
A BILL FOR AN ACT

RELATING TO 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 part to be appropriately designated and
3 to read as follows:

4 **"PART . LABELING OF GENETICALLY ENGINEERED FOODS**

5 **§328- Definitions.** As used in this part, unless the
6 context clearly requires otherwise:

7 "Distributor" means a person or business engaged in any
8 method of distributing or transporting a food or food product
9 from one place to another.

10 "Enzyme" means a protein that catalyzes chemical reactions
11 of other substances without itself being destroyed or altered
12 upon completion of the reactions.

13 "Genetically engineered", "genetic engineering",
14 "genetically modified", or "genetic modification", as applied to
15 any human food, means produced from or with an organism or
16 organisms with genetics altered materially through the
17 application of:



1 (1) In vitro nucleic acid techniques, including but not
2 limited to recombinant deoxyribonucleic acid
3 techniques and the direct injection of nucleic acid
4 into cells or organelles; or

5 (2) Methods of fusing cells beyond the taxonomic family
6 that overcome natural physiological reproductive or
7 recombinant barriers and that are not techniques used
8 in traditional breeding and selection.

9 "Manufacturer" means the person or business that makes,
10 processes, combines, or packages food ingredients into a
11 finished food product.

12 "Processed food" means any food other than a raw
13 agricultural commodity, including any food produced from a raw
14 agricultural commodity that has been subject to processing such
15 as canning, smoking, pressing, cooking, freezing, dehydration,
16 fermentation, or milling.

17 "Processing aid" means:

18 (1) A substance that is added to a food during the
19 processing of the food but is removed in some manner
20 from the food before it is packaged in its final form;

21 (2) A substance that is added to a food during processing,
22 is converted into constituents normally present in the



1 food, and does not significantly increase the amount
2 of the constituents found in the food; or

3 (3) A substance that is added to a food for its technical
4 or functional effects in the processing but is present
5 in the finished food at insignificant levels and does
6 not have any technical or functional effect in that
7 finished food.

8 "Raw agricultural commodity" means any plant, animal, or
9 fungi grown or produced for food.

10 "Retailer" means a person or business engaged in selling
11 the food from individuals or businesses to the end-user.

12 **§328- Foods produced through genetic engineering;**
13 **labeling.** (a) Until January 1, 2015, any processed food that
14 would be subject to this section solely because it includes
15 materials produced by genetic engineering shall not be deemed
16 misbranded if the genetically engineered materials in the
17 aggregate do not account for more than nine-tenths of one per
18 cent of the total weight of the processed food. Beginning
19 January 1, 2015, any food offered for retail sale in Hawaii is
20 misbranded if it is produced with any amount of genetic
21 engineering and that fact is not disclosed as follows:



- 1 (1) In the case of a raw agricultural commodity that is
2 not separately packaged or labeled, the words
3 "Genetically Engineered" shall be placed on the
4 container used for packaging, holding, or transport in
5 a clear and conspicuous manner by the manufacturer,
6 and maintained by the distributor, and on the retail
7 store shelf or bin in which such commodity is
8 displayed for sale in a clear and conspicuous manner
9 by the retailer;
- 10 (2) In the case of processed food containing some products
11 of genetic engineering, the manufacturer shall label
12 the product, in a clear and conspicuous manner on the
13 front or back of the package of such food, with the
14 words "Produced with Genetic Engineering"; and
- 15 (3) In the case of any seed or seed stock, the
16 manufacturer or other entity responsible for producing
17 the seed shall label the seed or seed stock container,
18 the sales receipt, and any other reference to
19 identification, ownership, or possession, in a clear
20 and conspicuous manner with the words "Genetically
21 Engineered".



1 (b) This section shall not be construed to require either
2 the listing or identification of any ingredient or ingredients
3 that were genetically engineered or that the term "genetically
4 engineered" be placed immediately preceding any common name or
5 primary product descriptor of a food.

6 (c) This section does not apply to any of the following:

7 (1) Food consisting entirely of, or derived entirely from,
8 an animal that has not itself been genetically
9 engineered, regardless of whether that animal has been
10 fed with any food produced with genetic engineering or
11 treated with any drug or vaccine that has been
12 produced through genetic engineering;

13 (2) A raw agricultural commodity or food that has been
14 grown, raised, produced, or derived without the
15 knowing and intentional use of genetically engineered
16 seed or food. To be included within the exclusion
17 under this paragraph, the person responsible for
18 complying with this section with respect to a raw
19 agricultural commodity or food shall obtain, from the
20 seller of the raw agricultural commodity or food to
21 that person, a sworn statement that the raw
22 agricultural commodity or food:



- 1 (A) Has not been knowingly or intentionally
- 2 genetically engineered; and
- 3 (B) Has been segregated from, and has not been
- 4 knowingly or intentionally commingled with, foods
- 5 that may have been genetically engineered at any
- 6 time.

7 In providing such a sworn statement, the seller may
8 rely on a sworn statement from the seller's own
9 supplier that contains such an affirmation;

10 (3) Any processed food that would be subject to this
11 section solely because one or more processing aids or
12 enzymes were produced with or derived from genetic
13 engineering;

14 (4) Any liquor or intoxicating liquor, as defined in
15 section 281-1 and regulated under chapter 281;

16 (5) Food that has been lawfully certified to be labeled,
17 marketed, and offered for sale as "organic" pursuant
18 to the federal Organic Foods Production Act of 1990,
19 7 U.S.C. 6501, *et seq.*, and the National Organic
20 Program regulations promulgated pursuant thereto by
21 the United States Department of Agriculture;



1 (6) Food that is not packaged for retail sale and that
2 either:

3 (A) Is a processed food prepared and intended for
4 immediate human consumption; or

5 (B) Is served, sold, or otherwise provided in any
6 restaurant or other food service establishment
7 that is primarily engaged in the sale of food
8 prepared and intended for immediate human
9 consumption; and

10 (7) Medical food, as defined in section 346-67.

11 **§328- Rules and regulations.** The department of health
12 shall:

13 (1) Adopt rules pursuant to chapter 91 to carry out this
14 part; and

15 (2) Perform all functions necessary to effectuate the
16 purposes of this part.

17 **§328- Penalty.** Any person who violates this part or
18 rules adopted pursuant to this part shall be fined not more than
19 \$500, or imprisoned not more than one year, or both.

20 **§328- Injunctive relief; attorneys' fees.** (a) The
21 director or any resident of the State of Hawaii may institute a
22 civil action in any court of competent jurisdiction for



1 injunctive relief to prevent any violation of this part or any
2 rule adopted to implement this part. The court shall have
3 powers to grant relief in accordance with the Hawaii rules of
4 civil procedure.

5 (b) The court shall award to a prevailing plaintiff
6 reasonable costs and attorneys' fees incurred while
7 investigating and prosecuting an action to enforce this part.
8 Such an award shall be separate from the inclusion of any
9 potential monetary damages."

10 SECTION 2. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Labeling of Genetically Engineered Foods; Private Civil Enforcement

Description:

Requires labeling of foods, including raw agricultural commodities, processed food, and seed or seed stock, that have been genetically engineered or deems them misbranded. Provides a penalty for violations and authorizes private civil enforcement of the Act. (SD1)

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