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**SENATE BILL 5341**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Muzzall, Shewmake, Van De Wege, Torres, Warnick, Kuderer, Llias, Stanford, and C. Wilson; by request of Department of Agriculture

Read first time 01/12/23. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to creating a location-based branding and  
2 promotion program for Washington food and agricultural products;  
3 adding a new chapter to Title 15 RCW; and repealing RCW 15.105.005,  
4 15.105.010, 15.105.020, 15.105.030, 15.105.040, 15.105.050,  
5 15.105.060, and 15.105.901.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington  
8 is one of only five states in the nation without a state program to  
9 help food and agricultural producers brand and promote their products  
10 based on where the product is grown, raised, or caught. The  
11 legislature further finds that a location-based branding and  
12 promotion program will help consumers support Washington producers  
13 and the state's agricultural economy by building upon Washington's  
14 strong reputation for characteristics like food quality and food  
15 safety, which are key factors in consumer purchasing decisions.

16 (2) The legislature recognizes that recent food policy forum  
17 reports to the legislature recommend creation of a program to promote  
18 Washington food and agricultural products, and that such a location-  
19 based brand recognition program would help identify Washington  
20 products for procurement by schools and other public institutions and  
21 would provide strong marketing tools to help differentiate Washington

1 products, making them more visible to consumers and more competitive  
2 in the local, state, regional, national, and international  
3 marketplace. The legislature further recognizes that a new program is  
4 needed because a previous promotion program, which was formally  
5 dissolved in 2008 and was based primarily on one-time federal  
6 funding, did not provide a sustainable structure or a statutory  
7 framework that was suitable for most Washington food and agricultural  
8 producers.

9 (3) The legislature therefore intends that the Washington  
10 department of agriculture gather advisory committee input and submit  
11 recommendations to the legislature prior to developing a location-  
12 based branding and promotion program that is voluntary, sustainable,  
13 and suitable for Washington food and agricultural producers. The  
14 legislature further intends that this program provide support for  
15 food producers across the state in a manner that is equitable and  
16 inclusive of all scales of Washington agriculture including, but not  
17 limited to, serving historically underrepresented producers,  
18 producers from less resourced geographies, and producers with less  
19 access to support systems and funding.

20 NEW SECTION. **Sec. 2.** The definitions in this section apply  
21 throughout this chapter unless the context clearly requires  
22 otherwise.

23 (1) "Agricultural product" has the same meaning as the term  
24 "agricultural commodities" in RCW 15.66.010, and is broadly construed  
25 to include, but is not limited to, all agricultural products or  
26 commodities grown or raised on Washington lands or caught in  
27 Washington waters, or foods, including processed or manufactured  
28 foods, containing such agricultural products.

29 (2) "Department" means the Washington department of agriculture.

30 (3) "Director" means the director of the department or the  
31 director's designee.

32 (4) "Food" has the same meaning as the term "food" in RCW  
33 15.130.110.

34 (5) "Program" means the location-based branding and promotion  
35 program created in this chapter to brand and promote local food and  
36 agricultural products and make them more visible to consumers.

37 NEW SECTION. **Sec. 3.** (1) The director must establish an  
38 advisory committee with representatives from interested agricultural

1 and food production organizations for the purpose of identifying the  
2 appropriate scope and nature of a voluntary location-based program to  
3 brand and promote local food and agricultural products. During the  
4 fiscal year ending June 30, 2024, the director must submit a report  
5 containing recommendations for program development and implementation  
6 to the appropriate committees of the legislature.

7 (2) The report submitted under subsection (1) of this section  
8 must include, but is not limited to, department and advisory  
9 committee recommendations on how best to proceed or not proceed with  
10 developing and implementing the following program elements:

11 (a) Eligibility criteria for: (i) The use of location-based  
12 branding sanctioned by the program to identify where an agricultural  
13 product was grown, raised, or caught; (ii) the use of location-based  
14 branding sanctioned by the program for processed or manufactured food  
15 products containing such agricultural products; and (iii)  
16 participating in program-sanctioned promotional activities for the  
17 agricultural products or foods containing the agricultural products.  
18 The criteria must include, but are not limited to, identifying  
19 thresholds for the necessary amount of time a product has been  
20 located within a specific geographical area in Washington, within  
21 lands or waters of Washington, or within lands or waters of other  
22 Pacific Northwest states or provinces neighboring Washington, and  
23 thresholds for the necessary amount of such food products in a  
24 processed or manufactured food product, to be eligible;

25 (b) Application, approval, certification, verification, renewal,  
26 audit, enforcement, or cancellation procedures for using product  
27 identification, branding, logos, or labels sanctioned by the program,  
28 or for participating in program-sanctioned promotional activities;

29 (c) Licensing fees, fee waivers, cost recovery mechanisms, or fee  
30 structures for membership, for using product identification,  
31 branding, logos, or labels sanctioned by the program, or for  
32 participating in program-sanctioned promotional activities;

33 (d) Creation, purchase, acquisition, protection, and blending of  
34 brand, logo, and trademark ownership or licensing rights;

35 (e) Cooperative agreements to jointly carry out program or  
36 program-sanctioned activities and administration; and

37 (f) Any other action designed to help Washington food and  
38 agricultural producers promote their products and make them more  
39 visible and appealing to consumers and more competitive in the local,  
40 regional, national, and international marketplace of their choice

1 including, but not limited to, retail stores, farmers markets,  
2 schools, restaurants, institutions, and other market channels.

3 (3) Following submission of the report required in subsection (1)  
4 of this section, the director may adopt rules as necessary to  
5 implement the program. These rules may include any recommended fees  
6 or structures for determining fees, fee waivers, cost recovery  
7 mechanisms, or other elements listed in subsection (2) of this  
8 section. Rules consistent with the recommendations submitted in the  
9 report qualify for expedited rule making under RCW 34.05.353. Prior  
10 to creating criteria related to particular agricultural products  
11 under the jurisdiction of an agricultural board or commission  
12 organized under state law, the director must consult with  
13 representatives of the appropriate board or commission. If the rules  
14 include a structure for determining fees, the director may  
15 subsequently amend the rules and increase or decrease fees consistent  
16 with the structure for determining fees.

17 (4) Nothing in this chapter precludes or prohibits the department  
18 or others, including but not limited to other agencies, boards,  
19 commissions, and associations, from separately promoting the origin  
20 of food and agricultural products grown, raised, or caught in  
21 Washington. Such promotional activities must be consistent with  
22 pertinent legal authorities including, but not limited to, RCW  
23 15.130.210, which prohibits misbranding of food origins as part of  
24 Washington's food safety and security act, chapter 15.130 RCW, and  
25 RCW 15.04.410, which relies on Washington's consumer protection act,  
26 chapter 19.86 RCW, and prohibits false retail sale declarations  
27 related to agricultural products held out as Washington agricultural  
28 products that are not in fact Washington agricultural products.

29 (5) Funds received for the purposes of this chapter must be  
30 deposited in the agricultural local fund created in RCW 43.23.230 to  
31 carry out the purposes of this chapter.

32 (6) The department must actively seek nonstate funding sources to  
33 support program operation and may receive gifts, grants, or  
34 endowments from private or public sources, made in trust or  
35 otherwise, for the use and benefit of the program, consistent with  
36 the provisions of this chapter and any terms of the gift, grant, or  
37 endowment. Expenditures may be used only for those purposes  
38 identified in this chapter. Only the director of agriculture or the  
39 director's designee may authorize expenditures of the gifts, grants,  
40 or endowments.

1        NEW SECTION.    **Sec. 4.**    This chapter may be known and cited as the  
2 Washington food and agricultural product branding and promotion act.

3        NEW SECTION.        **Sec. 5.**        Sections 1 through 4 of this act  
4 constitute a new chapter in Title 15 RCW.

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

- 7            (1) RCW 15.105.005 (Findings) and 2004 c 26 s 1;
- 8            (2) RCW 15.105.010 (Definitions) and 2004 c 26 s 2;
- 9            (3) RCW 15.105.020 (Establishing a private, nonprofit corporation  
10 —Duties of successor organization—Debts and other liabilities) and  
11 2021 c 176 s 5203 & 2004 c 26 s 3;
- 12            (4) RCW 15.105.030 (Actions by department to establish a  
13 successor organization) and 2004 c 26 s 4;
- 14            (5) RCW 15.105.040 (Board of directors of the successor  
15 organization—State membership) and 2004 c 26 s 5;
- 16            (6) RCW 15.105.050 (Program logo) and 2004 c 26 s 6;
- 17            (7) RCW 15.105.060 (Gifts, grants, or endowments) and 2004 c 26 s  
18 7; and
- 19            (8) RCW 15.105.901 (Effective date—2004 c 26) and 2004 c 26 s 10.

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