
ENGROSSED SUBSTITUTE HOUSE BILL 2748

State of Washington

63rd Legislature

2014 Regular Session

By House Appropriations Subcommittee on General Government & Information Technology (originally sponsored by Representative Hudgins)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to fees assessed by the department of agriculture;
2 amending RCW 15.36.051, 15.36.081, 15.36.491, 15.36.525, 15.36.551, and
3 69.07.040; adding a new section to chapter 15.36 RCW; creating new
4 sections; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that section
7 309(4), chapter 4, Laws of 2013 2nd sp. sess. directed the department
8 of agriculture to convene and facilitate a work group with appropriate
9 stakeholders to review fees supporting programs within the department
10 that are also supported with the state general fund.

11 (2) The legislature further finds that with the help of a
12 consulting firm, the department of agriculture identified fees in the
13 food safety and animal health programs that met the budget proviso
14 criteria. The department then formed a work group with representatives
15 from dairy, food processing, and other relevant professional
16 associations.

17 (3) The legislature further finds that the work group's final
18 report recommends fee increases for fees that do not completely cover
19 the costs of services provided and that will make programs within the

1 department of agriculture less reliant on the state general fund.
2 Therefore, the legislature intends to implement the recommendations of
3 the work group's report.

4 NEW SECTION. **Sec. 2.** (1) The legislature finds that there are
5 department of agriculture fees in addition to those included in this
6 act that would be worthwhile for the work group to review and
7 encourages the department of agriculture to continue to convene the
8 work group as often as it is practical to do so. At a minimum, the
9 department shall convene and facilitate a sub-work group with
10 appropriate stakeholders to review fee categories under the food safety
11 program in order to determine which entities may require additional
12 resources for compliance under the federal food safety modernization
13 act. The sub-work group shall review those currently regulated by the
14 state and those that may require department oversight in the future.
15 The sub-work group shall, consistent with RCW 43.01.036, report back to
16 the legislature by December 1st each year until 2018.

17 (2) This section expires June 30, 2019.

18 **Sec. 3.** RCW 15.36.051 and 2005 c 414 s 1 are each amended to read
19 as follows:

20 (1) A milk processing plant must obtain an annual milk processing
21 plant license from the department, which shall expire on June 30th of
22 each year. A milk processing plant may choose to process ~~((+1))~~: (a)
23 Grade A milk and milk products~~((τ))~~i or ~~((+2))~~ (b) other milk products
24 that are not classified grade A.

25 (2) Only one license may be required to process milk; however, milk
26 processing plants must obtain the necessary endorsements from the
27 department in order to process products as defined for each type of
28 milk or milk product processing. Application for a license shall be on
29 a form prescribed by the director and accompanied by ~~((a-fifty-five
30 dollar))~~ an annual license fee. The amount of the annual license fee
31 under this section is one hundred fifty dollars until June 30, 2016,
32 and two hundred fifty dollars beginning July 1, 2016. The applicant
33 shall include on the application the full name of the applicant for the
34 license and the location of the milk processing plant he or she intends
35 to operate and any other necessary information. Upon the approval of
36 the application by the director and compliance with the provisions of

1 this chapter, including the applicable rules adopted under this chapter
2 by the department, the applicant shall be issued a license or a renewal
3 of a license.

4 (3) Licenses shall be issued to cover only those products,
5 processes, and operations specified in the license application and
6 approved for licensing. If a license holder wishes to engage in
7 processing a type of milk product that is different than the type
8 specified on the application supporting the licensee's existing license
9 and processing that type of food product would require a major addition
10 to or modification of the licensee's processing facilities, the
11 licensee shall submit an amendment to the current license application.
12 In such a case, the licensee may engage in processing the new type of
13 milk product only after the amendment has been approved by the
14 department.

15 (4) A licensee under this section shall not be required to obtain
16 a food processing plant license under chapter 69.07 RCW to process milk
17 or milk products.

18 (5) The director shall waive the fee for a food processing license
19 under chapter 69.07 RCW for persons who are also licensed as a milk
20 processing plant.

21 **Sec. 4.** RCW 15.36.081 and 1999 c 291 s 5 are each amended to read
22 as follows:

23 (1) A dairy technician must obtain a dairy technician's license to
24 conduct operations under this chapter. Such license shall be limited
25 to those functions which the licensee has been found qualified to
26 perform. Before issuing the license the director shall assess the
27 applicant's qualifications and may test the applicant for the functions
28 for which application has been made.

29 (2) Application for a license as a dairy technician shall be made
30 upon forms provided by the director, and shall be filed with the
31 department. The director may issue a temporary license to the
32 applicant for such period as may be prescribed and stated in the
33 license, not to exceed sixty days, but the license may not be renewed
34 to extend the period beyond sixty days.

35 (3) The initial application and renewal for a dairy technician's
36 license must be accompanied by a license fee of ~~((ten dollars. The fee~~

1 ~~for renewal of the license is five~~) twenty-five dollars. All dairy
2 technicians' licenses shall expire on December 31~~st~~ of (~~odd-numbered~~
3 ~~years~~) each year.

4 (4) The initial application for any endorsement beyond a dairy
5 technician's license must be accompanied by an endorsement fee of
6 twenty-five dollars.

7 **Sec. 5.** RCW 15.36.491 and 2005 c 414 s 4 are each amended to read
8 as follows:

9 All moneys received for licenses under this chapter shall be
10 deposited (~~in the general fund, except that all moneys received for~~
11 ~~annual milk processing plant licenses under RCW 15.36.051 shall be~~
12 ~~deposited~~) in the agricultural local fund established under RCW
13 43.23.230.

14 **Sec. 6.** RCW 15.36.525 and 1999 c 291 s 25 are each amended to read
15 as follows:

16 The department may issue sanitary certificates to milk processing
17 plants under this chapter subject to such requirements as it may
18 establish by rule. The fee for issuance is (~~fifty~~) seventy-five
19 dollars per certificate. Fees collected under this section shall be
20 deposited in the agricultural local fund.

21 **Sec. 7.** RCW 15.36.551 and 2010 c 17 s 1 are each amended to read
22 as follows:

23 (1) There is levied on all milk processed in this state an
24 assessment not to exceed fifty-four one-hundredths of one cent per
25 hundredweight. The director shall determine, by rule, an assessment,
26 that with contribution from the general fund, will support an
27 inspection program to maintain compliance with the provisions of the
28 pasteurized milk ordinance of the national conference on interstate
29 milk shipment.

30 (2) All assessments under this section shall be levied on the
31 operator of the first milk processing plant receiving the milk for
32 processing. This (~~shall~~) includes milk processing plants that
33 produce their own milk for processing and milk processing plants that
34 receive milk from other sources.

1 (~~Milk processing plants whose monthly assessment for receipt of~~
2 ~~milk totals less than twenty dollars in any given month are exempted~~
3 ~~from paying this assessment for that month.~~)

4 (3) All moneys collected under this section shall be paid to the
5 director (~~by the twentieth day of the succeeding month for the~~
6 ~~previous month's assessments~~) according to the following schedule:

7 (a) If the monthly amount of the assessment under this section is
8 twenty dollars or more, all moneys collected under this section shall
9 be paid to the director by the twentieth day of the succeeding month
10 for the previous month's assessment.

11 (b) If the monthly amount of the assessment under this section is
12 less than twenty dollars but the quarterly amount is more than twenty
13 dollars, all moneys collected under this section may, at the discretion
14 of the milk processing plant, be paid to the director by the twentieth
15 day of the first month of the succeeding quarter for the previous
16 quarter's assessments. If the assessment required under this section
17 is not paid by quarter consistent with this subsection (3)(b), it shall
18 be paid to the director by the twentieth day of the succeeding month
19 for the previous month's assessment.

20 (c) If the quarterly amount of the assessment under this section is
21 less than twenty dollars, all money collected under this section may be
22 paid to the director by the twentieth of January of the succeeding year
23 for the previous year's assessment. If the assessment required under
24 this section is not paid by year consistent with this subsection
25 (3)(c), it shall be paid to the director by the twentieth day of the
26 succeeding month for the previous month's assessment.

27 (4) The director shall deposit the funds into the dairy inspection
28 account hereby created within the agricultural local fund established
29 in RCW 43.23.230. (~~The funds shall~~) All funds collected under this
30 section may only be used (~~only~~) to provide inspection services to the
31 dairy industry.

32 (5) If the operator of a milk processing plant fails to remit any
33 assessments, that sum shall be a lien on any property owned by (~~him or~~
34 her) the operator, and (~~shall~~) must be reported by the director and
35 collected in the manner and with the same priority over other creditors
36 as prescribed for the collection of delinquent taxes under chapters
37 84.60 and 84.64 RCW.

38 (6) This section expires June 30, (~~2015~~) 2020.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 15.36 RCW
2 to read as follows:

3 The department may, upon inspection, assess an inspection fee on
4 any manufacturing facility that is required to be inspected under the
5 PMO and does not satisfy the definition of "milk processing plant" as
6 defined in this chapter, "food processing plant" as defined in RCW
7 69.07.010, or "food storage warehouse" as defined in RCW 69.10.005.

8 The inspection fee is determined by computing the gross annual
9 sales for the accounting year immediately preceding the inspection
10 year. If the inspection is for a new operator, the inspection fee must
11 be based on an estimated gross annual sales for the initial inspection
12 period.

13	If gross annual sales are:	The license fee is:
14	\$0 to \$50,000	\$92.00
15	\$50,001 to \$500,000	\$147.00
16	\$500,001 to \$1,000,000	\$262.00
17	\$1,000,001 to \$5,000,000	\$427.00
18	\$5,000,001 to \$10,000,000	\$585.00
19	Greater than \$10,000,000	\$862.00

20 **Sec. 9.** RCW 69.07.040 and 1995 c 374 s 21 are each amended to read
21 as follows:

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

33	If gross annual sales are:	The license fee is:
34	\$0 to \$50,000	\$(55.00) <u>92.00</u>
35	\$50,001 to \$500,000	\$(110.00) <u>147.00</u>
36	\$500,001 to \$1,000,000	\$(220.00) <u>262.00</u>

1	\$1,000,001 to \$5,000,000	\$((385.00)) <u>427.00</u>
2	\$5,000,001 to \$10,000,000	\$((550.00)) <u>585.00</u>
3	Greater than \$10,000,000	\$((825.00)) <u>862.00</u>

4 ((~~Such application shall~~)) (2) Applications under this section must
5 include:

6 (a) The full name of the applicant for the license and the location
7 of the food processing plant he or she intends to operate(~~(. If~~
8 ~~such))~~, and if the applicant is an individual, receiver, trustee, firm,
9 partnership, association, or corporation, the full name of each member
10 of the firm or partnership, or names of the officers of the association
11 or corporation (~~shall be given on the application. Such application~~
12 ~~shall further state));~~

13 (b) The principal business address of the applicant in the state
14 and elsewhere and the name of a person domiciled in this state
15 authorized to receive and accept service of summons of legal notices of
16 all kinds for the applicant(~~(. The application shall also specify));~~
17 and

18 (c) The type of food to be processed and the method or nature of
19 processing operation or preservation of that food and any other
20 necessary information.

21 (3) Upon the approval of the application by the director and
22 compliance with the provisions of this chapter, including the
23 applicable regulations adopted (~~hereunder~~) by the department, the
24 applicant shall be issued a license or renewal (~~thereof~~).

25 (4) Licenses shall be issued to cover only those products,
26 processes, and operations specified in the license application and
27 approved for licensing. Wherever a license holder wishes to engage in
28 processing a type of food product that is different than the type
29 specified on the application supporting the licensee's existing license
30 and processing that type of food product would require a major addition
31 to or modification of the licensee's processing facilities or has a
32 high potential for harm, the licensee (~~shall~~) must submit an
33 amendment to the current license application. In such a case, the
34 licensee may engage in processing the new type of food product only
35 after the amendment has been approved by the department.

36 (5) If upon investigation by the director, it is determined that a
37 person is processing food for retail sale and is not under permit,

1 license, or inspection by a local health authority, then that person
2 may be considered a food processor and subject to the provisions of
3 this chapter.

4 (6) The director may waive the licensure requirements of this
5 chapter for a person's operations at a facility if the person has
6 obtained a milk processing plant license under chapter 15.36 RCW to
7 conduct the same or a similar operation at the facility.

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