

By Senator Ring

29-00043A-15

2015416__

1 A bill to be entitled
2 An act relating to the labeling of genetically
3 engineered 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

29-00043A-15

2015416__

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, 64 developed or developing nations have banned,
48 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

29-00043A-15

2015416__

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 at which 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,

29-00043A-15

2015416__

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 which 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 of, 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.

29-00043A-15

2015416__

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

29-00043A-15

2015416__

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 that 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

29-00043A-15

2015416__

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) A food produced entirely or in part from genetic
179 engineering may not be labeled on the package, in signage, or in
180 advertising as "natural" or any words of similar import.

181 (e) This subsection does not apply to:

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

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

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

194 4. A raw agricultural commodity or ingredient that has been
195 grown, raised, or produced without the knowing and intentional
196 use of genetically engineered seed or food. The person
197 responsible for complying with this section must obtain from the
198 seller of the commodity or ingredient a sworn statement that the
199 commodity or ingredient has not been knowingly or intentionally
200 genetically engineered and at all times has been segregated
201 from, and has not been knowingly or intentionally commingled
202 with, goods that may have been genetically engineered. The sworn
203 statement must be notarized and include a written declaration

29-00043A-15

2015416__

204 stating that such statement is made under the penalties of
205 perjury and fraud. In providing such a sworn statement, a person
206 may rely on a sworn statement from his or her own supplier that
207 contains such an affirmation.

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

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

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

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

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

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

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

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

231 (4) (a) The department shall:

232 1. Adopt rules to administer this section.

29-00043A-15

2015416__

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

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

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

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

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

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

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

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

259 (c) The department may assess a civil penalty against an
260 individual or entity violating this section in an amount not to
261 exceed \$5,000 per seed and \$1,000 per retail package intended to

29-00043A-15

2015416__

262 be sold by a retailer. Each day of violation is considered a
263 separate violation. Minimum penalties per day will be based on 3
264 percent of the annual profit of the violating entity. It is the
265 intent of the Legislature that such penalties are imposed to
266 prevent violations of this section and that the cost of such
267 penalties is not passed on to consumers as the cost of doing
268 business.

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

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