

**SB 5341 - S AMD 36**

By Senator Van De Wege

**ADOPTED 02/27/2023**

1 Strike everything after the enacting clause and insert the  
2 following:

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

12 (2) The legislature recognizes that recent food policy forum  
13 reports to the legislature recommend creation of a program to promote  
14 Washington food and agricultural products, and that such a location-  
15 based brand recognition program would help identify Washington  
16 products for procurement by schools and other public institutions and  
17 would provide strong marketing tools to help differentiate Washington  
18 products, making them more visible to consumers and more competitive  
19 in the local, state, regional, national, and international  
20 marketplace. The legislature further recognizes that a new program is  
21 needed because a previous promotion program, which was formally  
22 dissolved in 2008 and was based primarily on one-time federal  
23 funding, did not provide a sustainable structure or a statutory  
24 framework that was suitable for most Washington food and agricultural  
25 producers.

26 (3) The legislature therefore intends that the Washington  
27 department of agriculture gather advisory committee input and submit  
28 recommendations to the legislature prior to developing a location-  
29 based promotion program that is voluntary, sustainable, and suitable  
30 for Washington food and agricultural producers. The legislature  
31 further intends that this program provide support for food producers  
32 across the state in a manner that is equitable and inclusive of all

1 scales of Washington agriculture including, but not limited to,  
2 serving historically underrepresented producers, producers from less  
3 resourced geographies, and producers with less access to support  
4 systems and funding.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

8 (1) "Agricultural product" has the same meaning as the term  
9 "agricultural commodities" in RCW 15.66.010, and is broadly construed  
10 to include, but is not limited to, all agricultural products or  
11 commodities grown or raised on Washington lands or caught in  
12 Washington waters, or foods, including processed or manufactured  
13 foods, containing such agricultural products.

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

15 (3) "Director" means the director of the department or the  
16 director's designee.

17 (4) "Food" has the same meaning as the term "food" in RCW  
18 15.130.110.

19 (5) "Program" means the location-based promotion program created  
20 in this chapter to promote local food and agricultural products and  
21 make them more visible to consumers.

22 NEW SECTION. **Sec. 3.** (1) The director must establish an  
23 advisory committee with representatives from interested agricultural  
24 and food production organizations for the purpose of identifying the  
25 appropriate scope and nature of a voluntary location-based program to  
26 brand and promote local food and agricultural products. During the  
27 fiscal year ending June 30, 2024, the director must submit a report  
28 containing recommendations for program development and implementation  
29 to the appropriate committees of the legislature.

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

34 (a) Eligibility criteria for: (i) The use of location-based  
35 branding sanctioned by the program to identify where an agricultural  
36 product was grown, raised, or caught; (ii) the use of location-based  
37 branding sanctioned by the program for processed or manufactured food  
38 products containing such agricultural products; and (iii)

1 participating in program-sanctioned promotional activities for the  
2 agricultural products or foods containing the agricultural products.  
3 The criteria must include, but are not limited to, identifying  
4 thresholds for the necessary amount of time a product has been  
5 located within a specific geographical area in Washington, within  
6 lands or waters of Washington, or within lands or waters of other  
7 Pacific Northwest states or provinces neighboring Washington, and  
8 thresholds for the necessary amount of such food products in a  
9 processed or manufactured food product, to be eligible;

10 (b) Application, approval, certification, verification, renewal,  
11 audit, enforcement, or cancellation procedures for using product  
12 identification, branding, logos, or labels sanctioned by the program,  
13 or for participating in program-sanctioned promotional activities;

14 (c) Licensing fees, fee waivers, cost recovery mechanisms, or fee  
15 structures for membership, for using product identification,  
16 branding, logos, or labels sanctioned by the program, or for  
17 participating in program-sanctioned promotional activities;

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

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

22 (f) Any other action designed to help Washington food and  
23 agricultural producers promote their products and make them more  
24 visible and appealing to consumers and more competitive in the local,  
25 regional, national, and international marketplace of their choice  
26 including, but not limited to, retail stores, farmers markets,  
27 schools, restaurants, institutions, and other market channels.

28 (3) Following submission of the report required in subsection (1)  
29 of this section, the director may adopt rules as necessary to  
30 implement the program. These rules may include any recommended fees  
31 or structures for determining fees, fee waivers, cost recovery  
32 mechanisms, or other elements listed in subsection (2) of this  
33 section. Rules consistent with the recommendations submitted in the  
34 report qualify for expedited rule making under RCW 34.05.353. Prior  
35 to creating criteria related to particular agricultural products  
36 under the jurisdiction of an agricultural board or commission  
37 organized under state law, the director must consult with  
38 representatives of the appropriate board or commission. If the rules  
39 include a structure for determining fees, the director may

1 subsequently amend the rules and increase or decrease fees consistent  
2 with the structure for determining fees.

3 (4) Nothing in this chapter precludes or prohibits the department  
4 or others, including but not limited to other agencies, boards,  
5 commissions, and associations, from separately promoting the origin  
6 of food and agricultural products grown, raised, or caught in  
7 Washington. Such promotional activities must be consistent with  
8 pertinent legal authorities including, but not limited to, RCW  
9 15.130.210, which prohibits misbranding of food origins as part of  
10 Washington's food safety and security act, chapter 15.130 RCW, and  
11 RCW 15.04.410, which relies on Washington's consumer protection act,  
12 chapter 19.86 RCW, and prohibits false retail sale declarations  
13 related to agricultural products held out as Washington agricultural  
14 products that are not in fact Washington agricultural products.

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

18 (6) The department must actively seek nonstate funding sources to  
19 support program operation and may receive gifts, grants, or  
20 endowments from private or public sources, made in trust or  
21 otherwise, for the use and benefit of the program, consistent with  
22 the provisions of this chapter and any terms of the gift, grant, or  
23 endowment. Expenditures may be used only for those purposes  
24 identified in this chapter. Only the director of agriculture or the  
25 director's designee may authorize expenditures of the gifts, grants,  
26 or endowments.

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

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

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

33 (1) RCW 15.105.005 (Findings) and 2004 c 26 s 1;

34 (2) RCW 15.105.010 (Definitions) and 2004 c 26 s 2;

35 (3) RCW 15.105.020 (Establishing a private, nonprofit corporation  
36 —Duties of successor organization—Debts and other liabilities) and  
37 2021 c 176 s 5203 & 2004 c 26 s 3;

1 (4) RCW 15.105.030 (Actions by department to establish a  
2 successor organization) and 2004 c 26 s 4;  
3 (5) RCW 15.105.040 (Board of directors of the successor  
4 organization—State membership) and 2004 c 26 s 5;  
5 (6) RCW 15.105.050 (Program logo) and 2004 c 26 s 6;  
6 (7) RCW 15.105.060 (Gifts, grants, or endowments) and 2004 c 26 s  
7 7; and  
8 (8) RCW 15.105.901 (Effective date—2004 c 26) and 2004 c 26 s  
9 10."

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10 On page 1, line 1 of the title, after "Relating to" strike the  
11 remainder of the title and insert "creating a location-based  
12 promotion program for Washington food and agricultural products;  
13 adding a new chapter to Title 15 RCW; and repealing RCW 15.105.005,  
14 15.105.010, 15.105.020, 15.105.030, 15.105.040, 15.105.050,  
15 15.105.060, and 15.105.901."

EFFECT: Removes the word "branding" from the title and certain areas of the bill.

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