

JAN 29 2015

A BILL FOR AN ACT

RELATING TO FOOD LABELING.

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

1 SECTION 1. The legislature finds that requiring
2 genetically engineered foods to be labeled empowers consumers to
3 make educated food choices. A 2013 New York Times survey found
4 that ninety-three per cent of Americans support labels for
5 genetically engineered foods. Opponents of labeling claim that
6 such laws passed by individual states would pose a hardship on
7 food producers and retailers. Maine passed a genetically
8 modified food labeling law that addressed that concern by only
9 making the law effective when five nearby states pass similar
10 laws. This approach helps mitigate the hardships placed upon
11 food producers and retailers.

12 The purpose of this Act is to require genetically
13 engineered food to be labeled as such and to trigger the
14 labeling requirement when labeling of genetically engineered
15 foods is required under California law.



1 SECTION 2. 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 . GENETICALLY ENGINEERED FOOD

5 §328-A Objective. The purpose of this part is to:

- 6 (1) Promote food safety and protect public health by
7 enabling consumers to avoid the potential risks
8 associated with genetically engineered foods and serve
9 as a risk management tool enabling consumers,
10 physicians, and scientists to identify unintended
11 health effects resulting from the consumption of
12 genetically engineered foods;
- 13 (2) Assist consumers who are concerned about the potential
14 effects of genetic engineering on the environment to
15 make informed purchasing decisions;
- 16 (3) Reduce and prevent consumer confusion and inadvertent
17 deception and promote the disclosure of factual
18 information on food labels to allow consumers to make
19 informed decisions;
- 20 (4) Create additional market opportunities for those
21 producers who are not certified organic producers and



1 whose products are not produced using genetic
2 engineering and enable consumers to make informed
3 purchasing decisions; and

4 (5) Ensure consumers are provided with data from which
5 they may make informed decisions for personal,
6 religious, moral, cultural, or ethical reasons.

7 **§328-B Definitions.** As used in this part, unless the
8 context otherwise requires:

9 "Director" means the director of health.

10 "Food" means food intended for human consumption.

11 "Genetically engineered" means the application of in vitro
12 nucleic acid techniques, including recombinant deoxyribonucleic
13 acid and direct injection of nucleic acid into cells or
14 organelles, or the fusion of cells beyond the taxonomic family,
15 that overcome natural physiological reproductive or recombinant
16 barriers and that are not techniques used in traditional
17 breeding and selection.

18 "Medical food" means food prescribed by a physician for
19 treatment of a medical condition.

20 **§328-C Disclosure requirements for genetically engineered**
21 **food.** (a) Beginning eighteen months after the effective date



1 of this section, any food offered for retail sale that is
2 genetically engineered shall be accompanied by a conspicuous
3 disclosure that states "Produced with Genetic Engineering". The
4 statement shall be located on the package for all packaged food,
5 or in the case of unpackaged food, on a card or label on the
6 store shelf or bin in which the food is displayed.

7 (b) Food that is subject to disclosure under subsection
8 (a) shall not be described on its label or by similar
9 identification as "natural".

10 (c) Any food that is genetically engineered that does not
11 display the disclosure required under subsection (a) or is
12 labeled or identified as natural in violation of subsection (b)
13 is considered misbranded for the purposes of section 328-10;
14 provided that:

15 (1) A food is not considered misbranded if the food is
16 produced by a person who:

17 (A) Grows, raises, or otherwise produces a food
18 without knowledge that the food was created from
19 other seed or other food that was genetically
20 engineered; and



1 (B) Obtains a sworn statement from the person from
2 whom the food was obtained that the food was not
3 knowingly genetically engineered and was
4 segregated from and not knowingly commingled with
5 a food component that may have been genetically
6 engineered;

7 (2) A food product derived from an animal is not
8 considered misbranded if the animal was not
9 genetically engineered but was fed genetically
10 engineered feed; and

11 (3) A packaged processed food is not considered misbranded
12 if the total weight of the processed food that was
13 genetically engineered is less than 0.9 per cent of
14 the total weight of the processed food.

15 (d) The director may adopt rules pursuant to chapter 91
16 for the administration and enforcement of this part.

17 **§328-D Third-party protection.** (a) A distributor or
18 retailer that sells or advertises food that is genetically
19 engineered that fails to make the disclosure required under
20 section 328-C(a) is not subject to liability in any civil action
21 to enforce this part if the distributor or retailer relied on



1 the affidavit under section 328-F provided by the producer or
2 grower stating that the food is not subject to the disclosure
3 requirements under this part.

4 (b) Eating establishments are exempt from disclosure
5 requirements of this part.

6 (c) Alcoholic beverages and medical food are exempt from
7 the disclosure requirements of this part.

8 **§328-E Enforcement.** (a) The director shall enforce this
9 part in the same manner as is authorized for enforcement of
10 section 328-6.

11 (b) There is no private right of action to enforce this
12 part.

13 (c) A person who violates this part commits a civil
14 violation for which a fine may be assessed that shall not exceed
15 \$1,000 per day per misbranded product per sales location.

16 **§328-F Affidavit.** The director shall develop an affidavit
17 form that may be provided by a producer or grower of food to
18 distributors and retailers and that may be included in shipments
19 of food within the State certifying that the food being sold or
20 shipped is not subject to disclosure requirements of this part."



1 SECTION 3. 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 [~~and~~],
8 328-19.1[~~7~~] and 328-C;

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;



- 1 (5) If in package form, unless it bears a label containing
2 (A) the name and place of business of the
3 manufacturer, packer, or distributor; (B) an accurate
4 statement of the quantity of the contents in terms of
5 weight, measure, or numerical count, which statement
6 shall be separately and accurately stated in a uniform
7 location upon the principal display panel of the
8 label; provided that under subparagraph (B) reasonable
9 variations shall be permitted, and exemptions as to
10 small packages shall be established, by rules adopted
11 by the department of health;
- 12 (6) If any word, statement, or other information required
13 by or under authority of this part to appear on the
14 label or labeling is not prominently placed thereon
15 with such conspicuousness (as compared with other
16 words, statements, designs, or devices, in the
17 labeling) and in such terms as to render it likely to
18 be read and understood by the ordinary individual
19 under customary conditions of purchase and use;
- 20 (7) If it purports to be or is represented as a food for
21 which a definition and standard of identity have been



1 prescribed by rules as provided by section 328-8,
2 unless (A) it conforms to such definition and
3 standard, and (B) its label bears the name of the food
4 specified in the definition and standards, and,
5 insofar as may be required by the rules, the common
6 names of optional ingredients (other than spices,
7 flavoring, and coloring) present in the food;

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

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

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



- 1 (9) If it is not subject to paragraph (7), unless its
2 label bears (A) the common or usual name of the food,
3 if any there be, and (B) in case it is fabricated from
4 two or more ingredients, the common or usual name of
5 each such ingredient; except that spices, flavorings,
6 and colorings, other than those sold as such, may be
7 designated as spices, flavorings, and colorings,
8 without naming each; provided that to the extent that
9 compliance with the requirements of subparagraph (B)
10 is impractical or results in deception or unfair
11 competition, exemptions shall be established by rules
12 prescribed by the department; and, provided further
13 that the requirements of subparagraph (B) shall not
14 apply to food products which are packaged at the
15 direction of purchasers at retail at the time of sale,
16 the ingredients of which are disclosed to the
17 purchasers by other means in accordance with rules
18 prescribed by the department;
- 19 (10) If it purports to be or is represented for special
20 dietary uses, unless its label bears such information
21 concerning its vitamin, mineral, and other dietary



1 properties as the department determines to be, and by
2 rules prescribes, as necessary in order to fully
3 inform purchasers as to its value for such uses;

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

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



1 (13) If it is a color additive unless its packaging and
2 labeling are in conformity with the packaging and
3 labeling requirements applicable to the color additive
4 prescribed under the Federal Act;

5 (14) If it is a raw agricultural commodity which is the
6 produce of the soil, bearing or containing a pesticide
7 chemical applied after harvest, unless the shipping
8 container of such commodity bears labeling which
9 declares the presence of such chemical in or on such
10 commodity and the common or usual name and the
11 function of such chemical; provided that no such
12 declaration shall be required while such commodity,
13 having been removed from the shipping container, is
14 being held or displayed for sale at retail out of such
15 container in accordance with the custom of the trade;

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

19 SECTION 4. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. The director of health shall monitor
6 legislative activities in California and certify to the revisor
7 of statutes when legislation requiring mandatory labeling of
8 genetically engineered food has been adopted by California. The
9 director shall notify the chair of the senate committee on
10 health and the chair of the house of representatives committee
11 on health when certification is made.

12 SECTION 7. This Act shall take effect upon its approval;
13 provided that:

14 (1) Sections 2 and 3 of this Act shall take effect thirty
15 days after the date of the director's certification;
16 and

17 (2) If no certification has been made by the director of
18 health pursuant to section 6 of this Act before
19 January 1, 2020, this Act shall be repealed on that
20 date, and section 328-10, Hawaii Revised Statutes,

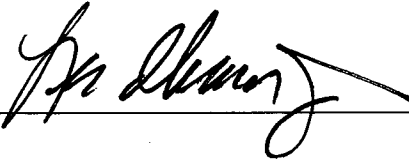


S.B. NO. 1321

1 shall be reenacted in the form in which it read on the
2 day prior to the effective date of this Act.

3

INTRODUCED BY:



By Request



S.B. NO. 1321

Report Title:

Department of Health; Genetically Engineered Food; Labeling

Description:

Requires all genetically engineered food to be labeled with a disclosure stating that it is "Produced with Genetic Engineering". Deems any genetically engineered food sold without the required disclosure to be misbranded and subject to penalties.

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

