



WHAT IS LOCAL FOOD?

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INTRODUCTION

According to national survey data, American consumers exhibit a high interest in and awareness of local foods.¹ To capitalize on consumer interest and demand, food producers frequently use the term “local,” or some derivation, on product labels. However, despite its pervasiveness, there is no standard definition for what constitutes local food at the federal, state, or local level of government—and consumer perception of the term’s meaning can vary depending on the type of product.² If the term is to have a meaning that carries legal weight for consumers, producers, and retailers, it must have a consistent definition.

In part, the lack of definition stems from the fact that legislative efforts to support local food systems are relatively new; most laws related to local foods were enacted or significantly amended within the last 15 years. Additionally, the terminology used in these laws is often unspecific. More recent laws have addressed the weaknesses of “first generation” local food laws by including more measurable targets and mandates to better support local food systems and increase access to locally produced food.³

For example, certain states define products that were grown outside the state but were packaged or processed inside the state as “local” or include them as part of their state branding programs. Some are revising those definitions to include more precise language, so that regulators and consumers can better understand how to interpret these terms and provide a stronger basis for consumer purchasing decisions. Overall, however, the term “local” remains largely ill-defined, creating not only consumer confusion, but also challenges in meeting goals and evaluating the impacts of local food legislation.

This issue brief focuses on the current legal and policy context for use of the term local. The first section provides a description of how various government bodies define “local,” with particular focus on the range of state approaches. The second section of the brief examines policy questions related to the use of “local.” The brief concludes with recommendations for policymakers to increase transparency for consumers.

THE LEGAL CONTEXT OF LOCAL FOOD

Federal Definitions of “Local”

The US Department of Agriculture (USDA) has not yet established a uniform definition of “local.” Under USDA Rural Development’s Business and Industry Loan and Loan Guarantee program, a “locally or regionally produced agricultural food product” is raised, produced, and distributed within 400 miles of its origin or within the same state.⁴ Numerous USDA Farm Bill programs, however, do not use the term “local and regional food” in accordance with this definition. For example, USDA’s regulations for its child nutrition programs allow institutions to apply a preference for locally grown or locally raised agricultural products, but give participating institutions the discretion to define the boundaries of the local area.⁵

The Food and Drug Administration (FDA), which regulates the safety and labeling of most foods,⁶ also does not define “local.”⁷ While the Food Safety Modernization Act’s Produce Safety Rule, which FDA administers, does not use the term, it does refer to producers within a specific distance of direct market consumers.⁸ Produce farmers who sell to these consumers either within the same state or within 275 miles may qualify for an exemption under the Produce Safety Rule.⁹ There is likely significant overlap between these qualified exempt farms based on how far their products are traveling and those that qualify for support under USDA local foods programs—despite the absence of a single definition of “local” that applies to both.



State Definitions of “Local”

States may define local in laws, regulations, or in their program materials, such as on a state farm to school program website or grant application. Few state laws, however, include explicit definitions for “local.” Most states—including those that define the term—use “local” or other related words such as “native” in their food procurement and marketing laws and policies to mean that the food was produced in that state. Beyond the geographic element, many states also specify, in definitions or other parts of the law, the commodities or types of products to which the distinction applies. This could account, in part, for why consumers perceive “local” to have different meanings depending on the type of food product.

State law may also extend the definition of “local” to food that was grown out of state but has been processed or packed within the state. A review of state bills and current state laws related to local food reveals three broad and overlapping categories through which consumers encounter “local” food:

- farm to school or other institution programs;
- government procurement programs; and
- laws encompassing other local food efforts.

For examples of farm to school, government procurement, and other local food laws, see [DEFINING LOCAL FOODS Report](#).

A Snapshot of State Definitions of “Local”



Most states use “local” generally to mean the food was produced within that state.

8

Only eight states and Washington, DC explicitly define “local” in their legislative language.



Missouri is the only state where a farm must also be small in order to qualify as “local.”



Vermont is the only state to include a specific geographic radius (30 miles) for “local” products that can extend beyond its state border.

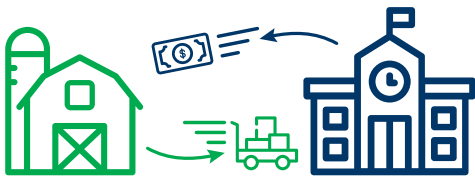


In Maryland, the law leaves it up to the consumer to decide what is local, by requiring that any food labeled “local” is also labeled with its state of origin.

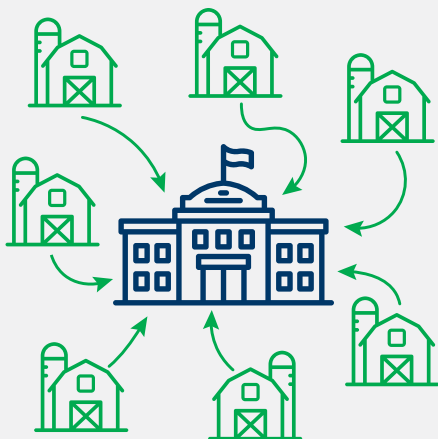
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Nine states have zero laws related to local foods or a preference for local or in-state products.





Farm to school or farm to institution programs have the goal of improving nutrition and access to healthy food among students or other institutional consumers. Often, a joint or secondary goal of these programs is to support local farms and food economies.



Government procurement policies primarily aim to help state economies, and may not apply exclusively to agricultural products. But when applied to food, they can include some of the same objectives as nutrition-based programs. Commonly, these laws include:¹⁰

- preference for in-state goods when prices are equal, requiring in-state purchases when competing products are the same for specified criteria such as price, quality, and availability;
- preference for in-state goods when reasonable or practicable, which require or allow preference for in-state products when they are sufficiently available or their higher price is sufficiently “reasonable”; and
- price percentage preference, which allows or sometimes requires purchasers to buy in-state products that are more expensive than out-of-state products, up to a certain percentage of the lower price.



Laws encompassing other local food efforts—such as marketing programs and food security and sovereignty initiatives—often focus on ensuring a robust and steady local food supply while strengthening a local economy. For example, they can include language allowing or encouraging food production in urban environments or home gardens in addition to traditional farms. These laws also protect the integrity of state brands and may include enforcement provisions to penalize vendors for using “local” or “[state]-grown” in a way that does not conform to the state’s definition. States use a variety of terms to promote their agricultural products, which include:

- references to “local” or “locally grown” products;
- use of “[state]-grown” or other terminology specifying that the law refers to goods produced within the state boundary; and
- a lack of any relevant laws to promote local foods.

For examples of farm to school, government procurement, and other local food laws, see [DEFINING LOCAL FOODS Report](#).



Local Government and Nongovernmental Organization Definitions of “Local”

At the county or municipal level, there are a wide array of definitions for local food. Ordinances use distance or other attributes to define “local” and thus determine which farms are eligible to sell at a farmers market or receive support from municipal programs.¹¹ Organizations that work to increase availability and sales of local foods may have their own definitions within the context of their organizational programming. Groups attempting to increase procurement of local foods within schools and other institutions may work within a specific scope that defines a geographic range. For example, Farm to Institution New England (FINE) focuses its efforts within the six New England states.¹² While FINE does not use a specific definition of “local,” the

organization has noted that the 400-mile radius USDA uses is generally not appropriate for New England institutions sourcing local food, given that it would allow foods from Virginia to be considered local in southern Connecticut.¹³

In addition, organizations may include other environmental and social attributes in their standards in keeping with their mission. For example, Real Food Challenge aims to “leverage the power of youth and universities to create a healthy, fair, and green food system.”¹⁴ The program’s standards specify a geographic range of 250 miles (500 miles for meat, poultry, and seafood, reflecting processing infrastructure limitations for these commodities), but also include qualifying criteria based on farm or food business size, production practices, and treatment of workers and animals.¹⁵

LOCAL FOOD POLICY ISSUES

Different Understandings of “Local”

Since there is no standard definition of local at the federal level, a primary policy challenge for states and municipalities is to reconcile stakeholders’ differing understandings of the term. State agencies purchase large quantities of food for schools, hospitals, senior programs, and other state facilities. Government procurement policies, including farm to institution programs, have the power to fulfill various environmental, nutritional, and economic goals. However, the way a state defines “local” will likely affect its ability to accurately or efficiently assess progress toward these goals. As previously noted, USDA gives institutions that participate in its nutrition programs discretion to define the geographic limits of “local.”¹⁶ One study found that both K-12 and higher education institutions in the New England region use a wide range of local determinants, including state definitions as well as their own or those of third parties, which in some cases expand beyond the state boundary.¹⁷ This range of approaches makes aggregating data about institutional purchases from across a state challenging, since products accounted for as local may have originated from a wide range of distances.¹⁸

States are increasingly committing resources to governmental purchases of local foods in addition to other tools to support local farmers and food businesses.¹⁹ To justify state investments and understand their impacts or make program improvements, a common understanding within a state, and across institutions, of what is meant by “local” is necessary. This understanding should include which types of products fall within a particular definition of “local.” Establishing consistency enables data collection and analysis so states can track and report on food and identify businesses and products that might benefit from state investments. It may not always be practical or necessary to define local in the same way across a state, but the definitions each relevant entity uses should be clear to reduce confusion. With regard to marketing and branding programs, this clarity could also help consumers understand what a local product is, how their purchase meets their expectations and goals, and whether it is worth the higher price they might be asked to pay.²⁰



Different Values Encompassed Within Local Food

Another policy challenge relates to the fact that consumer conceptions of “local” encompass different values and sometimes false assumptions. Local food is desirable because shortening the distance food travels may be correlated with or result in additional environmental, economic, and nutritional benefits.²¹ As further explained below, consumers may think that buying local food will result in benefits to the local economy, the environment, farmed animals, or to consumers themselves in the form of health benefits.

Economic Benefits



A main driver of many local food procurement initiatives and legislative efforts is the desire to protect and support local businesses and economies. Programs may be designed to protect in-state businesses and the state’s predominant industries broadly,²² or targeted more specifically toward supporting local agriculture.²³ Programs meant to benefit a state’s agricultural industry (which often are the same farm to school programs described above) can include additional goals for preserving farmland or ensuring a secure food supply for the state.²⁴

Some programs may also seek to address historic economic disparities within communities, and associated disparities in access to healthy food. State branding programs are another example of an economically motivated program. Most states have promotional programs to support in-state food products.²⁵ Laws associated with these programs aim to protect the integrity of state brands and some regulate the term “local” to conform to state definitions.²⁶

Environmental Benefits



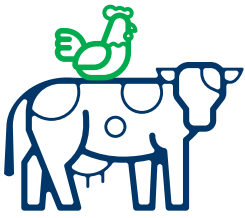
Local food generally travels a shorter distance to the consumer than non-local food. The transportation sector is currently the largest contributor to global greenhouse gas emissions.²⁷ Reducing food miles has the potential to reduce emissions associated with the transport and delivery of food products, particularly given the global scale of food supply chains. Some consumers may perceive local foods as similar to organic foods, or to foods grown using more environmentally friendly agricultural practices.²⁸ Given the fact that “local” does not mean “organic,” this can create an additional source of confusion for consumers.

Nutritional Benefits



Because local foods arguably travel a shorter distance and are often sold directly from producer to consumer, they may not need to be processed or packaged in the same way as foods that withstand long periods of travel and storage. Consequently, they may be fresher and have retained more of their nutrients when they reach consumers, therefore minimizing sugars and preservatives that are common in processed foods that travel farther.²⁹ Also, as mentioned above, the term “local” may suggest to some that the food was grown sustainably or organically, which can be perceived to provide added health and nutritional benefits.³⁰





Concern for Animal Welfare

Just as use of the term “local” in food labeling may connote to some consumers that the food in question was produced using organic or other sustainable practices, the term may also suggest to consumers that meat or other animal products labeled “local” were produced in accordance with particular [animal welfare standards](#).³¹ Small-scale livestock operations that market directly or otherwise sell meat and other animal products often comply with such standards—however, those vary depending on the particular verification or certification program.³² The lack of a uniform federal definition for “local” and the assorted understandings and values applied to the term by state, local, and nongovernmental organizations mean that—like sustainable agricultural practices—animal welfare standards may not be reflected in a particular definition of “local.” Consumers should not assume that “local” food products comply with any agricultural or animal husbandry standards, and should seek out the relevant state, local, or organizational definition for verification.



Enforceability

Many states have branding programs for products grown or produced within the state (such as Kentucky Proud,³³ California Grown,³⁴ or Connecticut Grown³⁵) that aim to increase public awareness and demand for in-state products. Laws related to these programs often use the state-produced distinction interchangeably with “local” within their text or associated promotional materials. The regulated use of “local” by these programs may similarly lack meaningful requirements or enforcement mechanisms that would uphold the integrity of the term.

A 2018 investigative report found that of the 45 US states that support a state brand for food and agriculture products, 40 had no record of enforcement action in the previous five years and 36 had no formal review process to check compliance.³⁶ Additionally, 18 states did not require a specific percentage of ingredients in a product to be called “local” as long as it was manufactured in the state, meaning that a bottled iced tea could be labeled local even though its two main ingredients—sugar and tea leaves—were grown in other countries.³⁷ Such lack of rigor can mislead and eventually fatigue consumers who may lose trust in local branding if it does not conform to their values.³⁸ It could also impact the goals of state procurement programs if they rely in part on state branding to make local purchasing decisions. A small number of states do have penalty and fine provisions in place to protect their state brands.³⁹



Fraud and Liability

Misbranding issues related to the use of “local” do not appear to be widely litigated, but the potential for fraudulent or misleading labels exists where certain products are preferred over others. One notable recent case illustrates the risk that use of this expansively defined term poses beyond issues of data aggregation and the ability to meet procurement targets. In Utah, a court found in favor of a company that claimed a rival bread producer’s label—which marketed its product as “Fresh. Local. Quality”—was false advertising, because the bread was baked in a different state than the one in which it was sold.⁴⁰ The court stated that even though “local” carries no set definition, the claim

demonstrated implied falsehood because consumer survey data has shown that a majority of respondents believe “local” means “in the same state.”⁴¹ The case illustrates that without a standard definition, users of the term may risk liability. With the increasing marketability of local products and growing popularity of not only farm to school programs, but also farm-to-table restaurants and other venues that use the term “local” in their programmatic and promotional materials, the legal repercussions related to misuse could be severe. Additionally, courts may take a narrow view of the evidence presented regarding the use of the term “local,” emphasizing the state- or region-specific use and perception of the term.



CONCLUSION

The term “local” is relative. What is local in terms of distance is likely to be different for an individual, a particular community, or a state government. With respect to food production and consumption, the term is particularly ambiguous; it is conflated with different societal benefits, from better nutrition, to stronger local economies, to a healthier environment. While the word is often used in legislative language intended to promote local food systems, it is not always adequately defined.

The common definition of local as food produced and consumed within the same state seems to be driven in large part by goals to support in-state businesses and strengthen state economies by increasing and encouraging purchases of local food. Another common goal for legislation is to facilitate the ability of state-funded meal programs to provide healthy and nutritious food to their participants. Due to the broad range of definitions for local food, and the different values assigned to local food, state policymakers should be as transparent as possible.

For example, local food laws should clearly articulate the objectives sought by the law and be specific regarding the types of food products to which the definition applies. Such specificity would help policymakers assess progress toward economic, environmental, and nutritional goals and increase consumers’ understanding of the use of “local” in a particular context, empowering them to make more informed purchasing decisions. Policymakers should also consult with relevant stakeholders for input on the definitions based on local interest and need.

The COVID-19 pandemic that began shuttering businesses and disrupting food supply chains in March 2020 has prompted conversations among policymakers, advocates, producers, and consumers about food access and local and regional food supply chains.⁴² Direct-to-consumer sales through community supported agriculture subscriptions and farm stands, using both online ordering and delivery platforms, reached unprecedented levels at the start of the pandemic,⁴³ as did interest in gardening and home food preservation.⁴⁴ If this interest holds, legislators should continue seeking innovative ways to support local food systems—and to define local-related terms for the first time, or to elaborate on their meaning. Unless and until a uniform federal definition is in place, states, municipalities, private organizations, and other entities using the term “local” should be transparent about how they are defining it, to reduce confusion and genuinely respond to consumers’ interest in “buying local.”

About the Center for Agriculture and Food Systems at Vermont Law School

Vermont Law School’s [Center for Agriculture and Food Systems](#) (CAFS) uses law and policy to build a more sustainable and just food system. In partnership with local, regional, national, and international partners, CAFS addresses food system challenges related to food justice, food security, farmland access, animal welfare, worker protections, the environment, and public health, among others. CAFS works closely with its partners to provide legal services that respond to their needs and develop resources that empower the communities they serve. Through CAFS’ Food and Agriculture Clinic and Research Assistant program, students work directly on projects alongside partners nationwide, engaging in innovative work that spans the food system.

For more information visit the Labels Unwrapped website at <http://labelsunwrapped.org/>



ENDNOTES

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- 4 7 U.S.C. § 1932(g)(9)(A)(i).
- 5 7 C.F.R. § 210.21(g).
- 6 See *About FSIS*, FOOD SAFETY AND INSPECTION SERV., U.S. DEP’T OF AGRIC., <https://www.fsis.usda.gov/about-fsis> (USDA Food Safety and Inspection Service has authority over the safety and labeling of most meat, poultry, and eggs pursuant to the Federal Meat Inspection Act, Poultry Products Inspection Act, and Egg Products Inspection Act).
- 7 *But see* 21 U.S.C. §§ 331, 343 (regulating the use of the term “local” pursuant to the Food Drug and Cosmetics Act prohibition on false and misleading labels).
- 8 See 21 C.F.R. § 112.3 (defining “qualified end user”).
- 9 *Id.*
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- 22 E.g., HAW. REV. STAT. § 103D-1002.5 (2010) (referring to “Hawaii products,” which include those, mined, excavated, manufactured, or grown in the state).
- 23 E.g., IND. CODE § 5-22-15-23.5 (2011) (codifying Indiana’s price preference for Indiana agricultural products).
- 24 E.g., ME. STAT. TIT. 7, § 219 (2015). (codified as Maine’s Food Self-Sufficiency Act).
- 25 See Anglen et al., *supra* note 20 (detailing and reviewing state branding programs); JANIECE CRENWELGE, STATE-SPONSORED AGRICULTURAL PROMOTION PROGRAMS: GROWING BRANDS (2016) (unpublished Master’s Thesis, Texas State University) (on file with author), <https://digital.library.txstate.edu/bitstream/handle/10877/5978/CrenwelgeJaniece.pdf?sequence=3&isAllowed=y>.
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