

JAN 21 2011

A BILL FOR AN ACT

RELATING TO THE LABELING OF GENETICALLY ENGINEERED CROPS.

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

1 SECTION 1. The legislature finds that polls consistently
2 demonstrate that seventy-two to ninety-four per cent of United
3 States citizens support labeling of genetically engineered
4 foods, and a poll conducted by the University of Hawaii's
5 college of tropical agriculture and human resources shows that
6 seventy-two per cent of Hawaii's residents feel that it is very
7 important that genetically modified fruit be labeled. Numerous
8 nations, including countries of the European Union, Japan, and
9 China, require labeling of genetically engineered foods.

10 The legislature further finds that the Hawaiian Islands
11 represent a unique and fragile ecosystem, with over three
12 hundred threatened or endangered species. The State of Hawaii
13 has a national reputation for producing high-quality foods and
14 maintaining a pure and preserved natural environment; the
15 State's unique agricultural heritage and vitality in its tourism
16 industry rely upon this reputation.

17 Genetically engineered crops in the United States have
18 contaminated conventional and organic crops of the same species



1 via pollen or seed dispersal. Contamination episodes may cause
2 economic losses to farmers, food companies, and other entities
3 through reduced crop prices, product recalls, and export market
4 rejection.

5 Mandatory labeling of genetically engineered whole foods:

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

16 The purpose of this Act is to require the labeling of any
17 genetically engineered whole food that is sold in the State and
18 intended for human consumption in the State.

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



1 "Genetically engineered food crop" means a plant in which
2 the genetic material has been changed through modern
3 biotechnology in a way that does not occur naturally by
4 multiplication or natural recombination, or both.

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

9 "Modern biotechnology" means the application of in vitro
10 nucleic acid techniques, including recombinant deoxyribonucleic
11 acid and direct injection of nucleic acid into cells or
12 organelles. This also includes the fusion of cells (including
13 protoplast fusion) or hybridization techniques beyond the
14 taxonomic family that overcome natural physiological,
15 reproductive, or recombination barriers and that are not
16 techniques used in traditional breeding and selection. These
17 include but are not limited to recombinant deoxyribonucleic acid
18 techniques that use vector systems and techniques involving the
19 direct introduction into the organism of hereditary materials
20 prepared outside the organism such as micro-injection, macro-
21 injection, chemoporation, electroporation, micro-encapsulation
22 and liposome 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
2 guaranty or undertaking is false, except by a person
3 who relied on a guaranty or undertaking to the same
4 effect signed by, and containing the name and address
5 of the person residing in the State from whom the
6 person received in good faith the food, drug, device,
7 or cosmetic;
- 8 (8) The removal or disposal of a detained or embargoed
9 article in violation of sections 328-25 to 328-27;
- 10 (9) The alteration, mutilation, destruction, obliteration,
11 or removal of the whole or any part of the labeling
12 of, or the doing of any other act with respect to a
13 food, drug, device, or cosmetic, if the act is done
14 while the article is held for sale and results in the
15 article being adulterated or misbranded;
- 16 (10) Forging, counterfeiting, simulating, or falsely
17 representing, or without proper authority using any
18 mark, stamp, tag, label, or other identification
19 device authorized or required by rules adopted under
20 this part or regulations adopted under the Federal
21 Act;



- 1 (11) The use, on the labeling of any drug or in any
2 advertisement relating to the drug, of any
3 representation or suggestion that an application with
4 respect to the drug is effective under section 328-17,
5 or that the drug complies with that section;
- 6 (12) The use by any person to the person's own advantage,
7 or revealing other than to the department of health or
8 to the courts when relevant in any judicial proceeding
9 under this part, any information acquired under
10 authority of section 328-11, 328-12, 328-17, or
11 328-23, concerning any method or process which as a
12 trade secret is entitled to protection;
- 13 (13) In the case of a prescription drug distributed or
14 offered for sale in this State, the failure of the
15 manufacturer, packer, or distributor thereof to
16 maintain for transmittal, or to transmit, to any
17 practitioner who makes written request for information
18 as to the drug, true and correct copies of all printed
19 matter [~~which~~] that is required to be included in any
20 package in which that drug is distributed or sold, or
21 [~~such~~] other printed matter as is approved under the
22 Federal Act. Nothing in this paragraph shall be



1 construed to exempt any person from any labeling
2 requirement imposed by or under other provisions of
3 this part;

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

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

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



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

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

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

20 (A) Are engaged in the packaging or labeling of
21 [~~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 be limited to the
20 substitution of imitation milk in milk shake and
21 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



1 (21) The sale, offering for sale, or distribution of any
2 farm product grown in Hawaii that:
3 (A) Is a genetically engineered whole food;
4 (B) Is intended for human consumption in the State;
5 and
6 (C) Does not have affixed to the product a
7 conspicuous label bearing the notice:
8 "GENETICALLY ENGINEERED"
9 For the purposes of this paragraph, "farm product"
10 includes every agricultural, horticultural,
11 viticultural, or vegetable product of the soil, honey
12 and beeswax, oilseeds, poultry, poultry product,
13 livestock product, and livestock for immediate
14 slaughter. The term does not include timber or any
15 timber product, milk or any milk product, any
16 aquacultural product, or cattle sold to any person who
17 is bonded under the federal Packers and Stockyards Act
18 of 1921 (7 U.S.C. 181, et seq.)."

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21

1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Richard H. ...

A.S.T.J.

Philip ...

...



Report Title:

Genetically Engineered Crops; Required Labeling

Description:

Prohibits the sale or distribution of any genetically engineered whole food intended for human consumption in the State that does not have a label conspicuously affixed identifying it 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.

