

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5341

Chapter 276, Laws of 2023

68th Legislature
2023 Regular Session

FOOD AND AGRICULTURAL PRODUCT LOCATION-BASED PROMOTION PROGRAM

EFFECTIVE DATE: July 23, 2023

Passed by the Senate February 27,
2023

Yeas 47 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 11, 2023

Yeas 97 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 4, 2023 10:55 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5341** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 4, 2023

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5341

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By Senators Muzzall, Shewmake, Van De Wege, Torres, Warnick, Kuderer, Liias, 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 promotion program
2 for Washington food and agricultural products; adding a new chapter
3 to Title 15 RCW; and repealing RCW 15.105.005, 15.105.010,
4 15.105.020, 15.105.030, 15.105.040, 15.105.050, 15.105.060, and
5 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 promote their products based on
10 where the product is grown, raised, or caught. The legislature
11 further finds that a location-based promotion program will help
12 consumers support Washington producers and the state's agricultural
13 economy by building upon Washington's strong reputation for
14 characteristics like food quality and food safety, which are key
15 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 promotion program that is voluntary, sustainable, and suitable
13 for Washington food and agricultural producers. The legislature
14 further intends that this program provide support for food producers
15 across the state in a manner that is equitable and inclusive of all
16 scales of Washington agriculture including, but not limited to,
17 serving historically underrepresented producers, producers from less
18 resourced geographies, and producers with less access to support
19 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 promotion program created
35 in this chapter to promote local food and agricultural products and
36 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 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.

Passed by the Senate February 27, 2023.
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