

SENATE BILL REPORT

SB 6319

As Passed Senate, February 13, 2018

Title: An act relating to implementing the federal produce safety rule.

Brief Description: Implementing the federal produce safety rule.

Sponsors: Senators Honeyford and Van De Wege; by request of Department of Agriculture.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/25/18, 2/01/18 [DP].

Floor Activity:

Passed Senate: 2/13/18, 47-0.

Brief Summary of Bill

- Provides that the Washington State Department of Agriculture (WSDA) may take actions necessary to cooperate in the implementation of the Produce Safety Rule.
- Authorizes the WSDA to take certain actions in order to verify farm compliance with the Produce Safety Rule if federal funding is provided.
- Allows WSDA to establish a voluntary program for farms exempt or partially exempt from the Produce Safety Rule to verify that those farms comply with the rule.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass.

Signed by Senators Van De Wege, Chair; McCoy, Vice Chair; Warnick, Ranking Member; Honeyford and Nelson.

Staff: Karen Epps (786-7424)

Background: The WSDA Food Safety Program. The WSDA inspects and analyzes food products; inspects food processing, handling, and storage establishments and practices;

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inspects dairy farms and plants; inspects eggs for quality and weight standards; sets and enforces sanitary standards for egg graders; inspects refrigerated locker plants; inspects custom farm slaughterers and custom meat facilities; and licenses and supervises dairy technicians.

The WSDA Food Safety Program:

- protects and reduces public health risk by assuring the safety of the state's food supply;
- facilitates the movement of Washington agricultural products in domestic and international markets; and
- issues export certificates of sanitation and free sale for food products manufactured in Washington State.

Food businesses licensed by the state of Washington to produce, warehouse, process, market, sell and distribute product are required to follow the safe food production, management, and handling practice specified in the Washington Food, Drug & Cosmetic Act and other applicable federal and state food safety laws and regulations depending on the type of activity the food business performs.

The Federal Food Safety Modernization Act (FSMA). The FSMA was signed into law in 2011. This federal law is the first comprehensive update to federal food safety laws since 1938. It sets new standards for food handling across the food chain with rules for farms and food processors. Under the FSMA, the United States Food and Drug Administration (FDA) has adopted the Produce Safety Rule. The Produce Safety Rule sets forth new standards for growing, harvesting, packing, and holding produce. The Produce Safety Rule establishes six categories of requirements that must be met by farms subject to the rule: water quality; biological soil amendments; sprouts; domesticated and wild animals; worker training, health, and hygiene; and equipment, tools, and buildings.

Under the Produce Safety Rule, farms must document required food safety practices and make those records available to the FDA. In addition, the FDA claims the authority to inspect any farm for compliance with the new requirements. The standards apply to fruits and vegetables normally consumed raw, such as apples, carrots, lettuce, onions, and tomatoes. The Produce Safety Rule does not apply to produce rarely consumed raw or produce grown for personal consumption. Farms with an average of \$25,000 or less in annual produce sales are exempt from the Produce Safety Rule.

Public Records Act (PRA). The PRA, enacted in 1972 as part of Initiative 276, requires that all state and local government agencies make all public records available for public inspection and copying unless certain statutory exemptions apply. Over 500 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential.

Summary of Bill: The WSDA may take actions necessary to cooperate in the implementation of the Produce Safety Rule including conducting the compliance verification activities, enforcing regulatory compliance, and accepting federal funding to carry out these

activities. WSDA may cooperate with the FDA in implementation of the Produce Safety Rule only to the extent that WSDA receives federal funding for the activities.

WSDA may establish a voluntary program for farms exempt or partially exempt from the Produce Safety Rule. Farms participating in the voluntary compliance program must pay fees to cover the cost of the voluntary program.

The WSDA may take certain actions to verify produce farm compliance with the Produce Safety Rule, including:

- maintaining a database of produce farms that are covered by the Produce Safety Rule;
- entering produce farms to sample and test water for microbial water quality criteria;
- inspecting and sampling biological soil amendments, storage areas, and fields for compliance with microbial criteria;
- inspecting application of biological soil amendments to evaluate contact or potential contact with produce;
- inspecting for the presence and management of domesticated and wild animals; and
- inspecting equipment, tools, and buildings for adequate sanitation.

Additionally, WSDA may require and receive records and data submitted by produce farms to verify compliance with the Produce Safety Rule. Any information or record obtained directly from the federal government or from others under a contract with the federal government is exempt from public inspection and copying under the PRA if the information or record is exempt from disclosure under federal law. Any portion of a record obtained by WSDA is exempt from public inspection and copying under the PRA if it is personal financial information, proprietary data, or trade secrets and the person submitting the record to WSDA has designated the information as personal financial information, proprietary data, or trade secrets.

The WSDA is required to adopt rules as necessary to implement the Produce Safety Rule. A produce safety account is established in the agricultural local fund for the purpose of receiving funds in connection with the implementation of the Produce Safety Rule.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is very similar to what we have done when implementing other federal regulations. This bill allows the state agency to do inspections and enforce regulations rather than the federal government. Having state inspectors that know agriculture and the crops is a better system to use. One of the most significant new rules from FDA is the Produce Safety Rule, which has Washington growers facing new federal farm sanitary standards and a federal inspection program. Under this bill, a state-authorized inspection program is created that meets the federal standard. The WSDA is committed to helping Washington producers learn to meet these new standards and only

moving to enforcement when absolutely necessary. WSDA has a multi-year commitment from FDA in place that funds this work.

Persons Testifying: PRO: Senator Jim Honeyford, Prime Sponsor; Steve Fuller, WSDA; Jill Wischart, WSDA.

Persons Signed In To Testify But Not Testifying: No one.