

JAN 17 2020

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# 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-    Genetically engineered material; labeling  
5 requirements. (a) Beginning January 1, 2021, no food or raw  
6 agricultural commodity shall be sold in the State if it contains  
7 a genetically engineered material, or was produced with a  
8 genetically engineered material, unless it bears a label that  
9 provides the following disclosure notice in bold-face print and  
10 not less than ten-point type:

11           "THIS PRODUCT CONTAINS OR WAS PRODUCED WITH A GENETICALLY  
12 ENGINEERED MATERIAL."

13           (b) A food shall be considered to have been produced with  
14 a genetically engineered material if:

15           (1) The organism from which the food is derived has been  
16 injected or otherwise treated with a genetically  
17 engineered material; provided that the use of manure



1           as a fertilizer for raw agricultural commodities shall  
 2           not be construed to mean that those commodities are  
 3           produced with a genetically engineered material;

4           (2) The animal from which the food is derived has been fed  
 5           genetically engineered material; or

6           (3) The food contains an ingredient that is a food to  
 7           which paragraph (1) or (2) applies.

8           (c) For the purposes of this section:

9           "Genetically engineered material" means material derived  
 10          from any part of a genetically engineered organism, without  
 11          regard to whether the altered molecular or cellular  
 12          characteristics of the organism are detectable in the material.

13          "Genetically engineered organism" means:

14          (1) An organism that has been altered at the molecular or  
 15          cellular level by means that are not possible under  
 16          natural conditions or processes, including recombinant  
 17          deoxyribonucleic acid and ribonucleic acid techniques,  
 18          cell fusion, microencapsulation, macroencapsulation,  
 19          gene deletion and doubling, introducing a foreign  
 20          gene, and changing the positions of genes, and  
 21          excluding means consisting exclusively of breeding,



1           conjugation, fermentation, hybridization, in vitro  
2           fertilization, tissue culture, or mutagenesis; or  
3           (2) An organism made through sexual or asexual  
4           reproduction, or both, of an organism described in  
5           paragraph (1), if the reproduced organism possesses  
6           any of the altered molecular or cellular  
7           characteristics of the original organism or organisms.  
8           (d) This section shall not apply to food that is:  
9           (1) Served in restaurants or other establishments in which  
10           food is served for immediate human consumption;  
11           (2) Processed and prepared primarily in a retail  
12           establishment and is ready for human consumption, of  
13           the type described in paragraph (1), and is offered  
14           for sale to consumers but not for immediate human  
15           consumption in the establishment and is not offered  
16           for sale outside the establishment; or  
17           (3) A medical food as defined in section 346-67.  
18           (e) A violation of this section or any rule adopted  
19 pursuant to this section shall be punishable by a fine of not  
20 more than \$1,000 for each violation.



1           (f) The director of health shall adopt rules pursuant to  
 2 chapter 91 necessary for the purposes of this section, including  
 3 rules for the testing of foods to determine the presence and  
 4 content of genetically engineered material."

5           SECTION 2. Section 328-10, Hawaii Revised Statutes, is  
 6 amended to read as follows:

7           "**§328-10 Foods deemed misbranded when.** A food shall be  
 8 deemed to be misbranded:

- 9           (1) If its labeling is false or misleading in any  
 10           particular; or if its labeling or packaging fails to  
 11           conform with the requirements of sections 328-2,  
 12           328-\_\_, and 328-19.1;
- 13           (2) If it is offered for sale under the name of another  
 14           food;
- 15           (3) If it is an imitation of another food for which a  
 16           definition and standard of identity has been  
 17           prescribed by rules as provided by section 328-8; or  
 18           if it is an imitation of another food that is not  
 19           subject to paragraph (7), unless its label bears in  
 20           type of uniform size and prominence, the word



1 "imitation" and, immediately thereafter, the name of  
2 the food imitated;

3 (4) If its container is so made, formed, or filled as to  
4 be misleading;

5 (5) If in package form, unless it bears a label containing  
6 (A) the name and place of business of the  
7 manufacturer, packer, or distributor; (B) an accurate  
8 statement of the quantity of the contents in terms of  
9 weight, measure, or numerical count, which statement  
10 shall be separately and accurately stated in a uniform  
11 location upon the principal display panel of the  
12 label; provided that under subparagraph (B) reasonable  
13 variations shall be permitted, and exemptions as to  
14 small packages shall be established, by rules adopted  
15 by the department of health;

16 (6) If any word, statement, or other information required  
17 by or under authority of this part to appear on the  
18 label or labeling is not prominently placed thereon  
19 with such conspicuousness (as compared with other  
20 words, statements, designs, or devices, in the  
21 labeling) and in such terms as to render it likely to



- 1 be read and understood by the ordinary individual  
2 under customary conditions of purchase and use;
- 3 (7) If it purports to be or is represented as a food for  
4 which a definition and standard of identity have been  
5 prescribed by rules as provided by section 328-8,  
6 unless (A) it conforms to such definition and  
7 standard, and (B) its label bears the name of the food  
8 specified in the definition and standards, and,  
9 insofar as may be required by the rules, the common  
10 names of optional ingredients (other than spices,  
11 flavoring, and coloring) present in the food;
- 12 (8) If it purports to be or is represented as:
- 13 (A) A food for which a standard of quality has been  
14 prescribed by rules as provided by section 328-8  
15 and its quality falls below such standard unless  
16 its label bears, in such manner and form as the  
17 rules specify, a statement that it falls below  
18 such standard; or
- 19 (B) A food for which a standard or standards of fill  
20 of container have been prescribed by rules as  
21 provided by section 328-8, and it falls below the



1 standard of fill of container applicable thereto,  
2 unless its label bears, in such manner and form  
3 as the rules specify, a statement that it falls  
4 below such standard;

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



1 purchasers by other means in accordance with rules  
2 prescribed by the department;

3 (10) If it purports to be or is represented for special  
4 dietary uses, unless its label bears such information  
5 concerning its vitamin, mineral, and other dietary  
6 properties as the department determines to be, and by  
7 rules prescribes, as necessary in order to fully  
8 inform purchasers as to its value for such uses;

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





1 agricultural commodity which is the produce of the  
2 soil;

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

7 (13) If it is a color additive unless its packaging and  
8 labeling are in conformity with the packaging and  
9 labeling requirements applicable to the color additive  
10 prescribed under the Federal Act;

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



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

4 SECTION 3. New statutory material is underscored.

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

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INTRODUCED BY:

J. Kalin Ghosh  
P. E. B.



# S.B. NO. 2365

**Report Title:**

Genetically Engineered Material; Labeling Requirements

**Description:**

Establishes, beginning January 1, 2021, labeling requirements for any food or raw agricultural commodity sold in the State that contains a genetically engineered material, or was produced with a genetically engineered material; establishes exceptions; establishes violations; and requires director of health to adopt rules.

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

