

HB3085



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3085

by Rep. Deborah Mell

SYNOPSIS AS INTRODUCED:

New Act

Creates the Mandatory Labeling of Genetically Modified Foods Act. Requires genetically engineered raw agricultural commodities and processed foods offered for retail sale to bear certain labels. Creates exemptions for certain classes of products. Grants the Illinois Department of Agriculture the authority to adopt rules necessary to implement the Act. Requires the Department to annually publish a list of raw agricultural commodities commonly cultivated in a genetically engineered form. Provides for enforcement of the Act by the Department and the Attorney General. Contains a severability provision. Effective January 1, 2014.

LRB098 03781 JDS 33797 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning the labeling of foods that contain
2 genetically engineered material.

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

5 Section 1. Short title. This Act shall be known and may be
6 cited as the Mandatory Labeling of Genetically Modified Foods
7 Act.

8 Section 5. Legislative findings and purpose.

9 (a) The General Assembly finds and declares that:

10 (1) Consumers have the right to know whether the foods
11 they purchase contain genetically engineered material. The
12 genetic engineering of plants and animals often causes
13 unintended consequences. Manipulating genes and inserting
14 them into organisms is an imprecise process that is capable
15 of creating unpredictable or uncontrollable results and
16 causing adverse health or environmental consequences.

17 (2) Mandatory labeling of genetically engineered foods
18 provides a currently lacking method for tracking the
19 potential health effects of consuming genetically
20 engineered foods.

21 (3) Currently, there is no federal requirement that
22 foods be labeled to disclose that they are genetically
23 engineered.

1 (4) The vast majority of the public wants to know
2 whether food has been genetically engineered.

3 (5) Countries around the world, including all European
4 Union member states, Japan, and other key United States
5 trading partners, have laws mandating disclosure of
6 genetically engineered foods on food labels. No
7 international agreements prohibit the mandatory labeling
8 of genetically engineered foods.

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

12 (7) The cultivation of genetically engineered crops is
13 also capable of causing serious impact on the environment.
14 For example, most genetically engineered crops are
15 designed to withstand weed-killing herbicides. As a
16 result, hundreds of millions of pounds of additional
17 herbicides have been used and continue to be used on the
18 nation's farms. Because of the massive use of those
19 products, herbicide-resistant weeds have flourished,
20 which, in turn, has caused the use of increasingly toxic
21 herbicides. These more toxic herbicides damage our
22 agricultural areas, contaminate our drinking water, and
23 pose health risks to consumers and farm workers. The public
24 should have the choice to avoid purchasing foods produced
25 in ways that are capable of leading to these harms.

26 (8) Organic farmers are prohibited from using

1 genetically engineered seeds. Nonetheless, these farmers'
2 crops are regularly threatened with accidental
3 contamination from either contaminated seed or neighboring
4 lands where genetically engineered crops abound. This risk
5 of contamination may erode public confidence in organic
6 products, significantly undermining the organic foods
7 industry. Consumers should have the choice to avoid
8 purchasing foods whose production could harm the State's
9 organic farmers and its organic foods industry.

10 (b) The purpose of this Act is to ensure that people are
11 fully informed about whether the foods they purchase and eat
12 are genetically engineered and to make it possible for people
13 to choose for themselves whether to purchase and eat those
14 foods.

15 Section 10. Definitions. As used in this Act:

16 "Cultivated commercially" means grown or raised in the
17 regular course of a business or trade.

18 "Department" means the Illinois Department of Agriculture.

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

22 "Food facility" means an operation that stores, prepares,
23 packages, serves, vends, or otherwise provides food for human
24 consumption, including an operation where food is consumed on
25 or off the premises, regardless of whether there is a charge

1 for the food.

2 "Genetically engineered" means any food that contains, in
3 whole or in part, or is produced from, an organism or organisms
4 in which the genetic material has been changed through the (i)
5 application of in vitro nucleic acid techniques, including
6 recombinant deoxyribonucleic acid techniques and the direct
7 injection of nucleic acid into cells or organelles. These
8 techniques include, but are not limited to, recombinant
9 deoxyribonucleic acid or ribonucleic acid techniques that use
10 vector systems and techniques involving the direct
11 introduction into the organisms of hereditary material
12 prepared outside the organisms, such as micro-injection,
13 macro-injection, chemoporation, electroporation,
14 micro-encapsulation, and liposome fusion or (ii) fusion of
15 cells, including protoplast fusion, or hybridization
16 techniques that overcome natural physiological, reproductive,
17 or recombination barriers, where the donor cells or protoplasts
18 do not fall within the same taxonomic family, in a way that
19 does not occur by natural multiplication or natural
20 recombination.

21 "Ingredient" means any substance that is used in the
22 manufacture, or otherwise contained in the final form, of a
23 processed food.

24 "Processed food" means any food other than a raw
25 agricultural commodity and includes any food produced from a
26 raw agricultural commodity that has been subject to processing,

1 including, but not limited to, canning, smoking, pressing,
2 cooking, freezing, dehydration, fermentation, or milling.

3 "Processing aid" means (i) a substance that is added to a
4 food during the processing of the food but is then removed from
5 the food before it is packaged in its finished form; (ii) a
6 substance that is added to a food during processing, that is
7 converted into constituents normally present in the food, and
8 that does not significantly increase the amount of the
9 constituents naturally found in the food; or (iii) a substance
10 that is added to a food for its technical or functional effects
11 in the processing but is present in the finished good at
12 insignificant levels and that does not have any technical or
13 functional effect in that finished food.

14 Section 15. Mandatory labeling of genetically engineered
15 foods.

16 (a) Beginning January 1, 2014, for any genetically
17 engineered raw agricultural commodity that is offered for
18 retail sale, a clear and conspicuous statement consisting of
19 the words "genetically engineered" must appear either (i) on
20 the front package or label of that commodity or (ii) in the
21 case of such a commodity that is not separately packaged or
22 labeled, on a label appearing on the retail store shelf or bin
23 in which that commodity is displayed for sale.

24 (b) Beginning January 1, 2014, any package offered for
25 retail sale containing processed food that is made with or

1 derived from any genetically engineered ingredient must
2 include a clear and conspicuous statement on the front or back
3 of the package, consisting of the words "contains genetically
4 engineered ingredient(s)", followed by the name of the
5 ingredient or ingredients. If an ingredients list appears on
6 the package, then the following requirements must be met:

7 (1) The statement must appear underneath the
8 ingredients list.

9 (2) In the case of processed food containing more than
10 one genetically engineered ingredient, the genetically
11 engineered ingredients listed after the statement must be
12 listed in the same order in which they appear in the full
13 ingredients list.

14 (c) In lieu of compliance with subsection (b) of this
15 Section, any package containing processed food that is made
16 with or is derived from any ingredient that may be genetically
17 engineered must include a clear and conspicuous statement on
18 the front or back of the package, consisting of the words "may
19 contain genetically engineered ingredient(s)", followed by the
20 name of the ingredients. If an ingredients list appears on the
21 package, then the following requirements must be met:

22 (1) The statement must appear underneath the
23 ingredients list.

24 (2) In the case of processed food containing more than
25 one ingredient that may be genetically engineered, the
26 genetically engineered ingredients listed after the

1 statement must be listed in the same order in which they
2 appear in the full ingredients list.

3 (d) The requirements of subsections (a) through (c) of this
4 Section do not apply to any of the following:

5 (1) any raw agricultural commodity that, on the date it
6 is offered for retail sale, is not listed in either
7 subsection (a) of Section 25 of this Act or the most recent
8 list published pursuant to subsection (b) of Section 25 of
9 this Act;

10 (2) a processed food that does not contain any
11 ingredient derived from a raw agricultural commodity that,
12 on the date the processed food is manufactured, is listed
13 in either subsection (a) of Section 25 of this Act or the
14 most recent list published pursuant to subsection (b) of
15 Section 25 of this Act;

16 (3) food consisting entirely of, or derived entirely
17 from, an animal that has not itself been genetically
18 engineered, regardless of whether the animal has been fed
19 or injected with any genetically engineered food or any
20 drug that has been produced through means of genetic
21 engineering;

22 (4) a raw agricultural commodity or ingredient that has
23 been grown, raised, or produced without the knowing and
24 intentional use of genetically engineered seed or food,
25 except that to be included within this exclusion, the
26 person responsible for complying with this Section with

1 respect to a raw agricultural commodity or ingredient must
2 obtain, from whoever sold the commodity or ingredient to
3 that person, a sworn statement that the commodity or
4 ingredient (i) has not been knowingly or intentionally
5 genetically engineered and (ii) has been segregated from,
6 and has not been knowingly or intentionally commingled
7 with, goods that may have been genetically engineered at
8 any time; in providing a sworn statement, a person may rely
9 on a sworn statement from his or her own supplier that
10 contains that affirmation;

11 (5) any processed food that would be subject to this
12 Section solely because it includes one or more genetically
13 engineered processing aids or enzymes;

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

16 (7) until January 1, 2015, any processed food that
17 would be subject to this Section solely because it includes
18 one or more genetically engineered ingredients, provided
19 that (i) no single ingredient accounts for more than
20 one-half of 1% of the total weight of the processed food,
21 and (ii) the processed food does not contain more than 10
22 of those ingredients;

23 (8) food that an independent organization has
24 determined has not been knowingly and intentionally
25 produced from or commingled with genetically engineered
26 seed or genetically engineered food, provided that the

1 determination has been made pursuant to a sampling and
2 testing procedure approved for this purpose in rules
3 adopted by the Department;

4 (9) food that has been lawfully certified to be
5 labeled, marketed, and offered for sale as "organic"
6 pursuant to applicable State or federal organic food
7 production laws and regulations;

8 (10) food that is not packaged for retail sale and that
9 either (i) is a processed food prepared and intended for
10 immediate human consumption, (ii) is served, sold, or
11 otherwise provided in any restaurant or other food facility
12 that is primarily engaged in the sale of food prepared and
13 intended for immediate human consumption; or

14 (11) medical food, as defined in 21 U.S.C. 360ee(b) (3).

15 Section 20. Rulemaking authority. The Department may adopt
16 rules necessary to implement this Act, except that the
17 Department is not authorized to create any exemptions beyond
18 those provided in subsection (d) of Section 15 of this Act.

19 Rules adopted by the Department to comply with subdivision
20 (d) (8) of Section 15 may not approve a sampling and testing
21 procedure unless it is consistent with sampling and testing
22 principles recommended by the American National Standards
23 Institute, or the International Organization for
24 Standardization (ISO) or other internationally recognized
25 standards organization.

1 Section 25. Known genetically engineered commodities.

2 (a) The General Assembly finds that as of January 1, 2014,
3 the following raw agricultural commodities are commonly
4 cultivated commercially in genetically engineered form:

5 (1) alfalfa;

6 (2) canola;

7 (3) corn;

8 (4) cotton;

9 (5) papaya;

10 (6) soy;

11 (7) sugar beets; and

12 (8) zucchini and yellow summer squash.

13 (b) By January 1, 2015, and annually thereafter, the
14 Department shall publish an updated list of additional raw
15 agricultural commodities that are, at that time, commonly
16 cultivated commercially in genetically engineered form. The
17 list must be based on the most current available information.

18 Section 30. Enforcement.

19 (a) Any person who violates any provision of this Act or
20 any rule adopted hereunder shall be liable for a civil penalty
21 not to exceed \$1,000 per day for each day during which the
22 violation continues.

23 (b) The penalties provided for in this Section may be
24 recovered in a civil action. The Attorney General may, at the

1 request of the Department or on his or her own motion,
2 institute a civil action for an injunction, prohibitory or
3 mandatory, to restrain violations of this Act or any rule
4 adopted hereunder or to require any other actions that may be
5 necessary to address violations of this Act or any regulation
6 adopted hereunder.

7 (c) The Attorney General shall bring such actions in the
8 name of the people of the State of Illinois. Without limiting
9 the authority which may exist for the awarding of attorney's
10 fees and costs, the court may award costs and reasonable
11 attorney's fees, including the reasonable costs of expert
12 witnesses and consultants, to the Attorney General in a case
13 where he or she has prevailed against a person who has
14 committed a willful, knowing, or repeated violation of this Act
15 or any rule adopted hereunder.

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

18 Section 99. Effective date. This Act takes effect January
19 1, 2014.