

By Senator Sachs

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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 mandatory labeling requirements  
5           for genetically engineered raw foods and processed  
6           foods made with or derived from genetically engineered  
7           ingredients by a specified date; exempting specified  
8           foods, commodities, ingredients, and other substances  
9           from the labeling requirements; directing the  
10          Department of Health to adopt rules; providing for  
11          enforcement of the labeling requirements; providing  
12          administrative and civil remedies and penalties;  
13          providing legislative intent with regard to such  
14          penalties; providing for injunctive relief actions;  
15          requiring the court to award costs and fees under  
16          certain circumstances; specifying injunctive relief  
17          actions do not preclude civil actions for damages;  
18          providing an effective date.

19  
20           WHEREAS, Florida has the right to protect the liberty of  
21          its citizens to be free to make the most fundamental of life  
22          choices of what to eat and put on their tables to feed their  
23          families, and

24           WHEREAS, the Legislature finds that consumers should have  
25          the right to know whether the foods they purchase contain  
26          genetically engineered material, and

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

30           WHEREAS, the lack of labeling denies health professionals  
31          the ability to trace potential toxic or allergic reactions to,  
32          and other adverse health effects from, genetically engineered

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33 food, and

34 WHEREAS, labeling requirements for genetically engineered  
35 foods are needed to facilitate both the withdrawal of products  
36 where unforeseen adverse effects on human health, animal health,  
37 or the environment, including ecosystems, are established, and  
38 the targeting of monitoring to examine potential effects on  
39 health and the environment, and

40 WHEREAS, many medical and public health groups still have  
41 questions regarding the potential long-term impact of  
42 genetically engineered foods on human health and the  
43 environment, and

44 WHEREAS, many medical and public health groups, including,  
45 but not limited to, the American College of Physicians, American  
46 Public Health Association, American Nurses Association, British  
47 Medical Association, Australian Medical Association, Irish  
48 Medical Organization, and German Medical Association, have  
49 passed resolutions or otherwise supported the mandatory labeling  
50 of genetically engineered foods to facilitate further health  
51 research, and

52 WHEREAS, sixty-four developed or developing nations have  
53 banned, restricted, or required labeling of products that are  
54 genetically engineered, and

55 WHEREAS, Floridians should have the same freedom to make  
56 informed choices about the food they eat as consumers or grow  
57 and offer to market as farmers, and

58 WHEREAS, no international agreement prohibits the mandatory  
59 labeling of genetically engineered foods, and

60 WHEREAS, the cultivation of genetically engineered crops  
61 can negatively impact the environment, in some cases

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62 necessitating the use of increasingly toxic herbicides that can  
63 damage agricultural areas, impair drinking water, and pose  
64 health risks to consumers and farmworkers, and

65 WHEREAS, consumers should have the choice to avoid  
66 purchasing foods that they believe cause adverse health and  
67 environmental effects, and

68 WHEREAS, currently, there is no federal requirement  
69 mandating disclosure of genetically engineered foods on food  
70 labels, NOW, THEREFORE,

71

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

73

74 Section 1. Section 500.92, Florida Statutes, is created to  
75 read:

76 500.92 Genetically engineered foods.-

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

78 (a) "Department" means the Department of Health.

79 (b) "Food facility" means an operation that stores,  
80 prepares, packages, serves, vends, or otherwise provides food  
81 for human consumption at the retail level, including an  
82 operation where food is consumed on or off the premises,  
83 regardless of whether there is a charge for the food.

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

89 1. In vitro nucleic acid techniques, including recombinant  
90 deoxyribonucleic acid techniques and the direct injection of

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91 nucleic acid into cells or organelles. Such techniques include,  
92 but are not limited to, recombinant deoxyribonucleic acid or  
93 ribonucleic acid techniques that use vector systems and  
94 techniques involving the direct introduction into the organisms  
95 of hereditary material prepared outside the organisms, such as  
96 microinjection, macroinjection, chemoporation, electroporation,  
97 microencapsulation, and liposome fusion; or

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

104  
105 The term does not include the centuries-old hybridization  
106 technique used by farmers and breeders that relied on nature or  
107 similar plant-to-plant or similar animal-to-animal selective  
108 breeding.

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

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

117 (2) Beginning January 1, 2018:

118 (a) Any genetically engineered raw food that is offered for  
119 retail sale must include a clear and conspicuous statement with

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120 the words "genetically engineered" on the front package or label  
121 of any such commodity. For such a commodity that is not  
122 separately packaged or labeled, the statement must appear on a  
123 label on the retail store shelf or bin where the commodity is  
124 displayed for sale.

125 (b) Any package offered for retail sale containing  
126 processed food that is made with or derived from any genetically  
127 engineered ingredient or is produced from a source that contains  
128 recombinant bovine growth hormone must include a clear and  
129 conspicuous statement on the front or back of the package with  
130 the words "contains genetically engineered ingredients,"  
131 followed by the name of the genetically engineered ingredient or  
132 ingredients. If an ingredients list appears on the package, the  
133 statement must appear underneath the ingredients list. For a  
134 processed food containing more than one genetically engineered  
135 ingredient or recombinant bovine growth hormone, the genetically  
136 engineered ingredients listed after the statement must be listed  
137 in the same order in which they appear in the full ingredients  
138 list.

139 (c) In lieu of compliance with paragraph (b), any package  
140 containing processed food that is made with or derived from any  
141 ingredient that may be genetically engineered or is produced  
142 from a source that contains recombinant bovine growth hormone  
143 must include a clear and conspicuous statement on the front or  
144 back of the package with the words "may contain genetically  
145 engineered ingredients," followed by the name of the genetically  
146 engineered ingredient or ingredients. If an ingredients list  
147 appears on the package, the statement must appear underneath the  
148 ingredients list. For a processed food containing more than one

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149 ingredient that may be genetically engineered, the genetically  
150 engineered ingredients listed after the statement must be listed  
151 in the same order in which they appear in the full ingredients  
152 list.

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

157 (e) This subsection does not apply to:

158 1. Food consisting entirely of, or derived entirely from,  
159 an animal that has not itself been genetically engineered and  
160 that has not been fed a feed containing more than 1.5 percent  
161 genetically engineered ingredients.

162 2. A raw agricultural commodity or ingredient that has been  
163 grown, raised, or produced without the knowing and intentional  
164 use of genetically engineered seed or food. The person  
165 responsible for complying with this section must obtain, from  
166 whoever sold the commodity or ingredient to such person, a sworn  
167 statement that the commodity or ingredient has not been  
168 knowingly or intentionally genetically engineered and has been  
169 segregated from, and not been knowingly or intentionally  
170 commingled with, goods that may have been genetically engineered  
171 at any time. The sworn statement must be notarized and include a  
172 written declaration stating that such statement is made under  
173 the penalties of perjury and fraud. In providing such a sworn  
174 statement, a person may rely on a sworn statement from his or  
175 her own supplier that contains such an affirmation.

176 3. An alcoholic beverage that is subject to regulation  
177 under chapters 561 through 568.

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178 4. A processed food that would be subject to this section  
179 solely because it includes one or more genetically engineered  
180 ingredients, if a single genetically engineered ingredient does  
181 not account for more than one-half of 1 percent of the total  
182 weight of the processed food.

183 5. Any food not knowingly and intentionally produced from  
184 or commingled with genetically engineered seed or genetically  
185 engineered food, as determined by an independent organization,  
186 such as the Non-GMO Project, if such a determination has been  
187 made pursuant to a sampling and testing procedure approved for  
188 this purpose in rules adopted by the department.

189 6. Food that has been lawfully certified to be labeled,  
190 marketed, and offered for sale as organic pursuant to applicable  
191 federal organic food production laws and regulations.

192 7. Food that is not packaged for retail sale and that is:  
193 a. A processed food prepared and intended for immediate  
194 human consumption;

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

198 c. Medical food, as defined in 21 U.S.C. s. 360ee(b)(3).  
199 (3)(a) The department shall:

200 1. Adopt rules to administer this section.

201 2. Select an independent nonprofit organization to approve  
202 a sampling and testing procedure consistent with sampling and  
203 testing principles recommended and developed by independent  
204 nonprofit organizations with the highest internationally  
205 recognized standards of genetically engineered labeling  
206 requirements. The organization shall be chosen on a 2-year basis

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207 by agency rule.

208 3. Create an educational pamphlet regarding the  
209 requirements of this section for distribution to farmers in the  
210 state.

211 4. Prominently display on its website information  
212 regarding:

213 a. Information regarding genetically engineered foods and  
214 crops as well as organic foods and crops.

215 b. Standards for nongenetically engineered products  
216 developed by independent nonprofit organizations with the  
217 highest internationally recognized standards of genetically  
218 engineered labeling requirements.

219 c. Penalties imposed under this subsection and any pending  
220 cases.

221 (b) After exhausting administrative remedies under chapter  
222 120, the department may bring an action in a court of competent  
223 jurisdiction to enjoin a person or an entity violating this  
224 section.

225 (c) The department may assess a civil penalty against a  
226 person or an entity violating this section in an amount not to  
227 exceed \$5,000 per seed and \$1,000 per retail package intended to  
228 be sold by a retailer. Each day of violation is considered a  
229 separate violation. Minimum penalties per day will be based on 3  
230 percent of the annual profit of the violating entity. It is the  
231 intent of the Legislature that such penalties are imposed to  
232 prevent violations of this section and that the cost of such  
233 penalties is not passed on to consumers as the cost of doing  
234 business.

235 (d) Any political subdivision or municipality of the state



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236 or a citizen of the state may maintain an action for injunctive  
237 relief against:

238 1. The department to compel it to enforce this section or  
239 any rules adopted thereunder. As a condition precedent to the  
240 institution of an action pursuant to this subparagraph, the  
241 complaining party must first file with the department a verified  
242 complaint setting forth the facts upon which the complaint is  
243 based and the manner in which the complaining party is affected.  
244 Upon receipt of a complaint, the department must transmit,  
245 within 7 days, by registered or certified mail, a copy of the  
246 complaint to those parties charged with violating this section  
247 or rules adopted thereunder. The department shall have 30 days  
248 after the receipt of a complaint to take appropriate action. If  
249 such action is not taken within the time prescribed, the  
250 complaining party may institute the judicial proceedings  
251 authorized in this subparagraph. However, a complainant's  
252 failure to comply with this subparagraph shall does not bar an  
253 action for a temporary restraining order to prevent immediate  
254 and irreparable harm from the conduct or activity complained of.  
255 In any action instituted pursuant to this subparagraph, the  
256 court, in the interest of justice, may add the department as a  
257 party defendant.

258 2. Any person, natural or corporate, or governmental agency  
259 or authority to enjoin such persons, agencies, or authorities  
260 from violating this section or rules adopted thereunder.

261 (e) In any successful action to enforce a provision of this  
262 section, the court shall award the prevailing party, other than  
263 the state, reasonable costs and attorney fees.

264 (f) Nothing in paragraph (d) shall preclude any person from

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265 bringing civil action for damages or personal injury relating to  
266 violations of this section.

267 Section 2. This act shall take effect July 1, 2016.