
SENATE BILL 5379

State of Washington**53rd Legislature****1993 Regular Session**

By Senators M. Rasmussen, Barr, Loveland, Hochstatter and Winsley; by request of Department of Agriculture

Read first time 01/26/93. Referred to Committee on Agriculture.

1 AN ACT Relating to milk and milk products; amending RCW 15.32.010,
2 15.32.100, 15.32.110, 15.32.160, 15.32.510, 15.32.530, 15.32.580,
3 15.32.582, 15.32.610, 15.36.040, 15.36.070, 15.36.080, 15.36.100,
4 15.36.110, 15.36.300, 15.36.345, 15.36.470, 15.36.490, 15.36.500,
5 15.36.540, and 69.07.040; reenacting and amending RCW 15.36.115; adding
6 new sections to chapter 15.36 RCW; recodifying RCW 15.36.005,
7 15.36.011, 15.36.040, 15.32.010, 15.36.030, 15.36.055, 15.36.060,
8 15.36.070, 15.36.080, 15.36.100, 15.32.100, 15.32.110, 15.36.110,
9 15.36.115, 15.36.120, 15.36.140, 15.36.150, 15.32.160, 15.36.260,
10 15.36.265, 15.36.300, 15.36.345, 15.32.410, 15.32.420, 15.36.420,
11 15.32.450, 15.32.460, 15.36.460, 15.36.470, 15.36.480, 15.36.490,
12 15.36.500, 15.36.510, 15.32.510, 15.36.520, 15.36.530, 15.32.530,
13 15.36.540, 15.36.550, 15.32.550, 15.32.580, 15.32.582, 15.32.584,
14 15.32.600, 15.36.600, 15.32.610, 15.32.710, 15.32.720, 15.32.730,
15 15.32.900, 15.32.910, 15.36.105, and 15.36.107; and repealing RCW
16 15.32.051, 15.32.060, 15.32.070, 15.32.080, 15.32.090, 15.32.120,
17 15.32.130, 15.32.140, 15.32.150, 15.32.220, 15.32.250, 15.32.260,
18 15.32.330, 15.32.340, 15.32.360, 15.32.380, 15.32.430, 15.32.440,
19 15.32.490, 15.32.500, 15.32.540, 15.32.560, 15.32.570, 15.32.590,
20 15.32.620, 15.32.630, 15.32.660, 15.32.670, 15.32.680, 15.32.700,
21 15.32.740, 15.32.750, 15.32.755, 15.32.760, 15.32.770, 15.32.780,

1 15.32.790, 15.36.020, 15.36.075, 15.36.090, 15.36.155, 15.36.160,
2 15.36.165, 15.36.170, 15.36.175, 15.36.180, 15.36.185, 15.36.190,
3 15.36.195, 15.36.200, 15.36.205, 15.36.210, 15.36.215, 15.36.220,
4 15.36.225, 15.36.230, 15.36.235, 15.36.240, 15.36.245, 15.36.250,
5 15.36.255, 15.36.270, 15.36.280, 15.36.320, 15.36.325, 15.36.330,
6 15.36.335, 15.36.340, 15.36.350, 15.36.355, 15.36.360, 15.36.365,
7 15.36.370, 15.36.375, 15.36.380, 15.36.385, 15.36.390, 15.36.395,
8 15.36.400, 15.36.405, 15.36.410, 15.36.415, 15.36.425, 15.36.430,
9 15.36.440, 15.36.580, 15.36.590, 15.36.595, and 15.36.900.

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

11 NEW SECTION. **Sec. 1.** This chapter is intended to enact state
12 legislation that safeguards the public health and promotes public
13 welfare by (1) protecting the consuming public from milk or milk
14 products that are (A) unsafe (B) produced under unsanitary conditions
15 (C) do not meet bacterial standards under the PMO (D) below The Quality
16 Standards under Title 21 C.F.R. or administrative rules and orders
17 adopted under this chapter, and (2) requiring licensing of all dairy
18 processing plants as defined in this chapter.

19 **Sec. 2.** RCW 15.32.010 and 1989 c 354 s 1 are each amended to read
20 as follows:

21 For the purpose of chapter ((15.32)) 15.36 RCW:

22 (("Supervisor" means the supervisor of the dairy and food division;

23 "Dairy" means a place where milk from one or more cows or goats is
24 produced for sale;

25 "Creamery" means a structure wherein milk or cream is manufactured
26 into butter for sale;

27 "Milk plant" means a structure wherein milk is bottled,
28 pasteurized, clarified, or otherwise processed;

29 "Cheese factory" means a structure where milk is manufactured into
30 cheese;

31 "Factory of milk products" means a structure, other than a
32 creamery, milk plant, cheese factory, milk condensing plant or ice
33 cream factory, where milk or any of its products is manufactured,
34 changed, or compounded into another article, or where butter is cut or
35 wrapped; except freezing of ice cream from a mix compounded in a

1 licensed creamery, milk plant, cheese factory, milk condensing plant or
2 ice cream factory;

3 "Milk condensing plant" means a structure where milk is condensed
4 or evaporated;

5 "Ice cream factory" means a structure which complies with the
6 sanitary requirements of RCW 15.32.080, where ice cream mix is produced
7 for sale or distribution, and may include freezing such mix into ice
8 cream;

9 "Counter ice cream freezer" means counter type freezing machines
10 usually operated in retail establishments;

11 "Sterilized milk" means milk that has been heated under six pounds
12 of steam pressure and maintained thereat for not less than twenty
13 minutes;

14 "Modified milk" means milk that has been altered in composition to
15 conform to special nutritional requirements;

16 "Milk product" means an article manufactured or compounded from
17 milk, whether or not the milk conforms to the standards and definitions
18 herein;

19 "Milk byproduct" means a product of milk derived or made therefrom
20 after the removal of the milk fat or milk solids in the process of
21 making butter or cheese, and includes skimmed milk, buttermilk, whey,
22 casein, and milk powder;

23 "Butter" means the product made by gathering the fat of pasteurized
24 milk or cream into a mass containing not less than eighty percent of
25 milk fat, and which also contains a small portion of other milk
26 constituents, with or without harmless coloring matter;

27 "Renovated butter" means butter that has been reduced to a liquid
28 state by melting and drawing off the liquid or butter oil, and has
29 thereafter been churned or manipulated in connection with milk, cream,
30 or other product of milk;

31 "Reworked butter" means the product obtained by mixing or
32 rechurning butter made on different dates or at different places:
33 PROVIDED, That the mixing of remnants from one day's churning or
34 cutting with butter from the churning of the same creamery on the next
35 day shall not make the product reworked butter;

36 "Butter substitute" means a compound of vegetable oils with milk
37 fats or milk solids and all compounds of milk fats or milk solids with
38 butter when the compound contains less than eighty percent of milk fat;

1 ~~"Oleomargarine" means all manufactured substances, extracts,~~
2 ~~mixtures, or compounds, including mixtures or compounds with butter,~~
3 ~~known as oleomargarine, oleo, oleomargarine oil, butterine, lardine,~~
4 ~~suine, and neutral, and includes all lard and tallow extracts and~~
5 ~~mixtures and compounds of tallow, beef fat, suet, lard, lard oil,~~
6 ~~intestinal fat and offal fat made in imitation or semblance of butter~~
7 ~~or calculated or intended to be sold as butter;~~

8 ~~"Cheese" means any of the cheeses as described in Title 21 of the~~
9 ~~code of federal regulations part 133;~~

10 ~~"Imitation cheese" means any article, substance, or compound, other~~
11 ~~than that produced from pure milk or from the cream from pure milk,~~
12 ~~which is made in the semblance of cheese and designed to be sold or~~
13 ~~used as a substitute for cheese. The use of salt, lactic acid, or~~
14 ~~pepsin, and harmless coloring matter in cheese shall not render the~~
15 ~~true product an imitation. Nothing herein shall prevent the use of~~
16 ~~pure skimmed milk in the manufacture of cheese;))~~

17 ~~"Milk vendor" or "milk dealer" means any person who sells,~~
18 ~~furnishes or delivers milk, skimmed milk, buttermilk, or cream in any~~
19 ~~manner.~~

20 ~~"Milk processing" means the handling or processing of milk in any~~
21 ~~manner in preparation for sale as food, as defined in chapter 69.04~~
22 ~~RCW. Milk processing does not include milking or producing milk on a~~
23 ~~dairy farm that is shipped to a milk plant for further processing.~~

24 ~~"Milk processing plant" includes but is not limited to a premises,~~
25 ~~plant, establishment, building, room, area, facility, and appurtences~~
26 ~~thereto in whole or in part where milk is prepared, packaged, or~~
27 ~~processed in any manner for distribution or sale by retail outlets,~~
28 ~~restaurants, and any such facility selling or distributing to the~~
29 ~~ultimate consumer. This includes fluid milk products, cheese, whey,~~
30 ~~ice cream, cream, condensed milk, yogurt, frozen yogurt, any other~~
31 ~~products characterized by their milk content, and other dairy products.~~

32 ~~"Sale" means selling, offering for sale, holding for sale,~~
33 ~~preparing for sale, trading, bartering, offering a gift as an~~
34 ~~inducement for sale of, and advertising for sale in any media.~~

35 ~~All dairy products mentioned in this chapter mean those fit or used~~
36 ~~for human consumption.~~

37 **Sec. 3.** RCW 15.32.100 and 1991 c 109 s 1 are each amended to read
38 as follows:

1 Every person who sells, offers or exposes for sale, barter, or
2 exchanges any milk or milk product as defined by rule under chapter
3 15.36 RCW must have a milk vendor's license to do so. The license
4 shall not include retail stores or restaurants that purchase milk
5 prepackaged or bottled elsewhere for sale at retail or establishments
6 that sell milk only for consumption in such establishment. Such
7 license, issued by the director on application and payment of a fee of
8 ten dollars, shall contain the license number, and name, residence and
9 place of business, if any, of the licensee. It shall be
10 nontransferable, shall expire annually on a date set by rule by the
11 director, and may be suspended or revoked by the director, upon
12 reasonable notice to the licensee, for any violation of or failure to
13 comply with any provision of this chapter or any rule or regulation, or
14 order of the department, or any officer or inspector thereof. License
15 fees shall be prorated where necessary to accommodate staggering of
16 expiration dates of a license or licenses.

17 **Sec. 4.** RCW 15.32.110 and 1991 c 109 s 2 are each amended to read
18 as follows:

19 ~~((Every creamery, milk plant, shipping station, milk condensing
20 plant, factory of milk products, and other person who receives or
21 purchases milk or cream in bulk and by weight or measure or upon the
22 basis of milk fat contained therein shall obtain annually a license to
23 do so. The license shall be issued by the director upon payment of ten
24 dollars and his being satisfied that the building or premises where the
25 milk or cream is to be received is maintained in a sanitary condition
26 in accordance with the provisions of this chapter; except, such license
27 shall not be required of persons purchasing milk or cream for their own
28 consumption nor of hotels, restaurants, boarding houses, eating houses,
29 bakeries, or candy manufacturing plants.~~

30 ~~The license shall expire annually on a date set by rule by the
31 director, unless sooner revoked by the director, upon reasonable notice
32 to the licensee, for a failure to comply with the provisions of this
33 chapter, and the rules and regulations issued hereunder. License fees
34 shall be prorated where necessary to accommodate staggering of
35 expiration dates of a license or licenses.)) It shall be unlawful for
36 any person to operate a milk processing plant or process milk without
37 first having obtained an annual milk processing plant license from the
38 department, which shall expire on a date set by rule by the director.~~

1 License fees shall be prorated where necessary to accommodate
2 staggering of expiration dates. Application for a license shall be on
3 a form prescribed by the director and accompanied by a twenty-five
4 dollar annual license fee. Such application shall include the full
5 name of the applicant for the license and the location of the milk
6 processing plant he or she intends to operate. If such applicant is an
7 individual, receiver, trustee, firm, partnership, association or
8 corporation, the full name of each member of the firm or partnership,
9 or names of the officers of the association or corporation shall be
10 given on the application. Such application shall further state the
11 principal business address of the applicant in the state and elsewhere
12 and the name of a person domiciled in this state authorized to receive
13 and accept service of summons of legal notices of all kinds for the
14 applicant. The application shall also specify the method or nature of
15 processing operation or preservation of that milk and any other
16 necessary information. Upon the approval of the application by the
17 director and compliance with the provisions of this chapter, including
18 the applicable regulations adopted hereunder by the department, the
19 applicant shall be issued a license or renewal thereof.

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

31 A licensee under this section shall not be required to obtain a
32 milk vendor's license under this chapter or a food processing plant
33 license under chapter 69.07 RCW.

34 NEW SECTION. Sec. 5. The director may, subsequent to a
35 hearing thereon, suspend or revoke a milk processing plant license
36 issued under this chapter if the director determines that an applicant
37 has committed any of the following acts:

1 (1) Refused, neglected or failed to comply with the provisions of
2 this chapter, the rules adopted under this chapter, or any lawful order
3 of the director.

4 (2) Refused, neglected or failed to keep and maintain records
5 required by this chapter, or to make such records available when
6 requested under the provisions of this chapter.

7 (3) Refused the department access to a portion or area of the milk
8 processing plant or other facility regulated under this chapter for the
9 purpose of carrying out the provisions of this chapter.

10 (4) Refused the department access to records required to be kept
11 under the provisions of this chapter.

12 (5) Refused, neglected, or failed to comply with any provisions of
13 chapter 69.04 RCW, Washington Food, Drug, and Cosmetic Act, or any
14 rules adopted under chapter 69.04 RCW.

15 The provisions of this section requiring that a hearing be
16 conducted before an action may be taken against a license do not apply
17 to an action taken under section 6 of this act.

18 NEW SECTION. **Sec. 6.** (1) Whenever the director finds a milk
19 processing plant operating under conditions that constitute an
20 immediate danger to public health, safety, or welfare or whenever the
21 licensee or an employee of the licensee actively prevents the director
22 or the director's representative, during an onsite inspection, from
23 determining whether such a conditions exists, the director may
24 summarily suspend, pending a hearing, a license provided for in this
25 chapter.

26 (2) Whenever a license is summarily suspended, the holder of the
27 license shall be notified in writing that the license is, upon service
28 of the notice, immediately suspended and that prompt opportunity for a
29 hearing will be provided.

30 (3) Whenever a license is summarily suspended, processing
31 operations shall immediately cease. However, the director may
32 reinstate the license when the condition that caused the suspension has
33 been abated to the director's satisfaction.

34 NEW SECTION. **Sec. 7.** The adoption of rules under the
35 provisions of this chapter, or the holding of a hearing in regard to a
36 license issued or that may be issued under the provisions of this

1 chapter shall be subject to the applicable provisions of chapter 34.05
2 RCW, the Administrative Procedure Act.

3 **Sec. 8.** RCW 15.32.160 and 1981 c 321 s 1 are each amended to read
4 as follows:

5 It is unlawful to sell, offer for sale, or deliver:

6 (1) Milk or products produced from milk from cows ~~((or))~~, goats, or
7 sheep affected with disease or of which the owner thereof has refused
8 official examination and tests for disease: or

9 (2) Colostrum milk, meaning that produced within ten days before or
10 seven days after parturition, except that colostrum milk from cows that
11 have been tested for brucellosis within sixty days of parturition may
12 be made available to persons having multiple sclerosis, or other
13 persons acting on their behalf, who, at the time of the initial sale,
14 present a form, signed by a licensed physician, certifying that the
15 intended user has multiple sclerosis and that the user releases the
16 provider of the milk from liability resulting from the consumption of
17 the milk. Colostrum milk provided under this section is exempt from
18 meeting the standards for grade A raw milk required by this chapter
19 ~~((15.36-RCW))~~.

20 (3) The department of agriculture shall adopt rules to carry out
21 this section. The rules shall include but not be limited to
22 establishing standards requiring hyper-immunization.

23 **Sec. 9.** RCW 15.32.510 and 1989 c 354 s 9 are each amended to read
24 as follows:

25 The director may appoint one or more ~~((inspectors of milk, dairies,~~
26 ~~and dairy products, who are graduates of a recognized dairy school, or~~
27 ~~have completed a college course in dairying. In the absence of~~
28 ~~completion of a dairy course, the director may review a candidate's~~
29 ~~qualifications and determine eligibility))~~ food safety officers who
30 meet the requirements under the job specifications for food safety
31 officer positions.

32 The ~~((inspectors))~~ food safety officers may enter any place where
33 milk and its products are produced, processed, stored ~~((and))~~, or kept
34 for sale and any conveyance used to transport milk or cream, and take
35 samples for analysis.

1 **Sec. 10.** RCW 15.32.530 and 1989 c 354 s 11 are each amended to
2 read as follows:

3 (~~An inspector who obtains~~) The Washington department of
4 agriculture, after obtaining a sample of milk for analysis, shall
5 within (~~ten~~) fourteen days after obtaining the result of the
6 analysis, send the result to the person from whom the sample was taken
7 or to the person responsible for the condition of the milk.

8 **Sec. 11.** RCW 15.32.580 and 1963 c 58 s 6 are each amended to read
9 as follows:

10 Any person who (~~tests milk or cream or the fluid derivatives~~
11 ~~thereof, purchased, received, or sold on the basis of milk fat, nonfat~~
12 ~~milk solids, or other components contained therein, or who~~) takes
13 samples of milk or cream or fluid derivatives thereof, on which sample
14 tests are to be made as a basis of payment, or who grades, weighs, or
15 measures milk or cream or the fluid derivatives thereof, the grade,
16 weight, or measure to be used as a basis of payment, or who operates
17 equipment wherein milk or products thereof are pasteurized must hold a
18 dairy technician's license. Such license shall be limited to those
19 functions which the licensee has been found qualified by examination to
20 perform. Before issuing the license the director shall examine the
21 applicant as to his or her qualifications for the functions for which
22 application has been made.

23 **Sec. 12.** RCW 15.32.582 and 1963 c 58 s 7 are each amended to read
24 as follows:

25 Application for a license as a dairy technician to perform one or
26 more of the functions of a (~~tester,~~) sampler, weigher, grader, or
27 pasteurizer shall be made upon forms to be provided and furnished by
28 the director, and shall be filed with the department. The director may
29 issue a temporary permit to the applicant to perform one or more of the
30 functions of a (~~tester,~~) sampler, weigher, grader, or pasteurizer for
31 such period as may be prescribed and stated in said permit, not to
32 exceed sixty days, but such permit shall not be renewed so as to extend
33 the period beyond sixty days.

34 **Sec. 13.** RCW 15.32.610 and 1963 c 58 s 11 are each amended to read
35 as follows:

1 No person shall employ a (~~tester,~~) sampler, weigher, grader, or
2 pasteurizer who is not licensed as a dairy technician(~~or refuse to~~
3 ~~allow or fail to assist the director or his agent in the examination of~~
4 ~~the reports referred to in RCW 15.32.590~~)).

5 (~~Whoever~~) A person who violates the provisions of this section
6 (~~or RCW 15.32.590~~) may be fined not less than (~~twenty-five~~) two
7 hundred fifty nor more than one (~~hundred~~) thousand dollars, and his
8 or her license hereunder revoked or suspended subject to a hearing as
9 provided under chapter 34.05 RCW.

10 **Sec. 14.** RCW 15.36.040 and 1961 c 11 s 15.36.040 are each amended
11 to read as follows:

12 A "milk producer" is any person or organization who owns or
13 controls one or more cows a part or all of the milk or milk products
14 from which is sold or offered for sale.

15 A "milk distributor" is any person who offers for sale or sells to
16 another any milk or milk products for human consumption as such and
17 shall include a milk producer selling or offering for sale milk or milk
18 products at the dairy farm.

19 A (~~"dairy" or~~) "dairy farm" is any place or premises where one or
20 more cows, goats, or sheep are kept, a part or all of the milk or milk
21 products from which is sold or offered for sale.

22 A "milk hauler" is any person, other than a milk producer or a milk
23 plant employee, who transports milk or milk products to or from a milk
24 plant or a collecting point.

25 (~~A "milk plant" is any place, premises or establishment where milk~~
26 ~~or milk products are collected, handled, processed, stored, bottled,~~
27 ~~pasteurized, or prepared for distribution, except an establishment~~
28 ~~where milk or milk products are sold at retail only.))~~

29 **Sec. 15.** RCW 15.36.070 and 1961 c 11 s 15.36.070 are each amended
30 to read as follows:

31 No person shall produce, sell, offer, or expose for sale, or have
32 in possession with intent to sell, (~~in the fluid state for direct~~
33 ~~consumption as such,~~) any milk or milk product which is adulterated,
34 misbranded, or ungraded. It shall be unlawful for any person,
35 elsewhere than in a private home, to have in possession any
36 adulterated, misbranded, or ungraded milk or milk products: PROVIDED,
37 That in an emergency the sale of ungraded milk or milk products may be

1 authorized by the director, in which case they shall be labeled
2 "ungraded."

3 Adulterated, misbranded, and/or ungraded milk or milk products may
4 be impounded and disposed of by the director.

5 **Sec. 16.** RCW 15.36.080 and 1989 c 354 s 16 are each amended to
6 read as follows:

7 It shall be unlawful for any person to transport, or to sell, or
8 offer for sale, or to have in storage where milk or milk products are
9 sold or served, any milk or milk product defined in this chapter, who
10 does not possess an appropriate ~~((permit))~~ license from the director.

11 Every milk producer, milk distributor, milk hauler, and operator of
12 a milk plant shall secure a ~~((permit))~~ grade A milk license to conduct
13 such operation as defined in this chapter. Only a person who complies
14 with the requirements of this chapter shall be entitled to receive and
15 retain such a ~~((permit.—Permits))~~ license. Grade A milk licenses
16 shall not be transferable with respect to persons and/or locations.

17 ~~((Such a permit))~~ Grade A licenses issued under this section may be
18 ~~((temporarily))~~ suspended by the director upon violation by the holder
19 of any of the terms of this chapter, or for interference with the
20 director in the performance of his or her duties, or revoked after an
21 opportunity for a hearing by the director upon serious or repeated
22 violations or after the grade A milk license has been suspended for
23 thirty continuous days without correction of the items causing the
24 suspension.

25 **Sec. 17.** RCW 15.36.100 and 1961 c 11 s 15.36.100 are each amended
26 to read as follows:

27 Prior to the issuance of a ~~((permit))~~ grade A milk license and at
28 least once every six months the director shall inspect all dairy farms
29 ~~((and)).~~ All milk plants~~((:—PROVIDED, That the director may accept~~
30 ~~the results of periodic industry inspections of producer dairies if~~
31 ~~such inspections have been officially checked periodically and found~~
32 ~~satisfactory))~~ shall be inspected prior to grade A milk license
33 issuance and at least once every three months including pasteurizer
34 tests as required by the pasteurized milk ordinance. In case the
35 director discovers the violation of any item of ~~((sanitation))~~ grade
36 requirement, he or she shall make a second inspection after a lapse of
37 such time as he or she deems necessary for the defect to be remedied,

1 but not before the lapse of three days, and the second inspection shall
2 be used in determining compliance with the grade requirements of this
3 chapter. Any violation of the same requirement of this chapter on such
4 reinspection shall call for ~~((immediate degrading or))~~ summary
5 suspension of ~~((permit))~~ the grade A milk license subject to prompt
6 opportunity for hearing as provided under chapter 34.05 RCW.

7 One copy of the inspection report detailing the grade requirement
8 violations shall be posted by the director in a conspicuous place upon
9 an inside wall of one of the dairy farm or milk plant buildings, and
10 said inspection report shall not be defaced or removed by any person
11 except the director. Another copy of the inspection report shall be
12 filed with the records of the director.

13 Every milk producer and distributor shall upon the request of the
14 director permit him or her access to all parts of the establishment,
15 and every distributor shall furnish the director, upon his or her
16 request, for official use only, samples of any milk product for
17 laboratory analysis, a true statement of the actual quantities of milk
18 and milk products of each grade purchased and sold, together with a
19 list of all sources, records of inspections and tests, and recording
20 thermometer charts.

21 **Sec. 18.** RCW 15.36.110 and 1989 c 354 s 17 are each amended to
22 read as follows:

23 During each six months period at least four samples of milk and
24 cream from each dairy farm and each milk plant shall be taken on
25 separate days and examined by the director: PROVIDED, That in the case
26 of raw milk for pasteurization the director may accept the results of
27 nonofficial laboratories which have been officially checked
28 periodically and found satisfactory. Samples of other milk products
29 may be taken and examined by the director as often as he deems
30 necessary. Samples of milk and milk products from stores, cafes, soda
31 fountains, restaurants, and other places where milk or milk products
32 are sold shall be examined as often as the director may require.
33 Bacterial plate counts, direct microscopic counts, coliform
34 determinations, phosphatase tests and other laboratory tests shall
35 conform to the procedures in the current edition of "Standard Methods
36 For The Examination Of Dairy Products," recommended by the American
37 public health association. Examinations may include such other
38 chemical and physical determinations as the director may deem necessary

1 for the detection of adulteration. Samples may be taken by the
2 director at any time prior to the final delivery of the milk or milk
3 products. All proprietors of cafes, stores, restaurants, soda
4 fountains, and other similar places shall furnish the director, upon
5 his or her request, with the name of all distributors from whom their
6 milk and milk products are obtained. (~~(Bio-assays of the vitamin D
7 content of vitamin D milk shall be made when required by the director
8 in a laboratory approved by him for such examinations.)~~)

9 If two of the last four consecutive bacterial counts, somatic cell
10 counts, coliform determinations, or cooling temperatures, taken on
11 separate days, exceed the standard for milk or milk products, the
12 director shall send written notice thereof to the person concerned.
13 This notice shall remain in effect so long as two of the last four
14 consecutive samples exceed the limit of the standard. An additional
15 sample shall be taken within twenty-one days of the sending of the
16 notice, but not before the lapse of three days, except sixty days must
17 lapse before an official somatic cell count can be taken. The director
18 shall degrade or suspend the grade A (~~(permit)~~) milk license whenever
19 the standard is again violated so that three of the last five
20 consecutive samples exceed the limit of the standard. A grade A
21 (~~(permit)~~) milk license shall subsequently be reinstated in notice
22 status upon receipt of sample results that are within the standard for
23 which the suspension occurred.

24 In case of violation of the phosphatase test requirements, the
25 cause of underpasteurization shall be determined and removed before
26 milk or milk products from this plant can again be sold as pasteurized
27 milk or milk products.

28 **Sec. 19.** RCW 15.36.115 and 1989 c 354 s 18 and 1989 c 175 s 48 are
29 each reenacted and amended to read as follows:

30 (1) If the results of an antibiotic, pesticide, or other drug
31 residue test are above the actionable level established in the
32 pasteurized milk ordinance published by the United States public health
33 service and determined using procedures set forth in the current
34 edition of "Standard Methods for the Examination of Dairy Products,"
35 (~~(a producer holding a grade A permit is subject to a civil penalty.
36 The penalty shall be in an amount equal to one half the value of the
37 sum of the volumes of milk equivalent produced under the permit on the
38 day prior to and the day of the adulteration. The value of the milk~~

1 shall be computed by the weighted average price for the federal market
2 order under which the milk is delivered.

3 (2) The penalty is imposed by the department giving a written
4 notice which is either personally served upon or transmitted by
5 certified mail, return receipt requested, to the person incurring the
6 penalty. The notice of the civil penalty shall be a final order of the
7 department unless, within fifteen days after the notice is received,
8 the person incurring the penalty appeals the penalty by filing a notice
9 of appeal with the department. If a notice of appeal is filed in a
10 timely manner, a hearing shall be conducted on behalf of the department
11 by the office of administrative hearings in accordance with chapters
12 34.05 and 34.12 RCW and, to the extent they are not inconsistent with
13 this subsection, the provisions of RCW 15.36.580. At the conclusion of
14 the hearing, the department shall determine whether the penalty should
15 be affirmed, and, if so, shall issue a final order setting forth the
16 civil penalty assessed, if any. The order may be appealed to superior
17 court in accordance with chapter 34.05 RCW)) the milk from which the
18 sample was taken is deemed adulterated and may not be sold. Tests
19 performed for antibiotic, pesticide, or other drug residues by a state
20 or certified industry laboratory of a milk sample drawn by a department
21 official or a licensed dairy technician shall be admitted as prima
22 facie evidence of the presence or absence of an antibiotic, pesticide,
23 or other drug residue.

24 ((3) Any penalty imposed under this section is due and payable
25 upon the issuance of the final order by the department. The penalty
26 shall be deducted by the violator's marketing organization from the
27 violator's final payment for the month following the issuance of the
28 final order. The department shall promptly notify the violator's
29 marketing organization of any penalties contained in the final order.

30 (4) All penalties received or recovered from violations of this
31 section shall be remitted monthly by the violator's marketing
32 organization to the Washington state dairy products commission and
33 deposited in a revolving fund to be used solely for the purposes of
34 education and research. No appropriation is required for disbursements
35 from this fund.

36 (5)) (2) In case of a violation of the antibiotic, pesticide, or
37 other drug residue test requirements, an investigation shall be made to
38 determine the cause of the residue which shall be corrected.
39 Additional samples shall be taken as soon as possible and tested as

1 soon as feasible for antibiotic, pesticide, or other drug residue by
2 the department or a certified laboratory. After the notice has been
3 received by the producer and the results of a test of such an
4 additional sample indicate that residues are above the actionable level
5 or levels referred to in subsection (1) of this section, the producer's
6 milk may not be sold until a sample is shown to be below the actionable
7 levels established for the residues.

8 **Sec. 20.** RCW 15.36.300 and 1989 c 354 s 19 are each amended to
9 read as follows:

10 Grade C raw milk is raw milk which violates any of the requirements
11 of grade A raw milk as set forth in the pasteurized milk ordinance and
12 RCW 15.36.540. The director shall adopt rules setting standards and
13 requirements for production of grade C milk.

14 **Sec. 21.** RCW 15.36.345 and 1961 c 11 s 15.36.345 are each amended
15 to read as follows:

16 The various milk-plant operations shall be so located and conducted
17 as to prevent any contamination of the milk or of the cleaned
18 equipment. All means necessary for the elimination of flies, other
19 insects and rodents shall be used. There shall be separate rooms for
20 (1) the ~~((pasteurization,))~~ processing, cooling, and bottling
21 operations, and (2) the washing and bactericidal treatment of
22 containers. ~~((Cans of raw milk shall not be unloaded directly into the
23 pasteurizing room. Pasteurized milk or milk products shall not be
24 permitted to come in contact with equipment with which unpasteurized
25 milk or milk products have been in contact, unless such equipment has
26 first been thoroughly cleaned and subjected to bactericidal
27 treatment.))~~ Rooms in which milk, milk products, cleaned utensils, or
28 containers are handled or stored shall not open directly into any
29 stable or living quarters. The ~~((pasteurization))~~ plant shall be used
30 for no other purposes than the processing of milk and milk products and
31 the operations incident thereto, except as may be approved by the
32 director.

33 **Sec. 22.** RCW 15.36.470 and 1989 c 354 s 22 are each amended to
34 read as follows:

35 No milk or milk products shall be sold to the final consumer or to
36 restaurants, soda fountains, grocery stores, or similar establishments

1 except grade A milk pasteurized, or grade A milk-raw, and the director
2 may revoke the permit of any milk distributor failing to qualify for
3 one of the above grades, or in lieu thereof may degrade his or her
4 product to grade C and permit its sale during a period not exceeding
5 thirty days or in emergencies during such longer period as he may deem
6 necessary.

7 **Sec. 23.** RCW 15.36.490 and 1961 c 11 s 15.36.490 are each amended
8 to read as follows:

9 Except as permitted in this section, no milk producer or
10 distributor shall transfer milk or milk products from one container to
11 another on the street, or in any vehicle, or store, or in any place
12 except a bottling or milk room especially used for that purpose.

13 Milk and milk products sold in the distributor's containers in
14 quantities less than one gallon shall be delivered in standard milk
15 bottles or in single-service containers. It shall be unlawful for
16 hotels, soda fountains, restaurants, groceries, hospitals, and similar
17 establishments to sell or serve any milk or milk products except in the
18 individual original container in which it was received from the
19 distributor or from a bulk container equipped with an approved
20 dispensing device: PROVIDED, That this requirement shall not apply to
21 cream consumed on the premises, which may be served from the original
22 bottle or from a dispenser approved for such service.

23 It shall be unlawful for any hotel, soda fountain, restaurant,
24 grocery, hospital, or similar establishment to sell or serve any milk
25 or milk product which has not been maintained, while in its possession,
26 at a temperature of (~~fifty~~) forty-five degrees Fahrenheit or less.
27 If milk or milk products are stored in water for cooling, the pouring
28 lip of the container shall not be submerged.

29 It shall be the duty of all persons to whom milk or milk products
30 are delivered to clean thoroughly the containers in which such milk or
31 milk products are delivered before returning such containers.
32 Apparatus, containers, equipment, and utensils used in the handling,
33 storage, processing, or transporting of milk or milk products shall not
34 be used for any other purpose without the permission of the director.

35 The delivery of milk or milk products to and the collection of milk
36 or milk products containers from residences in which cases of
37 communicable disease transmissible through milk supplies exists shall
38 be subject to the special requirements of the health officer.

1 (~~Homogenized milk or homogenized cream shall not be mixed with~~
2 ~~milk or cream which has not been homogenized if sold or offered for~~
3 ~~sale as fluid milk or cream.~~)

4 **Sec. 24.** RCW 15.36.500 and 1961 c 11 s 15.36.500 are each amended
5 to read as follows:

6 Milk and milk products from outside the state may not be sold in
7 the state of Washington unless produced and/or pasteurized under
8 provisions equivalent to the requirements of this chapter and
9 pasteurized milk ordinance: PROVIDED, That the director shall satisfy
10 himself that the authority having jurisdiction over the production and
11 processing is properly enforcing such provisions.

12 **Sec. 25.** RCW 15.36.540 and 1989 c 354 s 24 are each amended to
13 read as follows:

14 Except as otherwise provided in this chapter, (~~this law shall be~~
15 ~~enforced by~~) the director (~~in accordance with the interpretation~~
16 ~~contained in the food and drug administration~~) may by reference adopt
17 the pasteurized milk ordinance(~~(:— PROVIDED, That)~~) by rule to
18 establish requirements for grade A pasteurized and grade A raw milk.
19 The director may (~~promulgate~~) adopt rules (~~covering any standard set~~
20 ~~forth in the pasteurized milk ordinance if the rules are consistent~~
21 ~~with the pasteurized milk ordinance except the~~) establishing standards
22 (~~may be~~) for grade A pasteurized and grade A raw milk that are more
23 stringent than the pasteurized milk ordinance based upon current
24 industry or public health information for the enforcement of this
25 chapter whenever he determines that any such rules are necessary to
26 carry out the purposes of RCW (~~15.32.120,~~) 15.36.011 as recodified by
27 this act, (~~15.36.075,~~) 15.36.540 as recodified by this act, and
28 15.36.600 as recodified by this act.

29 **Sec. 26.** RCW 69.07.040 and 1992 c 160 s 3 are each amended to read
30 as follows:

31 It shall be unlawful for any person to operate a food processing
32 plant or process foods in the state without first having obtained an
33 annual license from the department, which shall expire on a date set by
34 rule by the director. License fees shall be prorated where necessary
35 to accommodate staggering of expiration dates. Application for a
36 license shall be on a form prescribed by the director and accompanied

1 by the license fee. The license fee is determined by computing the
2 gross annual sales for the accounting year immediately preceding the
3 license year. If the license is for a new operator, the license fee
4 shall be based on an estimated gross annual sales for the initial
5 license period.

6	If gross annual sales are:	The license fee is:
7	\$0 to \$50,000	\$50.00
8	\$50,001 to \$500,000	\$100.00
9	\$500,001 to \$1,000,000	\$200.00
10	\$1,000,001 to \$5,000,000	\$350.00
11	\$5,000,001 to \$10,000,000	\$500.00
12	Greater than \$10,000,000	\$750.00

13 Such application shall include the full name of the applicant for the
14 license and the location of the food processing plant he or she intends
15 to operate. If such applicant is an individual, receiver, trustee,
16 firm, partnership, association or corporation, the full name of each
17 member of the firm or partnership, or names of the officers of the
18 association or corporation shall be given on the application. Such
19 application shall further state the principal business address of the
20 applicant in the state and elsewhere and the name of a person domiciled
21 in this state authorized to receive and accept service of summons of
22 legal notices of all kinds for the applicant. The application shall
23 also specify the type of food to be processed and the method or nature
24 of processing operation or preservation of that food and any other
25 necessary information. Upon the approval of the application by the
26 director and compliance with the provisions of this chapter, including
27 the applicable regulations adopted hereunder by the department, the
28 applicant shall be issued a license or renewal thereof.

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

1 in processing the new type of food product only after the amendment has
2 been approved by the department.

3 If upon investigation by the director, it is determined that a
4 person is processing food for retail sale and is not under permit,
5 license, or inspection by a local health authority, then that person
6 may be considered a food processor and subject to the provisions of
7 this chapter. A licensee who has obtained a milk processing plant
8 license under chapter 15.36 RCW shall not be required to obtain a
9 license under this chapter.

10 NEW SECTION. Sec. 27. The following acts or parts of acts are
11 each repealed:

- 12 (1) RCW 15.32.051 and 1989 c 354 s 2 & 1963 c 58 s 2;
- 13 (2) RCW 15.32.060 and 1961 c 11 s 15.32.060;
- 14 (3) RCW 15.32.070 and 1961 c 11 s 15.32.070;
- 15 (4) RCW 15.32.080 and 1989 c 354 s 3 & 1961 c 11 s 15.32.080;
- 16 (5) RCW 15.32.090 and 1961 c 11 s 15.32.090;
- 17 (6) RCW 15.32.120 and 1969 ex.s. c 102 s 5 & 1961 c 11 s 15.32.120;
- 18 (7) RCW 15.32.130 and 1961 c 11 s 15.32.130;
- 19 (8) RCW 15.32.140 and 1989 c 354 s 5 & 1961 c 11 s 15.32.140;
- 20 (9) RCW 15.32.150 and 1961 c 11 s 15.32.150;
- 21 (10) RCW 15.32.220 and 1989 c 354 s 6 & 1961 c 11 s 15.32.220;
- 22 (11) RCW 15.32.250 and 1961 c 11 s 15.32.250;
- 23 (12) RCW 15.32.260 and 1961 c 11 s 15.32.260;
- 24 (13) RCW 15.32.330 and 1961 c 11 s 15.32.330;
- 25 (14) RCW 15.32.340 and 1961 c 11 s 15.32.340;
- 26 (15) RCW 15.32.360 and 1961 c 11 s 15.32.360;
- 27 (16) RCW 15.32.380 and 1961 c 11 s 15.32.380;
- 28 (17) RCW 15.32.430 and 1973 c 31 s 1 & 1961 c 11 s 15.32.430;
- 29 (18) RCW 15.32.440 and 1961 c 11 s 15.32.440;
- 30 (19) RCW 15.32.490 and 1961 c 11 s 15.32.490;
- 31 (20) RCW 15.32.500 and 1989 c 354 s 8 & 1961 c 11 s 15.32.500;
- 32 (21) RCW 15.32.540 and 1961 c 11 s 15.32.540;
- 33 (22) RCW 15.32.560 and 1961 c 11 s 15.32.560;
- 34 (23) RCW 15.32.570 and 1989 c 354 s 12 & 1961 c 11 s 15.32.570;
- 35 (24) RCW 15.32.590 and 1963 c 58 s 9 & 1961 c 11 s 15.32.590;
- 36 (25) RCW 15.32.620 and 1961 c 11 s 15.32.620;
- 37 (26) RCW 15.32.630 and 1963 c 58 s 12 & 1961 c 11 s 15.32.630;
- 38 (27) RCW 15.32.660 and 1961 c 11 s 15.32.660;

- 1 (28) RCW 15.32.670 and 1961 c 11 s 15.32.670;
- 2 (29) RCW 15.32.680 and 1961 c 11 s 15.32.680;
- 3 (30) RCW 15.32.700 and 1961 c 11 s 15.32.700;
- 4 (31) RCW 15.32.740 and 1961 c 11 s 15.32.740;
- 5 (32) RCW 15.32.750 and 1961 c 11 s 15.32.750;
- 6 (33) RCW 15.32.755 and 1963 c 58 s 14;
- 7 (34) RCW 15.32.760 and 1961 c 11 s 15.32.760;
- 8 (35) RCW 15.32.770 and 1987 c 202 s 174 & 1961 c 11 s 15.32.770;
- 9 (36) RCW 15.32.780 and 1961 c 11 s 15.32.780;
- 10 (37) RCW 15.32.790 and 1961 c 11 s 15.32.790;
- 11 (38) RCW 15.36.020 and 1989 c 354 s 14 & 1961 c 11 s 15.36.020;
- 12 (39) RCW 15.36.075 and 1969 ex.s. c 102 s 3;
- 13 (40) RCW 15.36.090 and 1961 c 11 s 15.36.090;
- 14 (41) RCW 15.36.155 and 1961 c 11 s 15.36.155;
- 15 (42) RCW 15.36.160 and 1961 c 11 s 15.36.160;
- 16 (43) RCW 15.36.165 and 1961 c 11 s 15.36.165;
- 17 (44) RCW 15.36.170 and 1961 c 11 s 15.36.170;
- 18 (45) RCW 15.36.175 and 1961 c 11 s 15.36.175;
- 19 (46) RCW 15.36.180 and 1961 c 11 s 15.36.180;
- 20 (47) RCW 15.36.185 and 1961 c 11 s 15.36.185;
- 21 (48) RCW 15.36.190 and 1961 c 11 s 15.36.190;
- 22 (49) RCW 15.36.195 and 1961 c 11 s 15.36.195;
- 23 (50) RCW 15.36.200 and 1961 c 11 s 15.36.200;
- 24 (51) RCW 15.36.205 and 1961 c 11 s 15.36.205;
- 25 (52) RCW 15.36.210 and 1961 c 11 s 15.36.210;
- 26 (53) RCW 15.36.215 and 1961 c 11 s 15.36.215;
- 27 (54) RCW 15.36.220 and 1961 c 11 s 15.36.220;
- 28 (55) RCW 15.36.225 and 1961 c 11 s 15.36.225;
- 29 (56) RCW 15.36.230 and 1961 c 11 s 15.36.230;
- 30 (57) RCW 15.36.235 and 1961 c 11 s 15.36.235;
- 31 (58) RCW 15.36.240 and 1961 c 11 s 15.36.240;
- 32 (59) RCW 15.36.245 and 1961 c 11 s 15.36.245;
- 33 (60) RCW 15.36.250 and 1961 c 11 s 15.36.250;
- 34 (61) RCW 15.36.255 and 1961 c 11 s 15.36.255;
- 35 (62) RCW 15.36.270 and 1961 c 11 s 15.36.270;
- 36 (63) RCW 15.36.280 and 1961 c 11 s 15.36.280;
- 37 (64) RCW 15.36.320 and 1981 c 297 s 5 & 1961 c 11 s 15.36.320;
- 38 (65) RCW 15.36.325 and 1961 c 11 s 15.36.325;
- 39 (66) RCW 15.36.330 and 1961 c 11 s 15.36.330;

- 1 (67) RCW 15.36.335 and 1961 c 11 s 15.36.335;
2 (68) RCW 15.36.340 and 1961 c 11 s 15.36.340;
3 (69) RCW 15.36.350 and 1961 c 11 s 15.36.350;
4 (70) RCW 15.36.355 and 1961 c 11 s 15.36.355;
5 (71) RCW 15.36.360 and 1961 c 11 s 15.36.360;
6 (72) RCW 15.36.365 and 1961 c 11 s 15.36.365;
7 (73) RCW 15.36.370 and 1961 c 11 s 15.36.370;
8 (74) RCW 15.36.375 and 1961 c 11 s 15.36.375;
9 (75) RCW 15.36.380 and 1961 c 11 s 15.36.380;
10 (76) RCW 15.36.385 and 1961 c 11 s 15.36.385;
11 (77) RCW 15.36.390 and 1961 c 11 s 15.36.390;
12 (78) RCW 15.36.395 and 1961 c 11 s 15.36.395;
13 (79) RCW 15.36.400 and 1961 c 11 s 15.36.400;
14 (80) RCW 15.36.405 and 1961 c 11 s 15.36.405;
15 (81) RCW 15.36.410 and 1961 c 11 s 15.36.410;
16 (82) RCW 15.36.415 and 1961 c 11 s 15.36.415;
17 (83) RCW 15.36.425 and 1991 c 3 s 1, 1989 c 354 s 20, 1979 c 141 s
18 22, & 1961 c 11 s 15.36.425;
19 (84) RCW 15.36.430 and 1961 c 11 s 15.36.430;
20 (85) RCW 15.36.440 and 1961 c 11 s 15.36.440;
21 (86) RCW 15.36.580 and 1989 c 354 s 26, 1987 c 202 s 175, 1981 c 67
22 s 17, & 1961 c 11 s 15.36.580;
23 (87) RCW 15.36.590 and 1961 c 11 s 15.36.590;
24 (88) RCW 15.36.595 and 1989 c 175 s 49 & 1986 c 203 s 19; and
25 (89) RCW 15.36.900 and 1961 c 11 s 15.36.900.

26 NEW SECTION. **Sec. 28.** The following sections shall be codified
27 or recodified in the following order in chapter 15.36 RCW:

- 28 Section 1 of this act;
29 RCW 15.36.005;
30 RCW 15.36.011;
31 RCW 15.36.040;
32 RCW 15.32.010;
33 RCW 15.36.030;
34 RCW 15.36.055;
35 RCW 15.36.060;
36 RCW 15.36.070;
37 RCW 15.36.080;
38 RCW 15.36.100;

1 RCW 15.32.100;
2 RCW 15.32.110;
3 Section 5 of this act;
4 Section 6 of this act;
5 Section 7 of this act;
6 RCW 15.36.110;
7 RCW 15.36.115;
8 RCW 15.36.120;
9 RCW 15.36.140;
10 RCW 15.36.150;
11 RCW 15.32.160;
12 RCW 15.36.260;
13 RCW 15.36.265;
14 RCW 15.36.300;
15 RCW 15.36.345;
16 RCW 15.32.410;
17 RCW 15.32.420;
18 RCW 15.36.420;
19 RCW 15.32.450;
20 RCW 15.32.460;
21 RCW 15.36.460;
22 RCW 15.36.470;
23 RCW 15.36.480;
24 RCW 15.36.490;
25 RCW 15.36.500;
26 RCW 15.36.510;
27 RCW 15.32.510;
28 RCW 15.36.520;
29 RCW 15.36.530;
30 RCW 15.32.530;
31 RCW 15.36.540;
32 RCW 15.36.550;
33 RCW 15.32.550;
34 RCW 15.32.580;
35 RCW 15.32.582;
36 RCW 15.32.584;
37 RCW 15.32.600;
38 RCW 15.36.600;
39 RCW 15.32.610;

1 RCW 15.32.710;
2 RCW 15.32.720;
3 RCW 15.32.730;
4 RCW 15.32.900;
5 RCW 15.32.910;
6 RCW 15.36.105; and
7 RCW 15.36.107.

8 NEW SECTION. **Sec. 29.** Sections 1 and 5 through 7 of this act
9 are each added to chapter 15.36 RCW and shall be codified pursuant to
10 section 28 of this act.

--- END ---