

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 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

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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 genetically engineered  
49 products, 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

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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

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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.

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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, 2018, 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, 2018, 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

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149 sale.

150 (b) Beginning January 1, 2018, 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 phrase "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.

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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 paragraph (2) (a) or  
189 in the most recent list published pursuant to 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 containing more than 1.5 percent  
193 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  
198 whoever sold the commodity or ingredient to that person, a sworn  
199 statement that the commodity or ingredient has not been  
200 knowingly or intentionally genetically engineered and has been  
201 segregated from and has not been knowingly or intentionally  
202 commingled with goods that may have been genetically engineered  
203 at any time. The sworn statement must be notarized and include a  
204 written declaration that such statement is made under the  
205 penalties of perjury and fraud. In providing such a sworn  
206 statement, a person may rely on a sworn statement from his or

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207 her own supplier that contains such an affirmation.

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

210 6. Until January 1, 2018, 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 0.5 percent of the  
214 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.

233 2. Select an independent nonprofit organization to approve  
234 a sampling and testing procedure consistent with sampling and  
235 testing principles recommended and developed by independent



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236 nonprofit organizations with the highest internationally  
237 recognized standards of genetically engineered labeling  
238 requirements. The organization shall be chosen on a 2-year basis  
239 by agency rule.

240 3. Create an educational pamphlet regarding the  
241 requirements of this section for distribution to farmers in the  
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 a  
260 person or entity violating this section in an amount not to  
261 exceed \$5,000 per seed and \$1,000 per retail package intended to  
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

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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, 2016.