
SECOND SUBSTITUTE SENATE BILL 6157

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Talmadge, Winsley, Wojahn, McAuliffe and Fraser)

Read first time 02/08/94.

1 AN ACT Relating to the 1994 omnibus antihunger act; amending RCW
2 43.19.010, 69.80.900, 38.12.020, 28A.235.140, and 28A.235.155; adding
3 a new section to chapter 43.19 RCW; adding a new section to chapter
4 69.80 RCW; adding a new section to Title 15 RCW; adding a new section
5 to chapter 72.09 RCW; adding a new section to chapter 81.04 RCW; adding
6 a new section to Title 75 RCW; adding new sections to chapter 28A.235
7 RCW; adding a new section to chapter 74.04 RCW; creating new sections;
8 repealing RCW 69.80.030 and 69.80.040; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** Despite the efforts of many dedicated
11 individuals, and the existence of several state, federal, and private
12 antihunger programs, thousands of Washingtonians are still confronted
13 with hunger as a part of their daily lives. Food banks, emergency food
14 programs, school breakfast and lunch programs, charitable kitchens, and
15 special programs for pregnant women, infants, and the elderly are all
16 challenged to meet increased needs. Yet Washington is a leading
17 agricultural state, and has access to ocean fisheries, and many human
18 and technological resources that are underutilized.

1 The legislature finds that food policy in Washington state suffers
2 inefficiencies and lack of connectivity, due to geographical dispersion
3 of the resources needed to address hunger. Although the state agencies
4 charged with various antihunger programs have improved their ability to
5 work together, the existence of unmet service needs, particularly among
6 women, infants, schoolchildren, and the elderly, justifies a new
7 commitment to seeking ways in which to build capacity, improve cost-
8 effectiveness, improve cross-referrals and co-siting among programs,
9 and encourage active participation in food programs by food producers.

10 The legislature finds that the state has an interest in helping
11 hungry persons obtain adequate nutrition. It is established science
12 that well-nourished children perform better in school, and that
13 appropriate nutrition plays a major role in health maintenance,
14 especially for such populations as the elderly, enabling them to
15 maintain independence and saving medical costs.

16 Significantly, proper prenatal nutrition prevents low birthweight
17 in babies, and infant mental and physical well-being is directly tied
18 to adequacy of diet. Given the strong medical connection between
19 nutritional adequacy and well-being, the legislature finds that, as a
20 component of the state's health care reform efforts, it is vital to
21 improve the nutritional status of Washingtonians by all reasonable
22 means.

23 **Sec. 2.** RCW 43.19.010 and 1993 c 472 s 19 are each amended to read
24 as follows:

25 The department of general administration shall be organized into
26 divisions, which shall include (1) the division of capitol buildings,
27 (2) the division of purchasing, (3) the division of engineering and
28 architecture, and (4) the division of motor vehicle transportation
29 service.

30 The director of general administration shall have charge and
31 general supervision of the department. He or she may appoint and
32 deputize such clerical and other assistants as may be necessary for the
33 general administration of the department. Within available resources,
34 the director shall appoint the antihunger coordinator to administer the
35 office of antihunger under section 3 of this act. The director of
36 general administration shall receive a salary in an amount fixed by the
37 governor.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.19 RCW
2 to read as follows:

3 Within available resources, the office of antihunger is created in
4 the department of general administration. The department, in addition
5 to its current authority, shall establish and administer the office.
6 The antihunger coordinator has the following powers and duties:

7 (1) Act as a network to contact and coordinate state hunger
8 programs among public agencies that provide food, food stamps, food
9 stamp nutrition education, meals, or distribution, including:

- 10 (a) The interagency food issues committee;
- 11 (b) Department of agriculture;
- 12 (c) Washington state national guard;
- 13 (d) Department of corrections;
- 14 (e) Department of health;
- 15 (f) Department of social and health services;
- 16 (g) Department of transportation and the transportation commission;
- 17 (h) Department of fish and wildlife;
- 18 (i) Department of community, trade, and economic development; and
- 19 (j) Office of the superintendent of public instruction.

20 (2) Provide technical support, including identification of
21 transportation and distribution opportunities to state agencies and
22 programs in their development of plans to contribute to hunger relief,
23 and receive technical support from an advisory committee composed of
24 the agencies set forth in this section and the voluntary participation
25 of the Washington antihunger and nutrition coalition.

26 (3) Nothing in this section shall be construed to give the
27 antihunger coordinator statutory authority over the activities of food
28 banks, charitable kitchens, private food distributors, or private
29 nonprofit emergency food providers.

30 (4) All agencies identified in this section shall cooperate with
31 the antihunger coordinator to carry out the duties set forth in chapter
32 . . . , Laws of 1994 (this act), and shall provide information and data
33 consistent with available resources, as requested by the antihunger
34 coordinator, including annual reporting, by November 1 of each year,
35 concerning the status and progress of each agency's antihunger efforts.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 69.80 RCW
37 to read as follows:

1 (1) This section may be cited as the "Good Samaritan Food Donation
2 Act."

3 (2) As used in this section:

4 (a) "Apparently fit grocery product" means a grocery product that
5 meets all quality and labeling standards imposed by federal, state, and
6 local laws and regulations even though the product may not be readily
7 marketable due to appearance, age, freshness, grade, size, surplus, or
8 other conditions.

9 (b) "Apparently wholesome food" means food that meets all quality
10 and labeling standards imposed by federal, state, and local laws and
11 regulations even though the food may not be readily marketable due to
12 appearance, age, freshness, grade, size, surplus, or other conditions.

13 (c) "Donate" means to give without requiring anything of monetary
14 value from the recipient, except that the term shall include giving by
15 a nonprofit organization to another nonprofit organization,
16 notwithstanding that the donor organization has charged a nominal fee
17 to the donee organization, if the ultimate recipient or user is not
18 required to give anything of monetary value.

19 (d) "Food" means a raw, cooked, processed, or prepared edible
20 substance, ice, beverage, or ingredient used or intended for use in
21 whole or in part for human consumption.

22 (e) "Gleaner" means a person who harvests for free distribution to
23 the needy, or for donation to a nonprofit organization for ultimate
24 distribution to the needy, an agricultural crop that has been donated
25 by the owner.

26 (f) "Grocery product" means a nonfood grocery product, including a
27 disposable paper or plastic product, household cleaning product,
28 laundry detergent, cleaning product, or miscellaneous household item.

29 (g) "Gross negligence" means voluntary and conscious conduct by a
30 person with knowledge, at the time of the conduct, that the conduct is
31 likely to be harmful to the health or well-being of another person.

32 (h) "Intentional misconduct" means conduct by a person with
33 knowledge, at the time of the conduct, that the conduct is harmful to
34 the health or well-being of another person.

35 (i) "Nonprofit organization" means an incorporated or
36 unincorporated entity that:

37 (i) Is operating for religious, charitable, or educational
38 purposes; and

1 (ii) Does not provide net earnings to, or operate in any other
2 manner that inures to the benefit of, any officer, employee, or
3 shareholder of the entity.

4 (j) "Person" means an individual, corporation, partnership,
5 organization, association, or governmental entity, including a retail
6 grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer,
7 farmer, and nonprofit food distributor or hospital. In the case of a
8 corporation, partnership, organization, association, or governmental
9 entity, the term includes an officer, director, partner, deacon,
10 trustee, councilmember, or other elected or appointed individual
11 responsible for the governance of the entity.

12 (3) A person or gleaner is not subject to civil or criminal
13 liability arising from the nature, age, packaging, or condition of
14 apparently wholesome food or an apparently fit grocery product that the
15 person or gleaner donates in good faith to a nonprofit organization for
16 ultimate distribution to needy individuals, except that this subsection
17 does not apply to an injury to or death of an ultimate user or
18 recipient of the food or grocery product that results from an act or
19 omission of the donor constituting gross negligence or intentional
20 misconduct.

21 (4) A person who allows the collection or gleaning of donations on
22 property owned or occupied by the person by gleaners, or paid or unpaid
23 representatives of a nonprofit organization, for ultimate distribution
24 to needy individuals is not subject to civil or criminal liability that
25 arises due to the injury or death of the gleaner or representative,
26 except that this subsection does not apply to an injury or death that
27 results from an act or omission of the person constituting gross
28 negligence or intentional misconduct.

29 (5) If some or all of the donated food and grocery products do not
30 meet all quality and labeling standards imposed by federal, state, and
31 local laws and regulations, the person or gleaner who donates the food
32 and grocery products is not subject to civil or criminal liability in
33 accordance with this section if the nonprofit organization that
34 receives the donated food or grocery products:

35 (a) Is informed by the donor of the distressed or defective
36 condition of the donated food or grocery products;

37 (b) Agrees to recondition the donated food or grocery products to
38 comply with all the quality and labeling standards prior to
39 distribution; and

1 (c) Is knowledgeable of the standards to properly recondition the
2 donated food or grocery product.

3 (6) This section may not be construed to create liability.

4 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each
5 repealed:

6 (1) RCW 69.80.030 and 1983 c 241 s 3; and

7 (2) RCW 69.80.040 and 1983 c 241 s 4.

8 **Sec. 6.** RCW 69.80.900 and 1983 c 241 s 5 are each amended to read
9 as follows:

10 Nothing in this chapter may be construed to create any liability
11 of, or penalty against a donor or distributing organization except as
12 provided in ((RCW 69.80.030)) section 4 of this act.

13 NEW SECTION. **Sec. 7.** A new section is added to Title 15 RCW to
14 read as follows:

15 (1) Agricultural commodity commissions established by statute or
16 rule that deal with food product are encouraged to facilitate and
17 promote the voluntary donation and gleaning of surplus commodities and
18 nonmarketable product, when available and in the manner to be
19 determined by each commission, by dealers, producers, growers,
20 processors, warehousemen, and others involved with each respective
21 commission.

22 (2) The commodities commissions shall, to the extent possible and
23 consistent with available resources, report to the department of
24 agriculture all donations given by the entities set forth in this
25 section, in annual reports due October 15th, covering October 1st
26 through September 30th.

27 **Sec. 8.** RCW 38.12.020 and 1989 c 19 s 12 are each amended to read
28 as follows:

29 The adjutant general shall:

30 (1) Keep rosters of all active, reserve, and retired officers of
31 the militia, and all other records, and papers required to be kept and
32 filed therein, and shall submit to the governor such reports of the
33 operations and conditions of the organized militia as the governor may
34 require.

1 (2) Cause the military law, and such other military publications as
2 may be necessary for the military service, to be prepared and
3 distributed at the expense of the state, to the departments and units
4 of the organized militia.

5 (3) Keep just and true accounts of all moneys received and
6 disbursed by him or her.

7 (4) Attest all commissions issued to military officers of this
8 state.

9 (5) Make out and transmit all militia reports, returns, and
10 communications prescribed by acts of congress or by direction of the
11 department of defense and the national guard bureau.

12 (6) Have a seal, and all copies, orders, records, and papers in his
13 or her office, duly certified and authenticated under the seal, shall
14 be evidence in all cases in like manner as if the originals were
15 produced. The seal now used in the office of the adjutant general
16 shall be the seal of his or her office and shall be delivered by him or
17 her to the successor. All orders issued from his or her office shall
18 be authenticated with the seal.

19 (7) Make such regulations pertaining to the preparation of reports
20 and returns and to the use, maintenance, care, and preservation of
21 property in possession of the state for military purposes, whether
22 belonging to the state or to the United States, as in his or her
23 opinion the conditions demand.

24 (8) Attend to the care, preservation, safekeeping, and repairing of
25 the arms, ordinance, accoutrements, equipment, and all other military
26 property belonging to the state, or issued to the state by the United
27 States for military purposes, and keep accurate accounts thereof. Any
28 property of the state military department which, after proper
29 inspection, is found unsuitable or no longer needed for use of the
30 state military forces, shall be disposed of in such manner as the
31 governor shall direct and the proceeds thereof used for replacements in
32 kind or by other needed authorized military supplies, and the adjutant
33 general may execute the necessary instruments of conveyance to effect
34 such sale or disposal.

35 (9) Issue the military property as the necessity of service
36 requires and make purchases for that purpose. No military property
37 shall be issued or loaned to persons or organizations other than those
38 belonging to the militia, except as permitted by applicable state or
39 federal law.

1 (10) Keep on file in his or her office the reports and returns of
2 military units, and all other writings and papers required to be
3 transmitted to and preserved at the general headquarters of the state
4 militia.

5 (11) Keep all records of volunteers commissioned or enlisted for
6 all wars or insurrections, and of individual claims of citizens for
7 service rendered in these wars or insurrections, and he or she shall
8 also be the custodian of all records, relics, trophies, colors, and
9 histories relating to such wars now in possession of, or which may be
10 acquired by the state.

11 (12) Establish and maintain as part of his or her office a bureau
12 of records of the services of the organized militia of the state, and
13 upon request furnish a copy thereof or extract therefrom, attested
14 under seal of his or her office, and such attested copy shall be prima
15 facie proof of service, birthplace, and citizenship.

16 (13) Keep a record of all real property owned or used by the state
17 for military purposes, and in connection therewith he or she shall have
18 sole power to execute all leases to acquire the use of real property by
19 the state for military purposes, or lease it to other agencies for use
20 for authorized activities. The adjutant general shall also have full
21 power to execute and grant easements for rights of way for
22 construction, operation, and maintenance of utility service, water,
23 sewage, and drainage for such realty.

24 (14) Provide assistance to the antihunger coordinator under section
25 3 of this act, to include personnel and equipment for state-wide
26 distribution of food and grocery products to nonprofit state-
27 administered food programs. Assistance provided will be consistent
28 with available resources and prescribed federal training requirements.

29 This section shall constitute statutory authority for the
30 Washington national guard antihunger program.

31 NEW SECTION. Sec. 9. A new section is added to chapter 72.09 RCW
32 to read as follows:

33 The department of corrections shall provide inmate labor, at no
34 cost to food donors or charitable institutions, where feasible and
35 consistent with available resources, in accordance with the inmate work
36 program standards under RCW 72.09.100, to assist in the voluntary
37 gleaning and distribution of food and grocery products for charitable
38 purposes under section 3 of this act. The department may request

1 training or information on appropriate gleaning methods from the
2 Washington state university cooperative extension service and shall
3 supply only adequately trained inmates for gleaning activities. The
4 secretary of the department of corrections shall adopt rules to
5 implement this section.

6 NEW SECTION. **Sec. 10.** A new section is added to chapter 81.04 RCW
7 to read as follows:

8 The commission, in cooperation with the department of health and
9 the antihunger coordinator under section 3 of this act, shall identify
10 statutory and regulatory barriers to backhauling by transporters of
11 donated food and grocery products. The commission shall adopt rules
12 necessary to facilitate the backhauling of donated food products and
13 shall report to the antihunger coordinator on other barriers, such as
14 lack of waiver of published rates, that impede the efficient
15 utilization of volunteer truck transport of food and grocery products.

16 NEW SECTION. **Sec. 11.** A new section is added to Title 75 RCW to
17 read as follows:

18 The department of fish and wildlife and the department of
19 corrections shall provide technical assistance to the antihunger
20 coordinator under section 3 of this act, in researching how to enhance
21 existing efforts in the recovery, processing, and distribution of
22 fisheries surplus to correctional facilities and department of social
23 and health services' programs, while leaving harvest and other license
24 restrictions and limitations intact. The antihunger coordinator shall
25 report to the legislature by December 1, 1995, on the outcome of the
26 research project.

27 **Sec. 12.** RCW 28A.235.140 and 1993 c 333 s 1 are each amended to
28 read as follows:

29 (1) For the purposes of this section:

30 (a) "Free or reduced-price lunches" means lunches served by a
31 school district that qualify for federal reimbursement as free or
32 reduced-price lunches under the national school lunch program.

33 (b) "School breakfast program" means a program meeting federal
34 requirements defined in 42 U.S.C. Sec. 1773.

1 (c) "Severe-need school" means a school that qualifies for a
2 severe-need school reimbursement rate from federal funds for school
3 breakfasts served to children from low-income families.

4 (2) School districts shall be required to develop and implement
5 plans for a school breakfast program in severe-need schools(~~(, pursuant~~
6 ~~to the schedule in this section. For the second year prior to the~~
7 ~~implementation of the district's school breakfast program, and for each~~
8 ~~subsequent school year, each school district shall submit data enabling~~
9 ~~the superintendent of public instruction to determine which schools~~
10 ~~within the district will qualify as severe-need schools)). In~~
11 developing its plan, each school district shall consult with an
12 advisory committee including school staff and community members
13 appointed by the board of directors of the district. School districts
14 shall provide a breakfast program in any school as long as the school
15 qualifies as a severe-need school or there is data available to confirm
16 and substantiate the severe-needs status of the school.

17 (3) (~~Using district-wide data on school lunch participation during~~
18 ~~the 1988-89 school year, the superintendent of public instruction shall~~
19 ~~adopt a schedule for implementation of school breakfast programs in~~
20 ~~severe-need schools as follows:~~

21 (a) ~~School districts where at least forty percent of lunches served~~
22 ~~to students are free or reduced price lunches shall submit a plan for~~
23 ~~implementation of a school breakfast program in severe-need schools to~~
24 ~~the superintendent of public instruction no later than July 1, 1990.~~
25 ~~Each such district shall implement a school breakfast program in all~~
26 ~~severe-need schools no later than the second day of school in the~~
27 ~~1990-91 school year and in each school year thereafter.~~

28 (b) ~~School districts where at least twenty five but less than forty~~
29 ~~percent of lunches served to students are free or reduced price lunches~~
30 ~~shall submit a plan for implementation of a school breakfast program in~~
31 ~~severe-need schools to the superintendent of public instruction no~~
32 ~~later than July 1, 1991.)~~ Each such district shall implement a school
33 breakfast program in all severe-need schools no later than the second
34 day of school in the 1991-92 school year and in each school year
35 thereafter.

36 (~~(c) School districts where less than twenty five percent of~~
37 ~~lunches served to students are free or reduced price lunches shall~~
38 ~~submit a plan for implementation of a school breakfast program in~~
39 ~~severe-need schools to the superintendent of public instruction no~~

1 later than July 1, 1992. Each such district shall implement a school
2 breakfast program in all severe-need schools no later than the second
3 day of school in the 1992-93 school year and in each school year
4 thereafter.

5 (d) School districts that did not offer a school lunch program in
6 the 1988-89 school year are encouraged to implement such a program and
7 to provide a school breakfast program in all severe-need schools when
8 eligible.)

9 (4) The requirements in this section shall lapse if the federal
10 reimbursement rate for breakfasts served in severe-need schools is
11 eliminated.

12 (5) Students who do not meet family-income criteria for free
13 breakfasts shall be eligible to participate in the school breakfast
14 programs established under this section, and school districts may
15 charge for the breakfasts served to these students except as provided
16 in section 14 of this act. Requirements that school districts have
17 school breakfast programs under this section shall not create or imply
18 any state funding obligation for these costs. The legislature does not
19 intend to include these programs within the state's obligation for
20 basic education funding under Article IX of the Constitution.

21 (6) School districts that as of the effective date of this act do
22 not have a school lunch program shall develop a plan for a school lunch
23 program and establish a feasible timeline for instituting the program.

24 **Sec. 13.** RCW 28A.235.155 and 1993 c 333 s 4 are each amended to
25 read as follows:

26 (1) The superintendent of public instruction shall administer funds
27 for the federal summer food service program.

28 (2) The superintendent of public instruction may award grants, to
29 the extent funds are appropriated, to eligible organizations to help
30 start new summer food service programs for children or to help expand
31 summer food services for children.

32 (3) The superintendent of public instruction shall apply for all
33 available federal funds for summer food service program outreach.

34 NEW SECTION. **Sec. 14.** A new section is added to chapter 28A.235
35 RCW to read as follows:

36 School districts are encouraged to take advantage of the
37 opportunity to serve all enrolled students in designated high-needs

1 schools under special assistance known as Provision 2, 7 C.F.R. 245(b).
2 The superintendent of public instruction shall ensure that information
3 on Provision 2 is provided to all school districts with schools where
4 more than seventy-five percent of students qualify for free or reduced-
5 price school meals by the end of 1994.

6 NEW SECTION. **Sec. 15.** A new section is added to chapter 28A.235
7 RCW to read as follows:

8 Within six months of the effective date of this act, and every two
9 years thereafter, school districts with breakfast or lunch programs
10 shall assess whether the programs allow the students sufficient and
11 realistic time to be served and to eat. If the assessment shows that
12 there is insufficient time for personal hygiene, serving, and
13 consumption of school meals, the school shall allow more time by any
14 feasible means, including the use of adult volunteer help, additional
15 cafeteria shifts, or more staffing. Failure to properly assess such
16 programs and correct problems identified by assessment, or to promptly
17 investigate and take appropriate action on complaints regarding
18 compliance with this section shall be remedied by the superintendent of
19 public instruction.

20 NEW SECTION. **Sec. 16.** A new section is added to chapter 28A.235
21 RCW to read as follows:

22 School districts shall ensure that food sold on school grounds is
23 consistent with the dietary guidelines for Americans as provided in the
24 edition of "Nutrition & Your Health: Dietary Guidelines for
25 Americans," by the United States departments of agriculture and health
26 and human services in print on the effective date of this act, or a
27 later edition as adopted by reference by the superintendent by rule.

28 NEW SECTION. **Sec. 17.** A new section is added to chapter 74.04 RCW
29 to read as follows:

30 The department shall, with the assistance of the antihunger
31 coordinator, develop an outcome measurement to show increased service
32 to individuals in the department's nutrition program for the elderly.
33 The purpose of the outcome measurement shall be to improve
34 accountability and effectiveness and to motivate outreach programs to
35 the elderly, by measuring program success in empirical evidence of
36 increased numbers of persons served.

1 NEW SECTION. **Sec. 18.** The antihunger coordinator shall report to
2 the legislature by December 1, 1995, on the effectiveness of chapter
3 . . . , Laws of 1994 (this act).

4 NEW SECTION. **Sec. 19.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 20.** If any part of this act is found to be in
9 conflict with federal requirements that are a prescribed condition to
10 the allocation of federal funds to the state, the conflicting part of
11 this act is inoperative solely to the extent of the conflict and with
12 respect to the agencies directly affected, and this finding does not
13 affect the operation of the remainder of this act in its application to
14 the agencies concerned. The rules under this act shall meet federal
15 requirements that are a necessary condition to the receipt of federal
16 funds by the state.

17 NEW SECTION. **Sec. 21.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and shall take
20 effect immediately.

--- END ---