

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 6388**

Chapter 98, Laws of 2014

63rd Legislature  
2014 Regular Session

FOOD REGULATION--DIRECT SELLER LICENSES

EFFECTIVE DATE: 06/12/14

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

BRAD OWEN

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**President of the Senate**

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

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved March 27, 2014, 10:57 a.m.

JAY INSLEE

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**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.

HUNTER G. GOODMAN

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**Secretary**

FILED

March 27, 2014

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 6388**

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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.

Passed by the Senate March 11, 2014.

Passed by the House March 7, 2014.

Approved by the Governor March 27, 2014.

Filed in Office of Secretary of State March 27, 2014.