



## Executive Summary

The National Honey Board (NHB) has commissioned a study to evaluate state laws and regulations regarding “local” marketing claims for honey in all 50 states and the District of Columbia. Specifically, the report examines regulatory restrictions on the use of the term “local”. There are many voluntary marketing programs administered by states that contain geographic restrictions as a condition to participation. While, generally speaking, these programs are outside the scope of this report, several state programs are included for illustrative purposes. This is not intended to be an exhaustive list of state administered voluntary marketing programs but is meant as a demonstration of their availability.

The report highlights that, at the federal level, there is no statutory or regulatory definition of what constitutes local food, making the definition dependent on who is using the term and for what purpose. In formulating this report, we examined state laws regarding labeling, marketing, procurement, and assistance programs that promote the use of "local" products, including honey. The report concludes that only five states (Connecticut, Maine, New Jersey, New Hampshire, and Vermont) have statutory restrictions related to the use of "local" as a food labeling marketing claim. At least 15 states and Washington, D.C. explicitly define "local" or “locally produced” in their legislative language. The LexisNexis online legal database and assistance from the University of Minnesota Law Library were used to conduct a comprehensive search of all state statutes based on the following keywords: "packaging," "labeling," "honey," "locally grown," and "locally produced." The findings for all 50 states and Washington, D.C. using these search terms are summarized in a spreadsheet attached to the report. Variations on these terms, such as “grown, raised or processed in x” would reveal additional voluntary state administered programs, but as stated, these are outside the scope of this report as the requirements related to what is local are only for purposes of participation in the state program but are not, in and of themselves a restriction on the use of a “local” marketing claim. The report is not a legal opinion and only provides information to alert the reader to potentially relevant laws and regulations.

## Scope of Work

National Honey Board (NHB) has been alerted to a recent retailer-initiated product alert involving 100% pure honey labeled as local that may have contained non-local honey. NHB would like to provide information to the industry on the labeling requirements for use of the term “local” on honey marketed in each of the 50 states and the District of Columbia so that the industry is informed of the requirements for the use of this specific marketing claim. At the federal level, there is no statutory or regulatory definition for what constitutes local food, how many food miles it can travel before it loses the designation, or how many of the associated attributes it must have to be considered local. These distinctions are dependent upon who is using the term and for what purpose. Bodies at sub-levels of government within the United States have developed policies to encourage purchasing of local foods within their jurisdictions and may define or use "local" according to their own objectives. This report identifies states where laws or regulations represent a restriction on the use of the term “local”. USDA has not established a uniform definition of local, and the FDA does not define "local."

The report illustrates some examples of voluntary state administered marketing programs that define local for purposes of participation in these programs (or for other purposes such as commodity procurement), but does not intend to provide an exhaustive analysis of all such programs. While some States may define "local" in statute, regulation, or in their program materials, in reality, few state laws include explicit definitions for "local" as it pertains to marketing claims on the product label. The vast majority of states—including those that define the term—use "local" or other related words such as "native" in food procurement and state-level marketing programs to mean that the food was produced in the state. Beyond the geographic element, many states also specify in statute the commodities or types of products to which the local distinction applies. State law may also extend the definition not only to food that is grown within the state but also allows food that is processed or packed within the state to qualify as local.

Shelby Young Consulting was contracted by the NHB to evaluate state laws and their accompanying regulations for each of the 50 states governing "local" marketing claims for food production. To achieve this objective policies related to food labeling and the applicability of current laws and regulations to honey specifically were examined. Relevant laws and associated regulations are summarized in this report.

This report is not a legal opinion. It is not a written statement by a judicial officer, legal expert or a court as to the illegibility or legibility of a condition, intendant or action. The information provided should only be used to alert the reader to potentially relevant laws and regulations.

## Methodology

Using LexisNexis online legal database and assistance from the University of Minnesota Law Library, a comprehensive search of all state statutes was conducted based on the following keywords: "packaging," "labeling," "honey," "locally grown," and "locally produced." Variations on these terms would reveal findings relevant to voluntary state

A spreadsheet including relevant statutes and a summary of findings for the 50 states and Washington, D.C. is attached.

This report examines the following categories of statutes:

- Use of "local" in general food product labeling and marketing.
- State marketing programs that address definitions of "local" in promoting local and state-grown products.
- Procurement and assistance programs that encourage the purchase and use of "local" products.

The report does not examine general requirements for participating in state marketing campaigns and the use of their branding unless the program was included in the results of the comprehensive search of state statutes based on the keywords "packaging," "labeling," "honey," "locally grown," and "locally produced." However, the report briefly discusses state marketing campaigns in California, Florida, and Texas to illustrate the lack of inclusion and definition of "local" in these programs.

## Definition of "Local"

There is no legal or universally accepted definition of local food.<sup>1,2</sup> At the federal level, there is no statutory or regulatory definition for what constitutes local food, how many food miles it can travel before it loses the designation, or how many of the associated attributes it must actually have to be considered local.<sup>2</sup> In general, "local" is a geographical concept related to the distance between food producers and consumers. Unlike organic food, which must meet regulatory standards regardless of where it is produced, packaged, and sold, "local" food is not consistently defined across the states and a product may or may not meet requirements at any given time, based on where it is located at the moment. Definitions related to the geographic distance between production and sales vary by state, company, consumer, and local food market.

USDA defines the term in guidance documents on its local foods topic page as "the direct or intermediated marketing of food to consumers that is produced and distributed in a limited geographic area."<sup>4</sup> Within the context of the USDA Rural Development Business and Industry loan and loan guarantee program, a "locally or regionally produced agricultural food product" means a food product raised, produced, and distributed within 400 miles of its origin or within the same state.<sup>5</sup> There are a considerable number of initiatives under development to promote local and regional food systems.<sup>6</sup> Several USDA farm bill programs use the term "local and regional food" but are not bound by this definition, and generally allow participating institutions to define these terms.<sup>7</sup> The Food and Drug Administration, which regulates the safety and labeling of most foods, does not define "local."

States with relevant statutes use "local" generally to mean the food was produced within that state. At least 15 states and Washington, D.C. explicitly define "local" in their legislative language, though only five of these have statutory restrictions related to the use of the term "local" as a food labeling marketing claim.

## Labeling "Local": General rules, by state

Only Connecticut, Maine, New Jersey, New Hampshire, and Vermont have rules that explicitly dictate the use of the term "local" or similar language on food product labels, outside of rules regulating participation in and use of official logos for voluntary state administered marketing campaigns, usually meaning that the product was grown or produced within the state, but some have specific language on allowable distances.

### Connecticut

Farm products grown or produced in Connecticut may be advertised or sold in Connecticut as "Native," "Native-Grown," "Local," or "Locally-Grown." The statute also provides that farm products grown or produced within a 10-mile radius of the point of sale for such farm products may be advertised or sold in Connecticut as "Native," "Native-Grown," "Local," or "Locally-Grown."<sup>9</sup> These are two (2) independent provisions of the statute and may be interpreted separately.

### Maine

Maine's Department of Agriculture, Conservation and Forestry requires that any farm produce sold or offered for sale within the State may not be labeled or advertised as "native," "native-grown," "locally grown" or by a similar designation unless that product was actually grown in the State.<sup>10</sup>

## New Jersey

New Jersey prohibits food retailers from labeling, advertising, or in any way implying with labeling or signage in the store or other establishment where the fruit or vegetable is sold, that a fruit or vegetable is "locally grown," "locally harvested," "locally sourced," or local to the State unless the fruit or vegetable was grown, harvested, and packaged within the State.<sup>11</sup>

## New Hampshire

New Hampshire regulates the use of the words "native," "local," and "our own" on farm products. Farm products sold, offered, or exposed for sale or distribution in the state can be advertised, labeled, or described as "native" only if they were grown or produced in the state of New Hampshire. The term "our own" may only be used to describe farm products that were grown or produced by the operator of the retail location. The terms "local," "locally grown," or "locally produced" mean the product was grown or produced within the state of New Hampshire.<sup>12</sup>

New Hampshire also has honey-specific regulations for "state of New Hampshire pure honey", and "New Hampshire honey." The state requires that every shipment, package or container of honey packed, sold, offered or exposed for sale or distribution be labeled with the name, address, and zip code of the packer, distributor, or producer. Labels stating "state of New Hampshire pure honey," "New Hampshire honey," or any other words which imply that the honey so marked was produced in New Hampshire shall be used exclusively upon honey which is entirely produced within the state of New Hampshire. Any labeling on all other honey products which states or implies that those products were produced in New Hampshire shall be used exclusively upon pure honey products which are entirely produced within the state of New Hampshire.<sup>13</sup>

## Vermont

Vermont defines "local," "local to Vermont," and "locally grown or made in Vermont" based on the type of food or food product. To use the term "local to Vermont" for honey, the honey must be produced by Vermont colonies located exclusively in Vermont when all nectar was collected.<sup>14</sup> For processed foods, "local to Vermont" means that the majority of the ingredients are raw agricultural products that are local to Vermont; and that the product was processed in Vermont and/or the headquarters of the company that manufactures the product is located in Vermont.

Vermont also provides language on the use "local," "locally grown or made," and substantially similar terms in conjunction with a specific geographic location, such as "local to New England," or a specific mile radius, such as "local-within 100 miles." The state requires that the specific geographic location appears as prominently as the term "local" and the representation of origin is accurate. If a local representation refers to a specific city or town, the product shall have been grown or made in that city or town. If a local representation refers to a region with precisely defined political boundaries, the product shall have been grown or made within those boundaries. If a local representation refers to a region that is not precisely defined by political boundaries, then the region shall be prominently described when the representation is made, or the product shall have been grown or made within 30 miles of the point of sale, measured directly point to point.<sup>14</sup>

## State Marketing Campaigns in State Statute, labeling and marketing rules related to "local"

Several states have marketing and promotion programs to support in-state food products. Summarized here is a partial list of states identified using search terms including "packaging," "labeling," "honey," "locally grown," and "locally produced." These are identified for illustrative purposes only but are not meant to be an exhaustive list. Applying variations on these terms such as "grown, raised or processed in x" would reveal additional voluntary state administered programs, but as stated, these are outside the scope of this report.

Among the states summarized, some have laws that regulate the term "local" to conform to state definitions and protect the integrity of the state brands. Definitions of "local" or state-grown generally mean grown or produced within the state but in some cases include unique qualifications, such as allowing a certain distance from the state border, or only requiring that a certain percentage of the product be produced within the state.

### Connecticut Grown

The Connecticut Grown Program identifies agricultural products grown in the state, and targets local, regional, national, and international markets through both direct-to-consumer and wholesale-oriented program components.<sup>15</sup> This program uses state borders, as well as a 10-mile radius, to define "local" and "native" as marketing terms.

Under this program, produce and other farm products advertised or sold in Connecticut as "Connecticut-Grown" or "CT-Grown" must be grown or produced within the state, and have a traceable point of origin within Connecticut.<sup>16</sup> Farm products grown or produced in Connecticut, or within a 10-mile radius of the point of sale, may be advertised or sold in Connecticut as "Native," "Native-Grown," "Local," or "Locally-Grown." Farm products grown or produced within a 10-mile radius of the point of sale for such farm products may be advertised or sold in Connecticut as "Native," "Native-Grown," "Local," or "Locally-Grown."

### Certified Louisiana

The Louisiana Certified program requires that, in order for an agricultural product to be eligible for inclusion in the logo program, it must be made, grown, manufactured, processed, produced or substantially transformed in the state of Louisiana.<sup>18</sup> The program has several logos with unique requirements. Use of the certified Louisiana Creole logo requires that at least 50 percent of the agricultural product must be made, grown, produced, manufactured, processed or packed in Louisiana. Use of the certified Louisiana Cajun logo requires that the agricultural product be representative of the culture that is generally of Acadian descent and be at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana. In order for an agricultural product to be eligible to use the certified Louisiana Farm to Table logo, the product must be produced and sourced as locally as possible, within Louisiana and or less than 200 miles from its origin, which means going directly from the farm to the table.

### Maryland Certified

Maryland's Certified Local Farm Enterprise Program defines "locally grown" as food grown in Maryland or within 50 miles of the Maryland State border.<sup>17</sup>

## Utah's Own

The “Utah’s Own” program defines “Locally Produced Agricultural Products” as agricultural products that are grown, raised, or harvested in Utah. Products of program members must fulfill this definition in order to use the “Utah’s Own” logo.<sup>19</sup>

## Wisconsin Certified Honey

“Wisconsin certified honey” must be collected from beehives located within the State.<sup>20</sup>

## Other State Marketing Campaigns

In the scope of this work and the methodology used for searching state statutes with the keywords “packaging,” “labeling,” “honey,” “locally grown,” and “locally produced.” Some notable state marketing campaigns did not return results based on these search criteria. To help illustrate the lack of explicit definitions of “local” or regulations for the use of the term in labeling within the programs, state marketing programs for California, Florida, and Texas are included below.

## California Grown

The “California Grown” program does not provide or reference any definition of “local” for use in labeling. California state statute and the program’s licensing agreement dictate that the terms “California grown,” “California-grown,” and similar terms with identical connotations may be used for marketing, advertising, or promotional purposes only to identify food or agricultural products that have been produced in the state or harvested in its surface or coastal waters.<sup>21,22</sup>

## Fresh From Florida

The Florida Agricultural Promotional Campaign’s “Fresh From Florida” program allows members to use the program logo, requiring that products be “be Florida-grown horticulture or agriculture products in their raw state, must have never been frozen or subject to any form of thermal processing or preservation, and must not be combined with any other product”.<sup>23</sup> The state statute and program materials do not address the use of or define the word “local” in labeling.

## Go Texan

The “Go Texan” program allows the logo to be used by program members on agricultural products grown or processed within the state. The state administrative code and program brand book do not provide a definition of or reference and regulations on the use of the word “local” in labeling.<sup>24,25</sup>

## State Definitions in Procurement Programs and Other Initiatives

Several states define “local” in statute, regulation, or in their program materials related to food procurement and marketing policies, nutrition programs, farm-to-school programs, or other initiatives. Whether the term is explicitly defined or the definition is gathered from context, the vast majority of states that use “local” in their food procurement and marketing policies and programs mean that the food was produced in the state. These laws may additionally include other attributes that food produced in the state is either required or assumed, based on statutory context, to have, but the state boundary is generally the primary qualifying attribute for local food at the state level.<sup>2</sup>

## Illinois Municipal Code

Illinois defines “locally grown” in municipal code. In reference to municipal urban agricultural areas, “locally grown” means a product that was grown or raised in the same county or adjoining county in

which the urban agricultural area is located.<sup>26</sup> “Urban agricultural area” means an area defined by a municipality and entirely within that municipality’s boundaries within which one or more qualifying farmers are processing, growing, raising, or otherwise producing locally-grown agricultural products. It is not entirely clear from this statutory construction if the use of the term “local” on the label is restricted in Illinois. Honey producers or packers operating in Illinois should seek legal counsel if they intend to market product as “local” within the state.

### Massachusetts Preference for Domestic Agricultural Products

For purposes of state procurement programs, Massachusetts has language that establishes a preference for local products in reference to procurement. Here, the terms “locally-grown” or “locally produced” refer to products of agriculture grown or produced using products grown in the commonwealth.<sup>27</sup>

### Michigan School Aid Act

For purposes of procurement for school meal programs, Michigan’s State School Aid Act addresses the purchase of Michigan-grown fruits and vegetables; and references local food as grown or produced in the state, or produced by a Michigan business.<sup>28</sup>

### Minnesota Good Food Access Program

The good food access program is comprised of state or private grants, loans, or other types of financial and technical assistance for the establishment, construction, expansion of operations, or renovation of grocery stores and small food retailers to increase the availability of and access to affordable fresh produce and other nutritious, culturally appropriate food to underserved communities in low-income and moderate-income areas. The program language mentions supporting locally grown food products through programs such as Minnesota Grown.<sup>29</sup>

### Mississippi Farm to School Council

For purposes of procurement for school meal programs, the Mississippi Agriculture and Commerce Department, Council on Agriculture, Interagency Farm to School Council defines “locally grown or locally raised agricultural products” as any food products grown on Mississippi farms or gardens, and products processed into value-added products that are grown or produced in Mississippi.<sup>30</sup>

### Missouri Promotion of Agriculture and Horticulture

Missouri defines “locally grown” in relation to urban agricultural zones. “Locally grown” refers to a product that was grown or raised in the same county or city not within a county in which the urban agricultural zone is located or in an adjoining county or city not within a county. For a product raised or sold in a city not within a county, locally grown also includes an adjoining county with a charter form of government with more than nine hundred fifty thousand inhabitants and those adjoining said county.<sup>31</sup> The Missouri statute authorizing the creation of urban agricultural zones on blighted areas of land is designed to provide tax incentives for agricultural production. Based on the statutory construction, it does not appear to impose a limitation on the use of the term “local” as a marketing claim. Nevertheless, honey producers or packers operating in Missouri should seek legal counsel if they intend to market product as “local” within the state.

### Washington, DC Healthy Schools Fund

Washington, D.C.’s Healthy Schools Fund focuses on school nutrition, a farm-to-school program, and health and wellness. The program defines “locally grown” as grown in Delaware, the District of

Columbia, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, or West Virginia, and “locally processed” means processed at a facility in Delaware, the District of Columbia, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, or West Virginia.<sup>32</sup>

### Buy Local, Buy Wisconsin

The Buy Local, Buy Wisconsin initiative is a competitive grant program designed to reduce the marketing, distribution, and processing hurdles that impede the expansion of sales of Wisconsin’s food products to local purchasers. The program defines "local/locally" as within the borders of the state and/or a 100-mile radius of the location of the farm or business.<sup>33</sup>

### Washington Grown

In reference to Washington Grown Fresh Fruit and Vegetable Grants, and the Farm-to-School Program, Washington defines "locally grown" as that which is grown within the state, with "Washington grown" meaning grown and packed or processed in Washington.<sup>34</sup>

### Conclusion

Only Connecticut, Maine, New Jersey, New Hampshire, and Vermont have rules that explicitly dictate the use of “local” or similar language on food product labels, outside of rules regulating participation in and use of official logos for state marketing campaigns, usually meaning that the product was grown or produced within the state, but some have specific language on allowable distances. Most importantly, any label language must be accurate, making terms that designate the state or region in which the product was produced an attractive option.

With varying rules across states, it is crucial to seek out resources to inform labeling decisions. Contact information for each State Department of Agriculture is included in the attached spreadsheet.

### Author Bios

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Shelby Young has a background in agriculture, research, and policy, and is the founder/owner of Shelby Young Consulting, a firm specializing in nonprofit funding acquisition and research. She earned her Master of Agribusiness and Master of Science in Plant and Soil Science degrees at Texas Tech University. She expanded upon her plant pathology thesis work through a Fulbright research award in Australia, where she worked with soilborne diseases of cotton and continues to serve on a climate change risk assessment committee. Shelby is a former congressional intern for the House Committee on Agriculture and was the Membership Specialist for National Rural Water Association. Shelby is an Associate Research Manager at McKinley Advisors, a Washington D.C.-based consulting firm specializing in association governance and operations.

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Dr. John J. Goldberg is the founder of Science Based Strategies, a Washington, D.C.-based food, agriculture, and environmental policy consulting firm, and a partner at the Normandy Group, LLC. Prior to his move to the private sector, Dr. Goldberg served as Science Advisor to the Committee on Agriculture in the United States House of Representatives for 22 years. In this role, Dr. Goldberg was the principal policy advisor to seven Chairmen and was responsible for legislation and oversight of federal programs, offices, and agencies in the EPA, FDA, and USDA. Dr. Goldberg's federal policy expertise extends to issues including food safety; fruit and vegetable programs; specialty crop competitiveness; agricultural marketing and promotion programs; food standards; plant health; pesticide regulation; Sanitary and Phytosanitary Standards for international trade (SPS); organic agriculture; grain standards; homeland security and bioterrorism; water and air quality; biotechnology; agricultural research, education and extension; animal health and welfare; and livestock, dairy and poultry programs. Dr. Goldberg holds a Bachelor of Science degree in Animal Science from Rutgers University, a Master of Science degree in Animal Sciences from the University of Vermont, and a Doctorate in Animal and Food Sciences; and Microbiology and Molecular Genetics also from the University of Vermont.

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