

HOUSE BILL REPORT

HB 2460

As Passed Legislature

Title: An act relating to organic products.

Brief Description: Regarding organic products.

Sponsors: Representatives Smith, Nelson, Liias, Van De Wege, Blake, Bailey, Upthegrove, Kenney and Moeller; by request of Department of Agriculture.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/14/10 [DP];

General Government Appropriations: 1/26/10, 2/4/10 [DP].

Floor Activity:

Passed House: 2/11/10, 97-0.

Senate Amended.

Passed Senate: 3/3/10, 45-1.

House Concurred.

Passed House: 3/6/10, 95-0.

Passed Legislature.

Brief Summary of Bill

- Provides authority for the Washington State Department of Agriculture to obtain federal accreditation as an organic products certifying agent under the federal Organic Food Production Act of 1990.
- Defines transitional organic products and establishes initial application fees.
- Establishes the Brand Name Materials List to register materials that meet federal, international, or other organic standards.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 13 members: Representatives Blake, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Liias, McCoy, Nelson, Pearson, Rolfes, Van De Wege and Warnick.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Leslie Ryan-Connelly (786-7166).

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: Do pass. Signed by 15 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Blake, Crouse, Dunshee, Hudgins, Kenney, Klippert, Pedersen, Sells, Short, Van De Wege and Williams.

Staff: Owen Rowe (786-7391).

Background:

The Organic Food Products Act provides for the certification of organic foods. The organic food certification program (program) must be consistent with the federal Organic Food Production Act of 1990. The Washington State Department of Agriculture (WSDA) has the authority to adopt rules, as appropriate, for implementation of the state program. The WSDA authority includes the adoption of rules to certify producers, processors, and handlers as meeting state, federal, or international standards as organic or transitional food. The WSDA may collect fees to recover the full cost of the organic food program.

Organic Food Certification.

Organic food is any agricultural product that is produced, handled, and processed according to the state Organic Food Products Act. Per the federal program, to be certified as an organic food, there can be no application of prohibited materials applied to the land three years prior to harvest of the agricultural crop. Independent agents conduct organic certifications for the federal government. The WSDA is a federally approved certifying agent in this state.

The WSDA adopted rules to implement the organic food program. The application fees for organic certification are defined in rule, and are determined by type of business and sales. Fees collected are deposited into the Agricultural Local Fund and used solely to implement the program.

The WSDA also operates an international certification program for agricultural producers seeking access to international markets that do not accept the federal certification program.

Transitional Organic Food Certification.

The WSDA operates a transitional organic certification program which allows agricultural producers switching from traditional to organic methods to be certified. The federal program does not include provisions for farms transitioning from traditional to organic production methods. The WSDA's program is voluntary and offered to producers who wish to market their products as "transitional foods."

The WSDA adopted rules to implement the transitional food program. Transitional certification requires that no application of prohibited materials be applied to the land one year prior to harvest of the agricultural crop. The application fee for transitional certification

is set in rule as \$50, in addition to the general organic certification application fee. Fees collected are deposited into the Agricultural Local Fund and used solely to implement the program.

Brand Name Materials List.

All materials used to assist with processing and handling of organic food must also be certified organic. The federal Organic Food Production Act includes a national list of approved materials that can be used by producers without compromising the organic certification of the agricultural product. As an accredited certifying agent of the federal program, the WSDA also maintains a list of approved materials, called the Brand Name Materials List, which is a supplement to the national list. The types of materials included on the Brand Names Materials List are pesticides, fertilizers, composts, soil amendments, and other similar agricultural production aids. While a voluntary program, manufacturers wishing to market their materials as organic must register to be included on the Brand Name Materials List.

Summary of Bill:

Organic Food Revisions.

Authority under the state Organic Food Products Act is expanded to include obtaining accreditation from the federal government as a certifying agent under the federal Organic Food Production Act of 1990, as well as the ability to issue orders of violation as a federal certifying agent. The WSDA is also authorized to conduct evaluations to verify compliance with organic labeling in retail stores.

Fees collected are deposited into the Agricultural Local Fund and used solely to implement the Organic Food Products Act. Definitions are included for certification, label, labeling, and national organic program. References throughout the chapter to "organic food" are changed to "organic product" but the definition is unchanged.

Transitional Organic Food Revisions.

"Transitional product" is defined as an agricultural product that has been harvested from an organic production area that is not free of prohibited substances for 36 months, but the use of any prohibited substance has ceased for at least 12 months prior to harvest. The initial application fee for transitional organic certification is established at \$50 in addition to the organic certification application fee. The WSDA is authorized to increase the initial fees established as necessary to cover the costs of the state program. Fees collected are deposited into the Agricultural Local Fund and used solely to implement the Organic Food Products Act. References throughout the chapter to "transitional food" are changed to "transitional product" but the definition is unchanged. The WSDA is also authorized to conduct evaluations to verify compliance with transitional labeling in retail stores.

Brand Name Materials List Revisions.

The Brand Name Materials List is established. All materials used to aid in the processing and handling of organic foods registered on the list are deemed in compliance with the federal program standards. Materials registered on the list may also be assessed for compliance with international or additional organic standards. The WSDA Director is authorized to adopt rules as necessary to implement the Brand Name Materials List including, but not limited to, fees, inspections, recordkeeping, labeling, and sampling.

Producers, handlers, and manufacturers must apply to the WSDA to be added to the Brand Name Materials List. Application requirements include name, address, brand name, product labeling, complete formula of the material, a description of the manufacturing process, intended uses, source and supplier of all ingredients, the registration fee, and any additional information required by rule.

The WSDA is authorized to collect fees to cover the costs of operating the Brand Name Materials List. Fees collected are deposited into the Agricultural Local Fund and used solely to implement the Organic Food Products Act. The WSDA is authorized to increase the initial fees established as necessary to cover the costs of the state program.

Initial application fees are established as follows:

- \$500 for pesticides, spray adjuvant, processing aids, livestock production aids, and post-harvest materials; and
- \$400 for fertilizers, soil amendments, organic waste-derived materials, composts, animal manures, and crop production aids.

Assessments related to international or additional organic standards are billed at a rate of \$100 per product for each standard.

Renewal application fees are established as follows:

- \$300 for pesticides, spray adjuvant, processing aids, livestock production aids, and post-harvest materials; and
- \$200 for fertilizers, soil amendments, organic waste-derived materials, composts, animal manures, and crop production aids.

A renewal application must be postmarked by October 31. Late fees for renewal applications are established as follows:

- \$100 for applications postmarked after October 31;
- \$200 for applications postmarked after November 30; and
- \$300 for applications postmarked after December 31.

Renewal applications received after February 2 will not be accepted and the registrant is required to reapply as a new applicant.

Expedited reviews may be submitted and, if approved, are billed at a rate of \$40 per hour.

Personnel of the WSDA, a certifying agent, or other inspection agents approved by the federal program are authorized to conduct inspections of the facility and records related to the material. Registrants must allow the WSDA or other agents to enter the premises for

inspection purposes, and to collect records or samples. If a registrant refuses the inspection or collection, the application will be cancelled.

The WSDA is authorized to bill for inspections at the rate of \$40 per hour plus the travel costs and mileage at the rate established by the Office of Financial Management. The WSDA is also authorized to bill for the cost of processing laboratory samples at the rate established by the WSDA, or at cost for analysis performed by another laboratory.

The WSDA Director may deny, suspend, or revoke a registration for failure to meet the registration criteria including failure to consent to inspection or sampling requirements. Registration on the Brand Name Materials List does not guarantee acceptance of the material by another certifying agent. The WSDA is not liable for any losses or damages as a result of registration.

Definitions are added for material, fertilizer, registrant, compost, crop production aid, livestock production aid, organic waste-derived material, soil amendment spray adjuvant, pesticide, post-harvest material, processing aid, and manufacturer, related to the Brand Name Materials List.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Agriculture & Natural Resources):

(In support) Participation in the voluntary organic certification programs has increased over the past several years. The programs help producers, processors and handlers promote organic products in Washington and internationally. The bill continues these successful programs and moves provisions into law. The transitional organic products certification and the Brand Name Materials List are not required under the federal Organic Certification program. These programs are offered in Washington to further assist with marketing organic products. The compliance rate with the program is high. Consumers can trust the organic labeling and certification.

(Opposed) None.

Staff Summary of Public Testimony (General Government Appropriations):

(In support) This bill is agency request legislation and is supported by organic farmers in the state. There is no general fund impact to the state from this program. The program is voluntary and is supported by fees. Washington produces national and internationally recognized organic products. Currently, over 600,000 state products are certified organic under state and federal law. This bill moves existing fees for organic and transitional farming from rule to statute. Fees are not increased under this bill. The 20 percent growth in

the program over the last several years tells the Department of Agriculture that organic farmers see value in this program.

(Opposed) None.

Persons Testifying (Agriculture & Natural Resources): (In support) Representative Smith, prime sponsor; Jeff Canaan and Jerry Buenel, Washington State Department of Agriculture; Jay Gordon, Western Washington Agriculture Association; and Michele Catalano, Full Circle Farm and Washington State Department of Agriculture Organic Advisory Board.

Persons Testifying (General Government Appropriations): Representative Smith, prime sponsor; and Jeff Canaan, Washington State Department of Agriculture.

Persons Signed In To Testify But Not Testifying (Agriculture & Natural Resources): None.

Persons Signed In To Testify But Not Testifying (General Government Appropriations): None.