

# HOUSE BILL REPORT

## SHB 2502

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*As Passed Legislature*

**Title:** An act relating to organic products.

**Brief Description:** Changing provisions relating to organic agricultural products.

**Sponsor(s):** By House Committee on Agriculture & Rural Development (originally sponsored by Representatives R. Johnson, Chandler, McLean, Rayburn, Miller, Paris, Lisk, Spanel, Rasmussen and P. Johnson; by request of Department of Agriculture).

**Brief History:**

Reported by House Committee on:  
Agriculture & Rural Development, February 6, 1992, DPS;  
Passed House, February 13, 1992, 96-0;  
Amended by Senate;  
Passed Legislature.

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**HOUSE COMMITTEE ON  
AGRICULTURE & RURAL DEVELOPMENT**

**Majority Report:** *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Chandler; Grant; R. Johnson; Lisk; McLean; Rasmussen; and Roland.

**Staff:** Kenneth Hirst (786-7105).

**Background:** The state's organic food laws prohibit a producer or vendor from selling or offering for sale any food product as an organic food product if the producer or vendor knows or has reason to know that the food was produced with: any fertilizers other than manure or other natural fertilizers; certain substances manufactured by humans; or similar substances identified by the director of the Department of Agriculture by rule. Prohibited pesticides must not have been used in the production of an organic food product for three years before the harvest of the product and prohibited fertilizers must not have been used for two years before that harvest. Other products may be labeled as being in their first or second year of transition to organic.

Producers must provide documentation to vendors when selling products represented as being organically produced. Organic products from out of state must be accompanied by a certificate from the state of origin indicating that the products satisfy this state's standards. The Department of Agriculture is authorized to establish a certification program for producers and processors of organic and transition to organic products on a fee-for-service basis.

**Summary of Bill:** The state's organic food laws now apply to any agricultural product which is organically produced, not just food products.

Regulated Activities. To be labeled, sold, or represented as an organic agricultural product, the product must be produced only with materials approved under the organic food laws. It is unlawful for a person to sell, offer for sale or process an agricultural product with an organic label unless the person is certified by the Department of Agriculture or a certifying agent recognized by the director. This certification requirement does not apply to final retailers that do not process organic food products or to producers whose annual sales of the products directly to consumers are no more than \$5,000. The state's certification program is expanded to include the certification of vendors.

Under current law, if a vendor knows, or has reason to know, that a food product the vendor is selling as organic is produced in violation of the organic food laws, the vendor is selling the product in violation of those laws. The "has reason to know" standard no longer applies to sales by vendors.

Labeling. Organic agricultural products must be labelled as being organic on all invoices, boxes, bins, and other packing and documentation for the product. All such products sold or processed in this state must have record keeping which permits tracking the product to the farm on which it was produced. "Transition to organic" products no longer have to identify whether they are in the 1st or 2nd year of the transition.

A producer cannot sell an organic product to a processor unless the producer provides the processor a sworn statement that the product was grown or raised in conformity with the organic food laws. Organic certification for out-of-state products need not be made by the product's state of origin. The certification may be made by a certifying agent recognized by the director by rule. The director may deny, suspend, or revoke any organic certification if the director

determines that an applicant or certified person has violated the organic food laws or rules.

Standards. General guidance is provided for identifying when animal products may be considered to be organic food products. The number of years during which any organic product must be produced without the use of a prohibited fertilizer is expanded from two to three years. Standards are established which must be used by the director in identifying by rule the substances which may and may not be used in the production, processing, and handling - including sale - of organic products. Prohibited substances are no longer listed by statute.

Drift. If a product otherwise produced under the organic food laws is subjected to a drift of unapproved materials, the product cannot be labeled, represented or sold as organic during the course of the crop year of the drift. In the subsequent crop year it may regain its status as being organic if any residues of unapproved substances are not more than 5 percent of the Environmental Protection Agency's tolerance levels for the substances or, if there are no tolerance levels, 5 percent of the Food and Drug Administration's action level.

Exemption from Disclosure. The department must keep confidential any business-related information provided under the organic food laws. However, applications for certification and laboratory analyses are available for public inspection.

***Fiscal Note:*** Available.

***Effective Date:*** Ninety days after adjournment of session in which bill is passed.

***Testimony For:*** Federal law enacted in 1990 set national standards and requirements for organic food and the sale of such products. The state must adopt conforming legislation by 1993 or it will be difficult to sell in other states the organic products grown or processed in this state. This bill brings state law into conformity with federal law.

***Testimony Against:*** (1) Exemptions from public disclosure for documents held by a public agency should be narrowly drawn. (2) Vendors should not be responsible for labeling errors made by others.

***Witnesses:*** Miles McEvoy, Department of Agriculture (in favor); Margaret Clark, Town & Country Market (in favor); Christopher Stearns, Washington Tilth (in favor); Betsie DeWreede, Thurston County organic farmer (in favor); Carrie

West, Charlie's Product (in favor); Sarah Huntington, Cascadian Farm (in favor); Rowland Thompson, Allied Daily Newspapers (commented on disclosure provisions); and Jim Boldt, Washington Food Dealers (commented on liability of vendors for labeling done by others).