
SENATE BILL 6096

State of Washington**53rd Legislature****1994 Regular Session****By** Senators M. Rasmussen, Anderson, Newhouse, Snyder, Morton, Bauer and Quigley

Read first time 01/12/94. Referred to Committee on Agriculture.

1 AN ACT Relating to milk and milk products; amending RCW 15.32.010,
2 15.36.011, 15.36.080, 15.32.110, 15.32.100, 15.32.580, 15.32.590,
3 15.36.100, 15.36.490, 15.36.500, 15.36.470, 15.36.070, 15.32.160,
4 15.32.530, 15.36.110, 15.36.090, 15.36.300, 15.36.520, 15.32.610,
5 15.36.115, 15.36.480, 15.36.107, 15.32.450, 15.35.080, 15.36.120, and
6 15.36.595; reenacting and amending RCW 35A.69.010; adding new sections
7 to chapter 15.36 RCW; recodifying RCW 15.32.010, 15.36.011, 15.36.080,
8 15.32.110, 15.32.100, 15.32.580, 15.36.100, 15.36.490, 15.36.500,
9 15.36.120, 15.32.160, 15.36.150, 15.36.470, 15.36.070, 15.32.530,
10 15.36.110, 15.36.260, 15.36.265, 15.36.420, 15.36.300, 15.32.410,
11 15.32.420, 15.32.450, 15.32.460, 15.36.520, 15.36.530, 15.36.115,
12 15.36.480, 15.32.550, 15.36.595, 15.36.600, 15.32.710, 15.32.720,
13 15.32.730, 15.36.005, 15.32.900, 15.32.910, 15.36.105, and 15.36.107;
14 repealing RCW 15.32.051, 15.32.060, 15.32.070, 15.32.080, 15.32.090,
15 15.32.120, 15.32.130, 15.32.140, 15.32.150, 15.32.220, 15.32.250,
16 15.32.260, 15.32.330, 15.32.340, 15.32.360, 15.32.380, 15.32.430,
17 15.32.440, 15.32.490, 15.32.500, 15.32.510, 15.32.520, 15.32.540,
18 15.32.560, 15.32.570, 15.32.582, 15.32.584, 15.32.590, 15.32.600,
19 15.32.610, 15.32.620, 15.32.630, 15.32.660, 15.32.670, 15.32.680,
20 15.32.700, 15.32.740, 15.32.750, 15.32.755, 15.32.760, 15.32.770,
21 15.32.780, 15.32.790, 15.36.020, 15.36.030, 15.36.040, 15.36.055,

1 15.36.060, 15.36.075, 15.36.090, 15.36.140, 15.36.155, 15.36.160,
2 15.36.165, 15.36.170, 15.36.175, 15.36.180, 15.36.185, 15.36.190,
3 15.36.195, 15.36.200, 15.36.205, 15.36.210, 15.36.215, 15.36.220,
4 15.36.225, 15.36.230, 15.36.235, 15.36.240, 15.36.245, 15.36.250,
5 15.36.255, 15.36.270, 15.36.280, 15.36.320, 15.36.325, 15.36.330,
6 15.36.335, 15.36.340, 15.36.345, 15.36.350, 15.36.355, 15.36.360,
7 15.36.365, 15.36.370, 15.36.375, 15.36.380, 15.36.385, 15.36.390,
8 15.36.395, 15.36.400, 15.36.405, 15.36.410, 15.36.415, 15.36.425,
9 15.36.430, 15.36.440, 15.36.460, 15.36.510, 15.36.540, 15.36.550,
10 15.36.590, and 15.36.900; and prescribing penalties.

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

12 **PART I**
13 **DEFINITIONS**

14 NEW SECTION. **Sec. 101.** This chapter is intended to enact state
15 legislation that safeguards the public health and promotes public
16 welfare by: (1) Protecting the consuming public from milk or milk
17 products that are: (a) Unsafe; (b) produced under unsanitary
18 conditions; (c) do not meet bacterial standards under the PMO; or (d)
19 below The Quality Standards under Title 21 C.F.R. or administrative
20 rules and orders adopted under this chapter; and (2) requiring
21 licensing of all aspects of the dairy production and processing
22 industry.

23 **Sec. 102.** RCW 15.32.010 and 1989 c 354 s 1 are each amended to
24 read as follows:

25 For the purpose of this chapter (~~(15.32-RCW)~~):

26 (~~("Supervisor" means the supervisor of the dairy and food division;~~

27 ~~"Dairy" means a place where milk from one or more cows or goats is~~
28 ~~produced for sale;~~

29 ~~"Creamery" means a structure wherein milk or cream is manufactured~~
30 ~~into butter for sale;~~

31 ~~"Milk plant" means a structure wherein milk is bottled,~~
32 ~~pasteurized, clarified, or otherwise processed;~~

33 ~~"Cheese factory" means a structure where milk is manufactured into~~
34 ~~cheese;~~

1 "Factory of milk products" means a structure, other than a
2 creamery, milk plant, cheese factory, milk condensing plant or ice
3 cream factory, where milk or any of its products is manufactured,
4 changed, or compounded into another article, or where butter is cut or
5 wrapped; except freezing of ice cream from a mix compounded in a
6 licensed creamery, milk plant, cheese factory, milk condensing plant or
7 ice cream factory;

8 "Milk condensing plant" means a structure where milk is condensed
9 or evaporated;

10 "Ice cream factory" means a structure which complies with the
11 sanitary requirements of RCW 15.32.080, where ice cream mix is produced
12 for sale or distribution, and may include freezing such mix into ice
13 cream;

14 "Counter ice cream freezer" means counter type freezing machines
15 usually operated in retail establishments;

16 "Sterilized milk" means milk that has been heated under six pounds
17 of steam pressure and maintained thereat for not less than twenty
18 minutes;

19 "Modified milk" means milk that has been altered in composition to
20 conform to special nutritional requirements;

21 "Milk product" means an article manufactured or compounded from
22 milk, whether or not the milk conforms to the standards and definitions
23 herein;

24 "Milk byproduct" means a product of milk derived or made therefrom
25 after the removal of the milk fat or milk solids in the process of
26 making butter or cheese, and includes skimmed milk, buttermilk, whey,
27 casein, and milk powder;

28 "Butter" means the product made by gathering the fat of pasteurized
29 milk or cream into a mass containing not less than eighty percent of
30 milk fat, and which also contains a small portion of other milk
31 constituents, with or without harmless coloring matter;

32 "Renovated butter" means butter that has been reduced to a liquid
33 state by melting and drawing off the liquid or butter oil, and has
34 thereafter been churned or manipulated in connection with milk, cream,
35 or other product of milk;

36 "Reworked butter" means the product obtained by mixing or
37 rechurning butter made on different dates or at different places:
38 PROVIDED, That the mixing of remnants from one day's churning or

1 cutting with butter from the churning of the same creamery on the next
2 day shall not make the product reworked butter;

3 "Butter substitute" means a compound of vegetable oils with milk
4 fats or milk solids and all compounds of milk fats or milk solids with
5 butter when the compound contains less than eighty percent of milk fat;

6 "Oleomargarine" means all manufactured substances, extracts,
7 mixtures, or compounds, including mixtures or compounds with butter,
8 known as oleomargarine, oleo, oleomargarine oil, butterine, lardine,
9 suine, and neutral, and includes all lard and tallow extracts and
10 mixtures and compounds of tallow, beef fat, suet, lard, lard oil,
11 intestinal fat and offal fat made in imitation or semblance of butter
12 or calculated or intended to be sold as butter;

13 "Cheese" means any of the cheeses as described in Title 21 of the
14 code of federal regulations part 133;

15 "Imitation cheese" means any article, substance, or compound, other
16 than that produced from pure milk or from the cream from pure milk,
17 which is made in the semblance of cheese and designed to be sold or
18 used as a substitute for cheese. The use of salt, lactic acid, or
19 pepsin, and harmless coloring matter in cheese shall not render the
20 true product an imitation. Nothing herein shall prevent the use of
21 pure skimmed milk in the manufacture of cheese;

22 "Milk vendor" or "milk dealer" means any person who sells,
23 furnishes or delivers milk, skimmed milk, buttermilk, or cream in any
24 manner.))

25 "Adulterated milk" means milk that is deemed adulterated under
26 appendix L of the PMO.

27 "Aseptic processing" means the process by which milk or milk
28 products have been subjected to sufficient heat processing and packaged
29 in a hermetically sealed container so as to meet the standards of the
30 PMO.

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

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

37 "Dairy farm" means a place or premises where one or more cows,
38 goats, or other mammals are kept, a part or all of the milk or milk

1 products from which is sold or offered for sale to a milk processing
2 plant, transfer station, or receiving station.

3 "Dairy technician" means any person who takes samples of milk or
4 cream or fluid derivatives thereof, on which sample tests are to be
5 made as a basis of payment, or who grades, weighs, or measures milk or
6 cream or the fluid derivatives thereof, the grade, weight, or measure
7 to be used as a basis of payment, or who operates equipment wherein
8 milk or products thereof are pasteurized.

9 "Department" means the state department of agriculture.

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

12 "Distributor" means a person other than a producer who offers for
13 sale or sells to another, milk or milk products.

14 "Grade A milk processing plant" means any milk processing plant
15 that meets all of the standards of the PMO to process grade A
16 pasteurized milk or milk products.

17 "Grade A pasteurized milk" means grade A raw milk that has been
18 pasteurized.

19 "Grade A raw milk" means raw milk produced upon dairy farms
20 conforming with all of the items of sanitation contained in the PMO, in
21 which the bacterial plate count does not exceed twenty thousand per
22 milliliter and the coliform count does not exceed ten per milliliter as
23 determined in accordance with RCW 15.36.110.

24 "Grade A raw milk for pasteurization" means raw milk produced upon
25 dairy farms conforming with all of the same items of sanitation
26 contained in the PMO of grade A raw milk, and the bacterial plate
27 count, as delivered from the farm, does not exceed eighty thousand per
28 milliliter as determined in accordance with RCW 15.36.110.

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

31 "Homogenized" means milk or milk products which have been treated
32 to ensure breakup of the fat globules to an extent consistent with the
33 requirements outlined in the PMO.

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

37 "Milk hauler" means a person who transports milk or milk products
38 in bulk to or from a milk processing plant, receiving station, or
39 transfer station.

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

6 "Milk processing plant" means a place, premises, or establishment
7 where milk or milk products are collected, handled, processed, stored,
8 bottled, pasteurized, aseptically processed, bottled, or prepared for
9 distribution, except an establishment whose activity is limited to
10 retail sales.

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

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

16 "Official brucellosis adult vaccinated cattle" means those cattle,
17 officially vaccinated over the age of official calfhood vaccinated
18 cattle, that the director has determined have been commingled with, or
19 kept in close proximity to, cattle identified as brucellosis reactors,
20 and have been vaccinated against brucellosis in a manner and under the
21 conditions prescribed by the director after a hearing and under rules
22 adopted under chapter 34.05 RCW, the administrative procedure act.

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

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

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

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

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

1 "Producer" means a person or organization who operates a dairy farm
2 and provides, sells, or offers milk for sale to a milk processing
3 plant, receiving station, or transfer station.

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

7 "Sale" means selling, offering for sale, holding for sale,
8 preparing for sale, trading, bartering, offering a gift as an
9 inducement for sale of, and advertising for sale 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 "Ultrapasteurized" means the process by which milk or milk products
14 have been thermally processed in accordance with the time and
15 temperature standards of the PMO, so as to produce a product which has
16 an extended shelf life under refrigerated conditions.

17 "Ungraded processing plant" means a milk processing plant that
18 meets all of the standards of the PMO to produce milk products other
19 than grade A milk or milk products.

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

22 All dairy products mentioned in this chapter mean those fit or used
23 for human consumption.

24 **Sec. 103.** RCW 15.36.011 and 1989 c 354 s 13 are each amended to
25 read as follows:

26 The director of agriculture(~~(7)~~) may:

27 (1) Adopt rules necessary to carry out the purposes of chapters
28 15.36 and 15.38 RCW, however the rules may not restrict the display or
29 promotion of products covered under this section.

30 (2) By rule, (~~may~~) establish (~~and/or~~), amend, or both,
31 definitions and standards for milk and milk products. Such definitions
32 and standards established by the director shall conform, insofar as
33 practicable, with the definitions and standards for milk and milk
34 products (~~promulgated~~) adopted by the federal food and drug
35 administration. The director of agriculture, by rule, may likewise
36 establish (~~and/or~~), amend, or both, definitions and standards for
37 products whether fluid, powdered or frozen, compounded or manufactured
38 to resemble or in semblance or imitation of genuine dairy products as

1 defined under the provisions of (~~RCW 15.32.120, 15.36.011, 15.36.075,~~
2 ~~15.36.540 and 15.36.600~~ or chapter 15.32 RCW as enacted or hereafter
3 amended)) this chapter. Such products made to resemble or in semblance
4 or imitation of genuine dairy products shall conform with all the
5 provisions of chapter 15.38 RCW and be made wholly of nondairy
6 products.

7 All such products compounded or manufactured to resemble or in
8 semblance or imitation of a genuine dairy product shall set forth on
9 the container or labels the specific generic name of each ingredient
10 used.

11 In the event any product compounded or manufactured to resemble or
12 in semblance or imitation of a genuine dairy product contains vegetable
13 fat or oil, the generic name of such fat or oil shall be set forth on
14 the label. If a blend or variety of oils is used, the ingredient
15 statement shall contain the term "vegetable oil" in the appropriate
16 place in the ingredient statement, with the qualifying phrase following
17 the ingredient statement, such as "vegetable oils are soybean,
18 cottonseed and coconut oils" or "vegetable oil, may be cottonseed,
19 coconut or soybean oil."

20 The labels or containers of such products compounded or
21 manufactured to resemble or in semblance or imitation of genuine dairy
22 products shall not use dairy terms or words or designs commonly
23 associated with dairying or genuine dairy products, except as to the
24 extent that such words or terms are necessary to meet legal
25 requirements for labeling(~~(: PROVIDED, That)~~). The term "nondairy"
26 may be used as an informative statement.

27 (~~The director may adopt any other rules necessary to carry out the~~
28 ~~purposes of chapters 15.36 and 15.38 RCW: PROVIDED, That these rules~~
29 ~~shall not restrict the display or promotion of products covered under~~
30 ~~this section.))~~

31 (3) By rule adopt the PMO, DMO, and supplemental documents by
32 reference to establish requirements for grade A pasteurized and grade
33 A raw milk.

34 (4) Adopt rules establishing standards for grade A pasteurized and
35 grade A raw milk that are more stringent than the PMO based upon
36 current industry or public health information for the enforcement of
37 this chapter whenever he or she determines that any such rules are
38 necessary to carry out the purposes of this section and RCW 15.36.600
39 as recodified by this act. The adoption of (~~all rules provided for in~~

1 ~~this section shall be subject to the provisions of chapter 34.05 RCW as~~
2 ~~enacted or hereafter amended concerning the adoption of)) rules under~~
3 ~~this chapter, or the holding of a hearing in regard to a license issued~~
4 ~~or that may be issued under this chapter are subject to the applicable~~
5 ~~provisions of chapter 34.05 RCW, the administrative procedure act.~~

6 (5) By rule, certify an officially designated laboratory to analyze
7 milk for standard of quality, adulteration, contamination, and
8 unwholesomeness.

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PART II
PERMITS AND LICENSES

11 **Sec. 201.** RCW 15.36.080 and 1989 c 354 s 16 are each amended to
12 read as follows:

13 It shall be unlawful for any person to transport, or to sell, or
14 offer for sale, or to have in storage where milk or milk products are
15 sold or served, any milk or milk product defined in this chapter, who
16 does not possess an appropriate ((~~permit~~)) license from the director.

17 ((~~Every milk producer, milk distributor, milk hauler, and operator~~
18 ~~of a milk plant shall secure a permit to conduct such operation as~~
19 ~~defined in this chapter. Only a person who complies with the~~
20 ~~requirements of this chapter shall be entitled to receive and retain~~
21 ~~such a permit. Permits shall not be transferable with respect to~~
22 ~~persons and/or locations.~~

23 Such a permit may be temporarily suspended by the director upon
24 violation by the holder of any of the terms of this chapter, or for
25 interference with the director in the performance of his duties, or
26 revoked after an opportunity for a hearing by the director upon serious
27 or repeated violations.))

28 NEW SECTION. **Sec. 202.** Every milk producer must obtain a milk
29 producer's license to operate as a milk producer as defined in this
30 chapter. A milk producer's license is not transferable with respect to
31 persons or locations or both. The license, issued by the director upon
32 approval of an application for the license and compliance with the
33 provisions of this chapter, shall contain the license number, name,
34 residence, and place of business, if any, of the licensee.

1 **Sec. 203.** RCW 15.32.110 and 1991 c 109 s 2 are each amended to
2 read as follows:

3 (~~Every creamery, milk plant, shipping station, milk condensing
4 plant, factory of milk products, and other person who receives or
5 purchases milk or cream in bulk and by weight or measure or upon the
6 basis of milk fat contained therein shall obtain annually a license to
7 do so. The license shall be issued by the director upon payment of ten
8 dollars and his being satisfied that the building or premises where the
9 milk or cream is to be received is maintained in a sanitary condition
10 in accordance with the provisions of this chapter; except, such license
11 shall not be required of persons purchasing milk or cream for their own
12 consumption nor of hotels, restaurants, boarding houses, eating houses,
13 bakeries, or candy manufacturing plants.~~)

14 The license shall expire annually on a date set by rule by the
15 director, unless sooner revoked by the director, upon reasonable notice
16 to the licensee, for a failure to comply with the provisions of this
17 chapter, and the rules and regulations issued hereunder. License fees
18 shall be prorated where necessary to accommodate staggering of
19 expiration dates of a license or licenses.) A milk processing plant
20 must obtain an annual milk processing plant license from the
21 department, which shall expire on a date set by rule by the director.
22 A milk processing plant may choose to process (1) grade A milk and milk
23 products, or (2) other milk products that are not classified grade A.

24 Only one license may be required to process milk; however, milk
25 processing plants must obtain the necessary endorsements from the
26 department in order to process products as defined for each type of
27 milk or milk product processing. License fees shall be prorated if
28 necessary to accommodate staggering of expiration dates. Application
29 for a license shall be on a form prescribed by the director and
30 accompanied by a twenty-five dollar annual license fee. The applicant
31 shall include on the application the full name of the applicant for the
32 license and the location of the milk processing plant he or she intends
33 to operate and any other necessary information. Upon the approval of
34 the application by the director and compliance with the provisions of
35 this chapter, including the applicable rules adopted under this chapter
36 by the department, the applicant shall be issued a license or a renewal
37 of a license.

38 Licenses shall be issued to cover only those products, processes,
39 and operations specified in the license application and approved for

1 licensing. If a license holder wishes to engage in processing a type
2 of milk product that is different than the type specified on the
3 application supporting the licensee's existing license and processing
4 that type of food product would require a major addition to or
5 modification of the licensee's processing facilities, the licensee
6 shall submit an amendment to the current license application. In such
7 a case, the licensee may engage in processing the new type of milk
8 product only after the amendment has been approved by the department.

9 A licensee under this section shall not be required to obtain a
10 milk ~~((vender's))~~ distributor's license under this chapter or a food
11 processing plant license under chapter 69.07 RCW.

12 **Sec. 204.** RCW 15.32.100 and 1991 c 109 s 1 are each amended to
13 read as follows:

14 Every ~~((person who sells, offers or exposes for sale, barter, or~~
15 ~~exchanges any milk or milk product as defined by rule under chapter~~
16 ~~15.36 RCW))~~ distributor must have a milk ~~((vender's))~~ distributor's
17 license ((to do so)). The license shall not include retail stores or
18 restaurants that purchase milk prepackaged or bottled elsewhere for
19 sale at retail or establishments that sell milk only for consumption in
20 such establishment. Such license, issued by the director on
21 application and payment of a fee of ten dollars, shall contain the
22 license number, and name, residence and place of business, if any, of
23 the licensee. It shall be nontransferable, shall expire annually on a
24 date set by rule by the director, and ~~((may be revoked by the director,~~
25 ~~upon reasonable notice to the licensee, for any violation of or failure~~
26 ~~to comply with any provision of this chapter or any rule or regulation,~~
27 ~~or order of the department, or any officer or inspector thereof.))~~
28 license fees shall be prorated where necessary to accommodate
29 staggering of expiration dates of a license or licenses.

30 NEW SECTION. **Sec. 205.** A milk hauler must obtain a milk hauler's
31 license to conduct the operation under this chapter. A milk hauler's
32 license is not transferable with respect to persons or locations or
33 both. The license, issued by the director upon approval of an
34 application for the license and compliance with the provisions of this
35 chapter, shall contain the license number, name, residence, and place
36 of business, if any, of the licensee.

1 **Sec. 206.** RCW 15.32.580 and 1963 c 58 s 6 are each amended to read
2 as follows:

3 (~~Any person who tests milk or cream or the fluid derivatives~~
4 ~~thereof, purchased, received, or sold on the basis of milk fat, nonfat~~
5 ~~milk solids, or other components contained therein, or who takes~~
6 ~~samples of milk or cream or fluid derivatives thereof, on which sample~~
7 ~~tests are to be made as a basis of payment, or who grades, weighs, or~~
8 ~~measures milk or cream or the fluid derivatives thereof, the grade,~~
9 ~~weight, or measure to be used as a basis of payment, or who operates~~
10 ~~equipment wherein milk or products thereof are pasteurized must hold~~))
11 A dairy technician must obtain a dairy technician's license to conduct
12 operations under this chapter. Such license shall be limited to those
13 functions which the licensee has been found qualified by examination to
14 perform. Before issuing the license the director shall examine the
15 applicant as to his or her qualifications for the functions for which
16 application has been made.

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

23 The initial application for a dairy technician's license must be
24 accompanied by a license fee of ten dollars. If it is not necessary
25 that an examination be given, the fee for renewal of the license is
26 five dollars. For circumstance that require an examination the renewal
27 fee is ten dollars. All dairy technicians' licenses shall expire
28 biennially on a date set by rule by the director. License fees shall
29 be prorated where necessary to accommodate staggering of expiration
30 dates of a license or licenses.

31 **Sec. 207.** RCW 15.32.590 and 1963 c 58 s 9 are each amended to read
32 as follows:

33 Licensed dairy technicians shall personally take all samples,
34 conduct all tests, and determine all weights and grades of milk (~~or~~
35 ~~cream~~) and milk products bought, sold, or delivered upon the basis of
36 weight or grade or on the basis of the milk fat, nonfat milk solids, or
37 other components contained therein. Each licensee shall keep a
38 (~~carbon~~) copy of every original report of each test, weight, or grade

1 made by him or her for a period of two months after making (~~same, in~~
2 ~~a locked container, but subject to inspection at all times by the~~
3 ~~director or his agent~~) the report. No unfair, fraudulent, or
4 manipulated sample shall be taken or delivered for analysis.

5 NEW SECTION. Sec. 208. A wash station operator must obtain a milk
6 wash station license to conduct the operation under this chapter for
7 all wash stations separate from a milk processing plant. A milk wash
8 station license is not transferable with respect to persons or
9 locations or both. The license, issued by the director upon approval
10 of an application for such license and compliance with the provisions
11 of this chapter, shall contain the license number, name, residence, and
12 place of business, if any, of the licensee.

13 Sec. 209. RCW 15.36.100 and 1961 c 11 s 15.36.100 are each amended
14 to read as follows:

15 (~~Prior to the issuance of a permit and at least once every six~~
16 ~~months~~) The director shall inspect all dairy farms and all milk
17 processing plants(~~(: PROVIDED, That the director may accept the~~
18 ~~results of periodic industry inspections of producer dairies if such~~
19 ~~inspections have been officially checked periodically and found~~
20 ~~satisfactory~~) prior to issuance of a license under this chapter and at
21 a frequency determined by the director by rule. In case the director
22 discovers the violation of any item of (~~sanitation~~) grade
23 requirement, he or she shall make a second inspection after a lapse of
24 such time as he or she deems necessary for the defect to be remedied,
25 but not before the lapse of three days, and the second inspection shall
26 be used in determining compliance with the grade requirements of this
27 chapter. Any violation of the same requirement of this chapter on such
28 reinspection shall call for immediate degrading or summary suspension
29 of (~~permit~~) the license in accordance with the requirements of
30 chapter 34.05 RCW.

31 One copy of the inspection report detailing the grade requirement
32 violations shall be posted by the director in a conspicuous place upon
33 an inside wall of one of the dairy farm or milk processing plant
34 buildings, and said inspection report shall not be defaced or removed
35 by any person except the director. Another copy of the inspection
36 report shall be filed with the records of the director.

1 Every milk producer and distributor shall (~~upon the request of the~~
2 ~~director permit him~~) permit the director access to all parts of the
3 establishment during the working hours of the producer or distributor,
4 which shall at a minimum include the hours from 8 a.m. to 5 p.m., and
5 every distributor 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 **Sec. 210.** RCW 15.36.490 and 1961 c 11 s 15.36.490 are each amended
12 to read as follows:

13 Except as permitted in this section, no milk producer or
14 distributor shall transfer milk or milk products from one container to
15 another on the street, or in any vehicle, or store, or in any place
16 except a bottling or milk room especially used for that purpose.

17 Milk and milk products sold in the distributor's containers in
18 quantities less than one gallon shall be delivered in standard milk
19 bottles or in single-service containers. It shall be unlawful for
20 hotels, soda fountains, restaurants, groceries, hospitals, and similar
21 establishments to sell or serve any milk or milk products except in the
22 individual original container in which it was received from the
23 distributor or from a bulk container equipped with an approved
24 dispensing device: PROVIDED, That this requirement shall not apply to
25 cream consumed on the premises, which may be served from the original
26 bottle or from a dispenser approved for such service.

27 It shall be unlawful for any hotel, soda fountain, restaurant,
28 grocery, hospital, or similar establishment to sell or serve any milk
29 or milk product which has not been maintained, while in its possession,
30 at a temperature of (~~fifty~~) forty-five degrees Fahrenheit or less.
31 If milk or milk products are stored in water for cooling, the pouring
32 lip of the container shall not be submerged.

33 It shall be the duty of all persons to whom milk or milk products
34 are delivered to clean thoroughly the containers in which such milk or
35 milk products are delivered before returning such containers.
36 Apparatus, containers, equipment, and utensils used in the handling,
37 storage, processing, or transporting of milk or milk products shall not
38 be used for any other purpose without the permission of the director.

1 The delivery of milk or milk products to and the collection of milk
2 or milk products containers from residences in which cases of
3 communicable disease transmissible through milk supplies exists shall
4 be subject to the special requirements of the health officer.

5 ~~((Homogenized milk or homogenized cream shall not be mixed with
6 milk or cream which has not been homogenized if sold or offered for
7 sale as fluid milk or cream.))~~

8 **Sec. 211.** RCW 15.36.500 and 1961 c 11 s 15.36.500 are each amended
9 to read as follows:

10 Grade A milk and milk products from outside the state may not be
11 sold in the state of Washington unless produced and/or pasteurized
12 under provisions equivalent to the requirements of this chapter and the
13 PMO: PROVIDED, That the director shall satisfy himself or herself that
14 the authority having jurisdiction over the production and processing is
15 properly enforcing such provisions.

16 **PART III**
17 **MILK GRADING**

18 **Sec. 301.** RCW 15.36.470 and 1989 c 354 s 22 are each amended to
19 read as follows:

20 No milk or milk products shall be sold to the final consumer or to
21 restaurants, soda fountains, grocery stores, or similar establishments
22 except grade A ~~((milk))~~ pasteurized milk, or grade A ~~((milk raw, and))~~
23 raw milk. The director may revoke the ~~((permit))~~ license of any milk
24 distributor failing to qualify ~~((for one of the above grades))~~ as grade
25 A pasteurized or grade A raw, or in lieu thereof may degrade his or her
26 product to grade C and permit its sale as other than fluid milk or
27 grade A milk products during a period not exceeding thirty days ~~((or in~~
28 ~~emergencies during such longer period as he may deem necessary)).~~ In
29 the event of an emergency, the director may permit the sale of grade C
30 milk for more than thirty days.

31 **Sec. 302.** RCW 15.36.070 and 1961 c 11 s 15.36.070 are each amended
32 to read as follows:

33 No person shall produce, sell, offer, or expose for sale, or have
34 in possession with intent to sell, ~~((in the fluid state for direct~~
35 ~~consumption as such,))~~ any milk or milk product which is adulterated,

1 misbranded, or ungraded. It shall be unlawful for any person,
2 elsewhere than in a private home, to have in possession any
3 adulterated, misbranded, or ungraded milk or milk products: PROVIDED,
4 That in an emergency the sale of ungraded milk or milk products may be
5 authorized by the director, in which case they shall be labeled
6 "ungraded."

7 Adulterated, misbranded, and/or ungraded milk or milk products may
8 be impounded and disposed of by the director.

9 **Sec. 303.** RCW 15.32.160 and 1981 c 321 s 1 are each amended to
10 read as follows:

11 It is unlawful to sell, offer for sale, or deliver:

12 (1) Milk or products produced from milk from cows (~~((or))~~), goats, or
13 other mammals affected with disease or of which the owner thereof has
14 refused official examination and tests for disease: or

15 (2) Colostrum milk, (~~((meaning that produced within ten days before~~
16 ~~or seven days after parturition,))~~) except that colostrum milk from cows
17 that have been tested for brucellosis within sixty days of parturition
18 may be made available to persons having multiple sclerosis, or other
19 persons acting on their behalf, who, at the time of the initial sale,
20 present a form, signed by a licensed physician, certifying that the
21 intended user has multiple sclerosis and that the user releases the
22 provider of the milk from liability resulting from the consumption of
23 the milk. Colostrum milk provided under this section is exempt from
24 meeting the standards for grade A raw milk required by this chapter
25 (~~((15.36-RCW))~~).

26 (3) The department of agriculture shall adopt rules to carry out
27 this section. The rules shall include but not be limited to
28 establishing standards requiring hyper-immunization.

29 **Sec. 304.** RCW 15.32.530 and 1989 c 354 s 11 are each amended to
30 read as follows:

31 (~~((An inspector who obtains))~~) The department, after obtaining a
32 sample of milk for analysis, shall within ten days after obtaining the
33 result of the analysis, send the result to the person from whom the
34 sample was taken or to the person responsible for the condition of the
35 milk.

PART IV

DAIRY FARMS AND MILK PROCESSING PLANTS--CLEANLINESS

1
2
3 **Sec. 401.** RCW 15.36.110 and 1989 c 354 s 17 are each amended to
4 read as follows:

5 During ~~((each))~~ any consecutive six months ~~((period))~~ at least four
6 samples of raw milk ~~((and cream))~~, raw milk for pasteurization, or
7 both, from each dairy farm and ~~((each milk plant shall be taken on~~
8 ~~separate days))~~ raw milk for pasteurization, after receipt by the milk
9 processing plant and prior to pasteurization, heat-treated milk
10 products, and pasteurized milk and milk products from each grade A milk
11 processing plant, shall be collected in at least four separate months
12 and examined by the director: PROVIDED, That in the case of raw milk
13 for pasteurization the director may accept the results of ~~((nonofficial~~
14 ~~laboratories which have been officially checked periodically and found~~
15 ~~satisfactory))~~ an officially designated laboratory. Samples of other
16 milk products may be taken and examined by the director as often as he
17 deems necessary. Samples of milk and milk products from stores, cafes,
18 soda fountains, restaurants, and other places where milk or milk
19 products are sold shall be examined as often as the director may
20 require. Bacterial plate counts, direct microscopic counts, coliform
21 determinations, phosphatase tests and other laboratory tests shall
22 conform to the ~~((procedures in the current edition of "Standard Methods~~
23 ~~For The Examination Of Dairy Products," recommended by the American~~
24 ~~public health association))~~ requirements of the PMO. Examinations may
25 include such other chemical and physical determinations as the director
26 may deem necessary for the detection of adulteration or for purposes of
27 compliance. Samples may be taken by the director at any time prior to
28 the final delivery of the milk or milk products. All proprietors of
29 cafes, stores, restaurants, soda fountains, and other similar places
30 shall furnish the director, upon his or her request, with the name of
31 all distributors from whom their milk and milk products are obtained.
32 ~~((Bio-assays of the vitamin D content of vitamin D milk shall be made~~
33 ~~when required by the director in a laboratory approved by him for such~~
34 ~~examinations.))~~

35 If two of the last four consecutive bacterial counts, somatic cell
36 counts, coliform determinations, or cooling temperatures, taken on
37 separate days, exceed the standard for milk or milk products
38 established in this chapter and rules adopted under this chapter, the

1 director shall send written notice thereof to the person concerned.
2 This notice shall remain in effect so long as two of the last four
3 consecutive samples exceed the limit of the same standard. An
4 additional sample shall be taken within twenty-one days of the sending
5 of the notice, but not before the lapse of three days(~~(, except sixty~~
6 ~~days must lapse before an official somatic cell count can be taken)~~).
7 The director shall degrade or summarily suspend the (~~(grade A permit)~~)
8 milk producer's license or milk processing plant license whenever the
9 standard is again violated so that three of the last five consecutive
10 samples exceed the limit of the same standard. A (~~(grade A permit)~~)
11 milk producer's license or milk processing plant license shall
12 subsequently be reinstated in notice status upon receipt of sample
13 results that are within the standard for which the suspension occurred.
14 In case of violation of the phosphatase test requirements, the
15 cause of underpasteurization shall be determined and removed before
16 milk or milk products from this milk processing plant can again be sold
17 as pasteurized milk or milk products.

18 **Sec. 402.** RCW 15.36.090 and 1961 c 11 s 15.36.090 are each amended
19 to read as follows:

20 All bottles, cans, packages, and other containers, enclosing raw
21 milk or any raw milk product defined in this chapter shall be plainly
22 labeled or marked with (1) (~~(the name of the contents as given in the~~
23 ~~definitions of this chapter; (2) the grade of the contents; (3) the~~
24 ~~word "pasteurized" only if the contents have been pasteurized; (4))~~)
25 the word "raw" only if the contents are raw; (~~(+5))~~) and (2) the name
26 of the producer if the contents are raw, and the identity of the plant
27 at which the contents were pasteurized if the contents are
28 pasteurized(~~(; (6) the phrase "for pasteurization" if the contents are~~
29 ~~to be pasteurized; (7) in the case of vitamin D milk the designation~~
30 ~~"vitamin D milk," the source of the vitamin D and the number of units~~
31 ~~per quart; (8) the word "reconstituted" or "recombined" if included in~~
32 ~~the name of the product as defined in this chapter; (9) in the case of~~
33 ~~concentrated milk or milk products the volume or proportion of water to~~
34 ~~be added for recombining; (10) the words "skim milk solids added," and~~
35 ~~the percentage added if such solids have been added, except that this~~
36 ~~requirement shall not apply to reconstituted or recombined milk or milk~~
37 ~~products: PROVIDED, That only the identity of the producer shall be~~
38 ~~required on cans delivered to a milk plant which receives only raw milk~~

1 for pasteurization and which immediately dumps, washes, and returns the
2 cans to the producer)).

3 The label or mark shall be in letters of a size, kind, and color
4 approved by the director and shall contain no marks or words which are
5 misleading.

6 **Sec. 403.** RCW 15.36.300 and 1989 c 354 s 19 are each amended to
7 read as follows:

8 ((Grade C raw milk is raw milk which violates any of the
9 requirements of grade A raw milk.)) The director shall adopt rules
10 setting standards and requirements for production of grade C milk and
11 milk products.

12 **Sec. 404.** RCW 15.36.520 and 1989 c 354 s 23 are each amended to
13 read as follows:

14 ((No person who is affected with any disease in a communicable form
15 or is a carrier of such disease shall work at any dairy farm or milk
16 plant in any capacity which brings him in contact with the production,
17 handling, storage, or transportation of milk, milk products,
18 containers, or equipment; and no dairy farm or milk plant shall employ
19 in any such capacity any such person or any person suspected of being
20 affected with any disease in a communicable form or of being a carrier
21 of such disease. Any producer or distributor of milk or milk products
22 upon whose dairy farm or in whose milk plant any communicable disease
23 occurs, or who suspects that any employee has contracted any disease
24 shall notify the health authority immediately.)) A dairy farm offering
25 for sale milk for consumption as grade A raw milk and all milk
26 processing plants must conform with the requirements for personnel
27 health as contained in the PMO.

28 PART V

29 DEPARTMENTAL ENFORCEMENT

30 NEW SECTION. **Sec. 501.** A license issued under this chapter may be
31 denied or suspended by the director upon violation by the holder of any
32 of the terms of this chapter, for interference with the director in the
33 performance of his or her duties, or if the holder has exhibited in the
34 discharge of his or her functions negligence, misconduct, or lack of
35 qualification. A license may be revoked after an opportunity for a

1 hearing by the director upon serious or repeated violations or after
2 the license has been suspended for thirty continuous days without
3 correction of the items causing the suspension.

4 NEW SECTION. **Sec. 502.** The director may, subsequent to a hearing
5 on the license, suspend or revoke a license issued under this chapter
6 if the director determines that an applicant has committed any of the
7 following acts:

8 (1) Refused, neglected, or failed to comply with the provisions of
9 this chapter, the rules adopted under this chapter, or a lawful order
10 of the director.

11 (2) Refused, neglected, or failed to keep and maintain records
12 required by this chapter, or to make the records available if requested
13 under the provisions of this chapter.

14 (3) Refused the department access to a portion or area of a
15 facility regulated under this chapter, for the purpose of carrying out
16 the provisions of this chapter.

17 (4) Refused the department access to records required to be kept
18 under the provisions of this chapter.

19 (5) Refused, neglected, or failed to comply with the applicable
20 provisions of chapter 69.04 RCW, Washington food, drug, and cosmetic
21 act, or rules adopted under chapter 69.04 RCW.

22 The provisions of this section requiring that a hearing be
23 conducted before an action may be taken against a license do not apply
24 to an action taken under section 209, 401, or 503 of this act.

25 NEW SECTION. **Sec. 503.** (1) If the director finds a milk
26 processing plant operating under conditions that constitute an
27 immediate danger to public health, safety, or welfare or if the
28 licensee or an employee of the licensee actively prevents the director
29 or the director's representative, during an on-site inspection, from
30 determining whether such a conditions exists, the director may
31 summarily suspend, pending a hearing, a license provided for in this
32 chapter.

33 (2) If a license is summarily suspended, the holder of the license
34 shall be notified in writing that the license is, upon service of the
35 notice, immediately suspended and that prompt opportunity for a hearing
36 will be provided.

1 (3) If a license is summarily suspended, processing operations
2 shall immediately cease. However, the director may reinstate the
3 license if the condition that caused the suspension has been abated to
4 the director's satisfaction.

5 **Sec. 504.** RCW 15.32.610 and 1963 c 58 s 11 are each amended to
6 read as follows:

7 No person shall employ a tester, sampler, weigher, grader, or
8 pasteurizer who is not licensed as a dairy technician(~~(; or refuse to~~
9 ~~allow or fail to assist the director or his agent in the examination of~~
10 ~~the reports referred to in RCW 15.32.590))~~).

11 (~~Whoever~~) A person who violates the provisions of this section
12 (~~or RCW 15.32.590~~) may be fined not less than (~~twenty-five~~) two
13 hundred fifty nor more than one (~~hundred~~) thousand dollars, and his
14 or her license (~~hereunder~~) issued under this chapter revoked or
15 suspended subject to a hearing as provided under chapter 34.05 RCW.

16 **Sec. 505.** RCW 15.36.115 and 1993 c 212 s 1 are each amended to
17 read as follows:

18 (1) If the results of an antibiotic, pesticide, or other drug
19 residue test under RCW 15.36.110 are above the actionable level
20 established in the (~~pasteurized milk ordinance published by the United~~
21 ~~States public health service~~) PMO and determined using procedures set
22 forth in the (~~current edition of "Standard Methods for the Examination~~
23 ~~of Dairy Products,"~~) PMO, a (~~producer~~) person holding a (~~grade A~~
24 ~~permit~~) milk producer's license is subject to a civil penalty. The
25 penalty shall be in an amount equal to one-half the value of the sum of
26 the volumes of milk equivalent produced under the (~~permit~~) license on
27 the day prior to and the day of the adulteration. The value of the
28 milk shall be computed by the weighted average price for the federal
29 market order under which the milk is delivered.

30 (2) The penalty is imposed by the department giving a written
31 notice which is either personally served upon or transmitted by
32 certified mail, return receipt requested, to the person incurring the
33 penalty. The notice of the civil penalty shall be a final order of the
34 department unless, within fifteen days after the notice is received,
35 the person incurring the penalty appeals the penalty by filing a notice
36 of appeal with the department. If a notice of appeal is filed in a
37 timely manner, a hearing shall be conducted on behalf of the department

1 by the office of administrative hearings in accordance with chapters
2 34.05 and 34.12 RCW. At the conclusion of the hearing, the department
3 shall determine whether the penalty should be affirmed, and, if so,
4 shall issue a final order setting forth the civil penalty assessed, if
5 any. The order may be appealed to superior court in accordance with
6 chapter 34.05 RCW. Tests performed for antibiotic, pesticide, or other
7 drug residues by ~~((a state or certified industry))~~ an official
8 laboratory or an officially designated laboratory of a milk sample
9 drawn by a department official or a licensed dairy technician shall be
10 admitted as prima facie evidence of the presence or absence of an
11 antibiotic, pesticide, or other drug residue.

12 (3) Any penalty imposed under this section is due and payable upon
13 the issuance of the final order by the department. The penalty shall
14 be deducted by the violator's marketing organization from the
15 violator's final payment for the month following the issuance of the
16 final order. The department shall promptly notify the violator's
17 marketing organization of any penalties contained in the final order.

18 (4) All penalties received or recovered from violations of this
19 section shall be remitted monthly by the violator's marketing
20 organization to the Washington state dairy products commission and
21 deposited in a revolving fund to be used solely for the purposes of
22 education and research. No appropriation is required for disbursements
23 from this fund.

24 (5) In case of a violation of the antibiotic, pesticide, or other
25 drug residue test requirements, an investigation shall be made to
26 determine the cause of the residue which shall be corrected.
27 ~~((Additional samples shall be taken as soon as possible and tested as~~
28 ~~soon as feasible for antibiotic, pesticide, or other drug residue by~~
29 ~~the department or a certified laboratory. After the notice has been~~
30 ~~received by the producer and the results of a test of such an~~
31 ~~additional sample indicate that residues are above the actionable level~~
32 ~~or levels referred to in subsection (1) of this section, the producer's~~
33 ~~milk may not be sold until a sample is shown to be below the actionable~~
34 ~~levels established for the residues))~~ Followup sampling and testing
35 must be done in accordance with the requirements of the PMO.

36 **Sec. 506.** RCW 15.36.480 and 1961 c 11 s 15.36.480 are each amended
37 to read as follows:

1 If at any time between the regular announcements of the grades of
2 milk or milk products, a lower grade shall become justified, in
3 accordance with (~~RCW 15.36.100, 15.36.110, and 15.36.120 to 15.36.460,~~
4 ~~inclusive~~) the provisions of this chapter, the director shall
5 immediately lower the grade of such milk or milk products, and shall
6 enforce proper labeling thereof.

7 Any producer or distributor of milk or milk products the grade of
8 which has been lowered by the director, (~~and who is properly labeling~~
9 ~~his milk and milk products,~~) or whose permit has been suspended may at
10 any time make application for the regrading of his or her products or
11 the reinstatement of his or her permit.

12 Upon receipt of a satisfactory application, in case the lowered
13 grade or the permit suspension was the result of violation of the
14 bacteriological or cooling temperature standards, the director shall
15 take further samples of the applicant's output, at a rate of not more
16 than two samples per week. The director shall regrade the milk or milk
17 products upward or reinstate the permit on compliance with grade
18 requirements as determined in accordance with the provisions of RCW
19 15.36.110 (as recodified by this act).

20 In case the lowered grade of the applicant's product or the permit
21 suspension was due to a violation of an item other than bacteriological
22 standard or cooling temperature, the said application must be
23 accompanied by a statement signed by the applicant to the effect that
24 the violated item of the specifications had been conformed with.
25 Within one week of the receipt of such an application and statement the
26 director shall make a reinspection of the applicant's establishment and
27 thereafter as many additional reinspections as he or she may deem
28 necessary to assure himself or herself that the applicant is again
29 complying with the higher grade requirements, and in case the findings
30 justify, shall regrade the milk or milk products upward or reinstate
31 the permit.

32 **Sec. 507.** RCW 15.36.107 and 1992 c 160 s 2 are each amended to
33 read as follows:

34 (1) There is created a dairy inspection program advisory committee.
35 The committee shall consist of nine members. The committee shall be
36 appointed by the director from names submitted by dairy producer
37 organizations or from handlers of milk products. The committee shall
38 consist of four members who are producers of milk or their

1 representatives, and four members who are handlers or their
2 representatives, and one member who must be a producer-handler.

3 (2) The purpose of this advisory committee is to assist the
4 director by providing recommendations regarding the dairy inspection
5 program, that are consistent with the pasteurized milk ordinance. The
6 advisory committee shall (a) review and evaluate the program including
7 the efficiency of the administration of the program, the adequacy of
8 the level of inspection staff, the ratio of inspectors to number of
9 dairy farm inspections per year, and the ratio of inspectors to
10 management employees; and (b) consider alternatives to the state
11 program, which may include privatization of various elements of the
12 inspection program.

13 (3) The committee shall meet as necessary to complete its work.
14 Meetings of the committee are subject to the open public meetings act.

15 ~~((4) Not later than October 15, 1992, the advisory committee shall
16 issue a preliminary report of its findings to the dairy industry. The
17 committee shall solicit comments from the dairy industry which shall be
18 reflected in the committee's final report.~~

19 ~~((5) Not later than December 1, 1992, the advisory committee shall
20 report to the agricultural committees of the house of representatives
21 and senate its recommendations for long term structure and funding of
22 the dairy inspection program.))~~

23 **Sec. 508.** RCW 15.32.450 and 1961 c 11 s 15.32.450 are each amended
24 to read as follows:

25 (1) It shall be unlawful for a person other than the ((registered))
26 owner ((thereof)), to possess for sale((, barter, or use such a branded
27 container, and possession by any junk dealer or vendor shall be prima
28 facie evidence of possession for sale, barter, or use. When a branded
29 container is in the possession of a person other than the registered
30 owner, the director may seize and hold it until it is established to
31 his satisfaction that such possession is lawful. No person, other than
32 the owner, shall deface or remove a brand, or adopt a registered brand
33 of another, or use a branded container, except to transport dairy
34 products to and from the owner of the container)) or barter or to use
35 a container that is used to distribute packaged milk or milk products
36 and that bears the name or trademark of an owner that has been properly
37 registered.

1 (2) A person receiving packaged dairy products in containers
2 bearing the registered name or trademark of the owner shall return the
3 containers to the owner.

4 (3) When such a container is in the possession of a person other
5 than the owner, the director may seize and hold it until it is
6 established to the director's satisfaction that such possession is
7 lawful. The director may seize such containers and return them to the
8 owner, in which case the owner shall pay the expenses thereof. Neither
9 the director nor a person who returns such containers shall be liable
10 for containers lost in transportation.

11 **Sec. 509.** RCW 15.35.080 and 1993 c 345 s 4 are each amended to
12 read as follows:

13 For the purposes of this chapter:

14 (1) "Department" means the department of agriculture of the state
15 of Washington;

16 (2) "Director" means the director of the department or the
17 director's duly appointed representative;

18 (3) "Person" means a natural person, individual, firm, partnership,
19 corporation, company, society, and association, and every officer,
20 agent, or employee thereof. This term shall import either the singular
21 or plural as the case may be;

22 (4) "Market" or "marketing area" means any geographical area within
23 the state or another state comprising one or more counties or parts
24 thereof, where marketing conditions are substantially similar and which
25 may be designated by the director as one marketing area;

26 (5) "Milk" means all fluid milk from cows as defined in ((RCW
27 ~~15.36.011~~)) chapter 15.36 RCW and rules adopted ((~~thereunder~~)) under
28 chapter 15.36 RCW;

29 (6) "Milk products" includes any product manufactured from milk or
30 any derivative or product of milk;

31 (7) "Milk dealer" means any person engaged in the handling of milk
32 in his or her capacity as the operator of a milk plant, as that term is
33 defined in ((RCW ~~15.36.040~~)) chapter 15.36 RCW and rules adopted
34 ((~~thereunder~~)) under chapter 15.36 RCW:

35 (a) Who receives milk in an unprocessed state from dairy farms, and
36 who processes milk into milk or milk products; and

37 (b) Whose milk plant is located within the state or from whose milk
38 plant milk or milk products that are produced at least in part from

1 milk from producers are disposed of to any place or establishment
2 within a marketing area;

3 (8) "Producer" means a person producing milk within this state for
4 sale under a grade A milk permit issued by the department under the
5 provisions of chapter 15.36 RCW or, if the director so provides by
6 rule, a person who markets to a milk dealer milk produced under a grade
7 A permit issued by another state;

8 (9) "Classification" means the classification of milk into classes
9 according to its utilization by the department;

10 (10) The terms "plan," "market area and pooling arrangement,"
11 "market area pooling plan," "market area and pooling plan," "market
12 pool," and "market plan" all have the same meaning;

13 (11) "Producer-dealer" means a producer who engages in the
14 production of milk and also operates a plant from which an average of
15 more than three hundred pounds daily of milk products, except filled
16 milk, is sold within the marketing area and who has been so designated
17 by the director. A state institution which processes and distributes
18 milk of its own production shall be considered a producer-dealer for
19 purposes of this chapter, but the director may by rule exempt such
20 state institutions from any of the requirements otherwise applicable to
21 producer-dealers.

22 **Sec. 510.** RCW 15.36.120 and 1984 c 226 s 3 are each amended to
23 read as follows:

24 Grades of milk and milk products as defined in this chapter shall
25 be based on the respectively applicable standards contained in ((RCW
26 ~~15.36.120 through 15.36.460~~)) this chapter, with the grading of milk
27 products being identical with the grading of milk, except that
28 bacterial standards are omitted in the case of cultured milk products.
29 Vitamin D milk shall be only of grade A, certified pasteurized, or
30 certified raw quality. The grade of a milk product shall be that of
31 the lowest grade milk or milk product used in its preparation.

32 **Sec. 511.** RCW 15.36.595 and 1993 c 212 s 3 are each amended to
33 read as follows:

34 (1) The director of agriculture shall adopt rules imposing a civil
35 penalty for violations of the standards for component parts of fluid
36 dairy products which are established ((~~by RCW 15.36.030~~)) under this
37 chapter or adopted pursuant to RCW 69.04.398. The penalty shall not

1 exceed ten thousand dollars and shall be such as is necessary to
2 achieve proper enforcement of the standards. The rules shall be
3 adopted before January 1, 1987, and shall become effective on July 1,
4 1987.

5 (2) The penalty is imposed by the department giving a written
6 notice which is either personally served upon or transmitted by
7 certified mail, return receipt requested, to the person incurring the
8 penalty. The notice of the civil penalty shall be a final order of the
9 department unless, within fifteen days after the notice is received,
10 the person incurring the penalty appeals the penalty by filing a notice
11 of appeal with the department. If a notice of appeal is filed in a
12 timely manner, a hearing shall be conducted on behalf of the department
13 by the office of administrative hearings in accordance with chapters
14 34.05 and 34.12 RCW. At the conclusion of the hearing, the department
15 shall determine whether the penalty should be affirmed, reduced, or not
16 imposed and shall issue a final order setting forth the civil penalty
17 assessed, if any. The order may be appealed to superior court in
18 accordance with chapter 34.05 RCW. Tests performed for the component
19 parts of milk products by a state laboratory of a milk sample collected
20 by a department official shall be admitted as prima facie evidence of
21 the amounts of milk components in the product.

22 (3) Any penalty imposed under this section is due and payable upon
23 the issuance of the final order by the department.

24 (4) All penalties received or recovered from violations of this
25 section shall be remitted by the violator to the department and
26 deposited in the revolving fund of the Washington state dairy products
27 commission. One-half of the funds received shall be used for purposes
28 of education with the remainder one-half to be used for dairy
29 processing or marketing research, or both. No appropriation is
30 required for disbursements from this fund.

31 (5) In case of a violation of the standards for the composition of
32 milk products, an investigation shall be made to determine the cause of
33 the violation which shall be corrected. Additional samples shall be
34 taken as soon as possible and tested by the department.

35 **Sec. 512.** RCW 35A.69.010 and 1983 1st ex.s. c 46 s 177 and 1983 c
36 3 s 71 are each reenacted and amended to read as follows:

37 Every code city shall have the powers, perform the functions and
38 duties and enforce the regulations prescribed by general laws relating

1 to food and drugs for any class of city as provided by Title 69 RCW;
2 relating to inspection of foods, meat, dairies, and milk as provided by
3 ((~~RCW 15.36.560 and 15.36.510 and~~)) chapter 16.49A RCW; relating to
4 water pollution control as provided by chapter 90.48 RCW; and relating
5 to food fish and shellfish as provided by Title 75 RCW.

6 NEW SECTION. **Sec. 513.** The following acts or parts of acts are
7 each repealed:

- 8 (1) RCW 15.32.051 and 1989 c 354 s 2 & 1963 c 58 s 2;
- 9 (2) RCW 15.32.060 and 1961 c 11 s 15.32.060;
- 10 (3) RCW 15.32.070 and 1961 c 11 s 15.32.070;
- 11 (4) RCW 15.32.080 and 1989 c 354 s 3 & 1961 c 11 s 15.32.080;
- 12 (5) RCW 15.32.090 and 1961 c 11 s 15.32.090;
- 13 (6) RCW 15.32.120 and 1969 ex.s. c 102 s 5 & 1961 c 11 s 15.32.120;
- 14 (7) RCW 15.32.130 and 1961 c 11 s 15.32.130;
- 15 (8) RCW 15.32.140 and 1989 c 354 s 5 & 1961 c 11 s 15.32.140;
- 16 (9) RCW 15.32.150 and 1961 c 11 s 15.32.150;
- 17 (10) RCW 15.32.220 and 1989 c 354 s 6 & 1961 c 11 s 15.32.220;
- 18 (11) RCW 15.32.250 and 1961 c 11 s 15.32.250;
- 19 (12) RCW 15.32.260 and 1961 c 11 s 15.32.260;
- 20 (13) RCW 15.32.330 and 1961 c 11 s 15.32.330;
- 21 (14) RCW 15.32.340 and 1961 c 11 s 15.32.340;
- 22 (15) RCW 15.32.360 and 1961 c 11 s 15.32.360;
- 23 (16) RCW 15.32.380 and 1961 c 11 s 15.32.380;
- 24 (17) RCW 15.32.430 and 1973 c 31 s 1 & 1961 c 11 s 15.32.430;
- 25 (18) RCW 15.32.440 and 1961 c 11 s 15.32.440;
- 26 (19) RCW 15.32.490 and 1961 c 11 s 15.32.490;
- 27 (20) RCW 15.32.500 and 1989 c 354 s 8 & 1961 c 11 s 15.32.500;
- 28 (21) RCW 15.32.510 and 1989 c 354 s 9 & 1961 c 11 s 15.32.510;
- 29 (22) RCW 15.32.520 and 1989 c 354 s 10 & 1961 c 11 s 15.32.520;
- 30 (23) RCW 15.32.540 and 1961 c 11 s 15.32.540;
- 31 (24) RCW 15.32.560 and 1961 c 11 s 15.32.560;
- 32 (25) RCW 15.32.570 and 1989 c 354 s 12 & 1961 c 11 s 15.32.570;
- 33 (26) RCW 15.32.582 and 1963 c 58 s 7 & 1961 c 11 s 15.32.582;
- 34 (27) RCW 15.32.584 and 1991 c 109 s 3, 1989 c 175 s 46, 1963 c 58
35 s 8, & 1961 c 11 s 15.32.584;
- 36 (28) RCW 15.32.590 and 1963 c 58 s 9 & 1961 c 11 s 15.32.590;
- 37 (29) RCW 15.32.600 and 1963 c 58 s 10 & 1961 c 11 s 15.32.600;
- 38 (30) RCW 15.32.610 and 1963 c 58 s 11 & 1961 c 11 s 15.32.610;

- 1 (31) RCW 15.32.620 and 1961 c 11 s 15.32.620;
- 2 (32) RCW 15.32.630 and 1963 c 58 s 12 & 1961 c 11 s 15.32.630;
- 3 (33) RCW 15.32.660 and 1961 c 11 s 15.32.660;
- 4 (34) RCW 15.32.670 and 1961 c 11 s 15.32.670;
- 5 (35) RCW 15.32.680 and 1961 c 11 s 15.32.680;
- 6 (36) RCW 15.32.700 and 1961 c 11 s 15.32.700;
- 7 (37) RCW 15.32.740 and 1961 c 11 s 15.32.740;
- 8 (38) RCW 15.32.750 and 1961 c 11 s 15.32.750;
- 9 (39) RCW 15.32.755 and 1963 c 58 s 14;
- 10 (40) RCW 15.32.760 and 1961 c 11 s 15.32.760;
- 11 (41) RCW 15.32.770 and 1987 c 202 s 174 & 1961 c 11 s 15.32.770;
- 12 (42) RCW 15.32.780 and 1961 c 11 s 15.32.780;
- 13 (43) RCW 15.32.790 and 1961 c 11 s 15.32.790;
- 14 (44) RCW 15.36.020 and 1989 c 354 s 14 & 1961 c 11 s 15.36.020;
- 15 (45) RCW 15.36.030 and 1961 c 11 s 15.36.030;
- 16 (46) RCW 15.36.040 and 1961 c 11 s 15.36.040;
- 17 (47) RCW 15.36.055 and 1982 c 131 s 1;
- 18 (48) RCW 15.36.060 and 1989 c 354 s 15, 1984 c 226 s 2, & 1961 c 11
- 19 s 15.36.060;
- 20 (49) RCW 15.36.075 and 1969 ex.s. c 102 s 3;
- 21 (50) RCW 15.36.090 and 1961 c 11 s 15.36.090;
- 22 (51) RCW 15.36.140 and 1984 c 226 s 4, 1981 c 297 s 3, & 1961 c 11
- 23 s 15.36.140;
- 24 (52) RCW 15.36.155 and 1961 c 11 s 15.36.155;
- 25 (53) RCW 15.36.160 and 1961 c 11 s 15.36.160;
- 26 (54) RCW 15.36.165 and 1961 c 11 s 15.36.165;
- 27 (55) RCW 15.36.170 and 1961 c 11 s 15.36.170;
- 28 (56) RCW 15.36.175 and 1961 c 11 s 15.36.175;
- 29 (57) RCW 15.36.180 and 1961 c 11 s 15.36.180;
- 30 (58) RCW 15.36.185 and 1961 c 11 s 15.36.185;
- 31 (59) RCW 15.36.190 and 1961 c 11 s 15.36.190;
- 32 (60) RCW 15.36.195 and 1961 c 11 s 15.36.195;
- 33 (61) RCW 15.36.200 and 1961 c 11 s 15.36.200;
- 34 (62) RCW 15.36.205 and 1961 c 11 s 15.36.205;
- 35 (63) RCW 15.36.210 and 1961 c 11 s 15.36.210;
- 36 (64) RCW 15.36.215 and 1961 c 11 s 15.36.215;
- 37 (65) RCW 15.36.220 and 1961 c 11 s 15.36.220;
- 38 (66) RCW 15.36.225 and 1961 c 11 s 15.36.225;
- 39 (67) RCW 15.36.230 and 1961 c 11 s 15.36.230;

1 (68) RCW 15.36.235 and 1961 c 11 s 15.36.235;
2 (69) RCW 15.36.240 and 1961 c 11 s 15.36.240;
3 (70) RCW 15.36.245 and 1961 c 11 s 15.36.245;
4 (71) RCW 15.36.250 and 1961 c 11 s 15.36.250;
5 (72) RCW 15.36.255 and 1961 c 11 s 15.36.255;
6 (73) RCW 15.36.270 and 1961 c 11 s 15.36.270;
7 (74) RCW 15.36.280 and 1961 c 11 s 15.36.280;
8 (75) RCW 15.36.320 and 1981 c 297 s 5 & 1961 c 11 s 15.36.320;
9 (76) RCW 15.36.325 and 1961 c 11 s 15.36.325;
10 (77) RCW 15.36.330 and 1961 c 11 s 15.36.330;
11 (78) RCW 15.36.335 and 1961 c 11 s 15.36.335;
12 (79) RCW 15.36.340 and 1961 c 11 s 15.36.340;
13 (80) RCW 15.36.345 and 1961 c 11 s 15.36.345;
14 (81) RCW 15.36.350 and 1961 c 11 s 15.36.350;
15 (82) RCW 15.36.355 and 1961 c 11 s 15.36.355;
16 (83) RCW 15.36.360 and 1961 c 11 s 15.36.360;
17 (84) RCW 15.36.365 and 1961 c 11 s 15.36.365;
18 (85) RCW 15.36.370 and 1961 c 11 s 15.36.370;
19 (86) RCW 15.36.375 and 1961 c 11 s 15.36.375;
20 (87) RCW 15.36.380 and 1961 c 11 s 15.36.380;
21 (88) RCW 15.36.385 and 1961 c 11 s 15.36.385;
22 (89) RCW 15.36.390 and 1961 c 11 s 15.36.390;
23 (90) RCW 15.36.395 and 1961 c 11 s 15.36.395;
24 (91) RCW 15.36.400 and 1961 c 11 s 15.36.400;
25 (92) RCW 15.36.405 and 1961 c 11 s 15.36.405;
26 (93) RCW 15.36.410 and 1961 c 11 s 15.36.410;
27 (94) RCW 15.36.415 and 1961 c 11 s 15.36.415;
28 (95) RCW 15.36.425 and 1991 c 3 s 1, 1989 c 354 s 20, 1979 c 141 s
29 22, & 1961 c 11 s 15.36.425;
30 (96) RCW 15.36.430 and 1961 c 11 s 15.36.430;
31 (97) RCW 15.36.440 and 1961 c 11 s 15.36.440;
32 (98) RCW 15.36.460 and 1989 c 354 s 21 & 1961 c 11 s 15.36.460;
33 (99) RCW 15.36.510 and 1961 c 11 s 15.36.510;
34 (100) RCW 15.36.540 and 1989 c 354 s 24, 1969 ex.s. c 102 s 6 &
35 1961 c 11 s 15.36.540;
36 (101) RCW 15.36.550 and 1989 c 354 s 25, 1979 c 141 s 23, & 1961 c
37 11 s 15.36.550;
38 (102) RCW 15.36.590 and 1961 c 11 s 15.36.590; and
39 (103) RCW 15.36.900 and 1961 c 11 s 15.36.900.

1 NEW SECTION. **Sec. 514.** The following sections shall be codified
2 or recodified in the following order in chapter 15.36 RCW:
3 Section 101 of this act;
4 RCW 15.32.010;
5 RCW 15.36.011;
6 RCW 15.36.080;
7 Section 202 of this act;
8 RCW 15.32.110;
9 RCW 15.32.100;
10 Section 205 of this act;
11 RCW 15.32.580;
12 Section 208 of this act;
13 RCW 15.36.100;
14 RCW 15.36.490;
15 RCW 15.36.500;
16 RCW 15.36.120;
17 RCW 15.32.160;
18 RCW 15.36.150;
19 RCW 15.36.470;
20 RCW 15.36.070;
21 RCW 15.32.530;
22 RCW 15.36.110;
23 RCW 15.36.260;
24 RCW 15.36.265;
25 RCW 15.36.420;
26 RCW 15.36.300;
27 RCW 15.32.410;
28 RCW 15.32.420;
29 RCW 15.32.450;
30 RCW 15.32.460;
31 RCW 15.36.520;
32 RCW 15.36.530;
33 Section 501 of this act;
34 Section 502 of this act;
35 Section 503 of this act;
36 RCW 15.32.610;
37 RCW 15.36.115;
38 RCW 15.36.480;
39 RCW 15.32.550;

1 RCW 15.36.595;
2 RCW 15.36.600;
3 RCW 15.32.710;
4 RCW 15.32.720;
5 RCW 15.32.730;
6 RCW 15.36.005;
7 RCW 15.32.900;
8 RCW 15.32.910;
9 RCW 15.36.105; and
10 RCW 15.36.107.

11 NEW SECTION. **Sec. 515.** Sections 101, 202, 205, 208, and 501
12 through 503 of this act are each added to chapter 15.36 RCW and shall
13 be codified pursuant to section 514 of this act.

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