
SENATE BILL 6377

State of Washington

59th Legislature

2006 Regular Session

By Senators Doumit, Rasmussen, Schoesler, Swecker, Morton, Zarelli, Shin and Pflug

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1 AN ACT Relating to milk sales; amending RCW 15.36.012, 15.36.111,
2 and 15.36.511; adding new sections to chapter 15.36 RCW; creating a new
3 section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the existing
6 definition of "sale" as provided in chapter 15.36 RCW includes
7 arrangements known as "cow shares," in which one or more individuals
8 purchase one or more shares in a milk-producing animal in return for a
9 portion of the milk that is produced. It is the intent of the
10 legislature to clarify that the existing definition includes these
11 arrangements.

12 **Sec. 2.** RCW 15.36.012 and 1999 c 291 s 1 are each amended to read
13 as follows:

14 For the purpose of this chapter:

15 "Adulterated milk" means milk that is deemed adulterated under
16 appendix L of the PMO.

17 "Colostrum milk" means milk produced within ten days before or
18 until practically colostrum free after parturition.

1 "Cow share agreement" means an arrangement in which one or more
2 individuals purchase one or more shares of a cow, goat, sheep, or other
3 mammal in return for a portion of the milk produced by the animal.

4 "DMO" means supplement I, the recommended sanitation ordinance for
5 grade A condensed and dry milk products and condensed and dry whey, to
6 the PMO published by the United States public health service, food and
7 drug administration.

8 "Dairy farm" means a place or premises where one or more cows,
9 goats, or other mammals are kept, a part or all of the milk or milk
10 products from which is sold or offered for sale to a milk processing
11 plant, transfer station, or receiving station.

12 "Dairy technician" means any person who takes samples of milk or
13 cream or fluid derivatives thereof, on which sample tests are to be
14 made as a basis of payment, or who grades, weighs, or measures milk or
15 cream or the fluid derivatives thereof, the grade, weight, or measure
16 to be used as a basis of payment, or who operates equipment wherein
17 milk or products thereof are pasteurized.

18 "Degrade" means the lowering in grade from grade A to grade C.

19 "Department" means the state department of agriculture.

20 "Director" means the director of agriculture of the state of
21 Washington or the director's duly authorized representative.

22 "Grade A milk processing plant" means any milk processing plant
23 that meets all of the standards of the PMO to process grade A
24 pasteurized milk or milk products.

25 "Grade A pasteurized milk" means grade A raw milk that has been
26 pasteurized.

27 "Grade A raw milk" means raw milk produced upon dairy farms
28 conforming with all of the items of sanitation contained in the PMO, in
29 which the bacterial plate count does not exceed twenty thousand per
30 milliliter and the coliform count does not exceed ten per milliliter as
31 determined in accordance with RCW 15.36.201.

32 "Grade A raw milk for pasteurization" means raw milk produced upon
33 dairy farms conforming with all of the same items of sanitation
34 contained in the PMO of grade A raw milk, and the bacterial plate
35 count, as delivered from the farm, does not exceed eighty thousand per
36 milliliter as determined in accordance with RCW 15.36.201.

37 "Grade C milk" is milk that violates any of the requirements for
38 grade A milk but that is not deemed to be adulterated.

1 "Milk" means the lacteal secretion, practically free of colostrum,
2 obtained by the complete milking of one or more healthy cows, goats, or
3 other mammals.

4 "Milk hauler" means a person who transports milk or milk products
5 in bulk to or from a milk processing plant, receiving station, or
6 transfer station.

7 "Milk processing" means the handling, preparing, packaging, or
8 processing of milk in any manner in preparation for sale as food, as
9 defined in chapter 69.04 RCW. Milk processing does not include milking
10 or producing milk on a dairy farm that is shipped to a milk processing
11 plant for further processing.

12 "Milk processing plant" means a place, premises, or establishment
13 where milk or milk products are collected, handled, processed, stored,
14 bottled, pasteurized, aseptically processed, bottled, or prepared for
15 distribution, except an establishment that merely receives the
16 processed milk products and serves them or sells them at retail.

17 "Milk products" means the product of a milk manufacturing process.

18 "Misbranded milk" means milk or milk products that carries a grade
19 label unless such grade label has been awarded by the director and not
20 revoked, or that fails to conform in any other respect with the
21 statements on the label.

22 "Official laboratory" means a biological, chemical, or physical
23 laboratory that is under the direct supervision of the state or a local
24 regulatory agency.

25 "Officially designated laboratory" means a commercial laboratory
26 authorized to do official work by the department, or a milk industry
27 laboratory officially designated by the department for the examination
28 of grade A raw milk for pasteurization and commingled milk tank truck
29 samples of raw milk for antibiotic residues and bacterial limits.

30 "PMO" means the grade "A" pasteurized milk ordinance published by
31 the United States public health service, food and drug administration.

32 "Pasteurized" means the process of heating every particle of milk
33 or milk product in properly designed and operated equipment to the
34 temperature and time standards specified in the PMO.

35 "Person" means an individual, partnership, firm, corporation,
36 company, trustee, or association.

37 "Producer" means a person or organization who operates a dairy farm

1 and provides, sells, or offers milk for sale to a milk processing
2 plant, receiving station, or transfer station.

3 "Receiving station" means a place, premises, or establishment where
4 raw milk is received, collected, handled, stored, or cooled and
5 prepared for further transporting.

6 "Sale" means selling, offering for sale, holding for sale,
7 preparing for sale, trading, bartering, offering a gift as an
8 inducement for sale of, a cow share agreement, and advertising for sale
9 in any media.

10 "Transfer station" means any place, premises, or establishment
11 where milk or milk products are transferred directly from one milk tank
12 truck to another.

13 "Wash station" means a place, facility, or establishment where milk
14 tanker trucks are cleaned in accordance with the standards of the PMO.

15 **Sec. 3.** RCW 15.36.111 and 1999 c 291 s 6 are each amended to read
16 as follows:

17 (1) The director shall inspect all dairy farms and all milk
18 processing plants prior to issuance of a license under this chapter and
19 at a frequency determined by the director by rule: PROVIDED, That the
20 director may accept the results of periodic industry inspections of
21 producer dairies if such inspections have been officially checked
22 periodically and found satisfactory. In case the director discovers
23 the violation of any item of grade requirement, he or she shall make a
24 second inspection after a lapse of such time as he or she deems
25 necessary for the defect to be remedied, but not before the lapse of
26 three days, and the second inspection shall be used in determining
27 compliance with the grade requirements of this chapter. Whenever there
28 is any violation of the same requirement of this chapter on the second
29 inspection, the director may initiate proceedings to degrade, suspend
30 the license, or assess a civil penalty.

31 (2) One copy of the inspection report detailing the grade
32 requirement violations shall be posted by the director in a conspicuous
33 place upon an inside wall of the milk tank room or a mutually agreed
34 upon location on a dairy farm or given to an operator of the milk
35 processing plant, and said inspection report shall not be defaced or
36 removed by any person except the director. Another copy of the
37 inspection report shall be filed with the records of the director.

1 (3) Every milk producer and milk processing plant shall permit the
2 director access to all parts of the establishment during the working
3 hours of the producer or milk processing plant, which shall at a
4 minimum include the hours from 8 a.m. to 5 p.m., and every milk
5 processing plant shall furnish the director, upon his or her request,
6 for official use only, samples of any milk product for laboratory
7 analysis, a true statement of the actual quantities of milk and milk
8 products of each grade purchased and sold, together with a list of all
9 sources, records of inspections and tests, and recording thermometer
10 charts.

11 (4) The director shall have access to all parts of the
12 establishment of a dairy farm that is not licensed as a milk producer
13 or milk processing plant if the director has information that the dairy
14 farm is engaged in activities that require a license under this
15 chapter. The director shall have access during the working hours of
16 the dairy farm, which shall at a minimum include the hours from 8 a.m.
17 to 5 p.m. The director shall have the authority to take samples of
18 milk or any milk products for laboratory analysis. The director shall
19 have access to dairy farm records including, but not limited to,
20 customer lists, milk production records, and records of inspections,
21 tests, and thermometer charts.

22 (5) If the director is denied access to a dairy farm or milk
23 processing plant, the director may apply to a court of competent
24 jurisdiction for a search warrant authorizing access to property and
25 facilities for purposes of conducting tests and inspections, taking
26 samples, or examining records. To show that access is denied, the
27 director shall file with the court an affidavit or declaration
28 containing a description of his or her attempts to notify and locate
29 the owner or the owner's agent and to secure consent. Upon
30 application, the court may issue a search warrant for the purposes
31 requested.

32 **Sec. 4.** RCW 15.36.511 and 1999 c 291 s 24 are each amended to read
33 as follows:

34 (1) It is unlawful for any person to:
35 ((+1)) (a) Interfere with or obstruct any person in the
36 performance of official duties under this chapter;

1 (~~(+2)~~) (b) Employ a tester, sampler, weigher, grader, or
2 pasteurizer who is not licensed as a dairy technician;
3 (~~(+3)~~) (c) Alter or tamper with a seal placed by the director;
4 (~~(+4)~~)
5 (~~(+4)~~) (d) Alter or tamper with a sample of milk or milk products
6 taken or sealed by the director; or
7 (e) Operate as a milk producer or milk processing plant without
8 obtaining a license from the director.
9 (2) Except as provided under RCW (~~(15.35.131)~~) 15.36.131, it is
10 unlawful for a milk processing plant to accept milk from a person not
11 licensed as a producer or milk processor.

12 NEW SECTION. Sec. 5. A new section is added to chapter 15.36 RCW
13 to read as follows:

14 The director may issue a cease and desist order to any person whom
15 the director has reason to believe is engaged in an activity for which
16 a license is required by this chapter. The person to whom such notice
17 is issued may request an adjudicative proceeding to contest the order.

18 NEW SECTION. Sec. 6. A new section is added to chapter 15.36 RCW
19 to read as follows:

20 The sale of raw milk from a dairy farm that is not licensed as a
21 milk producer and a milk processing plant under this chapter
22 constitutes a class C felony punishable according to chapter 9A.20 RCW.
23 Neither the issuance of a cease and desist order nor payment of a civil
24 penalty relieves the person so selling raw milk from criminal
25 prosecution, but the remedy of a cease and desist order or civil
26 penalty is in addition to any criminal liability.

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