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HOUSE BILL 1957

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Rayburn, Nealey, McLean, Chandler, Roland, Franklin and Rasmussen; by request of Department of Agriculture.

Read first time February 15, 1991.                      Referred to Committee on Agriculture & Rural Development.

1            AN ACT Relating to food processing; amending RCW 69.07.010,  
2 69.07.040, 69.07.050, and 69.07.060; adding new sections to chapter  
3 69.07 RCW; repealing RCW 69.07.090 and 69.07.130; and prescribing  
4 penalties.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 69.07 RCW  
7 to read as follows:

8            The processing of food intended for public consumption is important  
9 and vital to the health and welfare both immediate and future and is  
10 hereby declared to be a business affected with the public interest.  
11 The provisions of this chapter are enacted to safeguard the consuming  
12 public from unsafe, adulterated, or misbranded food by requiring  
13 licensing of all food processing plants as defined in this chapter and  
14 setting forth the requirements for such licensing.

1       **Sec. 2.** RCW 69.07.010 and 1967 ex.s. c 121 s 1 are each amended to  
2 read as follows:

3       For the purposes of this chapter:

4       (1) "Department" means the department of agriculture of the state  
5 of Washington;

6       (2) "Director" means the director of the department;

7       (3) "Food" means any substance used for food or drink by man and  
8 any ingredient used for components of any such substance regardless of  
9 the quantity of such component;

10       (4) "Sale" means selling, offering for sale, holding for sale,  
11 preparing for sale, trading, bartering, offering a gift as an  
12 inducement for sale of, and advertising for sale in any media;

13       (5) "Food processing" means the handling or processing of any food  
14 in any manner in preparation for sale for human consumption: PROVIDED,  
15 That it shall not include fresh fruit or vegetables merely washed or  
16 trimmed while being prepared or packaged for sale in their natural  
17 state;

18       (6) "Food processing plant" includes but is not limited to any  
19 premises, plant, establishment, building, room, area, facilities and  
20 the appurtenances thereto, in whole or in part, where food is prepared,  
21 handled or processed in any manner for (~~resale or~~) distribution  
22 (~~to~~) or sale for resale by retail outlets, restaurants, and any such  
23 other facility selling or distributing to the ultimate consumer:  
24 PROVIDED, That (~~retail outlets~~), as set forth herein, establishments  
25 processing foods in any manner for resale shall be considered a food  
26 processing plant as to such processing;

27       (7) "Food service establishment" shall mean any fixed or mobile  
28 restaurant, coffee shop, cafeteria, short order cafe, luncheonette,  
29 grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail  
30 lounge, night club, roadside stand, industrial-feeding establishment,

1 retail grocery, retail food market, retail meat market, retail bakery,  
2 private, public, or nonprofit organization routinely serving food,  
3 catering kitchen, commissary or similar place in which food or drink is  
4 prepared for sale or for service on the premises or elsewhere, and any  
5 other eating or drinking establishment or operation where food is  
6 served or provided for the public with or without charge.

7 For the purpose of this chapter any custom cannery or processing  
8 plant where raw food products, food, or food products are processed for  
9 the owner thereof, or the food processing facilities are made available  
10 to the owners or persons in control of raw food products or food or  
11 food products for processing in any manner, shall be considered to be  
12 food processing plants((-));

13 (8) "Person" means an individual, partnership, corporation, or  
14 association;

15 (9) "For resale" means the sale or distribution to other than the  
16 ultimate consumer. This term may include the transfer of food between  
17 individual company locations.

18 **Sec. 3.** RCW 69.07.040 and 1988 c 5 s 1 are each amended to read as  
19 follows:

20 It shall be unlawful for any person to operate a food processing  
21 plant or process foods without first having obtained an annual license  
22 from the department, which shall expire on ~~((the 31st day of March~~  
23 ~~following issuance. A separate license shall be required for each food~~  
24 ~~processing plant))~~ a date set by rule by the director. License fees  
25 shall be prorated where necessary to accommodate staggering of  
26 expiration dates. Application for a license shall be on a form  
27 prescribed by the director and accompanied by a twenty-five dollar  
28 annual license fee. Such application shall include the full name of the  
29 applicant for the license and the location of the food processing plant

1 he intends to operate. If such applicant is an individual, receiver,  
2 trustee, firm, partnership, association or corporation, the full name  
3 of each member of the firm or partnership, or names of the officers of  
4 the association or corporation shall be given on the application. Such  
5 application shall further state the principal business address of the  
6 applicant in the state and elsewhere and the name of a person domiciled  
7 in this state authorized to receive and accept service of summons of  
8 legal notices of all kinds for the applicant(~~(, and any other necessary~~  
9 ~~information prescribed by the director)~~). The application shall also  
10 specify the type of food to be processed and the method or nature of  
11 processing operation or preservation of that food and any other  
12 necessary information. Upon the approval of the application by the  
13 director and compliance with the provisions of this chapter, including  
14 the applicable regulations adopted hereunder by the department, the  
15 applicant shall be issued a license or renewal thereof. Licenses shall  
16 be issued to cover only those products, processes, and operations  
17 specified in the license application and approved for licensing.  
18 Wherever a license holder engages in processing of food other than  
19 specified on the license, he or she shall submit an amendment to the  
20 current license application that shall be approved before he or she may  
21 engage in processing of the new food products, specifying those new  
22 products or processes.

23 If upon investigation by the director, it is determined that a  
24 person is processing food for retail sale and is not under permit,  
25 license, or inspection by a local health authority, then that person  
26 may be considered a food processor and subject to the provisions of  
27 this chapter.

28 **Sec. 4.** RCW 69.07.050 and 1988 c 5 s 2 are each amended to read as  
29 follows:

1        If the application for renewal of any license provided for under  
2 this chapter is not filed prior to (~~April 1st in any year~~) the  
3 expiration date as established by rule by the director, an additional  
4 fee of fifteen dollars shall be assessed and added to the original fee  
5 and shall be paid by the applicant before the renewal license shall be  
6 issued: PROVIDED, That such additional fee shall not be charged if the  
7 applicant furnishes an affidavit certifying that he or she has not  
8 operated a food processing plant or processed foods subsequent to the  
9 expiration of his or her license.

10        **Sec. 5.** RCW 69.07.060 and 1979 c 154 s 19 are each amended to read  
11 as follows:

12        The director may(~~, subsequent to a hearing thereon,~~) deny,  
13 suspend or revoke any license provided for in this chapter if he  
14 determines that an applicant has committed any of the following acts:

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

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

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

24        (4) Refused the department access to any records required to be  
25 kept under the provisions of this chapter.

26        (5) Refused, neglected, or failed to comply with any provisions of  
27 chapter 69.04 RCW, Washington Food, Drug, and Cosmetic Act, or any  
28 regulations adopted thereunder. A licensee shall be given an

1 opportunity for a hearing under chapter 34.05 RCW with respect to an  
2 action taken against his or her license.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 69.07 RCW  
4 to read as follows:

5 (1) Whenever the director finds an establishment operating under  
6 conditions that constitute an immediate danger to public health or  
7 under conditions that allow adulteration of food as defined under RCW  
8 69.04.210, the director may summarily suspend, pending a hearing, a  
9 license provided for in this chapter.

10 (2) Whenever a license is summarily suspended, the holder of the  
11 license shall be notified in writing that the license is, upon service  
12 of the notice, immediately suspended and that prompt opportunity for a  
13 hearing will be provided.

14 (3) Whenever a license is summarily suspended, food processing  
15 operations shall immediately cease. However, the director may  
16 reinstate the license when the condition that caused the suspension has  
17 been abated to the director's satisfaction.

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 69.07 RCW  
19 to read as follows:

20 The director or the director's deputies, assistants, and inspectors  
21 are authorized to do all acts and things necessary to carry out the  
22 provisions of this chapter, including the taking of verified  
23 statements. The department personnel are empowered to administer oaths  
24 of verification on the statement.

25 NEW SECTION. **Sec. 8.** A new section is added to chapter 69.07 RCW  
26 to read as follows:

1       It shall be unlawful to resell, to offer for resale, or to  
2 distribute for resale in intrastate commerce any food processed in a  
3 food processing plant, which has not obtained a license, as provided  
4 for in this chapter, once notification by the director has been given  
5 to the person or persons reselling, offering, or distributing food for  
6 resale, that said food is from an unlicensed processing operation.

7       NEW SECTION.   **Sec. 9.** A new section is added to chapter 69.07 RCW  
8 to read as follows:

9       Whenever the director finds that a person has committed a violation  
10 of any of the provisions of this chapter the director may impose upon  
11 and collect from the violator a civil penalty not exceeding one  
12 thousand dollars per violation per day. Each violation shall be a  
13 separate and distinct offense.

14       NEW SECTION.   **Sec. 10.** The following acts or parts of acts are  
15 each repealed:

16       (1) RCW 69.07.090 and 1967 ex.s. c 121 s 9; and

17       (2) RCW 69.07.130 and 1967 ex.s. c 121 s 13.