
SUBSTITUTE SENATE BILL 5678

State of Washington

61st Legislature

2009 Regular Session

By Senate Agriculture & Rural Economic Development (originally sponsored by Senator Hatfield)

READ FIRST TIME 02/05/09.

1 AN ACT Relating to the use of milk products for animal food
2 consumption; amending RCW 15.37.040, 15.37.120, and 15.53.901; adding
3 new sections to chapter 15.37 RCW; repealing RCW 15.37.150; prescribing
4 penalties; and providing an effective date.

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

6 **Sec. 1.** RCW 15.37.040 and 1961 c 285 s 4 are each amended to read
7 as follows:

8 (1) Applicants for a license issued under this chapter must have
9 either a current milk producers license or a current milk processing
10 plant license issued under chapter 15.36 RCW.

11 (2) Application for a license shall be on a form prescribed by the
12 director and shall include the following:

13 ~~((1))~~ (a) The full name of the person applying for the
14 license~~((-))~~;

15 ~~((2))~~ (b) If such applicant is a receiver, trustee, firm,
16 partnership, association, or corporation, the full name of each member
17 of the firm or partnership or the names of the officers of the
18 association or corporation shall be given on the application~~((-))~~;

1 ~~((3))~~ (c) The principal business address of the applicant in the
2 state and elsewhere~~((-))~~;

3 ~~((4))~~ (d) The name of a person domiciled in this state authorized
4 to receive and accept service or legal notice of all kinds~~((-))~~; and

5 ~~((5))~~ (e) Any other information prescribed by the director
6 necessary to carry out the purposes and provisions of this chapter.

7 (3) The director shall issue a license to an applicant upon his or
8 her satisfaction that the applicant has satisfied the requirements of
9 this chapter and rules adopted ~~((hereunder))~~ under it and that such
10 applicant has paid the required fee.

11 NEW SECTION. Sec. 2. A new section is added to chapter 15.37 RCW
12 to read as follows:

13 (1) The director shall adopt rules establishing standards and
14 requirements for milk, cream, or skim milk sold for animal food
15 consumption. Requirements may include, but are not limited to,
16 recordkeeping, testing, handling, and processing requirements to ensure
17 safety of the product.

18 (2) Milk, cream, or skim milk for animal food consumption that
19 meets the requirements of this chapter and rules adopted under it, and
20 is sold within the state, is not subject to the requirements of chapter
21 15.53 RCW. This chapter does not exempt licensees from meeting any
22 other requirements applicable to milk, cream, or skim milk sold for
23 animal food consumption in interstate commerce.

24 Sec. 3. RCW 15.37.120 and 1961 c 285 s 12 are each amended to read
25 as follows:

26 The director ~~((or his duly authorized representative))~~ may enter,
27 during reasonable business hours, any premise where milk, cream, or
28 skim milk, for animal food consumption, subject to ~~((the provisions~~
29 ~~of))~~ this chapter is produced, handled, distributed, sold, offered for
30 sale, held for sale, or used for the inducement of the sale of another
31 product to ~~((determine if such milk, cream, or skim milk has been~~
32 ~~properly decharacterized as provided in RCW 15.37.100 or rules adopted~~
33 ~~hereunder))~~ inspect the facility, equipment, and product to determine
34 compliance with this chapter. The director may take samples of milk or
35 any milk products and water and environmental samples for laboratory
36 analysis. The director shall have access to records including, but not

1 limited to, customer lists, milk production records, temperature
2 records, and records of inspections and tests. No person shall
3 interfere with the director (~~(or his duly authorized representative)~~)
4 when (~~(he)~~) the director is performing or carrying out the duties
5 imposed (~~(on him)~~) by this chapter or its rules (~~(adopted hereunder)~~).

6 If the director is denied access to any premise where milk, cream,
7 or skim milk, for animal food consumption, subject to this chapter is
8 produced, handled, distributed, sold, offered for sale, held for sale,
9 or used for the inducement of the sale of another product, the director
10 may apply to a court of competent jurisdiction for a search warrant
11 authorizing access to the property and facilities for purposes of
12 conducting tests and inspections, taking samples, and examining
13 records. To show that access is denied, the director shall file with
14 the court an affidavit or declaration containing a description of his
15 or her attempts to notify and locate the owner or the owner's agent and
16 to secure consent. Upon application, the court may issue a search
17 warrant for the purposes requested.

18 NEW SECTION. Sec. 4. A new section is added to chapter 15.37 RCW
19 to read as follows:

20 Violations of this chapter are subject to the enforcement
21 provisions of this chapter and the enforcement provisions, including
22 penalties that may be levied, under chapter 15.36 RCW.

23 NEW SECTION. Sec. 5. A new section is added to chapter 15.37 RCW
24 to read as follows:

25 All license fees collected under this chapter must be deposited in
26 the dairy inspection account created in RCW 15.36.551.

27 **Sec. 6.** RCW 15.53.901 and 2005 c 18 s 1 are each amended to read
28 as follows:

29 The definitions set forth in this section apply throughout this
30 chapter.

31 (1) "Brand name" means a word, name, symbol, or device, or any
32 combination thereof, identifying the commercial feed of a distributor
33 or registrant and distinguishing it from that of others.

34 (2) "Commercial feed" means all materials or combination of
35 materials that are distributed or intended for distribution for use as

1 feed or for mixing in feed, unless such materials are specifically
2 exempted. Unmixed whole seeds and physically altered entire unmixed
3 seeds, when such whole seeds or physically altered seeds are not
4 chemically changed or not adulterated within the meaning of RCW
5 15.53.902, are exempt. The department by rule may exempt from this
6 definition, or from specific provisions of this chapter, commodities
7 such as hay, straw, stover, silage, cobs, husks, hulls, and individual
8 chemical compounds or substances when such commodities, compounds, or
9 substances are not intermixed with other materials, and are not
10 adulterated within the meaning of RCW 15.53.902. Milk, cream, or skim
11 milk, for animal food consumption regulated under chapter 15.37 RCW and
12 sold in intrastate commerce, is not commercial feed for the purpose of
13 this chapter.

14 (3) "Contract feeder" means a person who is an independent
15 contractor and feeds commercial feed to animals pursuant to a contract
16 whereby such commercial feed is supplied, furnished, or otherwise
17 provided to such person and whereby such person's remuneration is
18 determined all or in part by feed consumption, mortality, profits, or
19 amount or quality of product.

20 (4) "Customer-formula feed" means commercial feed that consists of
21 a mixture of commercial feeds or feed ingredients, or both, each batch
22 of which is manufactured according to the instructions of the final
23 purchaser.

24 (5) "Department" means the department of agriculture of the state
25 of Washington or its duly authorized representative.

26 (6) "Director" means the director of the department or a duly
27 authorized representative.

28 (7) "Distribute" means to offer for sale, sell, exchange or barter,
29 commercial feed; or to supply, furnish, or otherwise provide commercial
30 feed to a contract feeder.

31 (8) "Distributor" means a person who distributes.

32 (9) "Drug" means an article intended for use in the diagnosis,
33 cure, mitigation, treatment, or prevention of disease in animals other
34 than people and articles, other than feed intended to affect the
35 structure or a function of the animal body.

36 (10) "Facility" means any place where a commercial feed is
37 manufactured, repackaged, sold, transloaded, or stored for later
38 distribution.

1 (11) "Feed ingredient" means each of the constituent materials
2 making up a commercial feed.

3 (12) "Final purchaser" means a person who purchases commercial feed
4 to feed to animals in his or her care.

5 (13) "Initial distributor" means a person who first distributes a
6 commercial feed in or into this state.

7 (14) "Label" means a display of written, printed, or graphic matter
8 upon or affixed to the container in which a commercial feed is
9 distributed, or on the invoice or delivery slip with which a commercial
10 feed is distributed.

11 (15) "Labeling" means all labels and other written, printed, or
12 graphic matter: (a) Upon a commercial feed or any of its containers or
13 wrappers; or (b) accompanying such commercial feed.

14 (16) "Licensee" means a person who holds a commercial feed license
15 as prescribed in this chapter.

16 (17) "Manufacture" means to grind, mix or blend, or further process
17 a commercial feed for distribution.

18 (18) "Medicated feed" means a commercial feed containing a drug or
19 other medication.

20 (19) "Mineral feed" means a commercial feed intended to supply
21 primarily mineral elements or inorganic nutrients.

22 (20) "Official sample" means a sample of feed taken by the
23 department, obtained and analyzed as provided in RCW 15.53.9024 (3),
24 (5), or (6).

25 (21) "Percent" or "percentage" means percentage by weight.

26 (22) "Person" means an individual, firm, partnership, corporation,
27 or association.

28 (23) "Pet" means a domesticated animal normally maintained in or
29 near the household of the owner of the pet.

30 (24) "Pet food" means a commercial feed prepared and distributed
31 for consumption by pets.

32 (25) "Product name" means the name of the commercial feed that
33 identifies it as to kind, class, or specific use.

34 (26) "Responsible buyer" means a licensee who is not the final
35 purchaser of a commercial feed and has agreed to be responsible for
36 reporting tonnage and paying inspection fees for all commercial feeds
37 they distribute.

38 (27) "Retail" means to distribute to the final purchaser.

1 (28) "Sell" or "sale" includes exchange.

2 (29) "Specialty pet" means a domesticated animal pet normally
3 maintained in a cage or tank, such as, but not limited to, gerbils,
4 hamsters, canaries, psittacine birds, mynahs, finches, tropical fish,
5 goldfish, snakes, and turtles.

6 (30) "Specialty pet food" means a commercial feed prepared and
7 distributed for consumption by specialty pets.

8 (31) "Ton" means a net weight of two thousand pounds avoirdupois.

9 (32) "Transload" means to transfer commercial feed from one carrier
10 to another carrier without processing or blending the ingredients, for
11 example, transferred from rail car to trucks or shipping containers.

12 (33) "Quantity statement" means the net weight (mass), net volume
13 (liquid or dry), or count.

14 NEW SECTION. **Sec. 7.** RCW 15.37.150 (Penalty) and 1961 c 285 s 15
15 are each repealed.

16 NEW SECTION. **Sec. 8.** This act takes effect October 1, 2009.

--- END ---