
A BILL FOR AN ACT

RELATING TO THE LABELING OF GENETICALLY ENGINEERED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that a poll conducted by
2 the University of Hawaii's college of tropical agriculture and
3 human resources shows that seventy-two per cent of Hawaii's
4 residents feel that it is very important that genetically
5 modified fruit be labeled. Numerous nations, including
6 countries of the European Union, Japan, and China, require
7 labeling of genetically engineered foods. West Hawaii Today
8 reported on September 1, 2011, that Japan approved importation
9 of genetically modified papayas if labeled as such. This was
10 the last step in a ten-year effort to get papayas introduced
11 into Japan, a huge market for papaya growers.

12 Hawaii has a national reputation for producing high-quality
13 foods and maintaining a pure and preserved natural environment.
14 The State's unique agricultural heritage and vitality of its
15 tourism industry rely upon this reputation.

16 Although genetically engineered crops in the United States
17 have contaminated conventional and organic crops of the same
18 species via pollen or seed dispersal, Hawaii papaya growers have



1 found a method of utilizing genetic engineering technology to
2 improve papaya crops without contamination to other crops or
3 harm to humans.

4 Mandatory labeling of genetically engineered whole foods:

- 5 (1) Would meet the demand of Hawaii's residents for
6 informed choice concerning the foods they consume;
- 7 (2) Would provide the basis for limiting dispersal of
8 seeds from genetically engineered whole foods into the
9 agricultural landscape and environment, thus
10 mitigating the adverse environmental, agricultural,
11 and economic impacts accompanying genetically
12 engineered crop contamination episodes; and
- 13 (3) Could be implemented at a minimal cost to food
14 producers and the government.

15 The purpose of this Act is to require the labeling of
16 genetically engineered whole food produced, sold, or distributed
17 in Hawaii.

18 SECTION 2. Section 328-1, Hawaii Revised Statutes, is
19 amended by adding three new definitions to be appropriately
20 inserted and to read as follows:

21 "Genetically engineered food crop" means a plant in which
22 the genetic material has been changed through modern



1 biotechnology in a way that does not occur naturally by
2 multiplication or natural recombination, or both.

3 "Genetically engineered whole food" means any genetically
4 engineered food crop in its raw or natural state that is
5 intended for human consumption, including all fruits that are
6 washed, colored, or otherwise treated in their unpeeled natural
7 form prior to marketing.

8 "Modern biotechnology" means the application of in vitro
9 nucleic acid techniques, including recombinant deoxyribonucleic
10 acid and direct injection of nucleic acid into cells or
11 organelles. This also includes the fusion of cells (including
12 protoplast fusion) or hybridization techniques beyond the
13 taxonomic family that overcome natural physiological,
14 reproductive, or recombination barriers and that are not
15 techniques used in traditional breeding and selection. Those
16 techniques include recombinant deoxyribonucleic acid techniques
17 that use vector systems and techniques involving the direct
18 introduction into the organism of hereditary materials prepared
19 outside the organism such as micro-injection, macro-injection,
20 chemoporation, electroporation, micro-encapsulation and liposome
21 fusion."



1 SECTION 3. Section 328-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§328-6 Prohibited acts.** The following acts and the
4 causing thereof within the State by any person are prohibited:

5 (1) The manufacture, sale, delivery, holding, or offering
6 for sale of any food, drug, device, or cosmetic that
7 is adulterated or misbranded;

8 (2) The adulteration or misbranding of any food, drug,
9 device, or cosmetic;

10 (3) The receipt in commerce of any food, drug, device, or
11 cosmetic that is adulterated or misbranded, and the
12 delivery or proffered delivery thereof for pay or
13 otherwise;

14 (4) The sale, delivery for sale, holding for sale, or
15 offering for sale of any article in violation of
16 section 328-11, 328-12, or 328-17;

17 (5) The dissemination of any false advertisement;

18 (6) The refusal to permit entry or inspection, or to
19 permit the taking of a sample, as authorized by
20 sections 328-22 and 328-23 to 328-27, or to permit
21 access to or copying of any record as authorized by
22 section 328-23;



- 1 (7) The giving of a guaranty or undertaking which guaranty
2 or undertaking is false, except by a person who relied
3 on a guaranty or undertaking to the same effect signed
4 by, and containing the name and address of the person
5 residing in the State from whom the person received in
6 good faith the food, drug, device, or cosmetic;
- 7 (8) The removal or disposal of a detained or embargoed
8 article in violation of sections 328-25 to 328-27;
- 9 (9) The alteration, mutilation, destruction, obliteration,
10 or removal of the whole or any part of the labeling
11 of, or the doing of any other act with respect to a
12 food, drug, device, or cosmetic, if the act is done
13 while the article is held for sale and results in the
14 article being adulterated or misbranded;
- 15 (10) Forging, counterfeiting, simulating, or falsely
16 representing, or without proper authority using any
17 mark, stamp, tag, label, or other identification
18 device authorized or required by rules adopted under
19 this part or regulations adopted under the Federal
20 Act;
- 21 (11) The use, on the labeling of any drug or in any
22 advertisement relating to the drug, of any



1 representation or suggestion that an application with
2 respect to the drug is effective under section 328-17,
3 or that the drug complies with that section;

4 (12) The use by any person to the person's own advantage,
5 or revealing other than to the department of health or
6 to the courts when relevant in any judicial proceeding
7 under this part, any information acquired under
8 authority of section 328-11, 328-12, 328-17, or
9 328-23, concerning any method or process which as a
10 trade secret is entitled to protection;

11 (13) In the case of a prescription drug distributed or
12 offered for sale in this State, the failure of the
13 manufacturer, packer, or distributor thereof to
14 maintain for transmittal, or to transmit, to any
15 practitioner who makes written request for information
16 as to the drug, true and correct copies of all printed
17 matter [~~which~~] that is required to be included in any
18 package in which that drug is distributed or sold, or
19 [~~such~~] other printed matter as is approved under the
20 Federal Act. Nothing in this paragraph shall be
21 construed to exempt any person from any labeling



1 requirement imposed by or under other provisions of
2 this part;

3 (14) (A) Placing or causing to be placed upon any drug or
4 device or container thereof, with intent to
5 defraud, the trade name or other identifying
6 mark, or imprint of another or any likeness of
7 any of the foregoing; or

8 (B) Selling, dispensing, disposing of, or causing to
9 be sold, dispensed, or disposed of, or concealing
10 or keeping in possession, control, or custody,
11 with intent to sell, dispense, or dispose of, any
12 drug, device, or any container thereof, with
13 knowledge that the trade name or other
14 identifying mark or imprint of another or any
15 likeness of any of the foregoing has been placed
16 thereon in a manner prohibited by subparagraph
17 (A); or

18 (C) Making, selling, disposing of, or causing to be
19 made, sold, or disposed of, or keeping in
20 possession, control, or custody, or concealing,
21 with intent to defraud, any punch, die, plate, or
22 other thing designed to print, imprint, or



1 reproduce that trade name or other identifying
2 mark or imprint of another or any likeness of any
3 of the foregoing upon any drug, device, or
4 container thereof;

5 (15) Except as provided in part VI and section 461-1,
6 dispensing or causing to be dispensed a different drug
7 or brand of drug in place of the drug or brand of drug
8 ordered or prescribed without express permission in
9 each case of the person ordering or prescribing;

10 (16) The distribution in commerce of a consumer commodity
11 as defined in this part, if [~~such~~] the commodity is
12 contained in a package, or if there is affixed to that
13 commodity a label, which does not conform to this part
14 and of rules adopted under authority of this part;
15 provided that this prohibition shall not apply to
16 persons engaged in business as wholesale or retail
17 distributors of consumer commodities except to the
18 extent that [~~such~~] the persons:

19 (A) Are engaged in the packaging or labeling of
20 [~~such~~] the commodities; or



1 (B) Prescribe or specify by any means the manner in
2 which [~~such~~] the commodities are packaged or
3 labeled;

4 (17) The selling or dispensing in restaurants, soda
5 fountains, drive-ins, lunch wagons, or similar public
6 eating establishments of imitation milk and imitation
7 milk products in place of fresh milk and fresh milk
8 products respectively; of liquid or dry products
9 [~~which~~] that simulate cream but do not comply with
10 content requirements for cream in place of cream; of
11 non-dairy frozen desserts [~~which~~] that do not comply
12 with content requirements for dairy frozen desserts in
13 place of dairy frozen desserts; and of any other
14 imitation food or one made in semblance of a genuine
15 food in place of [~~such~~] the genuine food, unless the
16 consumer is notified by either proper labeling or
17 conspicuous posted signs or conspicuous notices on
18 menu cards and advertisements informing of [~~such~~] the
19 substitution, [~~to include but not limited to~~]
20 including the substitution of imitation milk in milk
21 shake and malted milk drinks;



- 1 (18) Wilfully and falsely representing or using any
2 devices, substances, methods, or treatment as
3 effective in the diagnosis, cure, mitigation,
4 treatment, or alleviation of cancer. This paragraph
5 shall not apply to any person who depends exclusively
6 upon prayer for healing in accordance with teachings
7 of a bona fide religious sect, denomination, or
8 organization, nor to a person who practices such
9 teachings;
- 10 (19) The selling or offering for sale at any food facility
11 which serves or sells over the counter directly to the
12 consumer an unlabeled or unpackaged food that is a
13 confectionery which contains alcohol in excess of one-
14 half of one per cent by weight unless the consumer is
15 notified of that fact by either proper labeling or
16 conspicuous posted signs or conspicuous notices on
17 menu cards and advertisements;
- 18 (20) The sale to a person below the age of twenty-one years
19 of any food [~~which~~] that is a confectionery [~~which~~
20 ~~contains~~] containing alcohol in excess of one-half of
21 one per cent by weight[~~-~~]; and



H.B. NO. 2746

Report Title:

Genetically Engineered Crops; Required Labeling

Description:

Prohibits the sale or distribution of any genetically engineered whole food intended for human consumption unless the food is labeled as genetically engineered. Defines "genetically engineered food crop", "modern biotechnology", and "genetically engineered whole food".

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

