

JAN 25 2012

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# A BILL FOR AN ACT

RELATING TO FOOD LABELING.

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

1           SECTION 1. Chapter 328, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:  
4           "§328-    Genetically engineered material; labeling  
5 requirements. (a) Beginning January 1, 2013, no food or raw  
6 agricultural commodity shall be sold in the State if it contains  
7 a genetically engineered material, or was produced with a  
8 genetically engineered material, unless it bears a label that  
9 provides the following disclosure notice in bold-face print and  
10 not less than ten-point type:

11           "THIS PRODUCT CONTAINS A GENETICALLY ENGINEERED MATERIAL,  
12 OR WAS PRODUCED WITH A GENETICALLY ENGINEERED MATERIAL."

13           (b) A food shall be considered to have been produced with  
14 a genetically engineered material if:

15           (1) The organism from which the food is derived has been  
16 injected or otherwise treated with a genetically  
17 engineered material; provided that the use of manure  
18 as a fertilizer for raw agricultural commodities shall



1           not be construed to mean that those commodities are  
2           produced with a genetically engineered material;

3           (2) The animal from which the food is derived has been fed  
4           genetically engineered material; or

5           (3) The food contains an ingredient that is a food to  
6           which paragraph (1) or (2) applies.

7           (c) For the purposes of this section:

8           "Genetically engineered material" means material derived  
9           from any part of a genetically engineered organism, without  
10           regard to whether the altered molecular or cellular  
11           characteristics of the organism are detectable in the material.

12           "Genetically engineered organism" means:

13           (1) An organism that has been altered at the molecular or  
14           cellular level by means that are not possible under  
15           natural conditions or processes, including recombinant  
16           deoxyribonucleic acid and ribonucleic acid techniques,  
17           cell fusion, microencapsulation, macroencapsulation,  
18           gene deletion and doubling, introducing a foreign  
19           gene, and changing the positions of genes, and  
20           excluding means consisting exclusively of breeding,  
21           conjugation, fermentation, hybridization, in vitro  
22           fertilization, tissue culture, or mutagenesis; or



1       (2) An organism made through sexual or asexual  
2       reproduction, or both, of an organism described in  
3       paragraph (1), if the reproduced organism possesses  
4       any of the altered molecular or cellular  
5       characteristics of the original organism or organisms.

6       (d) This section shall not apply to food that is:

7       (1) Served in restaurants or other establishments in which  
8       food is served for immediate human consumption;

9       (2) Processed and prepared primarily in a retail  
10       establishment and is ready for human consumption, of  
11       the type described in paragraph (1), and is offered  
12       for sale to consumers but not for immediate human  
13       consumption in the establishment and is not offered  
14       for sale outside the establishment; or

15       (3) A medical food as defined in section 346-67.

16       (e) A violation of any provision of this section, or any  
17       rule adopted pursuant to this chapter, shall be punishable by a  
18       fine of not more than \$1,000 for each violation.

19       (f) The director of health shall adopt rules, pursuant to  
20       chapter 91, necessary for the purposes of this section,  
21       including rules for the testing of foods to determine the  
22       presence and content of genetically engineered material."



1 SECTION 2. Section 328-10, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§328-10 Foods deemed misbranded when. A food shall be  
4 deemed to be misbranded:

5 (1) If its labeling is false or misleading in any  
6 particular; or if its labeling or packaging fails to  
7 conform with the requirements of sections 328-2,  
8 328- , and 328-19.1;

9 (2) If it is offered for sale under the name of another  
10 food;

11 (3) If it is an imitation of another food for which a  
12 definition and standard of identity has been  
13 prescribed by rules as provided by section 328-8; or  
14 if it is an imitation of another food that is not  
15 subject to paragraph (7), unless its label bears in  
16 type of uniform size and prominence, the word  
17 "imitation" and, immediately thereafter, the name of  
18 the food imitated;

19 (4) If its container is so made, formed, or filled as to  
20 be misleading;

21 (5) If in package form, unless it bears a label containing  
22 (A) the name and place of business of the



1 manufacturer, packer, or distributor; (B) an accurate  
2 statement of the quantity of the contents in terms of  
3 weight, measure, or numerical count, which statement  
4 shall be separately and accurately stated in a uniform  
5 location upon the principal display panel of the  
6 label; provided that under subparagraph (B) reasonable  
7 variations shall be permitted, and exemptions as to  
8 small packages shall be established, by rules adopted  
9 by the department of health;

10 (6) If any word, statement, or other information required  
11 by or under authority of this part to appear on the  
12 label or labeling is not prominently placed thereon  
13 with such conspicuousness (as compared with other  
14 words, statements, designs, or devices, in the  
15 labeling) and in such terms as to render it likely to  
16 be read and understood by the ordinary individual  
17 under customary conditions of purchase and use;

18 (7) If it purports to be or is represented as a food for  
19 which a definition and standard of identity have been  
20 prescribed by rules as provided by section 328-8,  
21 unless (A) it conforms to such definition and  
22 standard, and (B) its label bears the name of the food



1 specified in the definition and standards, and,  
2 insofar as may be required by the rules, the common  
3 names of optional ingredients (other than spices,  
4 flavoring, and coloring) present in the food;

5 (8) If it purports to be or is represented as:

6 (A) A food for which a standard of quality has been  
7 prescribed by rules as provided by section 328-8  
8 and its quality falls below such standard unless  
9 its label bears, in such manner and form as the  
10 rules specify, a statement that it falls below  
11 such standard; or

12 (B) A food for which a standard or standards of fill  
13 of container have been prescribed by rules as  
14 provided by section 328-8, and it falls below the  
15 standard of fill of container applicable thereto,  
16 unless its label bears, in such manner and form  
17 as the rules specify, a statement that it falls  
18 below such standard;

19 (9) If it is not subject to paragraph (7), unless its  
20 label bears (A) the common or usual name of the food,  
21 if any there be, and (B) in case it is fabricated from  
22 two or more ingredients, the common or usual name of



1 each such ingredient; except that spices, flavorings,  
2 and colorings, other than those sold as such, may be  
3 designated as spices, flavorings, and colorings,  
4 without naming each; provided that to the extent that  
5 compliance with the requirements of subparagraph (B)  
6 is impractical or results in deception or unfair  
7 competition, exemptions shall be established by rules  
8 prescribed by the department; and, provided further  
9 that the requirements of subparagraph (B) shall not  
10 apply to food products which are packaged at the  
11 direction of purchasers at retail at the time of sale,  
12 the ingredients of which are disclosed to the  
13 purchasers by other means in accordance with rules  
14 prescribed by the department;

15 (10) If it purports to be or is represented for special  
16 dietary uses, unless its label bears such information  
17 concerning its vitamin, mineral, and other dietary  
18 properties as the department determines to be, and by  
19 rules prescribes, as necessary in order to fully  
20 inform purchasers as to its value for such uses;

21 (11) If it bears or contains any artificial flavoring,  
22 artificial coloring, or chemical preservative, unless



1           it bears labeling stating that fact; provided that to  
2           the extent that compliance with the requirements of  
3           this paragraph is impracticable, exemptions shall be  
4           established by rules prescribed by the department;  
5           and, provided further that this paragraph and  
6           paragraphs (7) and (9) with respect to artificial  
7           coloring shall not apply in the case of butter,  
8           cheese, or ice cream. The provisions of this  
9           paragraph regarding chemical preservatives shall not  
10          apply to a pesticide chemical when used in or on a raw  
11          agricultural commodity which is the produce of the  
12          soil;

13          (12) If it is a product intended as an ingredient of  
14          another food and, when used according to the  
15          directions of the purveyor, will result in the final  
16          food product being adulterated or misbranded;

17          (13) If it is a color additive unless its packaging and  
18          labeling are in conformity with the packaging and  
19          labeling requirements applicable to the color additive  
20          prescribed under the Federal Act;

21          (14) If it is a raw agricultural commodity which is the  
22          produce of the soil, bearing or containing a pesticide





1 chemical applied after harvest, unless the shipping  
2 container of such commodity bears labeling which  
3 declares the presence of such chemical in or on such  
4 commodity and the common or usual name and the  
5 function of such chemical; provided that no such  
6 declaration shall be required while such commodity,  
7 having been removed from the shipping container, is  
8 being held or displayed for sale at retail out of such  
9 container in accordance with the custom of the trade;  
10 and

11 (15) If it is a confectionery and contains alcohol in  
12 excess of one-half of one per cent by weight and that  
13 fact does not appear on the label for the food."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY:           J. S. T. L.          

By Request



**Report Title:**

Genetically Engineered Material; Labeling Requirements

**Description:**

Establishes, beginning January 1, 2013, labeling requirements for any food or raw agricultural commodity sold in the State that contains a genetically engineered material, or was produced with a genetically engineered material; establishes exceptions; establishes violations; requires director of health to adopt rules.

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

