
SENATE BILL 5139

State of Washington

63rd Legislature

2013 Regular Session

By Senators Hatfield, Schoesler, Hobbs, Honeyford, and Shin

Read first time 01/21/13. Referred to Committee on Agriculture, Water & Rural Economic Development.

1 AN ACT Relating to milk and milk products; amending RCW 15.36.201,
2 15.36.451, and 15.36.454; repealing RCW 15.36.457 and 15.36.471; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 15.36.201 and 1999 c 291 s 12 are each amended to read
6 as follows:

7 (1) During any consecutive six (~~months~~) month period, at least
8 four samples of: (a) Either raw milk(~~(raw)~~) or raw milk for
9 pasteurization, or both, from each (~~dairy farm and~~) milk producer; or
10 (b)(i) raw milk for pasteurization(~~(raw)~~) after receipt by the milk
11 processing plant and prior to pasteurization(~~(raw)~~); (ii) heat-treated
12 milk products(~~(raw)~~); and (iii) pasteurized milk and milk products from
13 each (~~grade A~~) milk processing plant(~~(raw for purposes of compliance~~
14 with the PMO,) shall be collected (~~in at least four separate months~~)
15 and examined in an official laboratory(~~(raw PROVIDED, That~~) to
16 determine compliance with bacteriological or cooling temperature
17 standards for milk or milk products established in this chapter and
18 rules adopted under this chapter. However, in the case of raw milk for

1 pasteurization, the director may accept the results of an officially
2 designated laboratory.

3 (2) If (~~two of the last four consecutive~~) a bacterial count(~~(s)~~),
4 somatic cell count(~~(s)~~), coliform determination(~~(s)~~), or cooling
5 temperature(~~(s, taken on separate days,)~~) exceeds the standard (~~for~~
6 ~~milk or milk products established in this chapter and rules adopted~~
7 ~~under this chapter~~), the director shall send written notice
8 (~~thereof~~) to the (~~person concerned. This notice shall remain in~~
9 ~~effect so long as two of the last four consecutive samples exceed the~~
10 ~~limit of the same standard. An additional sample shall be taken after~~
11 ~~sending of the notice, but not before the lapse of three days~~) milk
12 producer or milk processor. The director may initiate proceedings to
13 degrade or suspend the milk producer's license or milk processing plant
14 license (~~(or)~~) and may assess a civil penalty whenever the standard is
15 again violated (~~so that three of the last five consecutive samples~~
16 ~~exceed the limit of the same standard~~)).

17 **Sec. 2.** RCW 15.36.451 and 1999 c 291 s 17 are each amended to read
18 as follows:

19 Any producer or milk processing plant whose milk has been degraded
20 by the director, or whose license has been suspended may at any time
21 make application for the regrading of his or her products or the
22 reinstatement of his or her license.

23 (~~Upon receipt of a satisfactory application,~~) In case the lowered
24 grade or the license suspension was the result of violation of the
25 bacteriological or cooling temperature standards, the director
26 (~~shall~~) may take further samples of the applicant's output, at a rate
27 of not more than two samples per week. The director shall regrade the
28 milk or milk products upward or reinstate the license on compliance
29 with grade requirements as determined in accordance with the provisions
30 of RCW 15.36.201.

31 In case the lowered grade of the applicant's product or the license
32 suspension was due to a violation of an item other than bacteriological
33 standard or cooling temperature, the said application must be
34 accompanied by a statement signed by the applicant to the effect that
35 the violated item of the specifications had been conformed with.
36 Within one week of the receipt of such an application and statement the
37 director shall make a reinspection of the applicant's establishment and

1 thereafter as many additional reinspections as he or she may deem
2 necessary to assure himself or herself that the applicant is again
3 complying with the higher grade requirements. The higher grade or
4 license shall be reinstated upon confirmation that all violated items
5 are corrected and any period for reduction in grade or license
6 suspensions as ordered by the director has been completed.

7 **Sec. 3.** RCW 15.36.454 and 1999 c 291 s 18 are each amended to read
8 as follows:

9 (1) ~~((Except as provided in RCW 15.36.471 or subsection (2) or (3)~~
10 ~~of this section,))~~ Any person who fails to comply with this chapter or
11 the rules adopted under this chapter may be subject to a civil penalty
12 in an amount of not more than one thousand dollars per violation per
13 day.

14 (2) The director ~~((shall))~~ may adopt ~~((rules establishing civil~~
15 ~~penalties assessed under RCW 15.36.111(1) and 15.36.201(2). The~~
16 ~~penalties shall be equitably based on the volume of milk or milk~~
17 ~~product handled by the producer or milk processor subject to the~~
18 ~~penalty))~~ by rule a penalty matrix that establishes procedures for
19 civil penalties assessed under this chapter.

20 (3) Whenever the results of an antibiotic, pesticide, or other drug
21 residue test on a producer's milk are above the actionable level
22 established in the PMO, the producer is subject to a civil penalty ~~((in~~
23 ~~an amount equal to one half the value of the sum of the volumes of milk~~
24 ~~produced on the day prior to and the day of the adulteration. The~~
25 ~~value of the milk shall be computed using the weighted average price~~
26 ~~for the federal market order under which the milk is delivered))~~ under
27 this section in addition to any other action taken under this chapter.

28 (4) The director may impose a civil penalty under this section for
29 violations of the standards for component parts of fluid dairy products
30 that are established in this chapter or rules adopted under this
31 chapter.

32 (5) Each violation is a separate and distinct offense. The
33 director shall impose the civil penalty in accordance with chapter
34 34.05 RCW. Moneys collected under this section ~~((and RCW 15.36.471))~~
35 shall be remitted to the department and deposited into the revolving
36 fund of the Washington state dairy products commission.

1 NEW SECTION. **Sec. 4.** The following acts or parts of acts are each
2 repealed:

3 (1) RCW 15.36.457 (Authority to assess civil penalty) and 1999 c
4 291 s 19; and

5 (2) RCW 15.36.471 (Component parts of fluid dairy products--
6 Violations of standards--Civil penalty--Investigation) and 1999 c 291
7 s 20, 1994 c 143 s 511, 1993 c 212 s 3, 1989 c 175 s 49, & 1986 c 203
8 s 19.

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