
**Economic Development,
Agriculture & Trade Committee**

SSB 6377

Brief Description: Changing the regulation of milk and milk products.

Sponsors: Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Doumit, Rasmussen, Schoesler, Swecker, Morton, Zarelli, Shin and Pflug).

Brief Summary of Substitute Bill

- Declares it unlawful for any person to operate as a milk producer or milk processing plant without obtaining a license, or to sell raw milk from a dairy farm that is not so licensed.
- Authorizes the Director of the Department of Agriculture to take specified enforcement actions under certain conditions, and the person served to contest such actions through adjudicative proceedings.
- Prescribes penalties for selling raw milk from an unlicensed dairy farm.

Hearing Date: 2/15/06

Staff: Meg Van Schoorl (786-7105).

Background:

The sale of raw milk by licensed milk producers and milk processing plants is legal in Washington for three purposes: further processing, human consumption, or animal feed. All raw milk sold must meet the statutory requirements for Grade A milk, and must meet additional bacterial and animal health testing and labeling requirements.

Under the Department of Agriculture's (Department) Milk Producer license (no annual fee), a farmer may sell raw milk to milk processing plants, food processors, or into the general milk pool for further processing. Under the Department's Milk Processing Plant license (\$55 annual fee), a person or company may sell raw milk directly to consumers for human consumption. Under the Department's Animal Feed license (\$25 annual fee), a farmer may sell raw milk for animal feed, as long as certain labeling requirements are met.

"Cow shares," "farm shares," or similar agreements are arrangements in which one or more individuals purchase one or more shares in a milk-producing animal in return for a portion of the milk that is produced.

Summary of Bill:

Raw milk and raw milk products, including arrangements known as "cow shares," are regulated under the state milk and milk products law. The intent of this act is not to ban the sale of raw milk or to prohibit cow shares or similar arrangements by properly licensed producers and processors. It is, however, unlawful to operate as a milk producer or milk processor without obtaining a license from the Department, or to sell raw milk from a dairy farm that is not licensed as a milk producer or milk processing plant.

A "producer" is a person or organization who operates a dairy farm and provides, sells, or offers milk for sale. A "dairy farm" is a place where one or more cows, goats, or other mammals are kept and a part or all of the milk or milk products are sold or offered for sale. A "sale" is further defined to include distributing, dispensing, delivering, and supplying products. The customer of the producer or the dairy farm or the sale is not specified.

If the Director of the Department (Director) has information that a dairy farm or facility without a license is engaged in activities requiring a license under the state milk and milk products law, the Director will have:

- access to all parts of the farm or facility during working hours;
- access to customer lists, records of milk production, temperature, inspections and tests;
- authority to take samples of milk, milk products, water, and the environment; and,
- authority to apply to a court for a search warrant if denied access, and to issue a cease and desist order.

Having probable cause to believe that milk or milk products are being sold, distributed, stored, or transported in violation of the state dairy law or rules, the Director may:

- issue and serve a written notice of embargo and order prohibiting their sale; and
- issue a destruction and disposal order, carried out at the owner or custodian's expense.

These orders and embargoes may be contested in an adjudicative proceeding by the person served; however, if a state court finds probable cause, recovery of damages will not be allowed.

Selling raw milk from a dairy farm that is not licensed as a milk producer or milk processing plant is a gross misdemeanor for the first offense, and a class C felony for second and subsequent offenses. Civil penalties and cease and desist orders are in addition to criminal liability.

Appropriation: None.

Fiscal Note: Available on original bill. Requested for substitute bill on February 13, 2006.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.