
SUBSTITUTE SENATE BILL 5379

State of Washington**53rd Legislature****1993 Regular Session**

By Senate Committee on Agriculture (originally sponsored by Senators M. Rasmussen, Barr, Loveland, Hochstatter and Winsley; by request of Department of Agriculture)

Read first time 02/19/93.

1 AN ACT Relating to milk and milk products; amending RCW 15.32.010,
2 15.32.100, 15.32.110, 15.32.160, 15.32.510, 15.32.530, 15.32.610,
3 15.36.070, 15.36.080, 15.36.100, 15.36.107, 15.36.110, 15.36.300,
4 15.36.470, 15.36.490, 15.36.500, 15.36.540, and 69.07.040; reenacting
5 and amending RCW 15.36.115; adding new sections to chapter 15.36 RCW;
6 recodifying RCW 15.36.005, 15.36.011, 15.32.010, 15.36.030, 15.36.055,
7 15.36.060, 15.36.070, 15.36.080, 15.36.100, 15.32.100, 15.32.110,
8 15.36.110, 15.36.115, 15.36.120, 15.36.140, 15.36.150, 15.32.160,
9 15.36.260, 15.36.265, 15.36.300, 15.32.410, 15.32.420, 15.36.420,
10 15.32.450, 15.32.460, 15.36.460, 15.36.470, 15.36.480, 15.36.490,
11 15.36.500, 15.36.510, 15.32.510, 15.36.520, 15.36.530, 15.32.520,
12 15.32.530, 15.36.540, 15.36.550, 15.32.550, 15.32.580, 15.32.582,
13 15.32.610, 15.32.584, 15.32.600, 15.36.600, 15.36.595, 15.32.710,
14 15.32.720, 15.32.730, 15.32.900, 15.32.910, 15.36.105, and 15.36.107;
15 repealing RCW 15.32.051, 15.32.060, 15.32.070, 15.32.080, 15.32.090,
16 15.32.120, 15.32.130, 15.32.140, 15.32.150, 15.32.220, 15.32.250,
17 15.32.260, 15.32.330, 15.32.340, 15.32.360, 15.32.380, 15.32.430,
18 15.32.440, 15.32.490, 15.32.500, 15.32.540, 15.32.560, 15.32.570,
19 15.32.590, 15.32.620, 15.32.630, 15.32.660, 15.32.670, 15.32.680,
20 15.32.700, 15.32.740, 15.32.750, 15.32.755, 15.32.760, 15.32.770,
21 15.32.780, 15.32.790, 15.36.020, 15.36.040, 15.36.075, 15.36.090,

1 15.36.155, 15.36.160, 15.36.165, 15.36.170, 15.36.175, 15.36.180,
2 15.36.185, 15.36.190, 15.36.195, 15.36.200, 15.36.205, 15.36.210,
3 15.36.215, 15.36.220, 15.36.225, 15.36.230, 15.36.235, 15.36.240,
4 15.36.245, 15.36.250, 15.36.255, 15.36.270, 15.36.280, 15.36.320,
5 15.36.325, 15.36.330, 15.36.335, 15.36.340, 15.36.345, 15.36.350,
6 15.36.355, 15.36.360, 15.36.365, 15.36.370, 15.36.375, 15.36.380,
7 15.36.385, 15.36.390, 15.36.395, 15.36.400, 15.36.405, 15.36.410,
8 15.36.415, 15.36.425, 15.36.430, 15.36.440, 15.36.580, 15.36.590, and
9 15.36.900; and prescribing penalties.

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

11 NEW SECTION. **Sec. 1.** This chapter is intended to enact state
12 legislation that safeguards the public health and promotes public
13 welfare by (1) protecting the consuming public from milk or milk
14 products that are (A) unsafe (B) produced under unsanitary conditions
15 (C) do not meet bacterial standards under the PMO (D) below The Quality
16 Standards under Title 21 C.F.R. or administrative rules and orders
17 adopted under this chapter, and (2) requiring licensing of all dairy
18 processing plants as defined in this chapter.

19 **Sec. 2.** RCW 15.32.010 and 1989 c 354 s 1 are each amended to read
20 as follows:

21 For the purpose of chapter (~~15.32~~) 15.36 RCW:

22 (~~"Supervisor" means the supervisor of the dairy and food division;~~

23 ~~"Dairy" means a place where milk from one or more cows or goats is~~
24 ~~produced for sale;~~

25 ~~"Creamery" means a structure wherein milk or cream is manufactured~~
26 ~~into butter for sale;~~

27 ~~"Milk plant" means a structure wherein milk is bottled,~~
28 ~~pasteurized, clarified, or otherwise processed;~~

29 ~~"Cheese factory" means a structure where milk is manufactured into~~
30 ~~cheese;~~

31 ~~"Factory of milk products" means a structure, other than a~~
32 ~~creamery, milk plant, cheese factory, milk condensing plant or ice~~
33 ~~cream factory, where milk or any of its products is manufactured,~~
34 ~~changed, or compounded into another article, or where butter is cut or~~
35 ~~wrapped; except freezing of ice cream from a mix compounded in a~~

1 licensed creamery, milk plant, cheese factory, milk condensing plant or
2 ice cream factory;

3 "Milk condensing plant" means a structure where milk is condensed
4 or evaporated;

5 "Ice cream factory" means a structure which complies with the
6 sanitary requirements of RCW 15.32.080, where ice cream mix is produced
7 for sale or distribution, and may include freezing such mix into ice
8 cream;

9 "Counter ice cream freezer" means counter type freezing machines
10 usually operated in retail establishments;

11 "Sterilized milk" means milk that has been heated under six pounds
12 of steam pressure and maintained thereat for not less than twenty
13 minutes;

14 "Modified milk" means milk that has been altered in composition to
15 conform to special nutritional requirements;

16 "Milk product" means an article manufactured or compounded from
17 milk, whether or not the milk conforms to the standards and definitions
18 herein;

19 "Milk byproduct" means a product of milk derived or made therefrom
20 after the removal of the milk fat or milk solids in the process of
21 making butter or cheese, and includes skimmed milk, buttermilk, whey,
22 casein, and milk powder;

23 "Butter" means the product made by gathering the fat of pasteurized
24 milk or cream into a mass containing not less than eighty percent of
25 milk fat, and which also contains a small portion of other milk
26 constituents, with or without harmless coloring matter;

27 "Renovated butter" means butter that has been reduced to a liquid
28 state by melting and drawing off the liquid or butter oil, and has
29 thereafter been churned or manipulated in connection with milk, cream,
30 or other product of milk;

31 "Reworked butter" means the product obtained by mixing or
32 rechurning butter made on different dates or at different places:
33 PROVIDED, That the mixing of remnants from one day's churning or
34 cutting with butter from the churning of the same creamery on the next
35 day shall not make the product reworked butter;

36 "Butter substitute" means a compound of vegetable oils with milk
37 fats or milk solids and all compounds of milk fats or milk solids with
38 butter when the compound contains less than eighty percent of milk fat;

1 ~~"Oleomargarine" means all manufactured substances, extracts,~~
2 ~~mixtures, or compounds, including mixtures or compounds with butter,~~
3 ~~known as oleomargarine, oleo, oleomargarine oil, butterine, lardine,~~
4 ~~suine, and neutral, and includes all lard and tallow extracts and~~
5 ~~mixtures and compounds of tallow, beef fat, suet, lard, lard oil,~~
6 ~~intestinal fat and offal fat made in imitation or semblance of butter~~
7 ~~or calculated or intended to be sold as butter;~~

8 "Cheese" means any of the cheeses as described in Title 21 of the
9 code of federal regulations part 133;

10 "Imitation cheese" means any article, substance, or compound, other
11 than that produced from pure milk or from the cream from pure milk,
12 which is made in the semblance of cheese and designed to be sold or
13 used as a substitute for cheese. The use of salt, lactic acid, or
14 pepsin, and harmless coloring matter in cheese shall not render the
15 true product an imitation. Nothing herein shall prevent the use of
16 pure skimmed milk in the manufacture of cheese;))

17 "Dairy farm" means any place or premises where one or more cows,
18 goats, or sheep are kept, a part or all of the milk or milk products
19 from which is sold or offered for sale.

20 "Milk vendor" or "milk dealer" means any person who sells,
21 furnishes or delivers milk, skimmed milk, buttermilk, or cream in any
22 manner.

23 "Milk distributor" means any person who offers for sale or sells to
24 another, any milk or milk products for human consumption as such, and
25 includes a milk producer selling or offering for sale milk or milk
26 products at the dairy farm.

27 "Milk hauler" means any person, other than a milk producer or a
28 milk plant employee, who transports milk or milk products to or from a
29 milk plant or a collecting point.

30 "Milk plant" means any place, premises, or establishment where milk
31 or milk products are collected, handled, processed, stored, bottled,
32 pasteurized, or prepared for distribution, except an establishment
33 where milk or milk products are sold at retail only.

34 "Milk processing" means the handling or processing of milk in any
35 manner in preparation for sale as food, as defined in chapter 69.04
36 RCW. Milk processing does not include milking or producing milk on a
37 dairy farm that is shipped to a milk plant for further processing.

38 "Milk processing facility" includes but is not limited to a
39 premises, plant, establishment, building, room, area, facility, and

1 appurtenances thereto in whole or in part where milk is prepared,
2 packaged, or processed in any manner for distribution or sale by retail
3 outlets, restaurants, and any such facility selling or distributing to
4 the ultimate consumer. This includes fluid milk products, cheese,
5 whey, ice cream, cream, condensed milk, yogurt, frozen yogurt, any
6 other products characterized by their milk content, and other dairy
7 products.

8 "Milk producer" means any person or organization who owns or
9 controls one or more cows a part or all of the milk or milk products
10 from which is sold or offered for sale.

11 "Milk products" means any milk, pasteurized milk, homogenized milk,
12 vitamin D milk, vitamin A milk, multivitamin or mineral fortified milk,
13 vitamin A lowfat milk, lowfat milk with calcium added, nonfat (skim)
14 milk, nonfat (skim) milk with calcium added, vitamin A nonfat (skim)
15 milk, reconstituted milk, evaporated milk, concentrated milk, half and
16 half, cream or whipped light cream, whipping cream or whipped cream,
17 buttermilk or cultured buttermilk, sour cream or cultured sour cream,
18 sour half and half or cultured half and half, yogurt, chocolate milk,
19 chocolate lowfat or nonfat milk, flavored milk, flavored lowfat milk,
20 flavored nonfat (skim) milk, eggnog flavored milk or eggnog, protein
21 fortified milk, acidified milk, and aseptically processed milk.

22 "Sale" means selling, offering for sale, holding for sale,
23 preparing for sale, trading, bartering, offering a gift as an
24 inducement for sale of, and advertising for sale in any media.

25 All dairy products mentioned in this chapter mean those fit or used
26 for human consumption.

27 **Sec. 3.** RCW 15.32.100 and 1991 c 109 s 1 are each amended to read
28 as follows:

29 Every person who sells, offers or exposes for sale, barter, or
30 exchanges any milk or milk product as defined by rule under chapter
31 15.36 RCW must have a milk vendor's license to do so. The license
32 shall not include retail stores or restaurants that purchase milk
33 prepackaged or bottled elsewhere for sale at retail or establishments
34 that sell milk only for consumption in such establishment. Such
35 license, issued by the director on application and payment of a fee of
36 ten dollars, shall contain the license number, and name, residence and
37 place of business, if any, of the licensee. It shall be
38 nontransferable, shall expire annually on a date set by rule by the

1 director, and may be suspended or revoked by the director, upon
2 reasonable notice to the licensee, for any violation of or failure to
3 comply with any provision of this chapter or any rule or regulation, or
4 order of the department, or any officer or inspector thereof. License
5 fees shall be prorated where necessary to accommodate staggering of
6 expiration dates of a license or licenses.

7 **Sec. 4.** RCW 15.32.110 and 1991 c 109 s 2 are each amended to read
8 as follows:

9 ~~((Every creamery, milk plant, shipping station, milk condensing
10 plant, factory of milk products, and other person who receives or
11 purchases milk or cream in bulk and by weight or measure or upon the
12 basis of milk fat contained therein shall obtain annually a license to
13 do so. The license shall be issued by the director upon payment of ten
14 dollars and his being satisfied that the building or premises where the
15 milk or cream is to be received is maintained in a sanitary condition
16 in accordance with the provisions of this chapter; except, such license
17 shall not be required of persons purchasing milk or cream for their own
18 consumption nor of hotels, restaurants, boarding houses, eating houses,
19 bakeries, or candy manufacturing plants.~~

20 ~~The license shall expire annually on a date set by rule by the
21 director, unless sooner revoked by the director, upon reasonable notice
22 to the licensee, for a failure to comply with the provisions of this
23 chapter, and the rules and regulations issued hereunder. License fees
24 shall be prorated where necessary to accommodate staggering of
25 expiration dates of a license or licenses.))~~ It shall be unlawful for
26 any person to operate a milk processing facility or process milk
27 without first having obtained an annual milk processing facility
28 license from the department, which shall expire on a date set by rule
29 by the director. License fees shall be prorated where necessary to
30 accommodate staggering of expiration dates. Application for a license
31 shall be on a form prescribed by the director and accompanied by a
32 twenty-five dollar annual license fee. Such application shall include
33 the full name of the applicant for the license and the location of the
34 milk processing facility he or she intends to operate. If such
35 applicant is an individual, receiver, trustee, firm, partnership,
36 association or corporation, the full name of each member of the firm or
37 partnership, or names of the officers of the association or corporation
38 shall be given on the application. Such application shall further

1 state the principal business address of the applicant in the state and
2 elsewhere and the name of a person domiciled in this state authorized
3 to receive and accept service of summons of legal notices of all kinds
4 for the applicant. The application shall also specify the method or
5 nature of processing operation or preservation of that milk and any
6 other necessary information. Upon the approval of the application by
7 the director and compliance with the provisions of this chapter,
8 including the applicable regulations adopted hereunder by the
9 department, the applicant shall be issued a license or renewal thereof.

10 Licenses shall be issued to cover only those products, processes,
11 and operations specified in the license application and approved for
12 licensing. Wherever a license holder wishes to engage in processing a
13 type of milk product that is different than the type specified on the
14 application supporting the licensee's existing license and processing
15 that type of food product would require a major addition to or
16 modification of the licensee's processing facilities or has a high
17 potential for harm, the licensee shall submit an amendment to the
18 current license application. In such a case, the licensee may engage
19 in processing the new type of milk product only after the amendment has
20 been approved by the department.

21 A licensee under this section shall not be required to obtain a
22 milk vendor's license under this chapter or a food processing plant
23 license under chapter 69.07 RCW.

24 NEW SECTION. Sec. 5. The director may, subsequent to a hearing
25 thereon, suspend or revoke a milk processing facility license issued
26 under this chapter if the director determines that an applicant has
27 committed any of the following acts:

28 (1) Refused, neglected or failed to comply with the provisions of
29 this chapter, the rules adopted under this chapter, or any lawful order
30 of the director.

31 (2) Refused, neglected or failed to keep and maintain records
32 required by this chapter, or to make such records available when
33 requested under the provisions of this chapter.

34 (3) Refused the department access to a portion or area of the milk
35 processing facility or other facility regulated under this chapter for
36 the purpose of carrying out the provisions of this chapter.

37 (4) Refused the department access to records required to be kept
38 under the provisions of this chapter.

1 (5) Refused, neglected, or failed to comply with any provisions of
2 chapter 69.04 RCW, Washington Food, Drug, and Cosmetic Act, or any
3 rules adopted under chapter 69.04 RCW.

4 The provisions of this section requiring that a hearing be
5 conducted before an action may be taken against a license do not apply
6 to an action taken under section 6 of this act.

7 NEW SECTION. **Sec. 6.** (1) Whenever the director finds a milk
8 processing facility operating under conditions that constitute an
9 immediate danger to public health, safety, or welfare or whenever the
10 licensee or an employee of the licensee actively prevents the director
11 or the director's representative, during an onsite inspection, from
12 determining whether such a conditions exists, the director may
13 summarily suspend, pending a hearing, a license provided for in this
14 chapter.

15 (2) Whenever a license is summarily suspended, the holder of the
16 license shall be notified in writing that the license is, upon service
17 of the notice, immediately suspended and that prompt opportunity for a
18 hearing will be provided.

19 (3) Whenever a license is summarily suspended, processing
20 operations shall immediately cease. However, the director may
21 reinstate the license when the condition that caused the suspension has
22 been abated to the director's satisfaction.

23 NEW SECTION. **Sec. 7.** The adoption of rules under the provisions
24 of this chapter, or the holding of a hearing in regard to a license
25 issued or that may be issued under the provisions of this chapter are
26 subject to the applicable provisions of chapter 34.05 RCW, the
27 Administrative Procedure Act.

28 **Sec. 8.** RCW 15.32.160 and 1981 c 321 s 1 are each amended to read
29 as follows:

30 It is unlawful to sell, offer for sale, or deliver:

31 (1) Milk or products produced from milk from cows (~~((or))~~), goats, or
32 sheep affected with disease or of which the owner thereof has refused
33 official examination and tests for disease: or

34 (2) Colostrum milk, meaning that produced within ten days before or
35 (~~((seven days))~~) until practically colostrum free after parturition,
36 except that colostrum milk from cows that have been tested for

1 brucellosis within sixty days of parturition may be made available to
2 persons having multiple sclerosis, or other persons acting on their
3 behalf, who, at the time of the initial sale, present a form, signed by
4 a licensed physician, certifying that the intended user has multiple
5 sclerosis and that the user releases the provider of the milk from
6 liability resulting from the consumption of the milk. Colostrum milk
7 provided under this section is exempt from meeting the standards for
8 grade A raw milk required by this chapter (~~(15.36-RCW)~~).

9 (3) The department of agriculture shall adopt rules to carry out
10 this section. The rules shall include but not be limited to
11 establishing standards requiring hyper-immunization.

12 **Sec. 9.** RCW 15.32.510 and 1989 c 354 s 9 are each amended to read
13 as follows:

14 The director may appoint one or more (~~(inspectors of milk, dairies,
15 and dairy products, who are graduates of a recognized dairy school, or
16 have completed a college course in dairying. In the absence of
17 completion of a dairy course, the director may review a candidate's
18 qualifications and determine eligibility)~~) food safety officers who
19 meet the requirements under the job specifications for food safety
20 officer positions.

21 The (~~(inspectors)~~) food safety officers may enter any place where
22 milk and its products are produced, processed, stored (~~(and)~~), or kept
23 for sale and any conveyance used to transport milk or cream, and take
24 samples for analysis.

25 **Sec. 10.** RCW 15.32.530 and 1989 c 354 s 11 are each amended to
26 read as follows:

27 (~~(An inspector who obtains)~~) The Washington department of
28 agriculture, after obtaining a sample of milk for analysis, shall
29 within (~~(ten)~~) fourteen days after obtaining the result of the
30 analysis, send the result to the person from whom the sample was taken
31 or to the person responsible for the condition of the milk.

32 **Sec. 11.** RCW 15.32.610 and 1963 c 58 s 11 are each amended to read
33 as follows:

34 No person shall employ a tester, sampler, weigher, grader, or
35 pasteurizer who is not licensed as a dairy technician(~~(or refuse to~~

1 ~~allow or fail to assist the director or his agent in the examination of~~
2 ~~the reports referred to in RCW 15.32.590)).~~

3 ((Whoever)) A person who violates the provisions of this section
4 ~~((or RCW 15.32.590))~~ may be fined not less than ~~((twenty-five))~~ two
5 hundred fifty nor more than one ~~((hundred))~~ thousand dollars, and his
6 or her license hereunder revoked or suspended subject to a hearing as
7 provided under chapter 34.05 RCW.

8 **Sec. 12.** RCW 15.36.070 and 1961 c 11 s 15.36.070 are each amended
9 to read as follows:

10 No person shall produce, sell, offer, or expose for sale, or have
11 in possession with intent to sell, ~~((in the fluid state for direct~~
12 ~~consumption as such,))~~ any milk or milk product which is adulterated,
13 misbranded, or ungraded. It shall be unlawful for any person,
14 elsewhere than in a private home, to have in possession any
15 adulterated, misbranded, or ungraded milk or milk products: PROVIDED,
16 That in an emergency the sale of ungraded milk or milk products may be
17 authorized by the director, in which case they shall be labeled
18 "ungraded."

19 Adulterated, misbranded, and/or ungraded milk or milk products may
20 be impounded and disposed of by the director.

21 **Sec. 13.** RCW 15.36.080 and 1989 c 354 s 16 are each amended to
22 read as follows:

23 It shall be unlawful for any person to transport, or to sell, or
24 offer for sale, or to have in storage where milk or milk products are
25 sold or served, any milk or milk product defined in this chapter, who
26 does not possess an appropriate ~~((permit))~~ license from the director.

27 Every milk producer, milk distributor, milk hauler, and operator of
28 a milk plant shall secure a ~~((permit))~~ grade A milk license to conduct
29 such operation as defined in this chapter. Only a person who complies
30 with the requirements of this chapter shall be entitled to receive and
31 retain such a ~~((permit.—Permits))~~ license. Grade A milk licenses
32 shall not be transferable with respect to persons and/or locations.

33 ~~((Such a permit))~~ Grade A licenses issued under this section may be
34 ~~((temporarily))~~ suspended by the director upon violation by the holder
35 of any of the terms of this chapter, or for interference with the
36 director in the performance of his or her duties, or revoked after an
37 opportunity for a hearing by the director upon serious or repeated

1 violations or after the grade A milk license has been suspended for
2 thirty continuous days without correction of the items causing the
3 suspension.

4 **Sec. 14.** RCW 15.36.100 and 1961 c 11 s 15.36.100 are each amended
5 to read as follows:

6 Prior to the issuance of a ((~~permit~~)) grade A milk license and at
7 least once every six months the director shall inspect all dairy farms
8 ((~~and~~)). All milk plants((~~: PROVIDED, That the director may accept~~
9 ~~the results of periodic industry inspections of producer dairies if~~
10 ~~such inspections have been officially checked periodically and found~~
11 ~~satisfactory~~)) shall be inspected prior to grade A milk license
12 issuance and at least once every three months including pasteurizer
13 tests as required by the pasteurized milk ordinance. In case the
14 director discovers the violation of any item of ((~~sanitation~~)) grade
15 requirement, he or she shall make a second inspection after a lapse of
16 such time as he or she deems necessary for the defect to be remedied,
17 but not before the lapse of three days, and the second inspection shall
18 be used in determining compliance with the grade requirements of this
19 chapter. Any violation of the same requirement of this chapter on such
20 reinspection shall call for ((~~immediate degrading or~~)) summary
21 suspension of ((~~permit~~)) the grade A milk license subject to prompt
22 opportunity for hearing as provided under chapter 34.05 RCW.

23 One copy of the inspection report detailing the grade requirement
24 violations shall be posted by the director in a conspicuous place upon
25 an inside wall of one of the dairy farm or milk plant buildings, and
26 said inspection report shall not be defaced or removed by any person
27 except the director. Another copy of the inspection report shall be
28 filed with the records of the director.

29 Every milk producer and distributor shall upon the request of the
30 director permit him or her access to all parts of the establishment,
31 and every distributor shall furnish the director, upon his or her
32 request, for official use only, samples of any milk product for
33 laboratory analysis, a true statement of the actual quantities of milk
34 and milk products of each grade purchased and sold, together with a
35 list of all sources, records of inspections and tests, and recording
36 thermometer charts.

1 **Sec. 15.** RCW 15.36.107 and 1992 c 160 s 2 are each amended to read
2 as follows:

3 (1) There is created a dairy inspection program advisory committee.
4 The committee shall consist of nine members. The committee shall be
5 appointed by the director from names submitted by dairy producer
6 organizations or from handlers of milk products. The committee shall
7 consist of four members who are producers of milk or their
8 representatives, and four members who are handlers or their
9 representatives, and one member who must be a producer-handler.

10 (2) The purpose of this advisory committee is to assist the
11 director by providing recommendations regarding the dairy inspection
12 program, that are consistent with the pasteurized milk ordinance. The
13 advisory committee shall (a) review and evaluate the program including
14 the efficiency of the administration of the program, the adequacy of
15 the level of inspection staff, the ratio of inspectors to number of
16 dairy farm inspections per year, and the ratio of inspectors to
17 management employees; and (b) consider alternatives to the state
18 program, which may include privatization of various elements of the
19 inspection program.

20 (3) The committee shall meet as necessary to complete its work.
21 Meetings of the committee are subject to the open public meetings act.

22 ~~((4) Not later than October 15, 1992, the advisory committee shall
23 issue a preliminary report of its findings to the dairy industry. The
24 committee shall solicit comments from the dairy industry which shall be
25 reflected in the committee's final report.~~

26 ~~(5) Not later than December 1, 1992, the advisory committee shall
27 report to the agricultural committees of the house of representatives
28 and senate its recommendations for long term structure and funding of
29 the dairy inspection program.))~~

30 **Sec. 16.** RCW 15.36.110 and 1989 c 354 s 17 are each amended to
31 read as follows:

32 During each six months period at least four samples of milk and
33 cream from each dairy farm and each milk plant shall be taken on
34 separate days and examined by the director: PROVIDED, That in the case
35 of raw milk for pasteurization the director may accept the results of
36 nonofficial laboratories which have been officially checked
37 periodically and found satisfactory. Samples of other milk products
38 may be taken and examined by the director as often as he deems

1 necessary. Samples of milk and milk products from stores, cafes, soda
2 fountains, restaurants, and other places where milk or milk products
3 are sold shall be examined as often as the director may require.
4 Bacterial plate counts, direct microscopic counts, coliform
5 determinations, phosphatase tests and other laboratory tests shall
6 conform to the procedures in the current edition of "Standard Methods
7 For The Examination Of Dairy Products," recommended by the American
8 public health association. Examinations may include such other
9 chemical and physical determinations as the director may deem necessary
10 for the detection of adulteration or for purposes of compliance.
11 Samples may be taken by the director at any time prior to the final
12 delivery of the milk or milk products. All proprietors of cafes,
13 stores, restaurants, soda fountains, and other similar places shall
14 furnish the director, upon his or her request, with the name of all
15 distributors from whom their milk and milk products are obtained.
16 (~~Bio-assays of the vitamin D content of vitamin D milk shall be made~~
17 ~~when required by the director in a laboratory approved by him for such~~
18 ~~examinations.~~)

19 If two of the last four consecutive bacterial counts, somatic cell
20 counts, coliform determinations, or cooling temperatures, taken on
21 separate days, exceed the standard for milk or milk products, the
22 director shall send written notice thereof to the person concerned.
23 This notice shall remain in effect so long as two of the last four
24 consecutive samples exceed the limit of the standard. An additional
25 sample shall be taken within twenty-one days of the sending of the
26 notice, but not before the lapse of three days, except sixty days must
27 lapse before an official somatic cell count can be taken. The director
28 shall degrade or suspend the grade A ((~~permit~~)) milk license whenever
29 the standard is again violated so that three of the last five
30 consecutive samples exceed the limit of the standard. A grade A
31 ((~~permit~~)) milk license shall subsequently be reinstated in notice
32 status upon receipt of sample results that are within the standard for
33 which the suspension occurred.

34 In case of violation of the phosphatase test requirements, the
35 cause of underpasteurization shall be determined and removed before
36 milk or milk products from this plant can again be sold as pasteurized
37 milk or milk products.

1 **Sec. 17.** RCW 15.36.115 and 1989 c 354 s 18 and 1989 c 175 s 48 are
2 each reenacted and amended to read as follows:

3 (1) If the results of an antibiotic, pesticide, or other drug
4 residue test are above the actionable level established in the
5 pasteurized milk ordinance published by the United States public health
6 service and determined using procedures set forth in the current
7 edition of "Standard Methods for the Examination of Dairy Products," a
8 producer holding a grade A permit is subject to a civil penalty. The
9 penalty shall be in an amount equal to one-half the value of the sum of
10 the volumes of milk equivalent produced under the permit on the day
11 prior to and the day of the adulteration. The value of the milk shall
12 be computed by the weighted average price for the federal market order
13 under which the milk is delivered.

14 (2) The penalty is imposed by the department giving a written
15 notice which is either personally served upon or transmitted by
16 certified mail, return receipt requested, to the person incurring the
17 penalty. The notice of the civil penalty shall be a final order of the
18 department unless, within fifteen days after the notice is received,
19 the person incurring the penalty appeals the penalty by filing a notice
20 of appeal with the department. If a notice of appeal is filed in a
21 timely manner, a hearing shall be conducted on behalf of the department
22 by the office of administrative hearings in accordance with chapters
23 34.05 and 34.12 RCW and, to the extent they are not inconsistent with
24 this subsection, the provisions of RCW 15.36.580. At the conclusion of
25 the hearing, the department shall determine whether the penalty should
26 be affirmed, and, if so, shall issue a final order setting forth the
27 civil penalty assessed, if any. The order may be appealed to superior
28 court in accordance with chapter 34.05 RCW. Milk from which a sample
29 was taken is deemed adulterated and may not be sold. Tests performed
30 for antibiotic, pesticide, or other drug residues by a state or
31 certified industry laboratory of a milk sample drawn by a department
32 official or a licensed dairy technician shall be admitted as prima
33 facie evidence of the presence or absence of an antibiotic, pesticide,
34 or other drug residue. No producer who has been penalized under
35 provisions of the pasteurized milk ordinance may be penalized under
36 this section.

37 (3) Any penalty imposed under this section is due and payable upon
38 the issuance of the final order by the department. The penalty shall
39 be deducted by the violator's marketing organization from the

1 violator's final payment for the month following the issuance of the
2 final order. The department shall promptly notify the violator's
3 marketing organization of any penalties contained in the final order.

4 (4) ~~((All penalties received or recovered from violations of this
5 section shall be remitted monthly by the violator's marketing
6 organization to the Washington state dairy products commission and
7 deposited in a revolving fund to be used solely for the purposes of
8 education and research. No appropriation is required for disbursements
9 from this fund.))~~ The director shall deposit the funds from penalties
10 received or recovered from violations of this section into the dairy
11 inspection account created within the agricultural local fund
12 established in RCW 43.23.230. The funds shall only be used to provide
13 inspection services to the dairy industry.

14 (5) In case of a violation of the antibiotic, pesticide, or other
15 drug residue test requirements, an investigation shall be made to
16 determine the cause of the residue which shall be corrected.
17 Additional samples shall be taken as soon as possible and tested as
18 soon as feasible for antibiotic, pesticide, or other drug residue by
19 the department or a certified laboratory. After the notice has been
20 received by the producer and the results of a test of such an
21 additional sample indicate that residues are above the actionable level
22 or levels referred to in subsection (1) of this section, the producer's
23 milk may not be sold until a sample is shown to be below the actionable
24 levels established for the residues.

25 **Sec. 18.** RCW 15.36.300 and 1989 c 354 s 19 are each amended to
26 read as follows:

27 Grade C raw milk is raw milk which violates any of the requirements
28 of grade A raw milk as set forth in the pasteurized milk ordinance and
29 RCW 15.36.540. The director shall adopt rules setting standards and
30 requirements for production of grade C milk.

31 **Sec. 19.** RCW 15.36.470 and 1989 c 354 s 22 are each amended to
32 read as follows:

33 No milk or milk products shall be sold to the final consumer or to
34 restaurants, soda fountains, grocery stores, or similar establishments
35 except grade A milk pasteurized, or grade A milk-raw, and the director
36 may revoke the permit of any milk distributor failing to qualify for
37 one of the above grades, or in lieu thereof may degrade his or her

1 product to grade C and permit its sale during a period not exceeding
2 thirty days or in emergencies during such longer period as he may deem
3 necessary.

4 **Sec. 20.** RCW 15.36.490 and 1961 c 11 s 15.36.490 are each amended
5 to read as follows:

6 Except as permitted in this section, no milk producer or
7 distributor shall transfer milk or milk products from one container to
8 another on the street, or in any vehicle, or store, or in any place
9 except a bottling or milk room especially used for that purpose.

10 Milk and milk products sold in the distributor's containers in
11 quantities less than one gallon shall be delivered in standard milk
12 bottles or in single-service containers. It shall be unlawful for
13 hotels, soda fountains, restaurants, groceries, hospitals, and similar
14 establishments to sell or serve any milk or milk products except in the
15 individual original container in which it was received from the
16 distributor or from a bulk container equipped with an approved
17 dispensing device: PROVIDED, That this requirement shall not apply to
18 cream consumed on the premises, which may be served from the original
19 bottle or from a dispenser approved for such service.

20 It shall be unlawful for any hotel, soda fountain, restaurant,
21 grocery, hospital, or similar establishment to sell or serve any milk
22 or milk product which has not been maintained, while in its possession,
23 at a temperature of (~~fifty~~) forty-five degrees Fahrenheit or less.
24 If milk or milk products are stored in water for cooling, the pouring
25 lip of the container shall not be submerged.

26 It shall be the duty of all persons to whom milk or milk products
27 are delivered to clean thoroughly the containers in which such milk or
28 milk products are delivered before returning such containers.
29 Apparatus, containers, equipment, and utensils used in the handling,
30 storage, processing, or transporting of milk or milk products shall not
31 be used for any other purpose without the permission of the director.

32 The delivery of milk or milk products to and the collection of milk
33 or milk products containers from residences in which cases of
34 communicable disease transmissible through milk supplies exists shall
35 be subject to the special requirements of the health officer.

36 (~~Homogenized milk or homogenized cream shall not be mixed with~~
37 ~~milk or cream which has not been homogenized if sold or offered for~~
38 ~~sale as fluid milk or cream.))~~

1 **Sec. 21.** RCW 15.36.500 and 1961 c 11 s 15.36.500 are each amended
2 to read as follows:

3 Milk and milk products from outside the state may not be sold in
4 the state of Washington unless produced and/or pasteurized under
5 provisions equivalent to the requirements of this chapter and
6 pasteurized milk ordinance: PROVIDED, That the director shall satisfy
7 himself that the authority having jurisdiction over the production and
8 processing is properly enforcing such provisions.

9 **Sec. 22.** RCW 15.36.540 and 1989 c 354 s 24 are each amended to
10 read as follows:

11 Except as otherwise provided in this chapter, (~~this law shall be~~
12 ~~enforced by~~) the director (~~in accordance with the interpretation~~
13 ~~contained in the food and drug administration~~) may by reference adopt
14 the pasteurized milk ordinance(~~(:— PROVIDED, That)~~) by rule to
15 establish requirements for grade A pasteurized and grade A raw milk.
16 The director may (~~promulgate~~) adopt rules (~~covering any standard set~~
17 ~~forth in the pasteurized milk ordinance if the rules are consistent~~
18 ~~with the pasteurized milk ordinance except the~~) establishing standards
19 (~~may be~~) for grade A pasteurized and grade A raw milk that are more
20 stringent than the pasteurized milk ordinance based upon current
21 industry or public health information for the enforcement of this
22 chapter whenever he determines that any such rules are necessary to
23 carry out the purposes of RCW (~~15.32.120,~~) 15.36.011 as recodified by
24 this act, (~~15.36.075,~~) 15.36.540 as recodified by this act, and
25 15.36.600 as recodified by this act.

26 **Sec. 23.** RCW 69.07.040 and 1992 c 160 s 3 are each amended to read
27 as follows:

28 It shall be unlawful for any person to operate a food processing
29 plant or process foods in the state without first having obtained an
30 annual license from the department, which shall expire on a date set by
31 rule by the director. License fees shall be prorated where necessary
32 to accommodate staggering of expiration dates. Application for a
33 license shall be on a form prescribed by the director and accompanied
34 by the license fee. The license fee is determined by computing the
35 gross annual sales for the accounting year immediately preceding the
36 license year. If the license is for a new operator, the license fee

1 shall be based on an estimated gross annual sales for the initial
2 license period.

3	If gross annual sales are:	The license fee is:
4	\$0 to \$50,000	\$50.00
5	\$50,001 to \$500,000	\$100.00
6	\$500,001 to \$1,000,000	\$200.00
7	\$1,000,001 to \$5,000,000	\$350.00
8	\$5,000,001 to \$10,000,000	\$500.00
9	Greater than \$10,000,000	\$750.00

10 Such application shall include the full name of the applicant for the
11 license and the location of the food processing plant he or she intends
12 to operate. If such applicant is an individual, receiver, trustee,
13 firm, partnership, association or corporation, the full name of each
14 member of the firm or partnership, or names of the officers of the
15 association or corporation shall be given on the application. Such
16 application shall further state the principal business address of the
17 applicant in the state and elsewhere and the name of a person domiciled
18 in this state authorized to receive and accept service of summons of
19 legal notices of all kinds for the applicant. The application shall
20 also specify the type of food to be processed and the method or nature
21 of processing operation or preservation of that food and any other
22 necessary information. Upon the approval of the application by the
23 director and compliance with the provisions of this chapter, including
24 the applicable regulations adopted hereunder by the department, the
25 applicant shall be issued a license or renewal thereof.

26 Licenses shall be issued to cover only those products, processes,
27 and operations specified in the license application and approved for
28 licensing. Wherever a license holder wishes to engage in processing a
29 type of food product that is different than the type specified on the
30 application supporting the licensee's existing license and processing
31 that type of food product would require a major addition to or
32 modification of the licensee's processing facilities or has a high
33 potential for harm, the licensee shall submit an amendment to the
34 current license application. In such a case, the licensee may engage
35 in processing the new type of food product only after the amendment has
36 been approved by the department.

37 If upon investigation by the director, it is determined that a
38 person is processing food for retail sale and is not under permit,

1 license, or inspection by a local health authority, then that person
2 may be considered a food processor and subject to the provisions of
3 this chapter. A licensee who has obtained a milk processing facility
4 license under chapter 15.36 RCW shall not be required to obtain a
5 license under this chapter.

6 NEW SECTION. **Sec. 24.** The following acts or parts of acts are
7 each repealed:

- 8 (1) RCW 15.32.051 and 1989 c 354 s 2 & 1963 c 58 s 2;
- 9 (2) RCW 15.32.060 and 1961 c 11 s 15.32.060;
- 10 (3) RCW 15.32.070 and 1961 c 11 s 15.32.070;
- 11 (4) RCW 15.32.080 and 1989 c 354 s 3 & 1961 c 11 s 15.32.080;
- 12 (5) RCW 15.32.090 and 1961 c 11 s 15.32.090;
- 13 (6) RCW 15.32.120 and 1969 ex.s. c 102 s 5 & 1961 c 11 s 15.32.120;
- 14 (7) RCW 15.32.130 and 1961 c 11 s 15.32.130;
- 15 (8) RCW 15.32.140 and 1989 c 354 s 5 & 1961 c 11 s 15.32.140;
- 16 (9) RCW 15.32.150 and 1961 c 11 s 15.32.150;
- 17 (10) RCW 15.32.220 and 1989 c 354 s 6 & 1961 c 11 s 15.32.220;
- 18 (11) RCW 15.32.250 and 1961 c 11 s 15.32.250;
- 19 (12) RCW 15.32.260 and 1961 c 11 s 15.32.260;
- 20 (13) RCW 15.32.330 and 1961 c 11 s 15.32.330;
- 21 (14) RCW 15.32.340 and 1961 c 11 s 15.32.340;
- 22 (15) RCW 15.32.360 and 1961 c 11 s 15.32.360;
- 23 (16) RCW 15.32.380 and 1961 c 11 s 15.32.380;
- 24 (17) RCW 15.32.430 and 1973 c 31 s 1 & 1961 c 11 s 15.32.430;
- 25 (18) RCW 15.32.440 and 1961 c 11 s 15.32.440;
- 26 (19) RCW 15.32.490 and 1961 c 11 s 15.32.490;
- 27 (20) RCW 15.32.500 and 1989 c 354 s 8 & 1961 c 11 s 15.32.500;
- 28 (21) RCW 15.32.540 and 1961 c 11 s 15.32.540;
- 29 (22) RCW 15.32.560 and 1961 c 11 s 15.32.560;
- 30 (23) RCW 15.32.570 and 1989 c 354 s 12 & 1961 c 11 s 15.32.570;
- 31 (24) RCW 15.32.590 and 1963 c 58 s 9 & 1961 c 11 s 15.32.590;
- 32 (25) RCW 15.32.620 and 1961 c 11 s 15.32.620;
- 33 (26) RCW 15.32.630 and 1963 c 58 s 12 & 1961 c 11 s 15.32.630;
- 34 (27) RCW 15.32.660 and 1961 c 11 s 15.32.660;
- 35 (28) RCW 15.32.670 and 1961 c 11 s 15.32.670;
- 36 (29) RCW 15.32.680 and 1961 c 11 s 15.32.680;
- 37 (30) RCW 15.32.700 and 1961 c 11 s 15.32.700;
- 38 (31) RCW 15.32.740 and 1961 c 11 s 15.32.740;

- 1 (32) RCW 15.32.750 and 1961 c 11 s 15.32.750;
- 2 (33) RCW 15.32.755 and 1963 c 58 s 14;
- 3 (34) RCW 15.32.760 and 1961 c 11 s 15.32.760;
- 4 (35) RCW 15.32.770 and 1987 c 202 s 174 & 1961 c 11 s 15.32.770;
- 5 (36) RCW 15.32.780 and 1961 c 11 s 15.32.780;
- 6 (37) RCW 15.32.790 and 1961 c 11 s 15.32.790;
- 7 (38) RCW 15.36.020 and 1989 c 354 s 14 & 1961 c 11 s 15.36.020;
- 8 (39) RCW 15.36.040 and 1961 c 11 s 15.36.040;
- 9 (40) RCW 15.36.075 and 1969 ex.s. c 102 s 3;
- 10 (41) RCW 15.36.090 and 1961 c 11 s 15.36.090;
- 11 (42) RCW 15.36.155 and 1961 c 11 s 15.36.155;
- 12 (43) RCW 15.36.160 and 1961 c 11 s 15.36.160;
- 13 (44) RCW 15.36.165 and 1961 c 11 s 15.36.165;
- 14 (45) RCW 15.36.170 and 1961 c 11 s 15.36.170;
- 15 (46) RCW 15.36.175 and 1961 c 11 s 15.36.175;
- 16 (47) RCW 15.36.180 and 1961 c 11 s 15.36.180;
- 17 (48) RCW 15.36.185 and 1961 c 11 s 15.36.185;
- 18 (49) RCW 15.36.190 and 1961 c 11 s 15.36.190;
- 19 (50) RCW 15.36.195 and 1961 c 11 s 15.36.195;
- 20 (51) RCW 15.36.200 and 1961 c 11 s 15.36.200;
- 21 (52) RCW 15.36.205 and 1961 c 11 s 15.36.205;
- 22 (53) RCW 15.36.210 and 1961 c 11 s 15.36.210;
- 23 (54) RCW 15.36.215 and 1961 c 11 s 15.36.215;
- 24 (55) RCW 15.36.220 and 1961 c 11 s 15.36.220;
- 25 (56) RCW 15.36.225 and 1961 c 11 s 15.36.225;
- 26 (57) RCW 15.36.230 and 1961 c 11 s 15.36.230;
- 27 (58) RCW 15.36.235 and 1961 c 11 s 15.36.235;
- 28 (59) RCW 15.36.240 and 1961 c 11 s 15.36.240;
- 29 (60) RCW 15.36.245 and 1961 c 11 s 15.36.245;
- 30 (61) RCW 15.36.250 and 1961 c 11 s 15.36.250;
- 31 (62) RCW 15.36.255 and 1961 c 11 s 15.36.255;
- 32 (63) RCW 15.36.270 and 1961 c 11 s 15.36.270;
- 33 (64) RCW 15.36.280 and 1961 c 11 s 15.36.280;
- 34 (65) RCW 15.36.320 and 1981 c 297 s 5 & 1961 c 11 s 15.36.320;
- 35 (66) RCW 15.36.325 and 1961 c 11 s 15.36.325;
- 36 (67) RCW 15.36.330 and 1961 c 11 s 15.36.330;
- 37 (68) RCW 15.36.335 and 1961 c 11 s 15.36.335;
- 38 (69) RCW 15.36.340 and 1961 c 11 s 15.36.340;
- 39 (70) RCW 15.36.345 and 1961 c 11 s 15.36.345;

- 1 (71) RCW 15.36.350 and 1961 c 11 s 15.36.350;
2 (72) RCW 15.36.355 and 1961 c 11 s 15.36.355;
3 (73) RCW 15.36.360 and 1961 c 11 s 15.36.360;
4 (74) RCW 15.36.365 and 1961 c 11 s 15.36.365;
5 (75) RCW 15.36.370 and 1961 c 11 s 15.36.370;
6 (76) RCW 15.36.375 and 1961 c 11 s 15.36.375;
7 (77) RCW 15.36.380 and 1961 c 11 s 15.36.380;
8 (78) RCW 15.36.385 and 1961 c 11 s 15.36.385;
9 (79) RCW 15.36.390 and 1961 c 11 s 15.36.390;
10 (80) RCW 15.36.395 and 1961 c 11 s 15.36.395;
11 (81) RCW 15.36.400 and 1961 c 11 s 15.36.400;
12 (82) RCW 15.36.405 and 1961 c 11 s 15.36.405;
13 (83) RCW 15.36.410 and 1961 c 11 s 15.36.410;
14 (84) RCW 15.36.415 and 1961 c 11 s 15.36.415;
15 (85) RCW 15.36.425 and 1991 c 3 s 1, 1989 c 354 s 20, 1979 c 141 s
16 22, & 1961 c 11 s 15.36.425;
17 (86) RCW 15.36.430 and 1961 c 11 s 15.36.430;
18 (87) RCW 15.36.440 and 1961 c 11 s 15.36.440;
19 (88) RCW 15.36.580 and 1989 c 354 s 26, 1987 c 202 s 175, 1981 c 67
20 s 17, & 1961 c 11 s 15.36.580;
21 (89) RCW 15.36.590 and 1961 c 11 s 15.36.590; and
22 (90) RCW 15.36.900 and 1961 c 11 s 15.36.900.

23 NEW SECTION. **Sec. 25.** The following sections shall be codified or
24 recodified in the following order in chapter 15.36 RCW:

- 25 Section 1 of this act;
26 RCW 15.36.005;
27 RCW 15.36.011;
28 RCW 15.32.010;
29 RCW 15.36.030;
30 RCW 15.36.055;
31 RCW 15.36.060;
32 RCW 15.36.070;
33 RCW 15.36.080;
34 RCW 15.36.100;
35 RCW 15.32.100;
36 RCW 15.32.110;
37 Section 5 of this act;
38 Section 6 of this act;

1 Section 7 of this act;
2 RCW 15.36.110;
3 RCW 15.36.115;
4 RCW 15.36.120;
5 RCW 15.36.140;
6 RCW 15.36.150;
7 RCW 15.32.160;
8 RCW 15.36.260;
9 RCW 15.36.265;
10 RCW 15.36.300;
11 RCW 15.32.410;
12 RCW 15.32.420;
13 RCW 15.36.420;
14 RCW 15.32.450;
15 RCW 15.32.460;
16 RCW 15.36.460;
17 RCW 15.36.470;
18 RCW 15.36.480;
19 RCW 15.36.490;
20 RCW 15.36.500;
21 RCW 15.36.510;
22 RCW 15.32.510;
23 RCW 15.36.520;
24 RCW 15.36.530;
25 RCW 15.32.520;
26 RCW 15.32.530;
27 RCW 15.36.540;
28 RCW 15.36.550;
29 RCW 15.32.550;
30 RCW 15.32.580;
31 RCW 15.32.582;
32 RCW 15.32.610;
33 RCW 15.32.584;
34 RCW 15.32.600;
35 RCW 15.36.600;
36 RCW 15.36.595;
37 RCW 15.32.710;
38 RCW 15.32.720;
39 RCW 15.32.730;

1 RCW 15.32.900;
2 RCW 15.32.910;
3 RCW 15.36.105; and
4 RCW 15.36.107.

5 NEW SECTION. **Sec. 26.** Sections 1 and 5 through 7 of this act are
6 each added to chapter 15.36 RCW and shall be codified pursuant to
7 section 25 of this act.

--- END ---