

~~((7))~~ (8) If the level of revenues in the county sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through ~~((4))~~ (5) of this section, then the additional revenues shall be credited and transferred to the state general fund.

Sec. 6. Section 4, chapter 49, Laws of 1982 1st ex. sess. as amended by section 5, chapter 99, Laws of 1983 and RCW 35.21.870 are each amended to read as follows:

(1) No city or town may impose a tax on the privilege of conducting an electrical energy, natural gas, steam energy, or telephone business at a rate which exceeds six percent unless the rate is first approved by a majority of the voters of the city or town voting on such a proposition.

(2) If a city or town is imposing a rate of tax under subsection (1) of this section in excess of six percent on April 20, 1982, the city or town shall decrease the rate to a rate of six percent or less by reducing the rate each year on or before November 1st by ordinances to be effective on January 1st of the succeeding year, by an amount equal to one-tenth the difference between the tax rate on April 20, 1982, and six percent.

Nothing in this subsection prohibits a city or town from reducing its rates by amounts greater than the amounts required in this subsection.

Voter approved rate increases under subsection (1) of this section shall not be included in the computations under this subsection.

NEW SECTION. Sec. 7. The department of revenue shall adopt rules as necessary to implement this act.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 2, 1984.

Passed the House February 22, 1984.

Approved by the Governor March 27, 1984.

Filed in Office of Secretary of State March 27, 1984.

CHAPTER 226

[Substitute Senate Bill No. 4419]

MILK AND MILK PRODUCTS—STANDARDS—TESTING

AN ACT Relating to milk and milk products; amending section 15.36.060, chapter 11, Laws of 1961 and RCW 15.36.060; amending section 15.36.120, chapter 11, Laws of 1961 as amended by section 2, chapter 297, Laws of 1981 and RCW 15.36.120; amending section 15.36.140, chapter 11, Laws of 1961 as amended by section 3, chapter 297, Laws of 1981 and RCW 15.36.140; amending section 15.36.260, chapter 11, Laws of 1961 and RCW 15.36.260; adding a new section to chapter 15.36 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. There is added to chapter 15.36 RCW a new section to read as follows:

(1) If the results of an antibiotic or pesticide residue test are above the actionable level as determined by procedures set forth in the current edition of "Standard Methods for the Examination of Dairy Products," a producer holding a grade A permit is subject to a civil penalty. The penalty shall be in an amount equal to one-half the value of the sum of the volumes of milk equivalent produced under the permit on the day prior to and the day of the adulteration. The value of the milk shall be computed by the weighted average price for the federal market order under which the milk is delivered.

(2) The penalty is imposed by the department giving a written notice which is either personally served upon or transmitted by certified mail, return receipt requested, to the person incurring the penalty. The notice of the civil penalty shall be a final order of the department unless, within fifteen days after the notice is received, the person incurring the penalty appeals the penalty by filing a notice of appeal with the department. If a notice of appeal is filed in a timely manner, a contested case hearing shall be conducted on behalf of the department by the office of administrative hearings in accordance with chapters 34.04 and 34.12 RCW and, to the extent they are not inconsistent with this subsection, the provisions of RCW 15.36.580. At the conclusion of the hearing, the department shall determine whether the penalty should be affirmed, reduced, or not imposed and shall issue a final order setting forth the civil penalty assessed, if any. The order may be appealed to superior court in accordance with chapter 34.04 RCW. Tests performed for antibiotic or pesticide residues by a state or certified industry laboratory of a milk sample drawn by a department official or a licensed dairy technician shall be admitted as prima facie evidence of the presence or absence of an antibiotic or pesticide residue.

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

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

(5) In case of a violation of the antibiotic or pesticide residue test requirements, an investigation shall be made to determine the cause of the residue which shall be corrected. Additional samples shall be taken as soon as possible and tested as soon as feasible for antibiotic or pesticide residue

by the department or a certified laboratory. After the notice has been received by the producer and the results of a test of such an additional sample indicate that residues are above the actionable level or levels referred to in subsection (1) of this section, the producer's milk may not be sold until a sample is shown to be below the actionable levels established for the residues.

Sec. 2. Section 15.36.060, chapter 11, Laws of 1961 and RCW 15.36.060 are each amended to read as follows:

The word "person" means any individual, partnership, firm, corporation, company, trustee, or association.

"Director" means the director of agriculture of the state of Washington or his duly authorized representative.

"Department" means the state department of agriculture.

"Health officer" means the county or city health officer as defined in Title 70 RCW, or his authorized representatives.

Where the term "and/or" is used "and" shall apply where possible, otherwise "or" shall apply.

Sec. 3. Section 15.36.120, chapter 11, Laws of 1961 as amended by section 2, chapter 297, Laws of 1981 and RCW 15.36.120 are each amended to read as follows:

Grade~~s~~ of milk and milk products as defined in this chapter shall be based on the respectively applicable standards contained in RCW 15.36.120 ~~((to))~~ through 15.36.460, ~~((inclusive;))~~ with the grading of milk products being identical with the grading of milk, ~~((and))~~ except that bacterial standards are omitted in the case of ~~((sour cream and buttermilk))~~ cultured milk products. Vitamin D milk shall be only of grade A, certified pasteurized, or certified raw quality. The grade of a milk product shall be that of the lowest grade milk or milk product used in its preparation.

Sec. 4. Section 15.36.140, chapter 11, Laws of 1961 as amended by section 3, chapter 297, Laws of 1981 and RCW 15.36.140 are each amended to read as follows:

Grade A raw milk is raw milk produced upon dairy farms conforming with all of the items of sanitation contained in RCW 15.36.150 ~~((to))~~ through 15.36.280, ~~((inclusive;))~~ and the bacterial plate count does not exceed twenty thousand per milliliter and the coliform count does not exceed ten per milliliter.

Grade A raw milk for pasteurization is raw milk produced upon dairy farms conforming with all of ~~((said))~~ the same items of sanitation except RCW 15.36.265 (bottling and capping), 15.36.270 (personnel health), and ~~((such))~~ portions of other items as ~~((are))~~ indicated ~~((therein))~~, and the bacterial plate count, as delivered from the farm, does not exceed ~~((one hundred))~~ eighty thousand per milliliter as determined in accordance with RCW 15.36.110.

Sec. 5. Section 15.36.260, chapter 11, Laws of 1961 and RCW 15.36-.260 are each amended to read as follows:

Milk and milk products for consumption in the raw state or for pasteurization shall be cooled within ~~((thirty minutes after))~~ two hours of completion of milking to ((fifty)) forty degrees Fahrenheit or less and maintained at that temperature until ((delivery, as determined)) picked up, in accordance with RCW 15.36.110, so long as the blend temperature after the first and following milkings does not exceed fifty degrees Fahrenheit. ~~((Milk delivered daily for pasteurization shall be cooled within thirty minutes after completion of milking to sixty degrees Fahrenheit or less and maintained at that temperature until delivered and dumped.~~

~~Milk delivered every other day for pasteurization shall be cooled to forty degrees Fahrenheit or lower at the place of production and shall not exceed forty-five degrees Fahrenheit at any time prior to pasteurization.))~~

Passed the Senate March 2, 1984.

Passed the House February 25, 1984.

Approved by the Governor March 27, 1984.

Filed in Office of Secretary of State March 27, 1984.

CHAPTER 227

[Substitute Senate Bill No. 4477]

RETIREMENT—TAX DEFERRAL BENEFITS

AN ACT Relating to retirement from public service; adding new sections to chapter 41.04 RCW; creating a new section; making an appropriation; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. There is added to chapter 41.04 RCW a new section to read as follows:

(1) The sole purpose of sections 2 and 3 of this act is to allow the members of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40 and 43.43 RCW to enjoy the tax deferral benefits allowed under 26 USC 414(h). This act does not alter in any manner the provisions of RCW 41.26.450, 41.32.775 and 41.40.650 which require that the member contribution rates shall be set so as to provide fifty percent of the costs of the respective retirement plans.

(2) Should the legislature revoke any benefit allowed under this act, no affected employee shall be entitled thereafter to receive such benefit as a matter of contractual right.

NEW SECTION. Sec. 2. There is added to chapter 41.04 RCW a new section to read as follows:

(1) This section applies to all members without exception who are:

(a) Judges under the retirement system established under chapter 2.10 or 2.12 RCW;