H-2074.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 2128**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** House General Government & Information Technology (originally sponsored by Representative Hudgins; by request of Department of Agriculture)

AN ACT Relating to fees assessed by the department of agriculture; amending RCW 15.36.051, 15.36.081, 15.36.491, 15.36.525, 15.36.551, 69.07.040, 69.07.085, and 69.10.015; adding a new section to chapter 15.36 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that section 309(4), chapter 4, Laws of 2013 2nd sp. sess. directed the department of agriculture to convene and facilitate a work group with appropriate stakeholders to review fees supporting programs within the department that are also supported with the state general fund.

(2) The legislature further finds that with the help of a consulting firm, the department of agriculture identified fees in the food safety and animal health programs that met the budget proviso criteria. The department then formed a work group with representatives from dairy, food processing, and other relevant professional associations.

(3) The legislature further finds that the work group's final report recommends fee increases for fees that do not completely cover the costs of services provided and that will make programs within the department of agriculture less reliant on the state general fund. Therefore, the legislature intends to implement the recommendations of the work group's report.

**Sec.**  RCW RCW 15.36.051 and 2005 c 414 s 1 are each amended to read as follows:

(1) A milk processing plant must obtain an annual milk processing plant license from the department, which shall expire on June 30th of each year. A milk processing plant may choose to process ((~~(1)~~)): (a) Grade A milk and milk products((~~,~~)); or ((~~(2)~~)) (b) other milk products that are not classified grade A.

(2) Only one license may be required to process milk; however, milk processing plants must obtain the necessary endorsements from the department in order to process products as defined for each type of milk or milk product processing. Application for a license shall be on a form prescribed by the director and accompanied by a ((~~fifty-five~~)) two hundred fifty dollar annual license fee beginning July 1, 2015. The applicant shall include on the application the full name of the applicant for the license and the location of the milk processing plant he or she intends to operate and any other necessary information. Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable rules adopted under this chapter by the department, the applicant shall be issued a license or a renewal of a license.

(3) Licenses shall be issued to cover only those products, processes, and operations specified in the license application and approved for licensing. If a license holder wishes to engage in processing a type of milk product that is different than the type specified on the application supporting the licensee's existing license and processing that type of food product would require a major addition to or modification of the licensee's processing facilities, the licensee shall submit an amendment to the current license application. In such a case, the licensee may engage in processing the new type of milk product only after the amendment has been approved by the department.

(4) A licensee under this section shall not be required to obtain a food processing plant license under chapter 69.07 RCW to process milk or milk products.

(5) The director shall waive the fee for a food processing license under chapter 69.07 RCW for persons who are also licensed as a milk processing plant.

(6) The department must increase the license fee on September 30, 2019, and every four years thereafter, by the amount of inflation in the previous four-year period as measured by the percentage change in the implicit price deflator published by the United States department of commerce. The fee must be rounded to the nearest quarter of a dollar.

**Sec.**  RCW 15.36.081 and 1999 c 291 s 5 are each amended to read as follows:

(1) A dairy technician must obtain a dairy technician's license to conduct operations under this chapter. Such license shall be limited to those functions which the licensee has been found qualified to perform. Before issuing the license the director shall assess the applicant's qualifications and may test the applicant for the functions for which application has been made.

(2) Application for a license as a dairy technician shall be made upon forms provided by the director, and shall be filed with the department. The director may issue a temporary license to the applicant for such period as may be prescribed and stated in the license, not to exceed sixty days, but the license may not be renewed to extend the period beyond sixty days.

(3) The initial application and renewal for a dairy technician's license must be accompanied by a license fee of ((~~ten dollars. The fee for renewal of the license is five~~)) twenty-five dollars beginning July 1, 2015. All dairy technicians' licenses shall expire on December 31st of odd-numbered years.

(4) The initial application for any endorsement beyond a dairy technician's license must be accompanied by an endorsement fee of twenty-five dollars beginning July 1, 2015.

(5) The department must increase the license fee and endorsement fee on September 30, 2019, and every four years thereafter, by the amount of inflation in the previous four-year period as measured by the percentage change in the implicit price deflator published by the United States department of commerce. The fee must be rounded to the nearest quarter of a dollar.

**Sec.**  RCW 15.36.491 and 2005 c 414 s 4 are each amended to read as follows:

All moneys received for licenses under this chapter shall be deposited ((~~in the general fund, except that all moneys received for annual milk processing plant licenses under RCW 15.36.051 shall be deposited~~)) in the agricultural local fund established under RCW 43.23.230.

**Sec.**  RCW 15.36.525 and 1999 c 291 s 25 are each amended to read as follows:

(1) The department may issue sanitary certificates to milk processing plants under this chapter subject to such requirements as it may establish by rule. The fee for issuance is ((~~fifty~~)) seventy-five dollars per certificate beginning July 1, 2015. Fees collected under this section shall be deposited in the agricultural local fund.

(2) The department must increase the fee on September 30, 2019, and every four years thereafter, by the amount of inflation in the previous four-year period as measured by the percentage change in the implicit price deflator published by the United States department of commerce. The fee must be rounded to the nearest quarter of a dollar.

**Sec.**  RCW 15.36.551 and 2010 c 17 s 1 are each amended to read as follows:

(1) There is levied on all milk processed in this state an assessment not to exceed fifty-four one-hundredths of one cent per hundredweight. The director shall determine, by rule, an assessment, that with contribution from the general fund, will support an inspection program to maintain compliance with the provisions of the pasteurized milk ordinance of the national conference on interstate milk shipment.

(2) All assessments under this section shall be levied on the operator of the first milk processing plant receiving the milk for processing. This shall include milk processing plants that produce their own milk for processing and milk processing plants that receive milk from other sources. Milk processing plants whose monthly assessment for receipt of milk totals less than twenty dollars in any given month are exempted from paying this assessment for that month.

(3) All moneys collected under this section shall be paid to the director by the twentieth day of the succeeding month for the previous month's assessments. The director shall deposit the funds into the dairy inspection account hereby created within the agricultural local fund established in RCW 43.23.230. The funds shall be used only to provide inspection services to the dairy industry.

(4) If the operator of a milk processing plant fails to remit any assessments, that sum shall be a lien on any property owned by him or her, and shall be reported by the director and collected in the manner and with the same priority over other creditors as prescribed for the collection of delinquent taxes under chapters 84.60 and 84.64 RCW.

(5) The department must increase the assessment on September 30, 2019, and every four years thereafter, by the amount of inflation in the previous four-year period as measured by the percentage change in the implicit price deflator published by the United States department of commerce. The fee must be rounded to the nearest quarter of a dollar.

(6) This section expires June 30, ((~~2015~~)) 2020.

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

(1) The department may, upon inspection, assess an inspection fee on any manufacturing facility that is required to be inspected under the PMO and does not satisfy the definition of "milk processing plant" as defined in this chapter, "food processing plant" as defined in RCW 69.07.010, or "food storage warehouse" as defined in RCW 69.10.005.

(2) The department must increase the inspection fee on September 30, 2019, and every four years thereafter, by the amount of inflation in the previous four-year period as measured by the percentage change in the implicit price deflator published by the United States department of commerce. The fee must be rounded to the nearest quarter of a dollar.

**Sec.**  RCW 69.07.040 and 1995 c 374 s 21 are each amended to read as follows:

(1) It ((~~shall be~~)) is unlawful for any person to operate a food processing plant or process foods in the state without first having obtained an annual license from the department, which shall expire on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates. Application for a license shall be on a form prescribed by the director and accompanied by the license fee. The license fee is determined by computing the gross annual sales for the accounting year immediately preceding the license year. If the license is for a new operator, the license fee shall be based on an estimated gross annual sales for the initial license period.

|  |  |  |
| --- | --- | --- |
|  | If gross annual sales are: | The license fee is: |
|  | $0 to $50,000 | $((~~55.00~~)) 92.00 |
|  | $50,001 to $500,000 | $((~~110.00~~)) 147.00 |
|  | $500,001 to $1,000,000 | $((~~220.00~~)) 262.00 |
|  | $1,000,001 to $5,000,000 | $((~~385.00~~)) 427.00 |
|  | $5,000,001 to $10,000,000 | $((~~550.00~~)) 585.00 |
|  | Greater than $10,000,000 | $((~~825.00~~)) 862.00 |

((~~Such application shall~~)) (2) Applications under this section must include:

(a) The full name of the applicant for the license and the location of the food processing plant he or she intends to operate((~~. If such~~)), and if the applicant is an individual, receiver, trustee, firm, partnership, association, or corporation, the full name of each member of the firm or partnership, or names of the officers of the association or corporation ((~~shall be given on the application. Such application shall further state~~));

(b) The principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant((~~. The application shall also specify~~)); and

(c) The type of food to be processed and the method or nature of processing operation or preservation of that food and any other necessary information.

(3) Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable regulations adopted ((~~hereunder~~)) by the department, the applicant shall be issued a license or renewal ((~~thereof~~)).

(4) Licenses shall be issued to cover only those products, processes, and operations specified in the license application and approved for licensing. Wherever a license holder wishes to engage in processing a type of food product that is different than the type specified on the application supporting the licensee's existing license and processing that type of food product would require a major addition to or modification of the licensee's processing facilities or has a high potential for harm, the licensee ((~~shall~~)) must submit an amendment to the current license application. In such a case, the licensee may engage in processing the new type of food product only after the amendment has been approved by the department.

(5) If upon investigation by the director, it is determined that a person is processing food for retail sale and is not under permit, license, or inspection by a local health authority, then that person may be considered a food processor and subject to the provisions of this chapter.

(6) The director may waive the licensure requirements of this chapter for a person's operations at a facility if the person has obtained a milk processing plant license under chapter 15.36 RCW to conduct the same or a similar operation at the facility.

(7) The department must increase the license fees on September 30, 2019, and every four years thereafter, by the amount of inflation in the previous four-year period as measured by the percentage change in the implicit price deflator published by the United States department of commerce. The fee must be rounded to the nearest quarter of a dollar.

**Sec.**  RCW 69.07.085 and 1995 c 374 s 23 are each amended to read as follows:

(1) The department may issue sanitary certificates to food processors under this chapter subject to such requirements as it may establish by rule. The fee for issuance shall be ((~~fifty~~)) seventy-five dollars per certificate. Fees collected under this section shall be deposited in the agricultural local fund.

(2) The department must increase the fee on September 30, 2019, and every four years thereafter, by the amount of inflation in the previous four-year period as measured by the percentage change in the implicit price deflator published by the United States department of commerce. The fee must be rounded to the nearest quarter of a dollar.

**Sec.**  RCW 69.10.015 and 1995 c 374 s 10 are each amended to read as follows:

(1) Except as provided in this section and RCW 69.10.020, it shall be unlawful for any person to operate a food storage warehouse in the state without first having obtained an annual license from the department, which shall expire on a date set by rule by the director. Application for a license or license renewal shall be on a form prescribed by the director and accompanied by the license fee. The license fee is ((~~fifty~~)) two hundred dollars.

(2) For a food storage warehouse that has been inspected on at least an annual basis for compliance with the provisions of the current good manufacturing practices (Title 21 C.F.R. part 110) by a federal agency or by a state agency acting on behalf of and under contract with a federal agency and that is not exempted from licensure by RCW 69.10.020, the annual license fee for the warehouse is twenty-five dollars.

(3) The application shall include the full name of the applicant for the license and the location of the food storage warehouse he or she intends to operate. If such applicant is an individual, receiver, trustee, firm, partnership, association, or corporation, the full name of each member of the firm or partnership, or names of the officers of the association or corporation must be given on the application. The application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant. Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable regulations adopted under this chapter by the department, the applicant shall be issued a license or renewal thereof. The director shall waive licensure under this chapter for firms that are licensed under the provisions of chapter 69.07 or 15.36 RCW.

(4) The department must increase the license fee on September 30, 2019, and every four years thereafter, by the amount of inflation in the previous four-year period as measured by the percentage change in the implicit price deflator published by the United States department of commerce. The fee must be rounded to the nearest quarter of a dollar.

**--- END ---**