

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6388

63rd Legislature
2014 Regular Session

Passed by the Senate March 11, 2014
YEAS 48 NAYS 1

President of the Senate

Passed by the House March 7, 2014
YEAS 94 NAYS 2

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6388** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6388

AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By Senate Ways & Means (originally sponsored by Senator Padden)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to pass-through food distributors; amending RCW
2 69.07.120; adding a new section to chapter 69.04 RCW; and creating a
3 new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the availability
6 of affordable, fresh, and nourishing foods is essential for individuals
7 to maintain a healthy lifestyle. The legislature also finds that new
8 methods of purchasing and delivering fresh, nourishing foods are
9 emerging and lowering the costs of these foods. The legislature
10 further finds that some of the new business models for purchasing and
11 delivering fresh, nourishing foods are being inappropriately classified
12 as food service establishments. Therefore, it is the intent of the
13 legislature to establish a direct seller license for businesses that
14 sell and collect payment only through a web site for prepackaged foods
15 obtained from a food processor either licensed or inspected, or both,
16 by a state or federal regulatory agency and that deliver the food
17 directly to consumers without any interim storage.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 69.04 RCW
2 to read as follows:

3 (1) The department shall issue a license to operate as a direct
4 seller to any entity that:

5 (a) Submits a completed application on forms approved by the
6 department;

7 (b) Provides the department with a list of all leased, rented, or
8 owned vehicles, other than vehicles that are rented for less than
9 forty-five days, used by the applicant's business to deliver food;

10 (c) Maintains all records of vehicles that are rented for less than
11 forty-five days for at least twelve months following the termination of
12 the rental period;

13 (d) Maintains food temperature logs or uses a device to monitor the
14 temperature of the packages in real time for all food while in
15 transport; and

16 (e) Submits all appropriate fees to the department.

17 (2) The department shall develop, by rule, an annual license and
18 renewal fee to defray the costs of administering the licensing and
19 inspection program created by this section. All moneys received by the
20 department under the provisions of this section must be paid into the
21 food processing inspection account created in RCW 69.07.120 and must be
22 used solely to carry out the provisions of this section.

23 (3)(a) A licensed direct seller is required to protect food from
24 contamination while in transport. Food must be transported under
25 conditions that protect food against physical, chemical, and microbial
26 contamination, as well as against deterioration of the food and its
27 container.

28 (b) Compliance with this subsection (3) requires, but is not
29 limited to, the separation of raw materials in such a fashion that they
30 avoid cross-contamination of other food products, particularly ready-
31 to-eat food. An example of this principle includes ensuring that,
32 during the transport of raw fish and seafood, meat, poultry, or other
33 food which inherently contains pathogenic and spoilage microorganisms,
34 soil, or other foreign material, the raw materials may not come into
35 direct contact with other food in the same container or in any other
36 cross-contaminating circumstance.

37 (4) In the event of a food recall or when required by the
38 department, a federal, state, or local health authority in response to

1 a food borne illness outbreak, a licensed direct seller shall use its
2 client listserv to notify customers of the recall and any other
3 relevant information.

4 (5) In the implementation of this section, the department shall:

5 (a) Conduct inspections of vehicles, food handling areas,
6 refrigeration equipment, and product packaging used by a licensed
7 direct seller;

8 (b) Conduct audits of temperature logs and other food handling
9 records as appropriate;

10 (c) Investigate any complaints against a licensed direct seller for
11 the failure to maintain food safety; and

12 (d) Adopt rules, in consultation with the department of health and
13 local health jurisdictions, necessary to administer and enforce the
14 program consistent with federal regulations.

15 (6) Direct sellers that have a license from the department under
16 this section are exempt from the permitting requirements of food
17 service rules adopted by the state board of health and any local health
18 jurisdiction.

19 (7) The director may deny, suspend, or revoke any license provided
20 under this section if the director determines that an applicant or
21 licensee has committed any of the following:

22 (a) Refused, neglected, or failed to comply with the provisions of
23 this section, the rules and regulations adopted under this section, or
24 any order of the director;

25 (b) Refused, neglected, or failed to keep and maintain records
26 required by this chapter, or refused the department access to such
27 records;

28 (c) Refused the department access to any portion or area of
29 vehicles, food handling areas, or any other areas or facilities housing
30 equipment or product packaging used by the direct retailer in the
31 course of performing business responsibilities; or

32 (d) Failed to submit an application for a license meeting the
33 requirements of this section or failed to pay the appropriate annual
34 license or renewal fee.

35 (8) The definitions in this subsection apply throughout this
36 section unless the context clearly requires otherwise:

37 (a) "Department" means the department of agriculture.

1 (b) "Direct seller" means an entity that receives prepackaged food
2 from a food processor that is either licensed or inspected, or both, by
3 a state or federal regulatory agency or the department and that
4 delivers the food directly to consumers who only placed and paid for an
5 order on the entity's web site, as long as:

6 (i) The food is delivered by the entity without opening the
7 packaging and without dividing it into smaller packages;

8 (ii) There is no interim storage by the entity; and

9 (iii) The food is delivered by means of vehicles that are equipped
10 with either refrigeration or freezer units, or both, and that meet the
11 requirements of rules authorized by this chapter.

12 **Sec. 3.** RCW 69.07.120 and 2011 c 281 s 12 are each amended to read
13 as follows:

14 All moneys received by the department under the provisions of this
15 chapter, section 2 of this act, and chapter 69.22 RCW shall be paid
16 into the food processing inspection account hereby created within the
17 agricultural local fund established in RCW 43.23.230 and shall be used
18 solely to carry out the provisions of this chapter, section 2 of this
19 act, and chapters 69.22 and 69.04 RCW.

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