

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2397

57th Legislature
2002 Regular Session

Passed by the House February 12, 2002
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 8, 2002
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2397** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2397

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Representatives Linville, Schoesler and Hunt; by request of
Department of Agriculture

Read first time 01/16/2002. Referred to Committee on Agriculture &
Ecology.

1 AN ACT Relating to organic food products; amending RCW 15.86.010,
2 15.86.020, 15.86.030, 15.86.060, 15.86.070, and 15.86.090; adding a new
3 section to chapter 15.86 RCW; repealing RCW 15.86.031, 15.86.035,
4 15.86.050, 15.86.080, and 15.86.100; and prescribing penalties.

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

6 **Sec. 1.** RCW 15.86.010 and 1992 c 71 s 1 are each amended to read
7 as follows:

8 The legislature recognizes a public benefit in:

9 (1) Establishing standards ((for agricultural products marketed and
10 labeled using the term "organic" or a derivative of the term "organic."
11 Such standards shall also facilitate the development of out-of-state
12 markets for Washington food grown by organic methods)) governing the
13 labeling and advertising of food products and agricultural commodities
14 as organically produced;

15 (2) Providing certification under the federal organic food
16 production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules
17 adopted thereunder for agricultural products marketed and labeled using
18 the term "organic" or a derivative of the term "organic;"

1 (3) Providing access for Washington producers, processors, and
2 handlers to domestic and international markets for organic food
3 products; and

4 (4) Establishing a state organic program under the federal organic
5 food production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules
6 adopted thereunder.

7 **Sec. 2.** RCW 15.86.020 and 1992 c 71 s 2 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Director" means the director of the department of agriculture
12 or the director's designee.

13 (2) "Organic food" means any agricultural product, in whole or in
14 part, including meat, dairy, and beverage, that is marketed using the
15 term organic or any derivative of organic~~((, other than the phrase~~
16 ~~"transition to organic food," in its labeling or advertising))~~ and that
17 is produced, handled, and processed in accordance with this chapter.

18 (3) "Producer" means any person or organization who or which grows,
19 raises, or produces an agricultural product.

20 ~~((("Vendor" means anyone who sells or arranges the sale of~~
21 ~~organic food to the consumer or another vendor.))~~ "Handler" means any
22 person who sells, distributes, or packs organic or transitional
23 products.

24 ~~((("Transition to organic"))~~ Transitional food means any food
25 product that satisfies all of the requirements of organic food except
26 the time requirements ~~((and satisfied all of the requirements of RCW~~
27 ~~15.86.031))~~ as defined in rule.

28 (6) "Organic certifying agent" means any third-party certification
29 organization that is recognized by the director ~~((by rule))~~ as being
30 one which imposes, for certification, standards consistent with this
31 chapter.

32 (7) "Processor" means any person engaged in the canning, freezing,
33 drying, dehydrating, cooking, pressing, powdering, packaging, baking,
34 heating, mixing, grinding, churning, separating, extracting, cutting,
35 fermenting, eviscerating, preserving, jarring, or otherwise processing
36 organic food.

1 (8) "Person" means any natural person, firm, partnership, exchange,
2 association, trustee, receiver, corporation, and any member, officer,
3 or employee thereof or assignee for the benefit of creditors.

4 (9) "Department" means the state department of agriculture.

5 (10) "Represent" means to hold out as or to advertise.

6 (11) "Sale" means selling, offering for sale, holding for sale,
7 preparing for sale, trading, bartering, offering a gift as an
8 inducement for sale of, and advertising for sale in any media.

9 **Sec. 3.** RCW 15.86.030 and 1992 c 71 s 3 are each amended to read
10 as follows:

11 To be labeled, sold, or represented as an organic food, a product
12 shall be produced ~~((with only those materials and practices approved))~~
13 under standards established under RCW 15.86.060. A producer,
14 processor, or ~~((a vendor))~~ handler shall not represent, sell, or offer
15 for sale any food product with the representation that the product is
16 an organic food if the producer, processor, or ~~((vendor))~~ handler
17 knows, or ~~((in the case of a producer or processor))~~ has reason to
18 know, that the food has not been ~~((grown, raised, or produced with the~~
19 ~~use of any prohibited materials listed by the director))~~ produced,
20 processed, or handled in accordance with standards established under
21 RCW 15.86.060. ~~((Organic animal products shall be considered as~~
22 ~~"grown, raised, or produced" with a substance listed by the director~~
23 ~~under RCW 15.86.060 if the substance has been applied to the plants,~~
24 ~~soil, water, or animal, on or in which the organic animal product is~~
25 ~~being produced during such time frame as specified by the director by~~
26 ~~rule. Other food products shall be considered as "grown, raised, or~~
27 ~~produced" with a substance listed by the director under RCW 15.86.060~~
28 ~~if the substance is applied to the plants, soil, or water, on or in~~
29 ~~which the food product is being produced at any time from three years~~
30 ~~before harvest to the final sale to retail purchasers.))~~

31 **Sec. 4.** RCW 15.86.060 and 1992 c 71 s 7 are each amended to read
32 as follows:

33 (1) The director shall adopt ~~((such))~~ rules ~~((and regulations))~~, in
34 conformity with chapter 34.05 RCW, as the director believes are
35 appropriate for the adoption of the national organic program under the
36 federal organic food production act of 1990, 7 U.S.C. Sec. 6501 et

1 seq., and the rules adopted thereunder and for the proper
2 administration of this chapter.

3 ~~(2) ((The director shall establish a list of approved substances~~
4 ~~that may be used in the production, processing, and handling of organic~~
5 ~~food. This list shall:~~

6 ~~(a) Approve the use of natural substances except for specific~~
7 ~~natural substances that may not be used in the production and handling~~
8 ~~of agricultural products labeled as organic because these substances~~
9 ~~would be harmful to human health or the environment and are~~
10 ~~inconsistent with organic farming principles;~~

11 ~~(b) Prohibit the use of synthetic substances except for specific~~
12 ~~synthetic substances that may be used in the production and handling of~~
13 ~~agricultural products labeled as organic because these substances:~~

14 ~~(i) Would not be harmful to human health or the environment;~~

15 ~~(ii) Are necessary to the production or handling of the~~
16 ~~agricultural products;~~

17 ~~(iii) Are consistent with organic farming principles; and~~

18 ~~(iv) Are used in the production of agricultural products and~~
19 ~~contain active synthetic ingredients in the following categories:~~
20 ~~Copper and sulfur compounds; toxins derived from bacteria; pheromones;~~
21 ~~soaps; horticultural oils; vitamins and minerals; livestock~~
22 ~~parasiticides and medicines; and production aids including netting,~~
23 ~~tree wraps and seals, insect traps, sticky barriers, row covers, and~~
24 ~~equipment cleansers; or~~

25 ~~(v) Are used in production and contain synthetic inert ingredients.~~

26 ~~(3))~~ The director shall issue orders to producers, processors, or
27 ~~((venders))~~ handlers whom he or she finds are violating any provision
28 of this chapter, or rules or regulations adopted under this chapter, to
29 cease their violations and desist from future violations. Whenever the
30 director finds that a producer, processor, or ~~((vender))~~ handler has
31 committed a violation, the director shall impose on and collect from
32 the violator a civil fine not exceeding the total of the following
33 amounts: (a) The state's estimated costs of investigating and taking
34 appropriate administrative and enforcement actions in respect to the
35 violation; and (b) one thousand dollars.

36 ~~((4))~~ (3) The director may deny, suspend, or revoke a
37 certification provided for in this chapter if he or she determines that
38 an applicant or certified person has violated this chapter or rules
39 adopted under it.

1 **Sec. 5.** RCW 15.86.070 and 1997 c 303 s 4 are each amended to read
2 as follows:

3 (1) The director may adopt rules establishing a (~~certification~~)
4 program for certifying producers, processors, and (~~vendors of~~)
5 handlers as meeting state, national, or international standards for
6 organic or (~~transition to organic~~) transitional food. The rules may
7 govern, but are not limited to governing: The number and scheduling of
8 on-site visits, both announced and unannounced, by certification
9 personnel; recordkeeping requirements; and the submission of product
10 samples for chemical analysis. The rules shall include a fee schedule
11 that will provide for the recovery of the full cost of the organic food
12 program. Fees collected under this section shall be deposited in an
13 account within the agricultural local fund and the revenue from such
14 fees shall be used solely for carrying out the provisions of this
15 section, and no appropriation is required for disbursement from the
16 fund. The director may employ such personnel as are necessary to carry
17 out the provisions of this section.

18 (2) The fees established under this section may be increased in
19 excess of the fiscal growth factor as provided in RCW 43.135.055 for
20 the fiscal year ending June 30, (~~1998~~) 2003.

21 **Sec. 6.** RCW 15.86.090 and 1992 c 71 s 8 are each amended to read
22 as follows:

23 (1) It is unlawful for any person to sell, offer for sale, or
24 process any agricultural product within this state with an organic
25 label unless that person is certified under this chapter by the
26 department or (~~an official~~) a recognized organic certifying agent.

27 (2) Subsection (1) of this section shall not apply to:

28 (a) Final retailers of organic food that do not process organic
29 food products; or

30 (b) Producers who sell no more than five thousand dollars annually
31 in value of agricultural products directly to consumers.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 15.86 RCW
33 to read as follows:

34 The department is authorized to take such actions, conduct
35 proceedings, and enter orders as permitted or contemplated for a state
36 organic program under the federal organic food production act of 1990,
37 7 U.S.C. Sec. 6501 et seq., and the rules adopted thereunder. The

1 state organic program shall not be inconsistent with the requirements
2 of 7 U.S.C. Sec. 6501 et seq. and the rules adopted thereunder,
3 including 7 C.F.R. Sec. 205.668. The department shall adopt rules
4 necessary to implement this section.

5 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
6 repealed:

7 (1) RCW 15.86.031 ("Transition to organic food"--Out-of-state
8 products) and 1992 c 71 s 4 & 1989 c 354 s 31;

9 (2) RCW 15.86.035 (Transition to organic food--Proof) and 1989 c
10 354 s 33;

11 (3) RCW 15.86.050 (Producers to provide proof of compliance with
12 law) and 1992 c 71 s 5 & 1985 c 247 s 5;

13 (4) RCW 15.86.080 (Labeling and recordkeeping requirements) and
14 1992 c 71 s 6; and

15 (5) RCW 15.86.100 (Drift of prohibited substances--Tolerance
16 levels) and 1992 c 71 s 9.

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