

**ESSB 6388** - H COMM AMD

By Committee on Appropriations Subcommittee on General Government  
& Information Technology

**ADOPTED AND ENGROSSED 3/7/14**

1       Strike everything after the enacting clause and insert the  
2 following:

3       "NEW SECTION. **Sec. 1.** The legislature finds that the availability  
4 of affordable, fresh, and nourishing foods is essential for individuals  
5 to maintain a healthy lifestyle. The legislature also finds that new  
6 methods of purchasing and delivering fresh, nourishing foods are  
7 emerging and lowering the costs of these foods. The legislature  
8 further finds that some of the new business models for purchasing and  
9 delivering fresh, nourishing foods are being inappropriately classified  
10 as food service establishments. Therefore, it is the intent of the  
11 legislature to establish a direct seller license for businesses that  
12 sell and collect payment only through a web site for prepackaged foods  
13 obtained from a food processor either licensed or inspected, or both,  
14 by a state or federal regulatory agency and that deliver the food  
15 directly to consumers without any interim storage.

16       NEW SECTION. **Sec. 2.** A new section is added to chapter 69.04 RCW  
17 to read as follows:

18       (1) The department shall issue a license to operate as a direct  
19 seller to any entity that:

20       (a) Submits a completed application on forms approved by the  
21 department;

22       (b) Provides the department with a list of all leased, rented, or  
23 owned vehicles, other than vehicles that are rented for less than  
24 forty-five days, used by the applicant's business to deliver food;

25       (c) Maintains all records of vehicles that are rented for less than  
26 forty-five days for at least twelve months following the termination of  
27 the rental period;

28       (d) Maintains food temperature logs or uses a device to monitor the

1 temperature of the packages in real time for all food while in  
2 transport; and

3 (e) Submits all appropriate fees to the department.

4 (2) The department shall develop, by rule, an annual license and  
5 renewal fee to defray the costs of administering the licensing and  
6 inspection program created by this section. All moneys received by the  
7 department under the provisions of this section must be paid into the  
8 food processing inspection account created in RCW 69.07.120 and must be  
9 used solely to carry out the provisions of this section.

10 (3)(a) A licensed direct seller is required to protect food from  
11 contamination while in transport. Food must be transported under  
12 conditions that protect food against physical, chemical, and microbial  
13 contamination, as well as against deterioration of the food and its  
14 container.

15 (b) Compliance with this subsection (3) requires, but is not  
16 limited to, the separation of raw materials in such a fashion that they  
17 avoid cross-contamination of other food products, particularly ready-  
18 to-eat food. An example of this principle includes ensuring that,  
19 during the transport of raw fish and seafood, meat, poultry, or other  
20 food which inherently contains pathogenic and spoilage microorganisms,  
21 soil, or other foreign material, the raw materials may not come into  
22 direct contact with other food in the same container or in any other  
23 cross-contaminating circumstance.

24 (4) In the event of a food recall or when required by the  
25 department, a federal, state, or local health authority in response to  
26 a food borne illness outbreak, a licensed direct seller shall use its  
27 client listserv to notify customers of the recall and any other  
28 relevant information.

29 (5) In the implementation of this section, the department shall:

30 (a) Conduct inspections of vehicles, food handling areas,  
31 refrigeration equipment, and product packaging used by a licensed  
32 direct seller;

33 (b) Conduct audits of temperature logs and other food handling  
34 records as appropriate;

35 (c) Investigate any complaints against a licensed direct seller for  
36 the failure to maintain food safety; and

37 (d) Adopt rules, in consultation with the department of health and

1 local health jurisdictions, necessary to administer and enforce the  
2 program consistent with federal regulations.

3 (6) Direct sellers that have a license from the department under  
4 this section are exempt from the permitting requirements of food  
5 service rules adopted by the state board of health and any local health  
6 jurisdiction.

7 (7) The director may deny, suspend, or revoke any license provided  
8 under this section if the director determines that an applicant or  
9 licensee has committed any of the following:

10 (a) Refused, neglected, or failed to comply with the provisions of  
11 this section, the rules and regulations adopted under this section, or  
12 any order of the director;

13 (b) Refused, neglected, or failed to keep and maintain records  
14 required by this chapter, or refused the department access to such  
15 records;

16 (c) Refused the department access to any portion or area of  
17 vehicles, food handling areas, or any other areas or facilities housing  
18 equipment or product packaging used by the direct retailer in the  
19 course of performing business responsibilities; or

20 (d) Failed to submit an application for a license meeting the  
21 requirements of this section or failed to pay the appropriate annual  
22 license or renewal fee.

23 (8) The definitions in this subsection apply throughout this  
24 section unless the context clearly requires otherwise:

25 (a) "Department" means the department of agriculture.

26 (b) "Direct seller" means an entity that receives prepackaged food  
27 from a food processor that is either licensed or inspected, or both, by  
28 a state or federal regulatory agency or the department and that  
29 delivers the food directly to consumers who only placed and paid for an  
30 order on the entity's web site, as long as:

31 (i) The food is delivered by the entity without opening the  
32 packaging and without dividing it into smaller packages;

33 (ii) There is no interim storage by the entity; and

34 (iii) The food is delivered by means of vehicles that are equipped  
35 with either refrigeration or freezer units, or both, and that meet the  
36 requirements of rules authorized by this chapter.

1       **Sec. 3.** RCW 69.07.120 and 2011 c 281 s 12 are each amended to read  
2 as follows:

3       All moneys received by the department under the provisions of this  
4 chapter, section 2 of this act, and chapter 69.22 RCW shall be paid  
5 into the food processing inspection account hereby created within the  
6 agricultural local fund established in RCW 43.23.230 and shall be used  
7 solely to carry out the provisions of this chapter, section 2 of this  
8 act, and chapters 69.22 and 69.04 RCW."

9       Correct the title.

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