

HOUSE BILL REPORT

SSB 6096

As Reported By House Committee On:
Agriculture & Rural Development

Title: An act relating to milk and milk products.

Brief Description: Making major changes to milk and milk products regulations.

Sponsors: Senate Committee on Agriculture (originally sponsored by Senators M. Rasmussen, Anderson, Newhouse, Snyder, Morton, Bauer and Quigley).

Brief History:

Reported by House Committee on:
Agriculture & Rural Development, February 23, 1994, DP.

HOUSE COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT

Majority Report: Do pass. Signed by 9 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Chandler, Ranking Minority Member; Schoesler, Assistant Ranking Minority Member; Chappell; Grant; Karahalios; McMorris and Roland.

Staff: Kenneth Hirst (786-7105).

Background: To protect consumers, the Washington State Department of Agriculture regulates the production of milk and milk products in this state. Dairies and dairy products are regulated under one chapter of the law, and fluid milk is regulated under another. These chapters are similar in construction and each has a number of provisions which have been effectively superseded by federal law.

The federal Public Health Service, Food and Drug Administration, has adopted the "Grade A Pasteurized Milk Ordinance," commonly referred to as the "PMO." The PMO is frequently recognized as constituting a national standard for milk sanitation. It is the basic standard used in the certification program for interstate milk shippers. It also applies in federal procurement of milk and milk products and service of milk or milk products on interstate carriers.

Summary of Bill: The dairy and milk statutes are consolidated. Licenses and permits required under the current laws are now uniformly referred to as licenses.

Pasteurized Milk Ordinance (PMO). The Director of Agriculture may adopt by reference the federal PMO for grade "A" milk, the federal sanitation ordinance for condensed and dry milk products and whey, and supplemental documents as a means of establishing requirements for grade "A" pasteurized and raw milk. The director may adopt standards that are more stringent than those in the PMO in certain instances. For milk to be considered to be grade "A" milk, it must be produced on farms that conform to the sanitation requirements of the PMO. Similarly, for a processing plant to be considered to be a grade "A" milk processing plant, it must conform to the standards set in the PMO. Milk is considered to be adulterated if it is deemed adulterated under the PMO.

The requirements of the PMO regarding personnel health apply expressly to the personnel of dairy farms and milk processing plants under state law.

Milk and milk products imported from out-of-state must satisfy the requirements of the PMO.

The types of milk products that must be sampled are specified. The requirement of current law that four samples be taken in a six-month period now expressly applies to each of these types of products, and the samples must be taken in at least four separate months. The lab tests of these samples must be conducted in conformity with the PMO. The purpose of a test that may be conducted on a sample is broadened to include any test to ensure compliance.

The criteria to be used for follow-up testing for antibiotic, pesticide, or other drug residue violations are no longer provided by statute; they are those provided by the PMO.

Licenses. Only one license is required under the milk laws for a milk processor to process milk, even if various types of milk or various processes are used. However, the milk processor's license must contain an endorsement from the department for each type of milk and process used. Further, the products, operations, and processes approved under a license are those specified in the application for the license or in the amendments to the application. A processor licensed under the milk laws cannot be required to obtain a milk distributor's license or food processing license. The annual fee for a milk processing license is \$25.

A license is required for a facility at which milk tanker trucks are cleaned in accordance with federal milk

standards. A milk producer license and a milk hauler's license are specified.

A license issued under the dairy and milk laws may be suspended or denied by the director for: a violation of the dairy and milk laws; interference with the performance of the director's duties; or negligence, misconduct or lack of qualification in the discharge of a licensee's duties. A license may be revoked for serious or repeated violations of these laws or for failure to correct a problem which has been the cause of 30 continuous days of suspension of the license.

The circumstances under which a hearing must be held before a license is suspended or revoked are listed. A hearing need not be held in the following circumstances: (1) when a dairy farm license is summarily suspended for a repeated grade violation found during a reinspection for the violation; (2) where a milk producer's or milk processing plant's license is summarily suspended for violating, in three of the last five samples of a second round of sampling, the same standard violated in an initial sampling of the milk or milk product; or (3) a milk processing plant's license is summarily suspended because the operation constitutes an immediate danger to the public or because the licensee or an employee of the licensee prevents the director from determining that such a danger exists. In the latter case, processing operations must cease immediately; however, the director may reinstate the processor's license if the condition causing the suspension is abated to the director's satisfaction.

Other. The frequency for inspecting dairy farms is to be set by rule. (A minimum frequency is currently set by statute.) Access to the facilities of producers and distributors is limited to working hours, including 8 a.m. to 5 p.m.

Provisions of current law which prohibit taking or delivering unfair, fraudulent or manipulated samples of milk or cream now apply to samples of any milk product. Food retailers and eating establishments must maintain milk at 45 degrees Fahrenheit (rather than 50 degrees Fahrenheit) or less. A prohibition of current law against selling adulterated milk or milk products in a fluid state for direct consumption now applies expressly to all milk and milk products. A prohibition against selling cow or goat milk from diseased animals now applies to milk from any diseased mammal.

The director is granted express authority to set standards and requirements for the production of grade "C" milk and milk products.

A person receiving packaged dairy products in containers bearing the registered name or trademark of the owner must return the containers to the owner. If the director returns the containers, the owner must pay the expenses incurred by the director.

All violations of the milk and dairy laws are no longer misdemeanors.

Repealers. Statutes are repealed that prescribe standards and requirements for: dairy barns, stables, cow yards, milk houses and rooms, dairy farm and milk plant toilets and water supplies, milk cooling requirements, milk tanks and equipment at dairies and milk plants, milk handling and storage rooms, milk cow sanitation, sanitation and health requirements for milking and for milk plant personnel, milk transportation and packaging equipment, and milk plants and milk handling devices. Also repealed is an exemption from these requirements provided to dairies and milk plants in operation before June 1949 (unless extensively altered).

Provisions of current law are repealed that: expressly require the director to inspect places where milk products are sold; regulate the labelling of butter and of renovated and reworked butter and imitation cheese and set general labelling requirements for dairy products; regulate the use of the name of cattle breeds in labelling milk and milk products; permit the registration of product labelling "brands" and prohibit the alteration or removal of such brands; limit the circumstances under which a milk producer is liable for the quality of the milk produced; limit the penalties that may be levied against an inspector for connivance; regulate the removal of products from a quarantined area; specify the duties of a dairy technician; prescribe penalties for employing an unlicensed dairy technician; prescribe procedures to be used in taking samples; require two samples to be taken, one for analysis and one to be given to the person whose product is being sampled; prohibit price fixing; and set treatment standards for pasteurization and phosphatase and bacterial standards for pasteurized products.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The present law is duplicative and confusing and needs to be updated, particularly with respect to the PMO.

Testimony Against: None.

Witnesses: In Favor: Senator M. Rasmussen, prime sponsor; John Daly and Verne Hedlund, Department of Agriculture; and Dan Coyne, Washington State Dairy Federation and Darigold.