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SENATE BILL 5748

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Rockefeller, Honeyford, and Chase

Read first time 02/09/11. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to cottage food operations; amending RCW 69.07.010,  
2 69.07.080, and 69.07.100; and adding a new section to chapter 69.07  
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.07 RCW  
6 to read as follows:

7 (1) A cottage food operation is exempt from the licensing and  
8 evaluation provisions of this chapter. This exemption does not include  
9 an exemption from the adulteration and other standards imposed in this  
10 chapter and does not limit the ability of the department to take  
11 appropriate enforcement action. This subsection does not require a  
12 cottage food operation to meet the standards contained in 21 C.F.R.  
13 Sec. 110 as it exists on the effective date of this section or the 2005  
14 federal food code, or both.

15 (2) Cottage food products must be prepackaged and properly labeled  
16 before sale.

17 (3) A cottage food operation must place on the label of any food it  
18 produces or packages, at a minimum, the following information:

- 1 (a) The name and address of the business of the cottage food  
2 operation;
- 3 (b) The name of the cottage food product;
- 4 (c) The ingredients of the cottage food product, in descending  
5 order of predominance by weight;
- 6 (d) The net weight or net volume of the cottage food product;
- 7 (e) Allergen labeling as specified by federal labeling  
8 requirements;
- 9 (f) If any nutritional claim is made, appropriate labeling as  
10 specified by federal labeling requirements;
- 11 (g) The following statement printed in at least the equivalent of  
12 eleven-point font size in a color that provides a clear contrast to the  
13 background: "Made in a home kitchen that has not been inspected by the  
14 Washington department of agriculture."
- 15 (4) Cottage food products may be sold directly from the cottage  
16 food operation to the consumer only, and not by internet or mail order.  
17 Sales by consignment or at wholesale are prohibited.
- 18 (5) The gross sales of cottage food products may not exceed five  
19 thousand dollars annually. The determination of the five thousand  
20 dollar annual gross sales shall be computed on the basis of the amount  
21 of gross sales within or at a particular domestic residence and shall  
22 not be computed on a per person basis within or at that domestic  
23 residence. The department may request in writing documentation to  
24 verify the annual gross sales figure.
- 25 (6) Cottage food products must be stored only in the primary  
26 domestic residence.
- 27 (7) An exemption under this section does not affect the application  
28 of any other state or federal laws or any applicable ordinances enacted  
29 by any local unit of government.
- 30 (8) In order to receive the exemption under this chapter, a cottage  
31 food operation must register annually with the department. The fee for  
32 registering is ten dollars annually. The cottage food operation must  
33 provide the department with the name of the operation, its address, and  
34 the types of cottage food products produced or packaged.

35 **Sec. 2.** RCW 69.07.010 and 1992 c 34 s 3 are each amended to read  
36 as follows:

1           (~~For the purposes of~~) The definitions in this section apply  
2 throughout this chapter(+) unless the context clearly requires  
3 otherwise.

4           (1) "Department" means the department of agriculture of the state  
5 of Washington(+).

6           (2) "Director" means the director of the department(+).

7           (3) "Food" means any substance used for food or drink by any  
8 person, including ice, bottled water, and any ingredient used for  
9 components of any such substance regardless of the quantity of such  
10 component(+).

11           (4) "Sale" means selling, offering for sale, holding for sale,  
12 preparing for sale, trading, bartering, offering a gift as an  
13 inducement for sale of, and advertising for sale in any media(+).

14           (5) "Food processing" means the handling or processing of any food  
15 in any manner in preparation for sale for human consumption: PROVIDED,  
16 That it shall not include fresh fruit or vegetables merely washed or  
17 trimmed while being prepared or packaged for sale in their natural  
18 state(+).

19           (6) "Food processing plant" includes but is not limited to any  
20 premises, plant, establishment, building, room, area, facilities and  
21 the appurtenances thereto, in whole or in part, where food is prepared,  
22 handled or processed in any manner for distribution or sale for resale  
23 by retail outlets, restaurants, and any such other facility selling or  
24 distributing to the ultimate consumer: PROVIDED, That, as set forth  
25 herein, establishments processing foods in any manner for resale shall  
26 be considered a food processing plant as to such processing(+).

27           (7) "Food service establishment" shall mean any fixed or mobile  
28 restaurant, coffee shop, cafeteria, short order cafe, luncheonette,  
29 grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail  
30 lounge, night club, roadside stand, industrial-feeding establishment,  
31 retail grocery, retail food market, retail meat market, retail bakery,  
32 private, public, or nonprofit organization routinely serving food,  
33 catering kitchen, commissary or similar place in which food or drink is  
34 prepared for sale or for service on the premises or elsewhere, and any  
35 other eating or drinking establishment or operation where food is  
36 served or provided for the public with or without charge.

37           For the purpose of this chapter any custom cannery or processing  
38 plant where raw food products, food, or food products are processed for

1 the owner thereof, or the food processing facilities are made available  
2 to the owners or persons in control of raw food products or food or  
3 food products for processing in any manner, shall be considered to be  
4 food processing plants((†)).

5 (8) "Person" means an individual, partnership, corporation, or  
6 association.

7 (9) "Cottage food operation" means a person who produces or  
8 packages cottage food products only in a kitchen of that person's  
9 primary domestic residence in Washington.

10 (10) "Cottage food product" means a food that is not potentially  
11 hazardous food, including all hazardous food regulated under 21 C.F.R.  
12 Secs. 113 and 114 as they exist on the effective date of this section,  
13 examples of which include, but are not limited to, meat and poultry  
14 products; salsa; milk products; bottled water and other beverages; and  
15 home-produced ice products. Cottage food product also does not include  
16 canned low-acid fruits or acidified vegetables and other canned foods  
17 except for jams, jellies, and preserves as defined in 21 C.F.R. Sec.  
18 150 as it exists on the effective date of this section. Examples of  
19 cottage food products include, but are not limited to, jams, jellies,  
20 dried fruit, candy, cereal, granola, dry mixes, vinegar, dried herbs,  
21 and baked goods that do not require temperature control for safety.

22 (11) "Domestic residence" means a single-family dwelling or an area  
23 within a rental unit where a single person or family actually resides.  
24 Domestic residence does not include:

25 (a) A group or communal residential setting within any type of  
26 structure; or

27 (b) An outbuilding, shed, barn, or other similar structure.

28 **Sec. 3.** RCW 69.07.080 and 1969 c 68 s 3 are each amended to read  
29 as follows:

30 For purpose of determining whether the rules adopted pursuant to  
31 RCW 69.07.020, as now or hereafter amended are complied with, the  
32 department shall have access for inspection purposes to any part,  
33 portion or area of a food processing plant or cottage food operation,  
34 and any records required to be kept under the provisions of this  
35 chapter or rules ~~((and—regulations))~~ adopted hereunder. Such  
36 inspection shall, when possible, be made during regular business hours  
37 or during any working shift of said food processing plant or cottage

1 food operation. The department may, however, inspect such food  
2 processing plant or cottage food operation at any time when it has  
3 received information that an emergency affecting the public health has  
4 arisen and such food processing plant or cottage food operation is or  
5 may be involved in the matters causing such emergency.

6 **Sec. 4.** RCW 69.07.100 and 2002 c 301 s 10 are each amended to read  
7 as follows:

8 (1) The provisions of this chapter shall not apply to  
9 establishments issued a permit or licensed under the provisions of:

10 ~~((+1))~~ (a) Chapter 69.25 RCW, the Washington wholesome eggs and  
11 egg products act;

12 ~~((+2))~~ (b) Chapter 69.28 RCW, the Washington state honey act;

13 ~~((+3))~~ (c) Chapter 16.49 RCW, the Meat inspection act;

14 ~~((+4))~~ (d) Chapter 77.65 RCW, relating to the direct retail  
15 endorsement for wild-caught seafood;

16 ~~((+5))~~ (e) Title 66 RCW, relating to alcoholic beverage control;  
17 and

18 ~~((+6))~~ (f) Chapter 69.30 RCW, the Sanitary control of shellfish  
19 act. However, if any such establishments process foods not  
20 specifically provided for in the above entitled acts, such  
21 establishments shall be subject to the provisions of this chapter.

22 (2) The provisions of this chapter shall not apply to restaurants  
23 or food service establishments.

24 (3) The provisions of this chapter do not apply to cottage food  
25 operations registered under this chapter.

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