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SENATE BILL 6393

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State of Washington

52nd Legislature

1992 Regular Session

By Senator Bailey; by request of Department of Agriculture

Read first time 01/28/92. Referred to Committee on Agriculture & Water Resources.

1 AN ACT Relating to milk producers and distributors and food  
2 processors; amending RCW 15.36.080, 69.07.040, 69.07.050, and  
3 69.07.120; adding new sections to chapter 15.36 RCW; and adding a new  
4 section to chapter 69.07 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 15.36 RCW  
7 to read as follows:

8 (1) The legislature finds that an adequate dairy inspection program  
9 administered by the department of agriculture is essential for the  
10 protection of the public health and to maintain the marketability of  
11 milk and milk products within the state and in out-of-state markets.  
12 The legislature finds that sharing the costs of the program as well as  
13 the benefits between the public and the regulated industry is justified  
14 in order to maintain an adequate program.

1 (2) This section shall expire June 30, 1995.

2 NEW SECTION. **Sec. 2.** A new section is added to chapter 15.36 RCW  
3 to read as follows:

4 (1) There is levied on all milk produced in this state an  
5 assessment not to exceed one cent per hundredweight. The maximum total  
6 assessment shall not exceed one thousand five hundred dollars per grade  
7 over a one-year period. The director shall determine, by rule, an  
8 assessment, that with contribution from the general fund, will support  
9 an inspection program to maintain compliance with the provisions of the  
10 national conference on interstate milk shipment. All assessments shall  
11 be collected by the operator of the first milk plant receiving the milk  
12 and shall be deducted from the amount due the producer. Milk producers  
13 who are also milk distributors shall remit the assessment directly to  
14 the director. All moneys collected under this provision shall be paid  
15 to the director by the twentieth day of the succeeding month for the  
16 previous month's collections. The director shall deposit the funds  
17 into the dairy inspection account within the agricultural local fund  
18 established in RCW 43.23.230. The funds shall be used only to provide  
19 inspection services to the dairy industry. All interest accrued on the  
20 account shall be credited to the dairy inspection program. If the  
21 operator of a milk plant or a producer who acts as a distributor fails  
22 to remit any assessments or fails to make deductions for assessments,  
23 that sum shall be a lien on any property owned by him or her, and shall  
24 be reported by the director and collected in the manner and with the  
25 same priority over other creditors as prescribed for the collection of  
26 delinquent taxes under chapters 84.60 and 84.64 RCW.

27 (2) This section shall expire June 30, 1995.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 15.36 RCW  
2 to read 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 six members who are producers of milk or their  
8 representatives, and two 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 at least once a year during the month  
21 of September. The committee may meet at additional times at the call  
22 of the director or upon a majority vote of the members. Meetings of  
23 the committee are subject to the open public meetings act.

24       (4) Not later than December 1, 1994, the advisory committee shall  
25 report to the agricultural committees of the house of representatives  
26 and senate its recommendations for long-term structure and funding of  
27 the dairy inspection program.

28       (5) This section shall expire June 30, 1995.

1       **Sec. 4.** RCW 15.36.080 and 1989 c 354 s 16 are each amended to read  
2 as follows:

3       (1) It shall be unlawful for any person to transport, or to sell,  
4 or offer for sale, or to have in storage where milk or milk products  
5 are sold or served, any milk or milk product defined in this chapter,  
6 who does not possess an appropriate permit from the director.

7       Every milk producer, milk distributor, milk hauler, and operator of  
8 a milk plant shall secure a permit to conduct such operation as defined  
9 in this chapter. Only a person who complies with the requirements of  
10 this chapter shall be entitled to receive and retain such a permit.  
11 Permits shall not be transferable with respect to persons and/or  
12 locations.

13       (2) Until June 30, 1995, a license fee is established for permits  
14 to operate a milk plant. The fee shall accompany the initial  
15 application and shall be renewed annually. The license fee is  
16 determined by computing the gross annual value of products processed at  
17 the milk plant for the accounting year immediately preceding the  
18 license year. If the license is for a new operator, the operator shall  
19 estimate the gross annual value of products anticipated for the initial  
20 license year.

21 <u>If gross annual values are:</u>	<u>The license fee is:</u>
22 <u>\$0 to \$50,000</u>	<u>\$50.00</u>
23 <u>\$50,001 to \$500,000</u>	<u>\$100.00</u>
24 <u>\$500,001 to \$1,000,000</u>	<u>\$200.00</u>
25 <u>\$1,000,001 to \$5,000,000</u>	<u>\$350.00</u>
26 <u>\$5,000,001 to \$10,000,000</u>	<u>\$500.00</u>
27 <u>Greater than \$10,000,001</u>	<u>\$750.00</u>

28       This subsection shall expire June 30, 1995.

1       (3) Such a permit may be temporarily suspended by the director upon  
2 violation by the holder of any of the terms of this chapter, or for  
3 interference with the director in the performance of his duties, or  
4 revoked after an opportunity for a hearing by the director upon serious  
5 or repeated violations.

6       NEW SECTION.   **Sec. 5.** A new section is added to chapter 69.07 RCW  
7 to read as follows:

8       The legislature finds that an adequate food processing inspection  
9 program administered by the department is essential for the protection  
10 of the public health and to maintain the marketability of processed  
11 foods within the state and in out-of-state markets. The legislature  
12 finds that sharing of the costs of the program as well as the benefits  
13 between the public and the regulated industry is justified in order to  
14 maintain an adequate program.

15       **Sec. 6.** RCW 69.07.040 and 1991 c 137 s 3 are each amended to read  
16 as follows:

17       It shall be unlawful for any person to operate a food processing  
18 plant or process foods in the state without first having obtained an  
19 annual license from the department, which shall expire on a date set by  
20 rule by the director. License fees shall be prorated where necessary  
21 to accommodate staggering of expiration dates. Application for a  
22 license shall be on a form prescribed by the director and accompanied  
23 by ~~((a twenty-five dollar annual))~~ the license fee. The license fee is  
24 determined by computing the gross annual sales for the accounting year  
25 immediately preceding the license year. If the license is for a new  
26 operator, the license fee shall be based on an estimated gross annual  
27 sales for the initial license period.

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

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

24 Licenses shall be issued to cover only those products, processes,  
25 and operations specified in the license application and approved for  
26 licensing. Wherever a license holder wishes to engage in processing a  
27 type of food product that is different than the type specified on the  
28 application supporting the licensee's existing license and processing  
29 that type of food product would require a major addition to or

1 modification of the licensee's processing facilities or has a high  
2 potential for harm, the licensee shall submit an amendment to the  
3 current license application. In such a case, the licensee may engage  
4 in processing the new type of food product only after the amendment has  
5 been approved by the department.

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

11 **Sec. 7.** RCW 69.07.050 and 1991 c 137 s 4 are each amended to read  
12 as follows:

13 If the application for renewal of any license provided for under  
14 this chapter is not filed prior to the expiration date as established  
15 by rule by the director, an additional fee of (~~fifteen dollars~~) ten  
16 percent of the cost of the license shall be assessed and added to the  
17 original fee and shall be paid by the applicant before the renewal  
18 license shall be issued: PROVIDED, That such additional fee shall not  
19 be charged if the applicant furnishes an affidavit certifying that he  
20 or she has not operated a food processing plant or processed foods  
21 subsequent to the expiration of his or her license.

22 **Sec. 8.** RCW 69.07.120 and 1967 ex.s. c 121 s 12 are each amended  
23 to read as follows:

24 All moneys received by the department under the provisions of this  
25 chapter shall be paid into the (~~state treasury~~) food processing  
26 inspection account within the agricultural local fund established in  
27 RCW 43.23.230 and shall be used solely to carry out the provisions of  
28 this chapter.