SB1666

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98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1666

Introduced 2/13/2013, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

New Act

Creates the Genetically Engineered Food Labeling Act. Sets forth the General Assembly's findings and the purpose of the Act. Provides that beginning on the effective date of the Act, any food offered for retail sale in this State is misbranded if it is entirely or partially produced with genetic engineering and that fact is not disclosed in a certain manner. Provides that the Act shall not be construed to require either the listing or identification of any ingredient or ingredients that were genetically engineered, nor that the term "genetically engineered" be placed immediately preceding any common name or primary product descriptor of a food. Provides that until the effective date of the Act, any processed food that would be subject to the provision concerning the labeling of genetically engineered foods solely because it includes one or more materials produced by genetic engineering is not misbranded provided that the engineered materials in the aggregate do not account for more than a certain amount of the total weight of the processed food. Sets forth provisions concerning applicability and the right of action for violations, damages, and attorneys' fees. Provides that the Department of Public Health shall adopt rules necessary to implement the Act. Contains a severability provision.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning health.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Genetically Engineered Food Labeling Act.

Section 5. Legislative findings. The General Assembly finds as follows:

(1) Illinois consumers have the right to know whether the foods they purchase were produced with genetic engineering so they can make informed purchasing decisions. Labeling is necessary to ensure that consumers are fully and reliably informed about the products they purchase and consume.

(2) Consumers overwhelmingly favor knowing whether the food they purchase and consume is produced with genetic engineering for a variety of reasons, including health, economic, environmental, religious, and ethical reasons. Polls consistently show that the vast majority of the public, more than 90%, wants to know if its food was produced with genetic engineering.

(3) There is currently no federal or State requirement that genetically engineered (GE) foods be labeled. In contrast, 61 countries, including Japan, South Korea, China, Australia, Russia, Malaysia, the European Union member states, and other

key U.S. trading partners, already have laws mandating the disclosure of GE foods on food labels. In 2011, Codex Alimentarius, the food standards organization of the United Nations, stated that governments are free to decide on whether and how to label foods produced with genetic engineering.

(4) The U.S. Food and Drug Administration (FDA) does not require or conduct safety studies of GE foods. Instead, any safety consultations are voluntary, and GE food developers may decide what information to provide to the agency.

(5) The genetic engineering of plants and animals often causes unintended consequences. Manipulating genes via genetic engineering and inserting them into organisms is an imprecise process. The results are not always predictable or controllable. Mixing plant, animal, bacterial, and viral genes through genetic engineering in combinations that cannot occur in nature may produce results that lead to adverse health or environmental consequences.

(6) United States government scientists have stated that the artificial insertion of genetic material into plants via genetic engineering can cause a variety of significant problems with plant foods. Such genetic engineering can increase the levels of known toxicants or allergens in foods and create new toxicants or allergens with consequent health concerns.

(7) Mandatory identification of foods produced with genetic engineering can provide a method for detecting, at a large epidemiological scale, the potential health effects of

consuming such foods.

(8) Without mandatory disclosure, consumers of GE foods may unknowingly violate their dietary and religious beliefs.

(9) Numerous foreign markets with restrictions on foods produced through genetic engineering have restricted imports of U.S. crops due to concerns about genetic engineering. Some foreign markets are choosing to purchase agricultural products from countries other than the U.S. because GE crops are not identified in the U.S., which makes it impossible for buyers to determine what does or does not meet their national labeling laws or restrictions and thus renders U.S. products less desirable.

(10) Mandatory identification of foods produced with genetic engineering can be a critical method of preserving the economic value of exports or domestically sensitive markets with restrictions on or prohibitions against genetic engineering.

(11) Organic food sales are increasing. While total U.S. food sales are virtually unchanged, growing less than one percent yearly, the organic food industry grew at a rate of 9.5% in 2011, and, for the first time, surpassed the $30 billion mark. Sales of organic fruits and vegetables are up 11.8%, accounting for approximately 12% of all U.S. fruit and vegetable sales. Organic dairy is growing at 9% per year and comprises nearly 6% of the total U.S. dairy market. Trade industry data shows that over the long term organic farming is

more profitable and economically secure than conventional farming. Organic farmers are prohibited from using GE seeds. Nonetheless, organic crops are routinely threatened with contamination from neighboring fields of GE crops. The risk of contamination can erode public confidence in organic products, significantly undermining the job-creating, economy-boosting growth of the organic market.

(12) Foods identified as non-GE constitute the fastest growing market segment in agriculture, with annual sales increases in 2011 between 20% and 27%. However, only a small portion of the food industry participates in voluntary labeling of foods claimed not to be the product of genetic engineering. There are no consistent standards for such labeling or for enforcement of voluntary labels. Because of this, voluntary labels are insufficient to provide consumers with adequate information on whether or not the food they are purchasing was produced with genetic engineering, and in some cases these labels may be misleading.

(13) The cultivation of GE crops can have serious effects on the environment. For example, in 2012, 93% of all soy grown in the U.S. was engineered to be herbicide resistant. In fact, the vast majority of GE crops are designed to withstand herbicides, and they therefore promote indiscriminate herbicide use. As a result, GE crops have caused 527 million pounds of additional herbicides to be applied to the nation's farmland. These toxic herbicides damage the vitality and

quality of our soil, contaminate our drinking water, and pose health risks to consumers and farmworkers. Further, because of the consequent massive increase in use of herbicides, herbicide-resistant weeds have developed and flourished, infesting farm fields and roadsides, complicating weed control for farmers, and causing farmers to resort to more and increasingly toxic herbicides.

(14) The people of Illinois should have the choice to avoid purchasing foods produced in ways that can lead to such environmental harm.

Section 10. Purpose. This Act shall establish a consistent and enforceable standard for labeling all foods produced using genetic engineering, and thus provide citizens of this State with knowledge of how their food is produced.

The purpose of this Act is to facilitate the exercise of the fundamental right of the people of Illinois to be fully informed about whether the food they purchase and eat is produced with genetic engineering so that they can choose for themselves whether to purchase and eat such foods. Identifying foods produced through genetic engineering will help protect our State's agricultural economy and environment. This Act shall be liberally construed to fulfill these purposes.

Section 15. In this Act:

"Agriculture" means the science, art, or practice of

cultivating soil, producing crops, and raising livestock or fish and, in varying degrees, the preparation and marketing of the resulting products.

"Cultivated commercially" means agricultural commodities grown or raised in the course of business or trade and sold within the United States.

"Department" means the Department of Public Health.

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

"Food" means any articles used to feed or nourish man or other animals, chewing gum, and articles used for components, including food additives, of any such article.

"Genetically engineered" means a process that results in a substance that is produced from an organism or organisms in which the genetic material has been changed through the application of the following:

(1) in vitro nucleic acid techniques, which include, but are not limited to, recombinant deoxyribonucleic acid (DNA), direct injection of nucleic acid into cells or organelles, encapsulation, gene deletion, and doubling; or

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

"Label" means a display of written, printed, or graphic matter upon or connected to the immediate container or surface of any article. In order to meet the definition of "label", any word, statement, or other information appearing on the label shall appear on the outside container or wrapper, if any, of the bulk, wholesale, or retail package of the article or be easily legible through the outside container or wrapper.

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

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

"Medical food" means a food that is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

"Organism" means any biological entity capable of replication, reproduction, or transferring genetic material.

"Processed food" means any food other than a raw agricultural commodity, including 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.

"Processing aid" means the following:

(a) a substance that is added to a food during the processing of the food but is removed in some manner from the food before it is packaged in its final 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 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 food at insignificant levels and does not have any technical or functional effect in that finished food.

"Raw agricultural commodity" means any plant, animal, or fungi grown or produced for human food use purposes.

Section 20. Labeling of genetically engineered foods.

(a) Beginning on the effective date of this Act, any food offered for retail sale in this State is misbranded if it is entirely or partially produced with genetic engineering and that fact is not disclosed as follows:

(1) In the case of a raw agricultural commodity, on the package offered for retail sale, with the words "Genetically Engineered" appearing clearly and conspicuously on the label on the front of the package of

the commodity or, in the case of any such commodity that is not separately packaged or labeled, on a clear and conspicuous label appearing on the retail store shelf or bin in which the commodity is displayed for sale.

(2) In the case of processed food containing some products of genetic engineering, the manufacturer must label the product, in clear and conspicuous language on the front or back of the package of such food, with the words "Produced with Genetic Engineering" or "Partially Produced with Genetic Engineering".

(b) This Act shall not be construed to require either the listing or identification of any ingredient or ingredients that were genetically engineered, nor that the term "genetically engineered" be placed immediately preceding any common name or primary product descriptor of a food.

(c) Until the effective date of this Act, any processed food that would be subject to this Section solely because it includes one or more materials produced by genetic engineering is not misbranded provided that the engineered materials in the aggregate do not account for more than nine-tenths of one percent of the total weight of the processed food.

(d) Subsection (a) of this Section does not apply to any of the following:

(1) 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 food produced with genetic engineering or any drug or vaccine that has been produced through means of genetic engineering;

(2) a raw agricultural commodity or food that has been grown, raised, produced, or derived without the knowing and intentional use of genetically engineered seed or food; to be included within the exclusion under this subsection (d), the person responsible for complying with this Section with respect to a raw agricultural commodity or food must obtain, from whoever sold the raw agricultural commodity or food to that person, a sworn statement that the raw agricultural commodity or food (A) has not been knowingly or intentionally genetically engineered and (B) has been segregated from, and has not been knowingly or intentionally commingled with, foods that may have been genetically engineered at any time; in providing the a sworn statement, a person may rely on a sworn statement from his or her own supplier that contains such an affirmation;

(3) any processed food that would be subject to this Section solely because one or more processing aids or enzymes were produced or derived with genetic engineering;

(4) any alcoholic beverage that is subject to regulation under the Liquor Control Act of 1934;

(5) food that has been lawfully certified to be labeled, marketed, and offered for sale as organic pursuant

to the federal Organic Foods Production Act of 1990, 7 U.S.C. 6501, et seq., and the National Organic Program regulations promulgated pursuant thereto by the United States Department of Agriculture;

(6) food that is not packaged for retail sale and that either (A) is a processed food prepared and intended for immediate human consumption or (B) is served, sold, or otherwise provided in any restaurant or other food service establishment that is primarily engaged in the sale of food prepared and intended for immediate human consumption; or

(7) medical food.

Section 25. Right of action for violations, damages, and attorneys' fees.

(a) The Department, acting through the Attorney General, may bring an action in a court of competent jurisdiction to enjoin any person violating this Act.

(b) The Department may assess a civil penalty against any person violating this Act.

(c) Any citizen of this State acting in the public interest may bring an action to enjoin a violation of this Act in any court of competent jurisdiction if the action is commenced more than 60 days after the person has given notice of the alleged violation to the Department, to the Attorney General, and to the alleged violator.

(d) The court may award to a prevailing plaintiff

reasonable costs and attorneys' fees incurred in investigating and prosecuting an action to enforce this Act.

Section 30. Enforcement and regulation. The Department shall adopt rules necessary to implement this Act.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.