
SENATE BILL 6015

State of Washington 52nd Legislature 1992 Regular Session

By Senators Barr, Madsen, Gaspard and Rasmussen

Read first time 01/13/92. Referred to Committee on Agriculture & Water Resources.

1 AN ACT Relating to bottled water; and adding a new chapter to Title
2 69 RCW.

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

4 NEW SECTION. **Sec. 1.** As used in this chapter:

5 (1) "Approved laboratory" means a laboratory approved by the
6 department or certified by the United States environmental protection
7 agency, or certified by the department of health, or certified or
8 accredited by a third-party organization acceptable to the state.

9 (2) "Approved source" if used in reference to a bottled water
10 plant's product water or water used in the plant's operations, means
11 the source of the water whether from a spring, artesian well, drilled
12 well, public or community water system, or any other source that has
13 been inspected and the water sampled, analyzed, and found of a safe and
14 sanitary quality with or without treatment. Such approval shall be

1 obtained and maintained in accordance with section 4 of this act. The
2 presence in the plant of a current certificate or notification of
3 approval from the department of health shall constitute approval of the
4 source.

5 (3) "Artesian water" means bottled water from a well tapping a
6 confined aquifer in which the water level stands above the water table.
7 "Artesian water" shall meet the requirements of "natural water."

8 (4) "Board" means the state board of health.

9 (5) "Bottled water" means water that is placed in a sealed
10 container or package and is offered for sale for human consumption or
11 other consumer uses.

12 (6) "Bottled water plant" means a place or establishment in which
13 bottled water is prepared for sale.

14 (7) "Carbonated water" or "sparkling water" means bottled water
15 containing carbon dioxide.

16 (8) "Department" means the department of agriculture.

17 (9) "Distilled water" means bottled water that has been produced by
18 a process of distillation and meets the definition of purified water in
19 the most recent edition of the United States Pharmacopeia.

20 (10) "Drinking water" means bottled water obtained from an approved
21 source that has at minimum undergone treatment consisting of
22 filtration, activated carbon or particulate, and ozonation or an
23 equivalent disinfection process.

24 (11) "Fluoridated water" means bottled water containing fluoride.
25 The label shall specify whether the fluoride is naturally occurring or
26 added. Water that meets this definition shall contain not less than
27 0.8 milligrams per liter fluoride ion and otherwise comply with the
28 United States food and drug administration quality standards in 21
29 C.F.R. Sec. 103.35(d)(2).

1 (12) "Mineral water" means bottled water that contains not less
2 than five hundred parts per million total dissolved solids. "Natural
3 mineral water" shall meet the requirements of "natural water."

4 (13) "Natural water" means bottled spring, mineral, artesian, or
5 well water that is derived from an underground formation and is not
6 derived from a municipal system or public water supply.

7 (14) "Plant operator" means a person who owns or operates a bottled
8 water plant and who meets the requirements of section 3(8) of this act.

9 (15) "Purified water" means bottled water produced by distillation,
10 deionization, reverse osmosis, or other suitable process and that meets
11 the definition of purified water in the most recent edition of the
12 United States Pharmacopeia. Water that meets this definition and is
13 vaporized, then condensed, may be labeled "distilled water."

14 (16) "Spring water" means water derived from an underground
15 formation from which water flows naturally to the surface of the earth.
16 "Spring water" shall meet the requirements of "natural water."

17 (17) "Water dealer" means a person who imports bottled water or
18 causes bulk water to be transported for bottling for human consumption
19 or other consumer uses.

20 (18) "Well water" means water from a hole bored, drilled, or
21 otherwise constructed in the ground that taps the water of an aquifer.
22 "Well water" shall meet the requirements of "natural water."

23 NEW SECTION. **Sec. 2.** (1) All bottled water shall be from an
24 approved source and shall not contain any constituent in quantities
25 that may be injurious to health, as established through rulemaking by
26 the board. All bottled water shall meet standards prescribed by the
27 United States food and drug administration in 21 C.F.R. Sec. 103.35,
28 except that (a) the total dissolved solids limitation of 21 C.F.R. Sec.

1 103.35(d) shall not apply to mineral water, (b) bottled water shall not
2 exceed ten ppb of total trihalomethanes and five ppb of lead.

3 (2) Except as provided in subsection (1) of this section, bottled
4 water, including mineral water, shall not exceed any maximum
5 contaminant level established by the United States environmental
6 protection agency under the safe drinking water act or the board by
7 rule for any organic or inorganic chemical.

8 NEW SECTION. **Sec. 3.** (1) All bottled water, including mineral
9 water, shall be filtered and processed and packaged in accordance with
10 the United States food and drug administration good manufacturing
11 practice regulations (GMPs) 21 C.F.R. Parts 110 and 129, and any other
12 rules prescribed by the department.

13 (2) Bottled water production, including transporting, processing,
14 packaging, and storage, shall be conducted under such conditions and
15 controls as are necessary to minimize the potential for microbial
16 contamination of the finished product. These conditions and controls
17 shall include the following:

18 (a) Bottled water shall be subject to effective germicidal
19 treatment by ozonation or carbonation at a minimum of three volumes of
20 carbon dioxide or other equivalent disinfection approved by the board
21 of health or department of health except that the requirement for
22 filtration and germicidal treatment shall not apply to a bottled water
23 product for which an exemption has been granted by the department of
24 health pursuant to criteria established by rule.

25 (b) Bottled water shall not be transported or stored in bulk tanks
26 or processed or bottled through equipment or lines used for any nonfood
27 product.

28 (c) In order to minimize the potential for microbiological
29 contamination of the finished product, noncarbonated bottled water

1 shall not be transported, stored, processed, or bottled in or through
2 lines or equipment through which has passed milk, fruit juice, or other
3 food products likely to contribute nutrients for microbial growth.

4 (d) Bottled water that originates from a surface water source that
5 is not protected from surface contamination shall be subjected to
6 ozonation, filtration, or another effective process that removes or
7 destroys the cysts of the parasite Giardia Lamblia.

8 (3)(a) Each bottled water plant operator shall develop and maintain
9 procedures for the notification of the departments of health and
10 agriculture, consumer notification, and product recall and shall
11 implement procedures as necessary with respect to any product for which
12 the operator or department of health or agriculture knows or has reason
13 to believe circumstances exist that may adversely affect its safety for
14 the consumer. In order to facilitate product identification or recall,
15 each bottled water product shall contain a code that is designed to
16 remain affixed to the container during use and that contains either the
17 date of manufacture or a lot or batch number.

18 (b) A bottled water supplier who knows that a primary maximum
19 contaminant level has been exceeded or has reason to believe that
20 circumstances exist that may adversely affect the safety of bottled
21 water, including but not limited to source contamination, spills,
22 accidents, natural disasters, or breakdowns in treatment, shall notify
23 the department of health promptly.

24 (c) If the department of health determines, based upon
25 representative samples, risk analysis, information provided by the
26 bottled water supplier, and other information available to the
27 department of health, that the circumstances present an imminent hazard
28 to the public health and that a form of consumer notice or product
29 recall can effectively avoid or significantly minimize the threat to
30 public health, the department may order the water supplier to initiate

1 a level of product recall approved by the department or, if
2 appropriate, issue a form of notification to customers. The bottled
3 water supplier shall be responsible for disseminating the notice in a
4 manner designed to inform customers who may be affected by the problem.
5 The water bottler shall where appropriate provide the notice to radio
6 and television media or to the newspaper serving the affected public or
7 shall in the alternative directly notify affected users where doing so
8 in a manner approved by the department can effectively avoid or
9 minimize the risk to health. Product recalls shall conform to the
10 procedures and policies of 21 C.F.R. Part 7.

11 (d) Where a maximum contaminant level has been violated but
12 circumstances, including risk analysis and representative samples,
13 indicate that the violation of the maximum contaminant level has been
14 promptly corrected and that already-distributed product will not cause
15 illness and presents no significant health risk, a recall and media
16 notification of consumer is unnecessary. In such circumstances where
17 a recall or media notification is unnecessary but where there may be
18 significant consumer complaints of product taste or odor, the
19 department of health may order the bottler to communicate that the
20 maximum contaminant level had been exceeded and may direct the bottler
21 to implement corrective measures by direct mailings to affected
22 customers or by newspaper publication.

23 (4) Artesian water may be collected with the assistance of external
24 force to enhance the natural underground pressure so long as such
25 measures do not alter the physical properties, composition, and quality
26 of the water.

27 (5) Natural water shall not be modified by blending with water or
28 another type or by deletion or addition of dissolved solids except as
29 related to disinfection or other treatment to reduce the concentration
30 of any naturally present constituent that exceeds government-sanctioned

1 or approved safety standards or guidelines. Natural water may be
2 collected and transported by pumps, pipes, tunnels, trucks, or similar
3 devices.

4 (6) Spring water shall be collected only at the spring or through
5 a bore hole that is adjacent to the point of emergence. Spring water
6 collected with the assistance of external force to protect the water
7 shall retain all the physical properties of and be of the same
8 composition and quality as the water that flows naturally to the
9 surface of the earth.

10 (7) No person shall operate a bottled water plant or bottle water
11 for the purpose of sale or distribution in this state without first
12 obtaining a permit demonstrating that the source, bottling facility,
13 treatment and bottling practices, and product water meet the
14 requirements of this chapter and rules adopted under this chapter. The
15 department by rule may establish a reasonable fee for a permit
16 application. The fee shall be based on the cost of processing the
17 application and shall be the same for in-state and out-of-state
18 bottlers. An annual renewal fee shall be established.

19 (a) For bottled water imported from outside the United States the
20 required showing shall include a certification signed by the department
21 or agency with jurisdiction over bottled water in the country of origin
22 that (i) describes the requirements of the country for the source,
23 bottling facility, treatment, bottling practices, and product water,
24 (ii) states the date of the last officially authorized inspection by
25 the department or agency or acceptable third-party inspection
26 organization and review of source, facility, treatment, bottling
27 practices, and product water in light of such requirements, and (iii)
28 certifies that the source, facility, treatment, bottling practices, and
29 product water meet all of the requirements of the country of origin

1 except those that are in conflict with federal or state laws and
2 regulations.

3 (b) As a condition of receiving a permit and annually thereafter
4 the bottler shall receive a plant inspection demonstrating compliance
5 with the good manufacturing practices and operational requirements of
6 this chapter. The inspection shall be conducted by the state in which
7 the bottling facility is located, by the United States food and drug
8 administration or by a third party inspection organization acceptable
9 to the department.

10 (8) A bottled water plant shall not be operated except under the
11 supervision of a competent person qualified by experience, education,
12 and training to operate and maintain the plant's facilities. The
13 person must hold a certificate demonstrating that he or she has
14 successfully completed a technical training course, developed and
15 administered by the department or by a third party organization that is
16 acceptable to the department, that covers periodic instruction and
17 testing in plant, source, and product sanitation; operation and
18 maintenance of water treatment technology; and the maintenance and
19 monitoring of source and product water quality in accordance with these
20 bottled water standards.

21 NEW SECTION. **Sec. 4.** (1)(a) If a source does not comply with
22 the maximum contaminant levels required by the board or federal agency
23 for the production of bottled water the bottler must show by analysis
24 that treatment reduces the contaminant or contaminants below the
25 maximum contaminant levels in the finished product. Approval of the
26 source water product derived from a source other than a public water
27 supply must be based upon a field inspection of the source and a review
28 of information prepared by a professionally qualified hydrogeologist

1 that shall demonstrate the integrity of the source and safety of the
2 catchment operations and that shall include:

3 (i) An evaluation of the chemical, physical, microbiological, and
4 radiological characteristics of the source;

5 (ii) A report on the regional geology surrounding the site and the
6 specific site geology. A description of the vertical and horizontal
7 extent of the source aquifer using existing data; the information will
8 be used to define the recharge area of the aquifer, or in the case of
9 regional aquifers the zone of influence of the subject source;

10 (iii) A report detailing the development of the source, the method
11 of construction including spring design, well installation, surface
12 catchment, and intake structures at transmission facilities as
13 appropriate;

14 (iv) A watershed survey of the recharge area or zone of influence
15 of subject source that identifies and evaluates actual and potential
16 sources of contamination, and that shall be updated every three years;
17 including any reported discharge that may affect the source;

18 (v) Based on the findings in (a)(iv) of this subsection, a plan for
19 special monitoring of any significant contaminant source and for taking
20 restrictive preventive or corrective measures as appropriate to protect
21 the source water and the product water.

22 (b) The plant operator shall be responsible for sampling and
23 analysis of all approved sources for the contaminants specified in
24 section 2 of this act. Such monitoring shall be at least annually,
25 except that analysis for microbiological contaminants shall be weekly
26 if the source is other than a public water system.

27 (2) Approved sources shall be monitored on a frequency of no less
28 than once every four years for the contaminants for which the United
29 States environmental protection agency under the safe drinking water
30 act or the department of health requires source water monitoring.

1 (3) Those systems using chlorination or chlorinated public water
2 supplies shall also monitor for contaminants covered by subsection (2)
3 of this section. The definition of "source" as applied to these
4 systems allows bottlers using public water supplies to take samples at
5 the filler or from the source; all other bottlers shall obtain samples
6 from the ground water source.

7 (4)(a) In lieu of source monitoring required by this section, a
8 plant operator using a public water system as its source may obtain and
9 display a certificate from the system demonstrating that the public
10 water system conducts the monitoring required by this section.

11 (b) In lieu of source water monitoring for any volatile organic
12 contaminant covered by subsections (2) and (3) of this section that is
13 confirmed to be present in the source water, the bottler may treat the
14 source using granular activated carbon treatment or an equivalent
15 treatment operated in accordance with good manufacturing practices as
16 provided in 21 C.F.R. Sec. 129.80.

17 (c) The department may also exempt any water bottler from the
18 monitoring requirements of subsections (2) and (3) of this section or
19 reduce the frequency or scope of the source monitoring based on a
20 showing satisfactory to the department of health (i) that the source
21 does not contain the compound or compounds for which monitoring is
22 required, and (ii) is not vulnerable to contamination by the compound
23 or compounds because for surface water sources the compounds are not
24 applied, manufactured, stored, disposed, or shipped upstream, and for
25 ground water sources, the compounds are not applied, manufactured,
26 stored, disposed, or shipped in the ground water recharge basin, or
27 (iii) that a reliable indicator chemical may be monitored in lieu of
28 said compound or compounds.

29 (5) Where a bottled water plant operator, water dealer, or
30 regulatory agency knows or has reason to believe that a contaminant not

1 otherwise monitored is present in the source water because of spill,
2 release of a hazardous substance, or otherwise, and its presence would
3 create a potential health hazard to consumers, the plant operator or
4 water dealer upon receipt of such information shall monitor the source
5 water for the contaminant.

6 (6) Detection of contaminant or contaminants in source monitoring
7 required pursuant to section 4 of this act shall be followed
8 immediately by a program of periodic monitoring to confirm the presence
9 in the source water of the contaminant or contaminants. If such listed
10 unregulated contaminant or contaminants is confirmed to be present in
11 the source water at a concentration that exceeds a published United
12 States environmental protection agency health advisory, or a United
13 States food and drug administration or board action level for drinking
14 water, the plant operator or water dealer shall employ appropriate
15 treatment techniques to remove or reduce the contaminant in the product
16 water below the concentration and shall employ a program of periodic
17 monitoring for the contaminant in the source water until such time as
18 the contaminant is not detectable in the source water.

19 (7) The required source water monitoring shall be performed by
20 qualified personnel and required analysis shall be performed by an
21 approved laboratory. Records of the required sampling and analyses
22 shall be maintained on file at the plant for not less than two years
23 and shall be available for official review upon request of the board.

24 NEW SECTION. **Sec. 5.** (1) To assure that bottled water
25 complies with section 2 of this act, the following product monitoring
26 using representative samples derived from the bottled product shall be
27 performed:

28 (a) For microbiological contaminants specified in section 2 of this
29 act, analyze weekly a representative sample from a batch or segment of

1 a continuous production for each type of bottled water produced by the
2 plant.

3 (b) For chemical, physical, and radiological contaminants specified
4 in section 2 of this act, analyze annually a representative sample from
5 a batch or segment of continuous production run for each type of
6 bottled drinking water produced by the plant.

7 (2) The required product water sampling shall be performed by
8 qualified personnel and required analysis shall be performed by an
9 approved laboratory.

10 (3) Records of required sampling and analysis shall be maintained
11 at the plant for at least two years and shall be available for official
12 review upon request of the department of agriculture or health.

13 NEW SECTION. **Sec. 6.** All bottled water must conform to
14 applicable federal and state labeling laws and be labeled in compliance
15 with the following standards:

16 (1) Mineral water may be labeled "mineral water." Bottled water to
17 which minerals are added shall be labeled so as to disclose that
18 minerals are added, and may not be labeled "natural mineral water."

19 (2) Spring water may be labeled "spring water" or "natural spring
20 water."

21 (3) Water containing carbon dioxide that emerges from the source
22 and is bottled directly with its entrapped gas or from which the gas is
23 mechanically separated and later reintroduced at a level not higher
24 than naturally occurring in the water may bear on its label the words
25 "naturally carbonated" or "naturally sparkling."

26 (4) Bottled water that contains carbon dioxide other than that
27 naturally occurring in the source of the product shall be labeled with
28 the words "carbonated," "carbonation added," or "sparkling" if the
29 carbonation is obtained from a natural or manufactured source.

1 (5) Well water may be labeled "well water" or "natural well water."

2 (6) Artesian water may be labeled "artesian water" or "natural
3 artesian water."

4 (7) Purified water may be labeled "purified water" and the method
5 of preparation shall be stated on the label, except that purified water
6 produced by distillation may be labeled as "distilled water."

7 (8) Drinking water may be labeled "drinking water."

8 (9) A bottler, distributor, or vendor of bottled water whose
9 corporate name, brand name, or trademark contains the word "spring,"
10 "well," "artesian," "mineral," or "natural" or any derivative of those
11 words shall label each bottle with the type of bottled water as defined
12 in section 1 of this act in typeface at least equal to the size of the
13 typeface of the corporate name, brand name, or trademark, if the type
14 of the bottled water is different from the type stated or implied in
15 the corporate name, brand name, or trademark.

16 (10) The use of the word "spring," or any derivative of "spring"
17 other than in a trademark, trade name, or company name, to describe
18 water that is not spring water is prohibited.

19 (11) A product meeting more than one of the definitions in section
20 1 of this act may be identified by any of the applicable product types
21 defined in section 1 of this act, except where otherwise specifically
22 prohibited.

23 (12) Supplemental printed information and graphics may appear on
24 the label but shall not imply properties of the product or preparation
25 methods that are not factual.

26 NEW SECTION. **Sec. 7.** Bottled soft drinks, soda, or seltzer
27 products commonly recognized as soft drinks and identified on the
28 product identity panel with a common or usual name other than one of
29 those specified in section 1 of this act are exempt from the

1 requirements of this chapter. Water that is not in compliance with the
2 requirements of this chapter may not be identified, labeled, or
3 advertised as "artesian water," "bottled water," "distilled water,"
4 "natural water," "purified water," "spring water," or "well water."

5 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act shall
6 constitute a new chapter in Title 69 RCW.