
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- Imported genetically engineered produce;
5 labeling requirement. (a) The sale, offering for sale, or
6 distribution of any imported genetically engineered produce
7 intended for human consumption within the State is prohibited
8 unless the fact of genetic engineering is disclosed clearly and
9 conspicuously with a label bearing the words "genetically
10 engineered" directly on the produce offered for retail sale, on
11 the label of the produce's packaging, or, in the case of any
12 such produce that is not separately packaged or labeled, on a
13 clear and conspicuous label appearing on the retail store shelf
14 or bin in which the produce is displayed for sale.

15 (b) Suppliers shall be responsible for labeling both the
16 imported produce and the container used for the packaging,
17 holding, or transporting of the imported produce that is
18 delivered directly to Hawaii retailers. The imported



1 genetically engineered produce shall be subject to section 150A-
2 5.

3 (c) This section shall not apply to:

4 (1) Hawaii-grown produce;

5 (2) Produce grown without the knowing and intentional use
6 of genetically engineered seed or organisms; provided
7 that persons who sell, offer to sell, or distribute
8 such produce shall obtain, from the immediate source
9 of the produce, a sworn statement that the produce has
10 not been knowingly and intentionally genetically
11 engineered, grown from genetically engineered seeds or
12 organisms, or comingled with genetically engineered
13 produce or organisms; or

14 (3) Produce prepared or served in restaurants or other
15 establishments in which food is served for immediate
16 human consumption.

17 (d) Produce shall be considered genetically engineered
18 produce if the organism from which the produce is derived has
19 been genetically engineered.

20 (e) As used in this section, unless the context clearly
21 requires otherwise:

22 "Genetically engineered" means:



- 1 (1) Altered at the molecular or cellular level by means
- 2 that are not possible under natural conditions or
- 3 processes, including recombinant deoxyribonucleic acid
- 4 and ribonucleic acid techniques, cell fusion,
- 5 microencapsulation, macroencapsulation, gene deletion
- 6 and doubling, introduction of a foreign gene, and
- 7 changing the positions of genes, other than by a means
- 8 consisting exclusively of breeding, conjugation,
- 9 fermentation, hybridization, in vitro fertilization,
- 10 tissue culture, or mutagenesis; or
- 11 (2) Made through sexual or asexual reproduction, or both,
- 12 involving an organism described in paragraph (1).

13 "Produce" means fresh fruits and vegetables for human
 14 consumption.

15 (f) The director of health shall adopt rules, pursuant to
 16 chapter 91, necessary to effectuate the purposes of this
 17 section, including rules for the testing of produce to determine
 18 the presence of genetically engineered produce."

19 SECTION 2. Section 150A-5, Hawaii Revised Statutes, is
 20 amended to read as follows:

21 "**§150A-5 Conditions of importation.** The importation into
 22 the State of any of the following articles, viz., nursery-stock,



1 tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud,
2 seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain,
3 cereal, or legume in the natural or raw state; moss, hay, straw,
4 dry-grass, or other forage; unmanufactured log, limb, or timber,
5 or any other plant-growth or plant-product, unprocessed or in
6 the raw state; soil; microorganisms; live bird, reptile,
7 nematode, insect, or any other animal in any stage of
8 development (that is in addition to the so-called domestic
9 animal, the quarantine of which is provided for in chapter 142);
10 genetically engineered produce pursuant to section 328- ; box,
11 vehicle, baggage, or any other container in which such articles
12 have been transported or any packing material used in connection
13 therewith shall be made in the manner hereinafter set forth:

14 (1) Notification of arrival. Any person who receives for
15 transport or brings or causes to be brought to the
16 State as freight, air freight, baggage, or otherwise,
17 for the purpose of debarkation or entry therein, or as
18 ship's stores, any of the foregoing articles, shall,
19 immediately upon the arrival thereof, notify the
20 department, in writing, of the arrival, giving the
21 waybill number, container number, name and address of
22 the consignor, name and address of the consignee or



1 the consignee's agent in the State, marks, number of
2 packages, description of contents of each package,
3 port at which laden, and any other information that
4 may be necessary to locate or identify the same, and
5 shall hold such articles at the pier, airport, or any
6 other place where they are first received or
7 discharged, in such a manner that they will not spread
8 or be likely to spread any infestation or infection of
9 insects or diseases that may be present until
10 inspection and examination can be made by the
11 inspector to determine whether or not any article, or
12 any portion thereof, is infested or infected with or
13 contains any pest. The department may adopt rules to
14 require identification of specific articles on
15 negotiable and non-negotiable warehouse receipts,
16 bills of lading, or other documents of title for
17 inspection of pests. In addition, the department
18 shall adopt rules to designate restricted articles
19 that shall require:

- 20 (A) A permit from the department in advance of
21 importation; or



1 (B) A department letter of authorization or
2 registration in advance of importation.
3 The restricted articles shall include but not be
4 limited to certain microorganisms or living insects.
5 Failure to obtain the permit, letter of authorization,
6 or registration in advance is a violation of this
7 section;

8 (2) Individual passengers, officers, and crew.

9 (A) It shall be the responsibility of the
10 transportation company to distribute, prior to
11 the debarkation of passengers and baggage, the
12 State of Hawaii plant and animal declaration form
13 to each passenger, officer, and crew member of
14 any aircraft or vessel originating in the
15 continental United States or its possessions or
16 from any other area not under the jurisdiction of
17 the appropriate federal agency in order that the
18 passenger, officer, or crew member can comply
19 with the directions and requirements appearing
20 thereon. All passengers, officers, and crew
21 members, whether or not they are bringing or
22 causing to be brought for entry into the State



1 the articles listed on the form, shall complete
2 the declaration, except that one adult member of
3 a family may complete the declaration for other
4 family members. Any person who defaces the
5 declaration form required under this section,
6 gives false information, fails to declare
7 restricted articles in the person's possession or
8 baggage, or fails to declare in cargo manifests
9 is in violation of this section;

10 (B) Completed forms shall be collected by the
11 transportation company and be delivered,
12 immediately upon arrival, to the inspector at the
13 first airport or seaport of arrival. Failure to
14 distribute or collect declaration forms or to
15 immediately deliver completed forms is a
16 violation of this section; and

17 (C) It shall be the responsibility of the officers
18 and crew of an aircraft or vessel originating in
19 the continental United States or its possessions
20 or from any other area not under the jurisdiction
21 of the appropriate federal agency to immediately
22 report all sightings of any plants and animals to



1 the plant quarantine branch. Failure to comply
2 with this requirement is a violation of this
3 section;

4 (3) Plant and animal declaration form. The form shall
5 include directions for declaring domestic and other
6 animals cited in chapter 142, in addition to the
7 articles enumerated in this chapter;

8 (4) Labels. Each container in which any of the above-
9 mentioned articles are imported into the State shall
10 be plainly and legibly marked, in a conspicuous manner
11 and place, with the name and address of the shipper or
12 owner forwarding or shipping the same, the name or
13 mark of the person to whom the same is forwarded or
14 shipped or the person's agent, the name of the
15 country, state, or territory and locality therein
16 where the product was grown or produced, and a
17 statement of the contents of the container[-];
18 provided that all genetically engineered produce
19 pursuant to section 328- shall be explicitly labeled
20 as such. Upon failure to comply with this paragraph,
21 the importer or carrier is in violation of this
22 section;



1 (5) Authority to inspect. Whenever the inspector has good
2 cause to believe that the provisions of this chapter
3 are being violated, the inspector may:

4 (A) Enter and inspect any aircraft, vessel, or other
5 carrier at any time after its arrival within the
6 boundaries of the State, whether offshore, at the
7 pier, or at the airport, for the purpose of
8 determining whether any of the articles or pests
9 enumerated in this chapter or rules adopted
10 thereto, is present;

11 (B) Enter into or upon any pier, warehouse, airport,
12 or any other place in the State where any of the
13 above-mentioned articles are moved or stored, for
14 the purpose of ascertaining, by inspection and
15 examination, whether or not any of the articles
16 is infested or infected with any pest or disease
17 or contaminated with soil or contains prohibited
18 plants or animals; and

19 (C) Inspect any baggage or personal effects of
20 disembarking passengers, officers, and crew
21 members on aircraft or vessels arriving in the
22 State to ascertain if they contain any of the



1 articles or pests enumerated in this chapter. No
2 baggage or other personal effects of the
3 passengers or crew members shall be released
4 until the baggage or effects have been passed.

5 Baggage or cargo inspection shall be made at the
6 discretion of the inspector, on the pier, vessel, or
7 aircraft or in any quarantine or inspection area.

8 Whenever the inspector has good cause to believe
9 that the provisions of this chapter are being
10 violated, the inspector may require that any box,
11 package, suitcase, or any other container carried as
12 ship's stores, cargo, or otherwise by any vessel or
13 aircraft moving between the continental United States
14 and Hawaii or between the Hawaiian Islands, be opened
15 for inspection to determine whether any article or
16 pest prohibited by this chapter or by rules adopted
17 pursuant thereto is present. It is a violation of
18 this section if any prohibited article or any pest or
19 any plant, fruit, or vegetable infested with plant
20 pests is found;

21 (6) Request for importation and inspection. In addition
22 to requirements of the United States customs



1 authorities concerning invoices or other formalities
2 incident to importations into the State, the importer
3 shall be required to file a written statement with the
4 department, signed by the importer or the importer's
5 agent, setting forth the importer's desire to import
6 certain of the above-mentioned articles into the State
7 and:

8 (A) Giving the following additional information:

9 (i) The kind (scientific name), quantity, and
10 description;

11 (ii) The locality where same were grown or
12 produced;

13 (iii) Certification that all animals to be
14 imported are the progeny of captive
15 populations or have been held in captivity
16 for a period of one year immediately prior
17 to importation or have been specifically
18 approved for importation by the board;

19 (iv) Certification that all genetically
20 engineered produce intended for human
21 consumption is properly labeled as
22 "genetically engineered" pursuant to section



1 Failure or refusal to file a statement, including
2 the agreement and waiver, is a violation of this
3 section and may, in the discretion of the department,
4 be sufficient cause for refusing to permit the entry
5 of the articles into the State;

6 (7) Place of inspection. If, in the judgment of the
7 inspector, it is deemed necessary or advisable to move
8 any of the above-mentioned articles, or any portion
9 thereof, to a place more suitable for inspection than
10 the pier, airport, or any other place where they are
11 first received or discharged, the inspector is
12 authorized to do so. All costs and expenses incident
13 to the movement and transportation of the articles to
14 such place shall be borne by the importer or the
15 importer's agent. If the importer, importer's agent,
16 or transportation company requests inspection of
17 sealed containers of the above-mentioned articles at
18 locations other than where the articles are first
19 received or discharged and the department determines
20 that inspection at such place is appropriate, the
21 department may require payment of costs necessitated
22 by these inspections, including overtime costs;



1 (8) Disinfection or quarantine. If, upon inspection, any
2 article received or brought into the State for the
3 purpose of debarkation or entry therein is found to be
4 infested or infected or there is reasonable cause to
5 presume that it is infested or infected and the
6 infestation or infection can, in the judgment of the
7 inspector, be eradicated, a treatment shall be given
8 such article. The treatment shall be at the expense
9 of the owner or the owner's agent, and the treatment
10 shall be as prescribed by the department. The article
11 shall be held in quarantine at the expense of the
12 owner or the owner's agent at a satisfactory place
13 approved by the department for a sufficient length of
14 time to determine that eradication has been
15 accomplished. If the infestation or infection is of
16 such nature or extent that it cannot be effectively
17 and completely eradicated, or if it is a potentially
18 destructive pest or it is not widespread in the State,
19 or after treatment it is determined that the
20 infestation or infection is not completely eradicated,
21 or if the owner or the owner's agent refuses to allow
22 the article to be treated or to be responsible for the



1 cost of treatment and quarantine, the article, or any
2 portion thereof, together with all packing and
3 containers, may, at the discretion of the inspector,
4 be destroyed or sent out of the State at the expense
5 of the owner or the owner's agent. Such destruction
6 or exclusion shall not be made the basis of a claim
7 against the department or the inspector for damage or
8 loss incurred;

9 (9) Disposition. Upon completion of inspection, either at
10 the time of arrival or at any time thereafter should
11 any article be held for inspection, treatment, or
12 quarantine, the inspector shall affix to the article
13 or the container or to the delivery order in a
14 conspicuous place thereon, a tag, label, or stamp to
15 indicate that the article has been inspected and
16 passed. This action shall constitute a permit to
17 bring the article into the State; and

18 (10) Ports of entry. None of the articles mentioned in
19 this section shall be allowed entry into the State
20 except through the airports and seaports in the State
21 designated and approved by the board."
22



1 SECTION 3. Section 150A-6.1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§150A-6.1 Plant import.** (a) The board shall maintain a
4 list of restricted plants that require a permit for entry into
5 the State. Restricted plants or any portion thereof shall not
6 be imported into the State without a permit issued pursuant to
7 rules.

8 (b) The department shall designate, by rule, as restricted
9 plants, specific plants that may be detrimental or potentially
10 harmful to agriculture, horticulture, the environment, or animal
11 or public health, or that spread or may be likely to spread an
12 infestation or infection of an insect, pest, or disease that is
13 detrimental or potentially harmful to agriculture, horticulture,
14 the environment, or animal or public health. In addition, plant
15 species designated by rule as noxious weeds are designated as
16 restricted plants.

17 (c) The department may regulate or prohibit the sale of
18 specific plants on the list of restricted plants by rule.

19 (d) Noxious weeds may be imported only for research, by
20 permit, and shall not be offered for sale or sold in the State.



1 (e) No person shall import, offer for sale, or sell within
2 the State any plant or propagative portion of *Salvinia molesta*
3 or *Salvinia minima* and *Pistia stratiotes*.

4 (f) No person shall import, offer for sale, or sell within
5 the State any plant, or the produce or any portion of a plant,
6 that constitutes genetically modified produce in violation of
7 section 328- ."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Genetically Engineered Organisms; Produce; Labeling; Import

Description:

Requires all imported genetically engineered fresh produce sold in Hawaii to be labeled as "genetically engineered". Requires disclosure of genetic engineering and compliance with recommendations of the Invasive Species Council upon import. Effective July 1, 2050. (HB174 HD1)

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