

JAN 18 2013

S.B. NO. 615

A BILL FOR AN ACT

RELATING TO LABELING.

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

1 SECTION 1. The legislature finds that traditional
2 Polynesian cultures, heavy Asian influences, and tourist-driven
3 demand for seafood make seafood consumption and commercial
4 fishing culturally and economically significant activities in
5 Hawaii. Certain publications have stated that Hawaii's per
6 capita seafood consumption is greater than three times the
7 national average. In 2010, Hawaii's commercial fishing industry
8 landed over 29,000,000 pounds of commercial fish.

9 The legislature further finds that more than thirty-five
10 species of genetically engineered fish are under experimental
11 development. These fish are engineered with various traits
12 intended to, for example, give the fish the ability to grow more
13 rapidly or resist certain diseases. In 2002, a committee of the
14 National Academy of Sciences released a report on the potential
15 risks and benefits of genetically engineered animals. The
16 report found that salmon genetically engineered to grow more
17 rapidly raised unique concerns, including the risk of negatively
18 impacting populations of wild salmon. If genetically engineered



1 fish escape containment they could pose additional environmental
2 risks to stressed wild fish populations and coastal ecosystems
3 by, among other things, imposing new competitive pressures for
4 food and space, interfering with effective breeding and
5 reproduction, and spreading disease.

6 The United States Food and Drug Administration is currently
7 deliberating approval of the first genetically engineered salmon
8 for human consumption and determining whether labeling of
9 genetically engineered salmon in the marketplace is warranted.
10 In September 2010, the United States Food and Drug
11 Administration held public hearings and proposed approval of
12 genetically engineered fish without labeling, although the
13 agency has not yet formally approved it. The United States Food
14 and Drug Administration's current review of genetically
15 engineered salmon does not adequately consider potential
16 environmental effects and health effects including but not
17 limited to risks to native salmon populations and other
18 freshwater and marine species.

19 Concerns about genetically engineered fish include but are
20 not limited to:

21 (1) Human health risks, including potential allergenicity;



1 (2) Negative environmental impacts on wildlife and
2 ecosystems, including negative impacts on freshwater
3 and marine habitats; and

4 (3) Religious, ethical, and cultural dietary restrictions.

5 In September 2009, the United States Food and Drug
6 Administration issued final guidelines for the regulation of
7 genetically engineered animals. Prior to that, the agency did
8 not have a pathway to regulate or approve genetically engineered
9 animals. The guidance explained the United States Food and Drug
10 Administration's views on its application of the Federal Food,
11 Drug, and Cosmetic Act to genetically engineered animals but did
12 not establish legally enforceable responsibilities. The
13 guidelines included recommendations on the shipping and labeling
14 of genetically engineered animals and the procedure for
15 obtaining authorization to introduce genetically engineered
16 animals into the food or feed supply. The guidelines further
17 state the following:

18 [T]he fact that the animal from which food was
19 obtained was genetically engineered would not be
20 material information with respect to labeling.
21 However, if food from a genetically engineered animal
22 is different from that of its non-engineered

1 counterpart, for example if it has a different
2 nutritional profile, in general that difference would
3 be material information that would have to be revealed
4 in labeling.

5 Proper labeling of genetically engineered fish is a
6 significant concern in Hawaii. In addition to locally grown
7 seafood, Hawaii imports and consumes significant quantities of
8 seafood from the United States mainland and from foreign
9 countries. Given the potential sale of genetically engineered
10 salmon or other fish or fish products, the legislature finds
11 that labeling of genetically engineered fish and fish products
12 should be addressed immediately.

13 Consumers overwhelmingly favor knowing whether the food
14 they purchase and consume is produced with genetic engineering
15 for a variety of reasons, including concerns about health,
16 economics, the environment, religion, and ethics. Polls
17 consistently show that the vast majority of the public – more
18 than ninety per cent – want to know if its food was produced
19 with genetic engineering. Nearly fifty per cent of the public
20 would not eat seafood that has been genetically engineered.

21 Hawaii's citizens have the right to know whether the fish
22 they purchase is produced with genetic engineering so they can



1 make informed purchasing decisions. Accurate and truthful
2 labeling describing whether or not fish is genetically
3 engineered is the easiest and most protective practice, and it
4 would provide additional transparency in the State's seafood
5 supply chain so that individuals can protect their health and
6 Hawaii's environment.

7 The purpose of this Act is to prohibit the sale of
8 genetically engineered fish and genetically engineered fish
9 products that have not been conspicuously labeled as being
10 genetically engineered.

11 SECTION 2. Chapter 486, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 **"§486- Genetically engineered fish and fish products;**
15 **labeling; identification; penalties.** (a) Beginning on January
16 1, 2014, any genetically engineered fish or genetically
17 engineered fish product offered for retail sale within the State
18 of Hawaii is misbranded if it is entirely or partially produced
19 with genetic engineering and that fact is not disclosed as
20 follows:

21 (1) In the case of a raw fish product, on the package
22 offered for retail sale, with the words "Genetically



1 Engineered" appearing clearly and conspicuously on the
2 label on the front of the package of such product or,
3 in the case of any such product that is not separately
4 packaged or labeled, on a clear and conspicuous label
5 appearing on the retail store shelf or bin in which
6 such product is displayed for sale;

7 (2) In the case of processed food containing some
8 genetically engineered fish or genetically engineered
9 fish product, the manufacturer shall label the product
10 in clear and conspicuous language on the front or back
11 of the package of such food, with the words "Produced
12 with Genetic Engineering" or "Partially Produced with
13 Genetic Engineering"; and

14 (3) Any word, statement, or other information appearing on
15 a label upon or connected to the immediate container
16 or surface of any genetically engineered fish or
17 genetically engineered fish product shall not be
18 considered to be in compliance with this section
19 unless such word, statement, or other information also
20 appears on the outside container or wrapper, if any,
21 of the bulk, wholesale, or retail package of such



1 product or is easily legible through the outside
2 container or wrapper.

3 (b) Any person who violates this section shall be subject
4 to the civil penalties under section 486-32(b).

5 (c) For the purposes of this section:

6 "Genetically engineered fish" means a finfish or shellfish,
7 or any progeny of either, that is produced from an organism or
8 organisms in which the genetic material has been changed through
9 the application of:

10 (1) In vitro nucleic acid techniques, which include but
11 are not limited to recombinant deoxyribonucleic acid,
12 direct injection of nucleic acid into cells or
13 organelles, encapsulation, gene deletion, and gene
14 doubling; or

15 (2) Methods of fusing cells beyond the taxonomic family
16 that overcome natural physiological reproductive or
17 recombinant barriers, and that are not techniques used
18 in traditional breeding and selection, such
19 as conjugation, transduction, and hybridization.

20 "Genetically engineered fish product" means a fish product
21 prepared from a fish produced through the process of genetic
22 engineering, in whole or in part.



1 "Label" means a display of written, printed, or graphic
2 matter upon or connected to the immediate container or surface
3 of any product.

4 "Labeling" means any written, printed, or graphic matter
5 that is present on the label, accompanies the product, or is
6 displayed near the product, including that for the purpose of
7 promoting its sale or disposal."

8 SECTION 3. New statutory material is underscored.

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

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S.B. NO. 415

Report Title:

Genetically Engineered Fish; Labeling

Description:

Prohibits the sale of genetically engineered fish or genetically engineered fish products in the State beginning 1/1/2014 unless appropriately labeled as genetically engineered or produced or partially produced with genetic engineering.

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