
SUBSTITUTE HOUSE BILL 1957

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Agriculture & Rural Development (originally sponsored by Representatives Rayburn, Nealey, McLean, Chandler, Roland, Franklin and Rasmussen; by request of Department of Agriculture).

Read first time March 4, 1991.

1 AN ACT Relating to food processing; amending RCW 69.07.010,
2 69.07.040, 69.07.050, 69.07.060, and 69.07.150; adding new sections to
3 chapter 69.07 RCW; repealing RCW 69.07.090 and 69.07.130; and
4 prescribing penalties.

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

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

8 The processing of food intended for public consumption is important
9 and vital to the health and welfare both immediate and future and is
10 hereby declared to be a business affected with the public interest.
11 The provisions of this chapter are enacted to safeguard the consuming
12 public from unsafe, adulterated, or misbranded food by requiring
13 licensing of all food processing plants as defined in this chapter and
14 setting forth the requirements for such licensing.

1 **Sec. 2.** RCW 69.07.010 and 1967 ex.s. c 121 s 1 are each amended to
2 read as follows:

3 For the purposes of this chapter:

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 man and
8 any ingredient used for components of any such substance regardless of
9 the quantity of such component;

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

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

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

1 retail grocery, retail food market, retail meat market, retail bakery,
2 private, public, or nonprofit organization routinely serving food,
3 catering kitchen, commissary or similar place in which food or drink is
4 prepared for sale or for service on the premises or elsewhere, and any
5 other eating or drinking establishment or operation where food is
6 served or provided for the public with or without charge.

7 For the purpose of this chapter any custom cannery or processing
8 plant where raw food products, food, or food products are processed for
9 the owner thereof, or the food processing facilities are made available
10 to the owners or persons in control of raw food products or food or
11 food products for processing in any manner, shall be considered to be
12 food processing plants((-));

13 (8) "Person" means an individual, partnership, corporation, or
14 association;

15 (9) "For resale" means the sale or distribution to other than the
16 ultimate consumer. This term may include the transfer of food between
17 individual company locations.

18 **Sec. 3.** RCW 69.07.040 and 1988 c 5 s 1 are each amended to read as
19 follows:

20 It shall be unlawful for any person to operate a food processing
21 plant or process foods without first having obtained an annual license
22 from the department, which shall expire on ~~((the 31st day of March~~
23 ~~following issuance. A separate license shall be required for each food~~
24 ~~processing plant))~~ a date set by rule by the director. License fees
25 shall be prorated where necessary to accommodate staggering of
26 expiration dates. Application for a license shall be on a form
27 prescribed by the director and accompanied by a twenty-five dollar
28 annual license fee. Such application shall include the full name of the
29 applicant for the license and the location of the food processing plant

1 he intends to operate. If such applicant is an individual, receiver,
2 trustee, firm, partnership, association or corporation, the full name
3 of each member of the firm or partnership, or names of the officers of
4 the association or corporation shall be given on the application. Such
5 application shall further state the principal business address of the
6 applicant in the state and elsewhere and the name of a person domiciled
7 in this state authorized to receive and accept service of summons of
8 legal notices of all kinds for the applicant(~~(, and any other necessary~~
9 ~~information prescribed by the director)~~). The application shall also
10 specify the type of food to be processed and the method or nature of
11 processing operation or preservation of that food and any other
12 necessary information. Upon the approval of the application by the
13 director and compliance with the provisions of this chapter, including
14 the applicable regulations adopted hereunder by the department, the
15 applicant shall be issued a license or renewal thereof.

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

27 If upon investigation by the director, it is determined that a
28 person is processing food for retail sale and is not under permit,
29 license, or inspection by a local health authority, then that person

1 may be considered a food processor and subject to the provisions of
2 this chapter.

3 **Sec. 4.** RCW 69.07.050 and 1988 c 5 s 2 are each amended to read as
4 follows:

5 If the application for renewal of any license provided for under
6 this chapter is not filed prior to (~~April 1st in any year~~) the
7 expiration date as established by rule by the director, an additional
8 fee of fifteen dollars shall be assessed and added to the original fee
9 and shall be paid by the applicant before the renewal license shall be
10 issued: PROVIDED, That such additional fee shall not be charged if the
11 applicant furnishes an affidavit certifying that he or she has not
12 operated a food processing plant or processed foods subsequent to the
13 expiration of his or her license.

14 **Sec. 5.** RCW 69.07.060 and 1979 c 154 s 19 are each amended to read
15 as follows:

16 The director may, subsequent to a hearing thereon, deny, suspend or
17 revoke any license provided for in this chapter if he determines that
18 an applicant has committed any of the following acts:

19 (1) Refused, neglected or failed to comply with the provisions of
20 this chapter, the rules and regulations adopted hereunder, or any
21 lawful order of the director.

22 (2) Refused, neglected or failed to keep and maintain records
23 required by this chapter, or to make such records available when
24 requested pursuant to the provisions of this chapter.

25 (3) Refused the department access to any portion or area of the
26 food processing plant for the purpose of carrying out the provisions of
27 this chapter.

1 (4) Refused the department access to any records required to be
2 kept under the provisions of this chapter.

3 (5) Refused, neglected, or failed to comply with any provisions of
4 chapter 69.04 RCW, Washington Food, Drug, and Cosmetic Act, or any
5 regulations adopted thereunder.

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

9 NEW SECTION. Sec. 6. A new section is added to chapter 69.07 RCW
10 to read as follows:

11 (1) Whenever the director finds an establishment operating under
12 conditions that constitute an immediate danger to public health or
13 under conditions that allow adulteration of food as defined under RCW
14 69.04.210 or whenever the licensee or any employee of the licensee
15 actively prevents the director or the director's representative, during
16 an onsite inspection, from determining whether such a condition exists,
17 the director may summarily suspend, pending a hearing, a license
18 provided for in this chapter.

19 (2) Whenever a license is summarily suspended, the holder of the
20 license shall be notified in writing that the license is, upon service
21 of the notice, immediately suspended and that prompt opportunity for a
22 hearing will be provided.

23 (3) Whenever a license is summarily suspended, food processing
24 operations shall immediately cease. However, the director may
25 reinstate the license when the condition that caused the suspension has
26 been abated to the director's satisfaction.

27 NEW SECTION. Sec. 7. A new section is added to chapter 69.07 RCW
28 to read as follows:

1 The director or the director's deputies, assistants, and inspectors
2 are authorized to do all acts and things necessary to carry out the
3 provisions of this chapter, including the taking of verified
4 statements. The department personnel are empowered to administer oaths
5 of verification on the statement.

6 NEW SECTION. **Sec. 8.** A new section is added to chapter 69.07 RCW
7 to read as follows:

8 It shall be unlawful to resell, to offer for resale, or to
9 distribute for resale in intrastate commerce any food processed in a
10 food processing plant, which has not obtained a license, as provided
11 for in this chapter, once notification by the director has been given
12 to the person or persons reselling, offering, or distributing food for
13 resale, that said food is from an unlicensed processing operation.

14 NEW SECTION. **Sec. 9.** A new section is added to chapter 69.07 RCW
15 to read as follows:

16 Whenever the director finds that a person has committed a violation
17 of any of the provisions of this chapter the director may impose upon
18 and collect from the violator a civil penalty not exceeding one
19 thousand dollars per violation per day. Each violation shall be a
20 separate and distinct offense.

21 **Sec. 10.** RCW 69.07.150 and 1967 ex.s. c 121 s 15 are each amended
22 to read as follows:

23 Any person violating any provision of this chapter or any rule or
24 regulation adopted hereunder shall be guilty of a misdemeanor and
25 guilty of a gross misdemeanor for any second and subsequent violation:
26 PROVIDED, That any offense committed more than five years after a
27 previous conviction shall be considered a first offense. A misdemeanor

1 under this section is punishable to the same extent that a misdemeanor
2 is punishable under RCW 9A.20.021 and a gross misdemeanor under this
3 section is punishable to the same extent that a gross misdemeanor is
4 punishable under RCW 9A.20.021.

5 NEW SECTION. **Sec. 11.** The following acts or parts of acts are
6 each repealed:

7 (1) RCW 69.07.090 and 1967 ex.s. c 121 s 9; and

8 (2) RCW 69.07.130 and 1967 ex.s. c 121 s 13.