
HOUSE BILL 1245

State of Washington

65th Legislature

2017 Regular Session

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

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

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

5 NEW SECTION. **Sec. 1.** The legislature finds that Washington's
6 agricultural and food processing industries are unparalleled in
7 quality. The legislature also finds that Washingtonians prefer to
8 know the origins of their food. Moreover, the legislature finds that
9 in addition to the placards required under RCW 15.04.415, the public
10 would benefit from knowing the country or origin on agricultural and
11 food products. The legislature recognizes that congress has attempted
12 to assist by enacting the national bioengineered food disclosure act
13 (P.L. 114-216). The legislature finds that the United States
14 department of agriculture is in the process of adopting rules to
15 implement the national bioengineered food disclosure act, which will
16 not take effect until July 29, 2018, at the earliest. The legislature
17 acknowledges that the national bioengineered food disclosure act
18 prohibits the state from enacting their own requirements. The
19 legislature finds that there is not a prohibition on states creating
20 voluntary programs in order for the states' food producers and
21 processors to prepare for the new regulations. The legislature

1 further finds that it is desirable to encourage greater transparency
2 of Washington food product origins through a voluntary labeling
3 program.

4 NEW SECTION. **Sec. 2.** The definitions in this section and
5 chapter 82.04 RCW apply throughout this chapter unless the context
6 clearly requires otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 NEW SECTION. **Sec. 3.** (1) In computing the tax under chapter
28 82.04 RCW, a credit of ten thousand dollars per product line per
29 taxable year is available for any person who voluntarily labels a
30 line of products according to subsection (2) of this section. A
31 maximum of one hundred thousand dollars in credit against the tax
32 under chapter 82.04 RCW per taxable year is available to a food
33 processor under this section.

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

38 (i) In the case of a raw agricultural commodity offered for
39 retail sale, the package must state the words "genetically

1 engineered" or "GMO" clearly and conspicuously on the front of the
2 package. If the commodity is not separately packaged or labeled, the
3 words "genetically engineered" or "GMO" must appear on a label
4 appearing on the shelf or bin where the commodity is displayed for
5 sale;

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

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

15 (b) A credit under subsection (3) of this section is available
16 for any food offered for retail sale in Washington that has not been
17 bioengineered or genetically engineered and is labeled as "not
18 genetically engineered" or "Non-GMO." However, a person who sells a
19 product line of food, including any raw agricultural products or
20 processed food, that already meets the requirements of organic
21 labeling under the United States department of agriculture and is
22 currently labeled pursuant to the organic foods production act of
23 1990 (Title 7 U.S.C. Sec. 6501 et seq.) and the United States
24 department of agriculture's organic regulations (7 C.F.R. Part 205)
25 may not claim a credit under this section for this product line.

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

32 NEW SECTION. **Sec. 4.** (1) In computing the tax under chapter
33 82.04 RCW, a credit of ten thousand dollars per product line per
34 taxable year is available for any person who voluntarily labels a
35 line of products according to subsection (2) of this section. A
36 maximum of one hundred thousand dollars in credit against the tax
37 under chapter 82.04 RCW per taxable year is available to a food
38 processor under this section.

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

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

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

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

18 NEW SECTION. **Sec. 5.** The provisions of chapter 82.32 RCW apply
19 to this chapter.

20 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act
21 constitute a new chapter in Title 82 RCW.

22 NEW SECTION. **Sec. 7.** (1) Section 3 of this act expires thirty
23 days after the United States department of agriculture adopts final
24 rules implementing the national bioengineered food disclosure
25 standard act (P.L. 114-216). The department of revenue must publish
26 the expiration date of section 3 of this act on its web site. Any
27 credits accrued prior to the expiration date must be available for
28 use through the end of that calendar year.

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

--- END ---