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SENATE BILL 5678

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State of Washington

61st Legislature

2009 Regular Session

By Senator Hatfield

Read first time 01/28/09. Referred to Committee on Agriculture & Rural Economic Development.

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; prescribing penalties; and providing  
4 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.** This act takes effect October 1, 2009.

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