

1 A bill to be entitled

2 An act relating to labeling of genetically engineered  
3 foods; creating s. 500.92, F.S.; providing  
4 definitions; providing lists of raw agricultural  
5 commodities at high risk or potentially at risk for  
6 cultivation in a genetically engineered form;  
7 requiring the Department of Agriculture and Consumer  
8 Services to publish the lists by a specified date and  
9 to update a published list annually; providing  
10 mandatory labeling requirements for genetically  
11 engineered raw agricultural commodities and processed  
12 foods made with or derived from genetically engineered  
13 ingredients; exempting specified foods, commodities,  
14 ingredients, and other substances from the labeling  
15 requirements; authorizing the department to adopt  
16 rules; providing for enforcement of the labeling  
17 requirements; providing administrative and civil  
18 remedies and penalties; providing legislative intent  
19 with regard to such penalties; providing an effective  
20 date.

21  
22 WHEREAS, Florida has the right to protect the liberty of  
23 its citizens to be free to make the most fundamental of life  
24 choices of what to eat and put on their tables to feed their  
25 families, and

26 WHEREAS, the Legislature finds that consumers should have

27 | the right to know whether the foods they purchase contain  
28 | genetically engineered material, and

29 |       WHEREAS, without mandatory labeling of genetically  
30 | engineered foods, consumers may unknowingly violate their own  
31 | dietary or religious principles, and

32 |       WHEREAS, the organic food market and organic farming are  
33 | growing industries in the state and increasingly demanded by  
34 | consumers who have a right to choose what they purchase and eat  
35 | and feed their families, and those farmers who choose to engage  
36 | in this business may have their livelihood threatened by cross-  
37 | contamination of their crops by the wind blowing genetically  
38 | engineered seed to their fields and farm animals, and

39 |       WHEREAS, public confidence in organic food products may  
40 | erode as organic farmers' crops are regularly threatened with  
41 | accidental contamination by contaminated seed and neighboring  
42 | lands where genetically engineered crops abound, and consumers  
43 | should have the choice to avoid purchasing foods that could harm  
44 | the state's organic farmers and food industry, and

45 |       WHEREAS, consumers around the world desire products that  
46 | are produced without genetic engineering, and

47 |       WHEREAS, Sixty-four developed or developing nations have  
48 | banned, restricted, or required labeling of products that are  
49 | genetically engineered, and

50 |       WHEREAS, Floridians should have the same freedom to make  
51 | informed choices about the food they eat as consumers, or grow  
52 | and offer to market as farmers, and

53 WHEREAS, no international agreement prohibits the mandatory  
 54 labeling of genetically engineered foods, and

55 WHEREAS, the cultivation of genetically engineered crops  
 56 can negatively impact the environment, in some cases  
 57 necessitating the use of increasingly toxic herbicides that can  
 58 damage agricultural areas, impair drinking water, and pose  
 59 health risks to consumers and farmworkers, and

60 WHEREAS, consumers should have the choice to avoid  
 61 purchasing foods that they believe cause adverse health and  
 62 environmental effects, and

63 WHEREAS, currently, there is no federal requirement  
 64 mandating disclosure of genetically engineered foods on food  
 65 labels, NOW, THEREFORE,

66

67 Be It Enacted by the Legislature of the State of Florida:

68

69 Section 1. Section 500.92, Florida Statutes, is created to  
 70 read:

71 500.92 Genetically engineered foods.-

72 (1) As used in this section, the term:

73 (a) "Cultivated commercially" means grown or raised by a  
 74 person in the course of a business or trade.

75 (b) "Food facility" means an operation that stores,  
 76 prepares, packages, serves, vends, or otherwise provides food  
 77 for human consumption at the retail level, including an  
 78 operation where food is consumed on or off the premises,

79 regardless of whether there is a charge for the food.

80 (c) "Genetically engineered" means any food that consists  
81 of, is composed of, contains, or is produced from an organism or  
82 organisms in which the genetic material has been changed,  
83 commonly referred to as a "genetically modified organism" or  
84 "GMO," through the application of:

85 1. In vitro nucleic acid techniques, including recombinant  
86 deoxyribonucleic acid techniques and the direct injection of  
87 nucleic acid into cells or organelles. Such techniques include,  
88 but are not limited to, recombinant deoxyribonucleic acid or  
89 ribonucleic acid techniques that use vector systems and  
90 techniques involving the direct introduction into the organisms  
91 of hereditary material prepared outside the organisms such as  
92 microinjection, macroinjection, chemoporation, electroporation,  
93 microencapsulation, and liposome fusion; or

94 2. Fusion of cells, including protoplast fusion, or  
95 hybridization techniques that overcome natural physiological,  
96 reproductive, or recombination barriers, where the donor cells  
97 or protoplasts do not fall within the same taxonomic family, in  
98 a way that does not occur by natural multiplication or natural  
99 recombination.

100  
101 The term does not include the centuries-old hybridization  
102 technique used by farmers and breeders that relied on nature or  
103 similar plant-to-plant or similar animal-to-animal selective  
104 breeding.

105 (d) "Ingredient" means any substance that is used in the  
 106 manufacture, or contained in the final form, of a processed  
 107 food.

108 (e) "Processed food" means any food other than a raw  
 109 agricultural commodity and includes any food produced from a raw  
 110 agricultural commodity that has been subject to processing, such  
 111 as canning, smoking, pressing, cooking, freezing, dehydration,  
 112 fermentation, or milling.

113 (2) (a) The Legislature finds that the following raw  
 114 agricultural commodities are at high risk of being genetically  
 115 engineered because they are currently in commercial production:

- 116 1. Alfalfa.
- 117 2. Canola.
- 118 3. Corn.
- 119 4. Cotton.
- 120 5. Papaya.
- 121 6. Soy.
- 122 7. Sugar beets.
- 123 8. Zucchini and yellow summer squash.

124 (b) The Legislature finds that the following raw  
 125 agricultural commodities should be monitored because suspected  
 126 or known incidents of contamination have occurred and such  
 127 commodities have genetically engineered relatives in commercial  
 128 production with which cross-pollination is possible:

- 129 1. Chard and table beets.
- 130 2. Rutabaga and Siberian kale.

131 3. Bok choy, mizuna, Chinese cabbage, turnips, rapini, and  
 132 tatsoi.

133 4. Acorn squash, delicata squash, and patty pan squash.

134 5. Flax.

135 6. Rice.

136 7. Wheat.

137 (c) By January 1, 2017, and annually thereafter, the  
 138 department shall publish an updated list of additional raw  
 139 agricultural commodities that are cultivated commercially in  
 140 genetically engineered form. The list must be based on the most  
 141 current available information.

142 (3) (a) Beginning January 1, 2017, any genetically  
 143 engineered raw agricultural commodity that is offered for retail  
 144 sale must include a clear and conspicuous statement with the  
 145 words "genetically engineered" on the front package or label of  
 146 any such commodity. For such a commodity that is not separately  
 147 packaged or labeled, the statement must appear on a label on the  
 148 retail store shelf or bin where the commodity is displayed for  
 149 sale.

150 (b) Beginning January 1, 2017, any package offered for  
 151 retail sale containing processed food that is made with or  
 152 derived from any genetically engineered ingredient or is  
 153 produced from a source that contains recombinant bovine growth  
 154 hormone must include a clear and conspicuous statement on the  
 155 front or back of the package with the words "contains  
 156 genetically engineered ingredients," followed by the name of the

157 genetically engineered ingredient or ingredients. If an  
158 ingredients list appears on the package, the statement must  
159 appear underneath the ingredients list. For a processed food  
160 containing more than one genetically engineered ingredient or  
161 recombinant bovine growth hormone, the genetically engineered  
162 ingredients listed after the statement must be listed in the  
163 same order in which they appear in the full ingredients list.

164 (c) In lieu of compliance with paragraph (b), any package  
165 containing processed food that is made with or derived from any  
166 ingredient that may be genetically engineered or produced from a  
167 source that contains recombinant bovine growth hormone must  
168 include a clear and conspicuous statement on the front or back  
169 of the package with the words "may contain genetically  
170 engineered ingredients," followed by the name of the genetically  
171 engineered ingredient or ingredients. If an ingredients list  
172 appears on the package, the statement must appear underneath the  
173 ingredients list. For a processed food containing more than one  
174 ingredient that may be genetically engineered, the genetically  
175 engineered ingredients listed after the statement must be listed  
176 in the same order in which they appear in the full ingredients  
177 list.

178 (d) Except as set forth in paragraph (e), a food produced  
179 entirely or in part from genetic engineering may not be labeled  
180 on the package, in signage, or in advertising as "natural" or  
181 any words of similar import.

182 (e) This subsection does not apply to:

183 1. A raw agricultural commodity that, on the date it is  
184 offered for retail sale, is not listed in paragraph (2) (a) or in  
185 the most recent list published pursuant to paragraph (2) (b).

186 2. A processed food that does not contain an ingredient  
187 derived from a raw agricultural commodity that, on the date the  
188 processed food is manufactured, is listed in either paragraph  
189 (2) (a) or in the most recent list published pursuant to  
190 paragraph (2) (c).

191 3. Food consisting entirely of, or derived entirely from,  
192 an animal that has not itself been genetically engineered and  
193 that has not been fed a feed containing more than 1.5 percent  
194 genetically engineered ingredients.

195 4. A raw agricultural commodity or ingredient that has  
196 been grown, raised, or produced without the knowing and  
197 intentional use of genetically engineered seed or food. The  
198 person responsible for complying with this section must obtain,  
199 from whoever sold the commodity or ingredient to that person, a  
200 sworn statement that the commodity or ingredient has not been  
201 knowingly or intentionally genetically engineered and has been  
202 segregated from and has not been knowingly or intentionally  
203 commingled with, goods that may have been genetically engineered  
204 at any time. The sworn statement must be notarized and include a  
205 written declaration stating that such statement is made under  
206 the penalties of perjury and fraud. In providing such a sworn  
207 statement, a person may rely on a sworn statement from his or  
208 her own supplier that contains such an affirmation.



209 5. An alcoholic beverage that is subject to regulation  
 210 under chapters 561-568.

211 6. Until January 1, 2017, a processed food that would be  
 212 subject to this section solely because it includes one or more  
 213 genetically engineered ingredients, if no single genetically  
 214 engineered ingredient accounts for more than one-half of 1  
 215 percent of the total weight of the processed food.

216 7. Any food not knowingly and intentionally produced from  
 217 or commingled with genetically engineered seed or genetically  
 218 engineered food, as determined by an independent organization,  
 219 such as the Non-GMO Project, if such a determination has been  
 220 made pursuant to a sampling and testing procedure approved for  
 221 this purpose in rules adopted by the department.

222 8. Food that has been lawfully certified to be labeled,  
 223 marketed, and offered for sale as organic pursuant to applicable  
 224 federal organic food production laws and regulations.

225 9. Food that is not packaged for retail sale and that is:

226 a. A processed food prepared and intended for immediate  
 227 human consumption;

228 b. Served, sold, or otherwise provided in a restaurant or  
 229 other food facility that is primarily engaged in the sale of  
 230 food prepared and intended for immediate human consumption; or

231 c. Medical food, as defined in 21 U.S.C. s. 360ee(b)(3).

232 (4) (a) The department shall:

233 1. Adopt rules to administer this section.

234 2. Select an independent nonprofit organization to approve

235 a sampling and testing procedure consistent with sampling and  
236 testing principles recommended and developed by independent  
237 nonprofit organizations with the highest internationally  
238 recognized standards of genetically engineered labeling  
239 requirements. The organization shall be chosen on a 2-year basis  
240 by agency rule.

241 3. Create an educational pamphlet regarding the  
242 requirements of this section for distribution to farmers in the  
243 state.

244 4. Prominently display on its website information  
245 regarding:

246 a. The high-risk and monitored agricultural commodities  
247 lists under subsection (2).

248 b. Information regarding genetically engineered foods and  
249 crops as well as organic foods and crops.

250 c. Standards for nongenetically engineered products  
251 developed by independent nonprofit organizations with the  
252 highest internationally recognized standards of genetically  
253 engineered labeling requirements.

254 d. Penalties imposed under this subsection and any pending  
255 cases.

256 (b) After exhausting administrative remedies under chapter  
257 120, the department may bring an action in a court of competent  
258 jurisdiction to enjoin a person or entity violating this  
259 section.

260 (c) The department may assess a civil penalty against a

261 person or entity violating this section in an amount not to  
262 exceed \$5,000 per seed and \$1,000 per retail package intended to  
263 be sold by a retailer. Each day of violation is considered a  
264 separate violation. Minimum penalties per day will be based on 3  
265 percent of the annual profit of the violating entity. It is the  
266 intent of the Legislature that such penalties are imposed to  
267 prevent violations of this section and that the cost of such  
268 penalties are not passed on to consumers as the cost of doing  
269 business.

270 (d) An action to enjoin a violation of this section or to  
271 seek personal damages may be brought under this section by any  
272 individual or entity. Any individual or entity may sue the  
273 department to enforce this section.

274 Section 2. This act shall take effect July 1, 2015.