

SENATE BILL REPORT

ESHB 2128

As of Second Reading

Title: An act relating to fees assessed by the department of agriculture.

Brief Description: Concerning fees assessed by the department of agriculture.

Sponsors: House Committee on General Government & Information Technology (originally sponsored by Representative Hudgins; by request of Department of Agriculture).

Brief History: Passed House: 6/29/15, 63-35.

Staff: Diane Smith (786-7410)

Background: In a budget proviso in the 2013-15 State Omnibus Appropriation Act, the Legislature directed the Washington State Department of Agriculture (WSDA) to convene a work group with appropriate stakeholders to review fees supporting WSDA programs that also receive state General Fund support. The resulting work group released a report in November 2013 that made a number of fee-specific recommendations, all of them in the Food Safety Program. This bill is based on the recommendations of the WSDA Fee Work Group report. Except as noted below, all fees are deposited into the agricultural local fund.

Milk and Milk Products. WSDA has responsibility to protect the public from milk or milk products that are unsafe, produced under unsanitary conditions, do not meet bacterial standards or are below federal quality standards. All aspects of dairy production and processing must be licensed.

To ship fluid milk and milk products across state lines, the WSDA administers a milk inspection program in accordance with standards established by the National Conference of Interstate Milk Shipments (NCIMS). A milk assessment fee is assessed to support the dairy inspection program, and to maintain compliance with the provisions of NCIMS and the Grade A Pasteurized Milk Ordinance (PMO). The current maximum assessment level is \$0.0054 per hundredweight of milk.

A milk processing plant must be licensed as well. The annual license fee is \$55.00. The fee for a sanitary certificate for a milk processing plant is \$50.00

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Dairy technicians must be licensed to conduct the functions for which the license is issued. Some of the functions performed by a dairy technician include operating pasteurization equipment, taking samples of milk for analysis, and grading milk, among other functions. Testing may be used to assess the applicant's qualifications. The license extends until the end of the next odd-numbered year. The application fee for the initial license is \$10.00 and \$5.00 for renewal.

All monies received for licenses must be deposited into the state General Fund except for funds received from the milk processing plant license.

Food Processing. To safeguard the public from unsafe, adulterated or misbranded food, WSDA must require licensing of all food processing plants. To this end, WSDA may adopt and must enforce rules applicable to any place where food is prepared, handled, or processed for distribution or sale for resale to the consumer. These rules may include various standards such as those used to establish temperature and purity of water used in processing foods; to control temperature for food storage; and to be used in processing low-acid foods related to temperature, time, and pressure.

Engaging in intrastate commerce in food processing without a license is unlawful. Penalties for violation can include a civil penalty not exceeding \$1,000.00 per violation per day as well as conviction for a misdemeanor or gross misdemeanor.

Specific exemptions include establishments otherwise licensed such as cottage food operations, honey, and eggs, among others. Waiver of licensing as a food processing plant is provided for licensed milk processing plants.

The licensing fee is based on annual gross sales and has six steps beginning at under \$50,000 having a fee of \$55.00 and culminating at greater than \$10,000,000 having a fee of \$825.00. All monies WSDA receives are deposited into the food processing inspection account within the agricultural local fund.

WSDA may issue sanitary certificates to food processors at a charge of \$50.00 per certificate. These charges are deposited into the agricultural local fund.

Food Storage Food storage warehouses are subject to inspection by WSDA for compliance with the Washington Food, Drugs, Cosmetics and Poisons Act (Act). This Act promotes uniformity in the administration and enforcement of the federal food, drug, and cosmetic act throughout the United States. Enforcement of the food storage warehouse licensing requirements includes all civil penalties provided in the Act. Under the Act, the civil penalty is up to \$1000.00 per violation per day

It is unlawful to operate a food storage warehouse without a license. Licensure may be waived for those firms otherwise licensed under the food processing or milk and milk products provisions, described above.

The annual license fee is \$50.00.

If WSDA finds, upon inspection of the food storage warehouse that it is operating under conditions that constitute an immediate danger to public health, among other acts, WSDA may summarily suspend the license and food distribution operations must immediately cease.

All licensing fees and other monies collected by WSDA are deposited into the agricultural local fund except for civil penalties which are deposited into the state General Fund.

Summary of Bill: The following WSDA fees are amended:

The milk processing plant license fee is raised from \$55.00 to \$250.00 per year.

The dairy technician's initial license fee is raised from \$10.00 to \$25.00, and the renewal fee is raised from \$5.00 to \$25.00 each odd-numbered year.

The sanitary certificate fees for milk processing plants and food processors are raised from \$50.00 to \$75.00 per certificate.

The range for food processing plant license fees, as based on gross annual sales, is raised from a minimum of \$55.00 and a maximum of \$825.00 per year to a minimum of \$92.00 and a maximum of \$862.00 per year.

The food storage warehouse fee is raised from \$50.00 to \$200.00 per year.

The following WSDA fees are created:

The fee for any endorsement, in addition to a dairy technician's license, is \$25.00 beginning July 1, 2015.

An inspection fee may be assessed by the WSDA for manufacturing facilities that must be inspected under the PMO but do not satisfy the definitions of "milk processing plant," "food processing plant," or "food storage warehouse" under current law.

Revenue from certain dairy-related licensing is redirected from the state General Fund to the agricultural local fund.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains two effective dates. Please refer to the bill.