

Initiative Measure No. 1338

filed January 23, 2014

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-2820.1/14

ATTY/TYPIST: ML:akl

BRIEF DESCRIPTION:

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AN ACT Relating to the disclosure and labeling of foods produced through genetic engineering; adding a new chapter to Title 70 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** (1) Consumers in the state of Washington have a right to know whether the foods they purchase were produced through the use of genetic engineering.

(2) The imprecise science of genetically engineering plants and animals, which is manipulating genes and inserting them into organisms, often has unintended consequences.

(3) Mandatory labeling of genetically engineered foods can provide an indispensable method for keeping track of the potential health effects and concerns relating to the eating of genetically engineered foods.

(4) Government scientists have stated that artificially inserting DNA into plants, a scientific technique that is uniquely done through

genetic engineering, can cause at least several significant problems with plant foods, such as increasing the level of known toxicants in foods and bringing in new toxicants, which in turn may lead to health concerns.

(5) No federal or Washington state law requires that food producers state whether foods were produced using genetic engineering.

(6) Trade and farming are important aspects of the economy of the state of Washington.

(7) At least as many countries as Washington has counties, thirty-nine, including most or all of the European Union member countries, have laws that mandate the disclosure of genetically engineered foods. Many countries of the world, including those who trade with the United States, have restrictions on the import of genetically engineered foods, which thereby negatively affects United States trade output.

(8) Without disclosure, consumers of genetically engineered foods can unwittingly violate religious and dietary rules or restrictions.

(9) The cultivation of genetically engineered crops can cause significant environmental impacts, which in turn may lead to problems affecting the overall production of food, including the increased use of toxic herbicides in many agricultural areas.

(10) United States organic farmers are prohibited from using genetically engineered seeds.

(11) Natural food production is inconsistent with genetically engineered food. Terms such as "natural," "all natural," "naturally made," and "naturally grown," are misleading to Washington consumers if they are used to label, advertise, or to otherwise market genetically engineered foods.

(12) The purpose of this chapter is to make sure that the citizens of Washington, visitors to Washington, and people overall are sufficiently informed about whether the food they want to purchase, actually purchase, and consume was produced through genetic engineering or not, so that they may choose for themselves whether or not to purchase or consume the food.

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

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

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

(3) "Genetically engineered" or the acronym "GE" means any food that is produced from an organism or organisms in which the genetic material has been changed through the application of in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) techniques and the direct injection of nucleic acids into cells or organelles, or fusion of cells.

(4) "In vitro nucleic acid techniques" include but are not limited to recombinant deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) techniques that use vector systems and techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organisms, such as microinjection, macroinjection, chemoporation, electroporation, microencapsulation, and liposome fusion.

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

(6) "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.

(7) "Processing aid" means: (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 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 effect 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.

NEW SECTION. **Sec. 3.** (1) Commencing July 1, 2016, any food offered for retail sale in the state is misbranded if it is or may have been entirely or partially produced with genetic engineering and that fact is not disclosed:

(a) In the case of any processed food, in clear and conspicuous words that read "Partially produced with genetic engineering" or "May be partially produced with genetic engineering" on the front or the back of the package of the food, or alternatively, on the nutrition facts label of the package of the food, in regular form, with either of the following statements: "Partially produced with genetic engineering (Washington Disclosure and Labeling of GE Food Act)" or "May be partially produced with genetic engineering (Washington Disclosure and Labeling of GE Food Act)."

(b) In the case of a raw agricultural commodity offered for retail sale, with the clear and conspicuous words "genetically engineered" on the front of the package of the commodity, or 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 the commodity is displayed for sale, or alternatively, on the nutrition facts label of the package of the commodity, in regular form, with the following statement: "Genetically engineered (Washington Disclosure and Labeling of GE Food Act)."

(c) In the case of any seed or seed stock, the words "genetically engineered" or "produced with genetic engineering" must be stated clearly and conspicuously on the seed container or seed stock container, and on the sales receipt or any other reference to identification, ownership, or possession.

(2) The requirements of this section do not apply to the following:

(a) Food consisting 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;

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

(c) A raw agricultural commodity, or food derived from such a commodity, that has been grown, raised, or produced without the knowing and intentional use of genetically engineered seed or food;

(d) Any alcoholic beverage subject to regulation under Title 66 RCW;

(e) Until July 1, 2019, a processed food that would be subject to this section solely because it includes one or more genetically engineered ingredients, provided that the genetically engineered ingredients in the aggregate do not account for more than nine-tenths of one percent of the total weight of the processed food; and

(f) Food that has been lawfully certified to be labeled, marketed, and offered for sale as "organic" pursuant to the federal organic food products act of 1990 and the regulations promulgated pursuant thereto by the United States department of agriculture.

(3) Use of the word "natural" or any derivative of the word "natural" as a descriptive label in the advertising or on the packaging of food offered for retail sale in Washington is misbranding if the food is genetically engineered or produced with genetic engineering, unless any of the exceptions identified in subsection (2) of this section are applicable.

(4) In keeping within the spirit of this chapter, the department of health may adopt rules, including the granting of an exemption, to cover reasonable exigencies or circumstances that may otherwise not be covered by this section.

NEW SECTION. **Sec. 4.** The department of health may adopt rules that it determines may be necessary for the enforcement and interpretation of this chapter.

NEW SECTION. **Sec. 5.** (1) At any time, the department of health, acting through the attorney general, and any person, ninety days after notifying the department of health and the attorney general of an alleged violation of this chapter, may bring an action in a court of competent jurisdiction to enjoin any person or persons violating this chapter.

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

(3) The court may award to a prevailing plaintiff reasonable costs and attorneys' fees incurred in investigating and prosecuting an action to enforce this chapter.

NEW SECTION. **Sec. 6.** This chapter may be known and cited as the Washington disclosure and labeling of GE food act.

NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 8.** 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.