products. Under the provisions for inspection of meat storage or sale locations, the director of agriculture may adopt rules and regulations for enforcement of the act.<sup>2802</sup>

## **Meat Inspection Act**

The stated purpose of the Meat Inspection Act is to promote uniformity with the federal meat inspection act and to protect the health and welfare of consumers in assuring that wholesome, not adulterated, properly labeled and marked meat and meat food products are distributed.<sup>2803</sup>

## **Federal/State Uniformity**

The Act calls for uniformity with federal laws and any federal regulations not in conflict are adopted by reference.<sup>2804</sup>

## **Inspection**

The state inspection program requires antemortem and postmortem inspections of animals consistent with USDA rules. The Act requires the director to cause inspections of all animals before entering a slaughtering establishment separating those showing signs of disease and

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<sup>2802</sup> § 16.48.310 to .312.

<sup>2803</sup> § 16.49A.020.

<sup>2804</sup> § 16.49A.560.570.

conducting a postmortem inspection.<sup>2805</sup> All adulterated products must be destroyed for food purposes.<sup>2806</sup> The director shall require inspections of slaughtering establishments to confirm the sanitary condition of the facility.<sup>2807</sup> The department is also authorized to embargo any article that is in violation of the Act.<sup>2808</sup>

### **Adulteration**

The Act defines adulteration in a manner consistent with federal regulations.<sup>2809</sup> The Act prohibits the adulteration of any carcass, meat, or meat food product. Violators are guilty of a misdemeanor.<sup>2810</sup>

### **Misbranding**

The Act defines misbranding in a manner consistent with federal regulations.<sup>2811</sup>

### **Washington Wholesome Poultry Products Act**

The stated purpose of the Wholesome Poultry Products Act is to promote uniformity with the federal meat inspection act and to protect the health and welfare of consumers in assuring that wholesome, not adulterated, properly labeled and marked meat and meat food products are distributed.<sup>2812</sup>

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<sup>2805</sup> §§ 16.49A.260, .270.

<sup>2806</sup> § 16.49A.290.

<sup>2807</sup> § 16.49A.310.

<sup>2808</sup> § 69.49A.430.

<sup>2809</sup> § 16.49A.160.

<sup>2810</sup> § 16.49A.630.

<sup>2811</sup> § 16.49A.170.

<sup>2812</sup> § 16.74.020.

## **Inspection**

When necessary, the director shall require a preslaughter inspection and a postmortem inspection on all carcasses.<sup>2813</sup> All adulterated carcasses and products shall be condemned, and if no appeal is taken, destroyed.<sup>2814</sup> Each slaughtering establishment shall operate using sanitary practices to prevent adulteration.<sup>2815</sup> All products leaving official establishments shall be properly labeled. To ensure against adulterated or misbranded poultry, all persons in the slaughtering business, all poultry brokers and wholesalers, and all poultry renderers shall keep records for two years.<sup>2816</sup>

## **Enforcement**

The director may prescribe labeling, standards of identity, and standards of fill requirements.<sup>2817</sup> False or misleading labels are prohibited.<sup>2818</sup> The director has the authority to withhold use of marking or labeling if it is false or misleading. The director may embargo adulterated or misbranded poultry or poultry products.<sup>2819</sup> Following the embargo, he must petition the superior court for an order affirming the embargo, at which time the court obtains jurisdiction to order the destruction or correction and release of the products.<sup>2820</sup> Violations are

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<sup>2813</sup> §§ 16.74.300, .310.

<sup>2814</sup> § 16.74.320.

<sup>2815</sup> § 16.74.330.

<sup>2816</sup> § 16.74.410.

<sup>2817</sup> § 16.74.350.

<sup>2818</sup> § 16.74.360.

<sup>2819</sup> § 16.74.480.

<sup>2820</sup> § 16.74.490.

punishable as a misdemeanor, and second and subsequent violations are punishable as a gross misdemeanor.<sup>2821</sup>

## **Licensing**

All persons operating a slaughtering operation must be licensed with the department.<sup>2822</sup> The director has authority to deny, suspend, or revoke any operator's license. The director may exempt from the statutory provisions any retail dealers selling directly to individual consumers, any custom slaughterer, any slaughtering done for personal use, and any other slaughterer for whom it is impracticable to provide inspections. The Act expressly does not apply to poultry producers for poultry of their own raising on their own farms.<sup>2823</sup>

## **Washington Food Processing Act**

The Food Processing Act authorized the department to adopt and enforce rules to provide for the proper refrigeration of foods, the temperatures at which low acid foods must be processed, and record keeping requirements for temperatures and times that foods were processed.<sup>2824</sup> The department is authorized to inspect all areas of any food processing plant and may use the enforcement provisions of the Food, Drug, and Cosmetic Act.<sup>2825</sup>

Food processing operators must obtain an annual license, and the director may deny, suspend, or revoke the license if the operator fails to comply with the statutory provisions, fails

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<sup>2821</sup> § 16.74.650.

<sup>2822</sup> § 16.74.540.

<sup>2823</sup> § 16.74.570.

<sup>2824</sup> § 69.07.020.

<sup>2825</sup> §§ 69.07.080, .110.

to maintain adequate records, or refuses to allow access for inspections.<sup>2826</sup> It is unlawful to sell or distribute food from an unlicensed food processor.<sup>2827</sup> Violations are punishable as a misdemeanor, and second and subsequent violations are punishable as a gross misdemeanor.<sup>2828</sup>

The Act also contains provisions relating to the labeling of bottled water.<sup>2829</sup>

### **Washington Wholesome Eggs and Egg Products Act**

The purpose of the Egg Act is to promote uniformity of state legislation with the federal egg inspection act. The Act requires egg handlers and dealers to obtain an annual license and permanent dealer number.<sup>2830</sup> The department may deny, suspend, revoke, or issue a license conditionally if the licensee has violated the provisions of the Act.<sup>2831</sup>

The department shall cause the inspections to be made at egg processing facilities, and shall retain, segregate, and reinspect any egg or egg product necessary that is capable of use as human food at each plant. Adulterated eggs and egg products shall be condemned and destroyed for human food purposes (provided that they cannot be made unadulterated if reprocessed). The director shall cause other inspections be made of the business records, facilities, and operations as he feels is appropriate to assure that only eggs fit for human use are so used. Shell egg packers shall be inspected at least once each calendar quarter.<sup>2832</sup> Plants must operate using sanitary

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<sup>2826</sup> § 69.07.060.

<sup>2827</sup> § 69.07.135.

<sup>2828</sup> § 69.07.150.

<sup>2829</sup> § 69.07.170 *et seq.*

<sup>2830</sup> § 69.25.050.

<sup>2831</sup> § 69.25.070.

<sup>2832</sup> § 69.25.080.

practices, and the director may refuse to render inspection of noncomplying facilities.<sup>2833</sup>

Inspected egg products that are not adulterated shall be pasteurized before they leave the plant and shall be labeled with the inspection legend and plant number. Only approved and non-misleading labeling and containers may be used.<sup>2834</sup> All transporters, shippers, and handlers of eggs shall maintain records of the receipt, delivery, or sale of eggs and shall make the records available to the director as requested. The director may also require additional records be kept by sellers who sell to retailers, restaurants, hotels, and bakery establishments.<sup>2835</sup> Violators are guilty of a misdemeanor, and second and subsequent violations are punishable as a gross misdemeanor. Violators may also be subject to civil penalties.<sup>2836</sup> The director may limit the entry of eggs and egg products into official plants, and may embargo eggs or egg products that have been processed, bought, sold, used, or transported in violation of the statutory provisions. The embargo may last up to twenty days. The director must then petition the superior court for an order affirming the embargo, at which time the court obtains jurisdiction to order the destruction or correction and release of the products.<sup>2837</sup>

### **Sanitary Control of Shellfish**

The state board of health has authority to provide for the sanitation of shellfish, shellfish growing areas, and shellfish plants and operations through inspections and by establishing rules

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<sup>2833</sup> § 69.25.090.

<sup>2834</sup> § 69.25.100.

<sup>2835</sup> §§ 69.25.140, .320.

<sup>2836</sup> § 69.25.150.

<sup>2837</sup> §§ 69.25.180 to .200.

and regulations for sanitary practices.<sup>2838</sup> Shellfish growing areas must be certified by the department.<sup>2839</sup> The department also issues certificates of approval to cullers, shuckers, or packers of shellfish for human consumption following an inspection of the establishment.<sup>2840</sup> The department may deny, revoke, suspend, or modify the certificate if the establishment fails to comply with the statutory provisions.<sup>2841</sup> The department may seize and dispose of shellfish if a shellfish grower or packer fails to show is certificate of approval, and the grower or packer may also be subject to the other penalties in the statutes.<sup>2842</sup> The department may enter and inspect any shellfish growing area or establishment to determine compliance.<sup>2843</sup> Violators are guilty of a gross misdemeanor and may be subject to civil penalties, which are assessed daily as separate violations.<sup>2844</sup>

### **Aquaculture Disease Control**

The director of agriculture and the director of fisheries are to jointly develop a program of disease inspection and control for aquatic farmers, to protect the aquaculture industry and wildstock fisheries from a loss of productivity from aquatic diseases, maladies, parasites, or pests. The two departments share rule-making and enforcement duties.<sup>2845</sup> The program is

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<sup>2838</sup> § 69.30.030.

<sup>2839</sup> § 69.30.050.

<sup>2840</sup> § 69.30.060.

<sup>2841</sup> § 69.30.080.

<sup>2842</sup> § 69.30.110.

<sup>2843</sup> § 69.30.120.

<sup>2844</sup> §§ 69.30.140, .150.

<sup>2845</sup> § 75.58.010.

funded by user fees.<sup>2846</sup> All aquatic farmers are to register with the department.<sup>2847</sup>

## **Dairies and Dairy Products**

### **Washington State Milk Pooling Act**

This Act provides for the equitable pooling and pricing among producers and processors of milk and milk products. The Act enables the director of agriculture to prescribe marketing areas and establish pricing and pooling arrangements to prevent the disorderly marketing of milk.<sup>2848</sup> The director has authority to investigate all matters pertaining to the production, processing, storage, transportation, and distribution of milk and milk products and establish classifications of processed milk and milk products and set a minimum price to be paid by milk dealers; establish quota systems; and the like. The director has subpoena powers to effectuate the terms of the Act.<sup>2849</sup>

In establishing a minimum milk price, the director shall consider the cost of producing fluid milk for human consumption; transportation costs; milk prices in other states; demand for milk; and alternative enterprises for producers.<sup>2850</sup> The director may establish or discontinue a pooling area on his own initiative or upon petition by ten percent of the producers in an area. To establish a market area and pooling plan, the director shall conduct a referendum of the affected producers and milk dealers and 66 2/3 % of the producers and milk dealers must be in favor of

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<sup>2846</sup> § 75.58.020.

<sup>2847</sup> § 75.58.040.

<sup>2848</sup> § 15.35.060 (West 1993 & Supp. 1999).

<sup>2849</sup> § 15.35.100.

<sup>2850</sup> § 15.35.105.

the plan.<sup>2851</sup> To discontinue a pooling plan, 51% of the producers and dealers must vote to terminate the plan.<sup>2852</sup>

The director is to establish a system of classifying, pricing, and pooling of all milk used in each market area, and may then establish a quota system in each market area to equalize returns and surpluses over quota.<sup>2853</sup> At least once each year, the director shall examine and audit the records of milk dealers and licensed cooperatives to determine how they are calculating payments to producers and to insure that they are complying with the provisions of the Act.<sup>2854</sup> Each milk dealer must obtain an annual license from the director and pay a fee for each separate place of business where milk is received or sold in addition to any other license required by the state.<sup>2855</sup>

The director may deny, suspend, or revoke the license if any milk dealer has failed to properly account for and pay for milk purchased from a producer, has committed any injurious act, has fixed prices, or has improperly rejected delivery of milk.<sup>2856</sup> The Act levies a marketing assessment on all producers of not more than five cents for every 100 pounds of milk produced. The first milk dealer is to collect the assessment and pay it into the agricultural local fund. If the dealer fails to pay the assessment, the director can suspend his license and may commence legal action against the dealer to collect the amounts due.<sup>2857</sup> Violators are subject to a

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<sup>2851</sup> § 15.35.110.

<sup>2852</sup> § 15.35.115.

<sup>2853</sup> § 15.35.140.

<sup>2854</sup> § 15.35.180.

<sup>2855</sup> § 15.35.210.

<sup>2856</sup> § 15.35.240.

<sup>2857</sup> § 15.35.250.

misdemeanor.<sup>2858</sup>

## **Fluid Milk**

These statutory provisions were enacted to protect the public from unsafe, unsanitary, or below quality milk and milk products. The director of agriculture has authority to establish or amend the standards for milk and milk products to conform, as much as practical, to federal standards. The director may establish labeling requirements for imitation dairy products.<sup>2859</sup> The director is authorized to establish or amend definitions and standards for milk and milk products that may be more stringent than federal regulations if he or she determines that it is necessary.<sup>2860</sup>

The Act requires a license to transport, sell, or store milk or milk products. Producers, processing plants, distributors, haulers, technicians, and wash stations all must have licenses.<sup>2861</sup> The director must inspect all dairy farms and processing plants before issuing a license, and any violation calls for reinspection. If, upon reinspection, the violation is not remedied, the director shall degrade or suspend the license.<sup>2862</sup> Producers or distributors may only transfer milk from one container to another in a specified bottling or milk room. Milk products sold in one gallon or smaller quantities must be distributed in standard milk bottles or single-service containers. No retail establishment may store milk at above 45 degrees Fahrenheit.<sup>2863</sup>

A veterinarian must give tuberculin tests once a year to all herds, and no milk shall be

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<sup>2858</sup> § 15.35.300.

<sup>2859</sup> § 15.36.011.

<sup>2860</sup> § 15.36.021.

<sup>2861</sup> §§ 15.36.041 to .101.

<sup>2862</sup> § 15.36.111.

<sup>2863</sup> § 15.36.121.

graded as “Grade A” if one cow in a herd is infected with brucellosis at the time that the milk is produced.<sup>2864</sup> Only Grade A milk may be sold to consumers or to retail establishments. If the producer’s products fails to qualify as Grade A milk, the director may revoke his license or degrade the product to Grade C.<sup>2865</sup>

The Act prohibits the sale of adulterated, misbranded, or ungraded milk or milk products (except in an emergency, when the director may allow milk to be sold if labeled as ungraded).<sup>2866</sup> Milk and milk products are to be examined and tested on a stringent schedule.<sup>2867</sup> Any raw milk or milk product must be labeled with the word “raw.”<sup>2868</sup> The Act sets out provisions for cooling, bottling, and capping Grade A raw milk and Grade A pasteurized milk.<sup>2869</sup>

The Act sets out penalty provisions for the unlawful use of containers.<sup>2870</sup> The director also has authority to suspend or revoke licenses for failing to comply with the statutory provisions; for failing to keep adequate records; or for refusing access to any facility for an inspection.<sup>2871</sup> The provisions set out civil penalties for non-compliance, including injunctive relief.

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<sup>2864</sup> § 15.36.161.

<sup>2865</sup> § 15.36.171.

<sup>2866</sup> § 15.36.181.

<sup>2867</sup> § 15.36.201.

<sup>2868</sup> § 15.36.211.

<sup>2869</sup> §§ 15.36.221 to .241.

<sup>2870</sup> § 15.36.281.

<sup>2871</sup> § 15.36.411.

## Commercial Feed

Producers or initial distributors of commercial feed must obtain a commercial feed license. The department may deny or revoke a license for noncompliance.<sup>2872</sup> Each pet food and specialty pet food product must be registered with the department annually and shall pay a registration fee. Any commercial feed must be labeled in accordance with specific statutory provisions and each processor must keep records of the name and quantity of the product. Each initial distributor of commercial feed must pay an annual inspection fee.<sup>2873</sup> The director shall designate inspectors to verify records and procedures. These inspectors may obtain warrants if the owner refused to allow the inspection.<sup>2874</sup> The provisions prohibit the distribution of adulterated or misbranded feed,<sup>2875</sup> and the department may withdraw any adulterated or misbranded feed from distribution or obtain a court order condemning or seizing the feed.<sup>2876</sup>

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<sup>2872</sup> § 15.53.9013.

<sup>2873</sup> §§ 15.53.9014 to .9018.

<sup>2874</sup> § 15.53.9024.

<sup>2875</sup> §§ 15.53.902, .9022.

<sup>2876</sup> § 15.53.9038.