H-0673.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1245**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Taylor, Condotta, Short, Shea, Buys, Kretz, and Haler

AN ACT Relating to providing a tax incentive for the labeling of products; adding a new chapter to Title 82 RCW; and providing a contingent expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that Washington's agricultural and food processing industries are unparalleled in quality. The legislature also finds that Washingtonians prefer to know the origins of their food. Moreover, the legislature finds that in addition to the placards required under RCW 15.04.415, the public would benefit from knowing the country or origin on agricultural and food products. The legislature recognizes that congress has attempted to assist by enacting the national bioengineered food disclosure act (P.L. 114-216). The legislature finds that the United States department of agriculture is in the process of adopting rules to implement the national bioengineered food disclosure act, which will not take effect until July 29, 2018, at the earliest. The legislature acknowledges that the national bioengineered food disclosure act prohibits the state from enacting their own requirements. The legislature finds that there is not a prohibition on states creating voluntary programs in order for the states' food producers and processors to prepare for the new regulations. The legislature further finds that it is desirable to encourage greater transparency of Washington food product origins through a voluntary labeling program.

NEW SECTION. **Sec.**  The definitions in this section and chapter 82.04 RCW apply throughout this chapter unless the context clearly requires otherwise.

(1) "Bioengineering" or "bioengineered" means a food that contains genetic material that has been modified through in vitro recombinant deoxyribonucleic acid (DNA) techniques and for which the modification could not otherwise be obtained through conventional breeding or found in nature.

(2) "Country of origin" means the country in which the agricultural or food product was produced if other than the United States.

(3) "Food" means (a) articles used for food or drink for people or other animals, (b) bottled water, (c) chewing gum, and (d) articles used for components of any such article.

(4) "Genetically engineered" means any food that is produced from an organism or organisms in which the genetic material has been changed through the application of:

(a) In vitro nucleic acid technique including recombinant deoxyribonucleic acid techniques and the direct injection of nucleic acid into cells or organelles. In vitro nucleic acid techniques include, but are not limited to, recombinant deoxyribonucleic acid or ribonucleic acid techniques that use vector systems and techniques involving the direct introduction into the organisms of hereditary material prepared outside the organisms, such as micro-injection, macro-injection, chemoporation, electroporation, micro-encapsulation, and liposome fusion; or

(b) Fusion of cells, including protoplast fusion, or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells or protoplasts do not fall within the same taxonomic family, in a way that does not occur by natural multiplication or natural recombination.

(5) "Label" means display of written, printed, or graphic matter on the immediate container of an article. "Immediate container" does not include package liners.

(6) "Labeling" means labels or other written, printed, or graphic matter: (a) On an article or its containers or wrappers; or (b) accompanying the article.

(7) "Organism" means any biological entity capable of replication, reproduction, or transferring genetic material.

(8) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers. "Package" does not include: (a) Shipping containers or wrappings used solely for transportation of a consumer commodity in bulk or in quantity to manufacturers, packers, or processors or to wholesale or retail distributors; or (b) shipping containers or outer wrappings used by retailers to ship or deliver a commodity to retail customers if the containers and wrappings bear no printed matter pertaining to a particular commodity.

(9) "Processed food" means any food other than a raw agricultural commodity and includes any food produced from a raw agricultural commodity that has been subject to processing such as canning, smoking, pressing, cooking, freezing, dehydration, fermentation, or milling.

(10) "Product line" means a group of food products that are related and sold and marketed under a single brand by the same company.

(11) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

NEW SECTION. **Sec.**  (1) In computing the tax under chapter 82.04 RCW, a credit of ten thousand dollars per product line per taxable year is available for any person who voluntarily labels a line of products according to subsection (2) of this section. A maximum of one hundred thousand dollars in credit against the tax under chapter 82.04 RCW per taxable year is available to a food processor under this section.

(2)(a) A credit under subsection (1) of this section is available for any food offered for retail sale in Washington if it is or may have been produced through bioengineering or genetically engineered and is labeled as follows:

(i) In the case of a raw agricultural commodity offered for retail sale, the package must state the words "genetically engineered" or "GMO" clearly and conspicuously on the front of the package. If the commodity is not separately packaged or labeled, the words "genetically engineered" or "GMO" must appear on a label appearing on the shelf or bin where the commodity is displayed for sale;

(ii) In the case of any processed food offered for retail sale, the package produced by the manufacturer must state on the front clearly and conspicuously "partially produced with genetic engineering" or "may be produced with genetic engineering";

(iii) In the case of any seed or seed stock, the words "genetically engineered," "GMO," or "produced with genetic engineering" must be stated clearly and conspicuously on the seed or seed stock container, sales receipt, or any other reference to identification, ownership, or possession.

(b) A credit under subsection (3) of this section is available for any food offered for retail sale in Washington that has not been bioengineered or genetically engineered and is labeled as "not genetically engineered" or "Non-GMO." However, a person who sells a product line of food, including any raw agricultural products or processed food, that already meets the requirements of organic labeling under the United States department of agriculture and is currently labeled pursuant to the organic foods production act of 1990 (Title 7 U.S.C. Sec. 6501 et seq.) and the United States department of agriculture's organic regulations (7 C.F.R. Part 205) may not claim a credit under this section for this product line.

(3) Nothing in this section requires the listing or identification of any ingredient or ingredients that were genetically engineered or bioengineered or that the term "genetically engineered" be placed immediately preceding any common name or primary product descriptor of food. Nothing in this section requires the country of origin of any ingredient or ingredients to be listed.

NEW SECTION. **Sec.**  (1) In computing the tax under chapter 82.04 RCW, a credit of ten thousand dollars per product line per taxable year is available for any person who voluntarily labels a line of products according to subsection (2) of this section. A maximum of one hundred thousand dollars in credit against the tax under chapter 82.04 RCW per taxable year is available to a food processor under this section.

(2) A credit under subsection (1) of this section is available for any agricultural product or food offered for retail sale in Washington if it is or may have been produced outside of the United States and is labeled as follows:

(a) In the case of a raw agricultural commodity offered for retail sale, the package must state the country of origin clearly and conspicuously on the front of the package. If the commodity is not separately packaged or labeled, the country of origin must appear on a label appearing on the shelf or bin where the commodity is displayed for sale;

(b) In the case of any processed food offered for retail sale, the package produced by the manufacturer must state on the front clearly and conspicuously the country of origin; and

(c) In the case of any seed or seed stock, the country of origin must be stated clearly and conspicuously on the seed or seed stock container, sales receipt, or any other reference to identification, ownership, or possession.

NEW SECTION. **Sec.**  The provisions of chapter 82.32 RCW apply to this chapter.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  (1) Section 3 of this act expires thirty days after the United States department of agriculture adopts final rules implementing the national bioengineered food disclosure standard act (P.L. 114-216). The department of revenue must publish the expiration date of section 3 of this act on its web site. Any credits accrued prior to the expiration date must be available for use through the end of that calendar year.

(2) The department of revenue must provide written notice of the expiration date of section 3 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

**--- END ---**