
**Agriculture & Natural Resources
Committee**

ESSB 6388

Brief Description: Concerning pass-through food distributors.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Padden).

Brief Summary of Engrossed Substitute Bill

- Creates a license for a pass-through food distributor that delivers prepackaged food directly to a consumer who pre-ordered and pre-paid for the food on the entity's website.

Hearing Date: 2/25/14

Staff: Megan Mulvihill (786-7291) and Jason Callahan (786-7291).

Background:

The Food Distribution Process.

Food distributors purchase products from a manufacturer or other food processor and sell and distribute the food products to food service companies and retailers. The process for distributors includes purchasing food products, taking inventory, storing the products until ready for transport, finding a buyer for the products, and transporting the products to the buyer or retailer.

The Washington Food Code and Applicable Definitions.

Every four years, the U.S. Food and Drug Administration (FDA) publishes the federal Food Code for all levels of government to use as a model. The Washington Department of Health adopted the FDA's Food Code with some modifications to create the Washington Retail Food Code (Food Code). Local Boards of Health are required to follow the minimum standards outlined in the Food Code, but may adopt more stringent provisions in which those provisions then apply.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Food Code defines a "food establishment" as: (1) an element of operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location; and (2) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location where consumption is on or off the premises regardless of whether there is a charge for the food. An entity is not considered a food establishment if the food is not categorized as potentially hazardous. Food is considered potentially hazardous if it requires time and temperature control for safety and is prepackaged in a licensed food establishment or food processing plant. In addition, the Food Code defines a "mobile food unit" as a food establishment that is readily moveable.

The Washington State Department of Agriculture (WSDA) regulates food processors, other food-related businesses, and administers a variety of agriculture-related programs.

Summary of Bill:

A "pass-through food distributor" is defined as an entity that receives prepackaged food from a food processor either licensed or inspected, or both, by a state or federal regulatory agency or department and that delivers the food directly to consumers who only placed and paid for an order on the entity's web site, without opening the packaging and without dividing it into smaller packages, by means of vehicles that are equipped with either refrigeration or freezer units, or both, and that meet the requirements of rules. A pass-through food distributor may be exempt from the permitting requirements of food service rules adopted by the State Board of Health and local health jurisdictions.

In order to receive a pass-through food distributor license from the WSDA, an entity needs to:

- submit a completed application and the required fees;
- submit a list of all vehicles used by the entity to deliver food; and
- maintain a temperature log or use a device to monitor the temperature of the food.

A licensed pass-through food distributor must protect food from contamination, and in the event of a food recall or foodborne illness outbreak, use their customer listserv to notify customers.

The WSDA must do the following:

- inspect vehicles, food handling areas, refrigeration equipment, storage facilities, and product packaging used by the entity;
- audit temperature logs and food handling records;
- investigate any complaints against a licensed pass-through food distributor for failing to maintain food safety;
- establish fees to defray the program's costs; and
- adopt rules, in junction with the department of health and local health jurisdictions, necessary to administer the program.

All license and inspection fees must be paid into the Food Processing Inspection Account within the Agricultural Local Fund and must be used only for the purposes of this program.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.