
ENGROSSED SUBSTITUTE SENATE BILL 6388

State of Washington

63rd Legislature

2014 Regular Session

By Senate Ways & Means (originally sponsored by Senator Padden)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to pass-through food distributors; adding a new
2 section to chapter 69.04 RCW; and creating a new section.

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

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

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

1 (1) The department shall issue a license to operate as a pass-
2 through wholesale food distributor to any entity that:

3 (a) Submits a completed application on forms approved by the
4 department;

5 (b) Provides the department with a list of all leased, rented, or
6 owned vehicles used by the applicant's business to deliver food;

7 (c) Maintains food temperature logs or uses a device to monitor the
8 temperature of the packages in real time for all food while in
9 transport; and

10 (d) Submits all the appropriate fees to the department.

11 (2) By rule, the department shall develop an annual license and
12 renewal fee to defray the costs of administering the licensing and
13 inspection program created by this section. All moneys received by the
14 department under the provisions of this section must be paid into the
15 food processing inspection account within the agricultural local fund
16 and must be used solely to carry out the provisions of this section.

17 (3) A licensed pass-through wholesale food distributor shall
18 protect food from contamination while in transport. Food must be
19 transported under conditions that protect food against physical,
20 chemical, and microbial contamination, as well as against deterioration
21 of the food and its container. This includes, but is not limited to,
22 the separation of raw materials in such a fashion that they avoid
23 cross-contamination of other food products, particularly ready-to-eat
24 food. For example, during the transport of raw fish and seafood, meat,
25 poultry, and other food which inherently contains pathogenic and
26 spoilage microorganisms, as well as soil and other foreign material,
27 must not come into direct contact with other food in the same container
28 or in any other cross-contaminating circumstance.

29 (4) In the event of a food recall or when required by the
30 department, a federal, state, or local health authority in response to
31 a food borne illness outbreak, a licensed pass-through food distributor
32 shall use its client listserv to notify customers of the recall and any
33 other relevant information.

34 (5) The department shall:

35 (a) Conduct inspections of vehicles used by the entity, storage,
36 food handling areas, refrigeration equipment, and product packaging
37 used by the entity;

1 (b) Audits of temperature logs and other food handling records as
2 appropriate;

3 (c) Investigate any complaints against a licensed pass-through
4 wholesale food distributor for the failure to maintain food safety; and

5 (d) Adopt rules, in consultation with the department of health and
6 local health jurisdictions, necessary to administer and enforce the
7 program consistent with federal regulations.

8 (6) For the purposes of this section:

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

10 (b) "Pass-through food distributor" means an entity that receives
11 prepackaged food from a food processor either licensed or inspected, or
12 both, by a state or federal regulatory agency or department and that
13 delivers the food directly to consumers who only placed and paid for an
14 order on the entity's web site, without opening the packaging and
15 without dividing it into smaller packages and no interim storage by the
16 pass-through food distributor, and is delivered, by means of vehicles
17 that are equipped with either refrigeration or freezer units, or both,
18 and that meet the requirements of rules authorized by this chapter.
19 "Pass-through food distributor" includes an entity that, prior to
20 delivery to the consumer, temporarily stores the prepackaged food in a
21 food storage facility either licensed or inspected, or both, by a state
22 or federal regulatory agency or department.

23 (7) Pass-through food distributors that have a license from the
24 department under section 2 of this act are exempt from the permitting
25 requirements of food service rules adopted by the state board of health
26 and any local health jurisdiction.

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