

# HOUSE BILL REPORT

## SB 5139

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**As Passed House:**  
April 3, 2013

**Title:** An act relating to milk and milk products.

**Brief Description:** Concerning milk and milk products.

**Sponsors:** Senators Hatfield, Schoesler, Hobbs, Honeyford and Shin.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/21/13, 3/20/13 [DP].

**Floor Activity:**

Passed House: 4/3/13, 97-0.

**Brief Summary of Bill**

- Clarifies sampling requirements by differentiating sampling from producer and processors.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 14 members: Representatives Blake, Chair; Lytton, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Buys, Dunshee, Haigh, Hurst, Kretz, Orcutt, Pettigrew, Schmick, Stanford and Warnick.

**Staff:** Cherlyn Walden (786-7296).

**Background:**

The Washington State Department of Agriculture (WSDA) protects the public from milk and milk products that are unsafe; are produced under unsanitary conditions; do not meet bacterial standards under the pasteurized milk ordinance (PMO) published by the United States Public Health Service, Food and Drug Administration (FDA); or fall below federal and state quality standards by requiring licensing of all aspects of the dairy production and processing industry.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Grade "A" PMO is published by the FDA. The PMO is the basic standard used in the voluntary Cooperative State-FDA Program for the Certification of Interstate Milk Shippers. Among other things, the PMO establishes the standards for Grade "A" milk processing plants, Grade "A" pasteurized milk, and Grade "A" raw milk as these terms are defined in Washington. It is the standard for interstate milk shipments.

The WSDA samples raw milk and raw milk for pasteurization. Sampling must occur at least four times in any consecutive six-month period, each sample being collected in at least four separate months. If any of the standards are not met in two of the last four consecutive tests, the WSDA must send notice to the person concerned. Another sampling must be taken after notice is sent, but it must be taken at least three days later. If three of the last five consecutive samples exceed the limit of the same standard, then the WSDA may degrade the milk, suspend the producer's or processing plant's license, or assess civil penalties.

Degrading milk means changing its grade from Grade "A" to Grade "C". Grade "C" milk may be sold for cheese-making but not sold as fluid milk or Grade "A" milk products. When a license is revoked, the milk may not be sold at all. A producer or processing plant may apply for the re-grading of its products or the reinstatement of its license. The WSDA must then take further samples, not more than two samples per week, to confirm that all violations are corrected. If so, the WSDA must reinstate the grade or license.

The maximum civil penalty for standards violations is \$1,000 per day per violation. The WSDA must adopt rules to ensure that the penalties are equitably based on the volume of milk or milk product that fails to meet the standards. When the standards for antibiotics, pesticides, or other drug residues are violated, the producer is subject to a civil penalty of one-half the value of the sum of the volumes of milk produced on the day before and the day of the adulteration.

The authority to assess civil penalties for noncompliance with grade requirements and for violation of standards for raw milk and raw milk for pasteurization must be consistent with the PMO. The WSDA has adopted the 2007 Revision of the Grade "A" PMO.

### **Summary of Bill:**

The sampling requirements are clarified by explicitly differentiating sampling milk from producers and from processors. Samples are taken to determine compliance with bacteriological and cooling temperature standards. The WSDA is still required to take at least four samples in any consecutive six-month period; however, if a single sample exceeds required standards, the WSDA must send notice to the producer or processor. The WSDA is no longer required to take an additional sample after sending notice or wait three days before taking an additional sample after notice, if one is taken. The WSDA may initiate proceedings to degrade or suspend the milk producer's or processor's license and may assess a civil penalty upon subsequent violations.

Rulemaking is permissive for the creation of a matrix for assessment of civil penalties. Civil penalties no longer have to be based on volume of milk handled. The WSDA may impose civil penalties for violations of the standards for component parts of fluid dairy products.

The civil penalty sections referring to the 1995 PMO and the limitation of \$10,000 on the penalty for the violation of the standards for the components of fluid milk and the specifics of its administration are repealed.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The bill streamlines the procedures for the degrade of milk, aligns with federal regulations, and has been agreed upon by milk producers across the state.

(Opposed) None.

**Persons Testifying:** Mark Strueli, Washington State Department of Agriculture; and Ben Bucholz, Darigold.

**Persons Signed In To Testify But Not Testifying:** None.