

Initiative Measure No. 518

filed April 26, 2012

BILL REQUEST - CODE REVISER'S OFFICE

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ATTY/TYPIST: ML:eab

BRIEF DESCRIPTION:

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AN ACT Relating to labeling foods containing genetically engineered material; adding a new chapter to Title 15 RCW; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** (1) The people find that:

(a) Consumers should have the right to know whether the foods they purchase contain genetically engineered material. The genetic engineering of plants and animals often causes unintended consequences. Manipulating genes and inserting them into organisms is an imprecise process. The results are not always predictable or controllable and can lead to adverse health or environmental consequences.

(b) Government scientists have stated that the artificial insertion of genetic material into plants, a technique unique to genetic engineering, can cause a variety of significant problems with plant foods. Such genetic engineering can increase the levels of

known toxicants in foods, introduce new toxicants or new allergies, and reduce the nutritional value of food.

(c) Mandatory labeling of genetically engineered foods can provide a critical method for tracking the potential health effects of consuming genetically engineered foods.

(d) Currently, there is no federal or state requirement that foods be labeled to disclose that they are genetically engineered. At the same time, the United States food and drug administration does not require safety studies of such foods. Unless these foods contain a known allergen, the United States food and drug administration does not even require the producers to consult with the agency regarding genetically engineered crops or other foods.

(e) The vast majority of the public wants labels on genetically engineered foods.

(f) Fifty countries, including the European Union member states, Japan, and other key United States trading partners, have laws mandating disclosure of genetically engineered foods on food labels. No international agreements prohibit the mandatory labeling of such foods.

(g) Without labeling, consumers of genetically engineered food may unknowingly violate their own dietary and religious restrictions.

(h) The cultivation of genetically engineered crops can also cause serious impacts to the environment. For example, most genetically engineered crops are designed to withstand weed-killing herbicides. As a result, hundreds of millions of pounds of additional herbicides have been used on the nation's farms. Because of the massive use of such products, herbicide-resistant weeds have flourished, a problem that has resulted, in turn, in the use of increasingly toxic herbicides. These toxic herbicides damage our agricultural areas, impair our drinking water, and pose health risks to consumers and farmworkers. The public should have the choice to avoid purchasing foods produced in ways that can lead to such harm.

(i) Organic farmers are prohibited from using genetically engineered seeds. Nonetheless, these farmers' crops are regularly threatened with accidental contamination from neighboring lands where

genetically engineered crops abound. This risk of contamination can erode public confidence in organic products, significantly undermining this industry. Consumers should have the choice to avoid purchasing foods whose production could harm the state's organic farmers and its organic foods industry.

(2) The purpose of this chapter is to ensure that people are fully informed about whether the food they purchase and eat is genetically engineered so that people may choose for themselves whether to purchase and eat such foods.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cultivated commercially" means grown or raised by a person in the course of a business or trade.

(2) "Department" means the department of agriculture.

(3) "Enzyme" means a protein that catalyzes chemical reactions of other substances without itself being destroyed or altered upon completion of the reactions.

(4) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including an operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(5) "Genetically engineered" means any food that consists of, is composed of, contains, or is produced from an organism or organisms in which the genetic material has been changed through the application of:

(a) In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid techniques and the direct injection of nucleic acid into cells or organelles. Such techniques include, but are not limited to, recombinant deoxyribonucleic acid or ribonucleic acid techniques that use vector systems and techniques involving the direct introduction into the organisms of hereditary material prepared outside the organisms such as micro-injection, macro-injection,

chemoporation, electroporation, micro-encapsulation, and liposome fusion; or

(b) Fusion of cells, including protoplast fusion, or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells or protoplasts do not fall within the same taxonomic family, in a way that does not occur by natural multiplication or natural recombination.

(6) "Ingredient" means any substance that is used in the manufacture, or contained in the final form, of a processed food.

(7) "Processed food" means any food other than a raw agricultural commodity and includes any food produced from a raw agricultural commodity that has been subject to processing such as canning, smoking, pressing, cooking, freezing, dehydration, fermentation, or milling.

(8) "Processing aid" means:

(a) A substance that is added to a food during the processing of the food but is removed in the same manner from the food before it is packaged in its finished form;

(b) A substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; or

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

NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2015, for any genetically engineered raw agricultural commodity that is offered for retail sale, a clear and conspicuous statement consisting of the words "genetically engineered" must appear either:

(a) On the front package or label of such a commodity; or

(b) In the case of such a commodity that is not separately packaged or labeled, on a label appearing on the retail store shelf or bin in which such a commodity is displayed for sale.

(2) Beginning July 1, 2015, any package offered for retail sale containing processed food that is made with or derived from any genetically engineered ingredient must include a clear and conspicuous statement consisting of the words "contains genetically engineered ingredient(s)," followed by the name of the ingredient or ingredients. If an ingredients list appears on the package:

(a) This statement must appear underneath the ingredients list; and

(b) In the case of processed food containing more than one genetically engineered ingredient, the genetically engineered ingredients listed after this statement must be listed in the same order in which they appear in the full ingredients list.

(3) In lieu of compliance with subsection (2) of this section, any package containing processed food that is made with or is derived from any ingredient that may be genetically engineered must include a clear and conspicuous statement consisting of the words "may contain genetically engineered ingredient(s)," followed by the name of the ingredients. If an ingredients list appears on the package:

(a) This statement must appear underneath the ingredients list; and

(b) In the case of processed food containing more than one ingredient that may be genetically engineered, the genetically engineered ingredients listed after this statement must be listed in the same order in which they appear in the full ingredients list.

(4) The requirements of subsections (1) through (3) of this section do not apply to any of the following:

(a) Any raw agricultural commodity that, on the date it is offered for retail sale, is not listed in section 4(2) of this act, or in the most recent list published pursuant to section 4(3) of this act;

(b) A processed food that does not contain any ingredient derived from a raw agricultural commodity that, on the date the processed food is manufactured, is listed in either section 4(2) of this act, or in the most recent list published pursuant to section 4(3) of this act;

(c) Food consisting entirely of, or derived entirely from, an animal that has not itself been genetically engineered, regardless of

whether the animal has been fed or injected with any genetically engineered food or any drug that has been produced through means of genetic engineering;

(d) A raw agricultural commodity or ingredient that has been grown, raised, or produced without the knowing and intentional use of genetically engineered seed or food. To be included within this exclusion, the person responsible for complying with this section with respect to a raw agricultural commodity or ingredient must obtain, from whoever sold the commodity or ingredient to that person, a sworn statement that the commodity or ingredient:

(i) Has not been knowingly or intentionally genetically engineered; and

(ii) Has been segregated from, and has not been knowingly or intentionally commingled with, goods that may have been genetically engineered at any time. In providing such a sworn statement, any person may rely on a sworn statement from his or her own supplier that contains such an affirmation;

(e) Any processed food that would be subject to this section solely because it includes one or more genetically engineered processing aids or enzymes;

(f) Any alcoholic beverage that is subject to regulation under Title 66 RCW;

(g) Until July 1, 2019, any processed food that would be subject to this section solely because it includes one or more genetically engineered ingredients, provided that:

(i) No single ingredient accounts for more than one-half of one percent of the total weight of the processed food; and

(ii) The processed food does not contain more than ten such ingredients;

(h) Food that an independent organization has determined has not been knowingly and intentionally produced from or commingled with genetically engineered seed or genetically engineered food, provided that such a determination has been made pursuant to a sampling and testing procedure approved for this purpose in rules adopted by the department. These rules may not approve a sampling and testing

procedure unless it is consistent with sampling and testing principles recommended by internationally recognized standards organizations;

(i) Food that has been lawfully certified to be labeled, marketed, and offered for sale as "organic" pursuant to applicable federal organic food production laws and regulations;

(j) Food that is not packaged for retail sale and that either:

(i) Is a processed food prepared and intended for immediate human consumption; or

(ii) Is served, sold, or otherwise provided in any restaurant or other food facility that is primarily engaged in the sale of food prepared and intended for immediate human consumption; and

(k) Medical food.

NEW SECTION. **Sec. 4.** (1) The department may adopt rules necessary to implement this chapter, provided that the department is not authorized to create any exemptions beyond those provided in section 3(4) of this act.

(2) The people find that as of November 1, 2011, the following raw agricultural commodities are commonly cultivated commercially in genetically engineered form:

(a) Alfalfa;

(b) Canola;

(c) Corn;

(d) Cotton;

(e) Papaya;

(f) Soy;

(g) Sugar beets; and

(h) Zucchini and yellow summer squash.

(3) By July 1, 2015, and annually thereafter, the department shall publish an updated list of additional raw agricultural commodities that are at that time commonly cultivated commercially in genetically engineered form. The list must be based on the most current available information.

NEW SECTION. **Sec. 5.** (1) The department, acting through the attorney general, may bring an action in a court of competent jurisdiction to enjoin any person violating this chapter.

(2) The department may assess a civil penalty against any person violating this chapter in an amount not to exceed one thousand dollars per day. Each day of violation is considered a separate violation.

(3) An action to enjoin a violation of this chapter may be brought in any court of competent jurisdiction by any person in the public interest if both of the following requirements are met:

(a) The action is commenced more than sixty days after the person has given notice of the alleged violation to the department, the attorney general, and to the alleged violator; and

(b) The department, acting through the attorney general, has commenced an action against the alleged violator.

NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.