

1 A bill to be entitled
2 An act relating to labeling of genetically engineered
3 foods; creating s. 500.92, F.S.; providing
4 definitions; providing mandatory labeling requirements
5 for genetically engineered raw foods and processed
6 foods made with or derived from genetically engineered
7 ingredients by a specified date; exempting specified
8 foods, commodities, ingredients, and other substances
9 from the labeling requirements; directing the
10 Department of Health to adopt rules; providing for
11 enforcement of the labeling requirements; providing
12 administrative and civil remedies and penalties;
13 providing legislative intent with regard to such
14 penalties; providing for injunctive relief actions;
15 requiring the court to award costs and fees under
16 certain circumstances; specifying that injunctive
17 relief actions do not preclude civil actions for
18 damages or personal injury; providing an effective
19 date.

20
21 WHEREAS, Florida has the right to protect the liberty of
22 its citizens to be free to make the most fundamental of life
23 choices of what to eat and put on their tables to feed their
24 families, and

25 WHEREAS, the Legislature finds that consumers should have
26 the right to know whether the foods they purchase contain

27 | genetically engineered material, and

28 | WHEREAS, without mandatory labeling of genetically
29 | engineered foods, consumers may unknowingly violate their own
30 | dietary or religious principles, and

31 | WHEREAS, the lack of labeling denies health professionals
32 | the ability to trace potential toxic or allergic reactions to,
33 | and other adverse health effects from, genetically engineered
34 | food, and

35 | WHEREAS, labeling requirements for genetically engineered
36 | foods are needed to facilitate both the withdrawal of products
37 | where unforeseen adverse effects on human health, animal health,
38 | or the environment, including ecosystems, are established, and
39 | the targeting of monitoring to examine potential effects on
40 | health and the environment, and

41 | WHEREAS, many medical and public health groups still have
42 | questions regarding the potential long-term impact of
43 | genetically engineered foods on human health and the
44 | environment, and

45 | WHEREAS, many medical and public health groups, including,
46 | but not limited to, the American College of Physicians, American
47 | Public Health Association, American Nurses Association, British
48 | Medical Association, Australian Medical Association, Irish
49 | Medical Organization, and German Medical Association, have
50 | passed resolutions or otherwise supported the mandatory labeling
51 | of genetically engineered foods to facilitate further health
52 | research, and

HB 1369

2016

53 WHEREAS, sixty-four developed or developing nations have
54 banned, restricted, or required labeling of products that are
55 genetically engineered, and

56 WHEREAS, Floridians should have the same freedom to make
57 informed choices about the food they eat as consumers or grow
58 and offer to market as farmers, and

59 WHEREAS, no international agreement prohibits the mandatory
60 labeling of genetically engineered foods, and

61 WHEREAS, the cultivation of genetically engineered crops
62 can negatively impact the environment, in some cases
63 necessitating the use of increasingly toxic herbicides that can
64 damage agricultural areas, impair drinking water, and pose
65 health risks to consumers and farmworkers, and

66 WHEREAS, consumers should have the choice to avoid
67 purchasing foods that they believe cause adverse health and
68 environmental effects, and

69 WHEREAS, currently, there is no federal requirement
70 mandating disclosure of genetically engineered foods on food
71 labels, NOW, THEREFORE,

72
73 Be It Enacted by the Legislature of the State of Florida:

74
75 Section 1. Section 500.92, Florida Statutes, is created to
76 read:

77 500.92 Genetically engineered foods.—

78 (1) As used in this section, the term:

79 (a) "Department" means the Department of Health.

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

85 (c) "Genetically engineered" means any food that consists
86 of, is composed of, contains, or is produced from an organism or
87 organisms in which the genetic material has been changed,
88 commonly referred to as a "genetically modified organism" or
89 "GMO," through the application of:

90 1. In vitro nucleic acid techniques, including recombinant
91 deoxyribonucleic acid techniques and the direct injection of
92 nucleic acid into cells or organelles. Such techniques include,
93 but are not limited to, recombinant deoxyribonucleic acid or
94 ribonucleic acid techniques that use vector systems and
95 techniques involving the direct introduction into the organisms
96 of hereditary material prepared outside the organisms, such as
97 microinjection, macroinjection, chemoporation, electroporation,
98 microencapsulation, and liposome fusion; or

99 2. Fusion of cells, including protoplast fusion, or
100 hybridization techniques that overcome natural physiological,
101 reproductive, or recombination barriers, where the donor cells
102 or protoplasts do not fall within the same taxonomic family, in
103 a way that does not occur by natural multiplication or natural
104 recombination.

105
106 The term does not include the centuries-old hybridization
107 technique used by farmers and breeders relying on nature or
108 similar plant-to-plant or similar animal-to-animal selective
109 breeding.

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

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

118 (2) Beginning January 1, 2018:

119 (a) Any genetically engineered raw food that is offered
120 for retail sale must include a clear and conspicuous statement
121 with the words "genetically engineered" on the front package or
122 label of any such commodity. For such a commodity that is not
123 separately packaged or labeled, the statement must appear on a
124 label on the retail store shelf or bin where the commodity is
125 displayed for sale.

126 (b) Any package offered for retail sale containing
127 processed food that is made with or derived from any genetically
128 engineered ingredient or is produced from a source that contains
129 recombinant bovine growth hormone must include a clear and
130 conspicuous statement on the front or back of the package with

131 the words "contains genetically engineered ingredients,"
132 followed by the name of the genetically engineered ingredient or
133 ingredients. If an ingredients list appears on the package, the
134 statement must appear underneath the ingredients list. For a
135 processed food containing more than one genetically engineered
136 ingredient or recombinant bovine growth hormone, the genetically
137 engineered ingredients listed after the statement must be listed
138 in the same order in which they appear in the full ingredients
139 list.

140 (c) In lieu of compliance with paragraph (b), any package
141 containing processed food that is made with or derived from any
142 ingredient that may be genetically engineered or is produced
143 from a source that contains recombinant bovine growth hormone
144 must include a clear and conspicuous statement on the front or
145 back of the package with the words "may contain genetically
146 engineered ingredients," followed by the name of the genetically
147 engineered ingredient or ingredients. If an ingredients list
148 appears on the package, the statement must appear underneath the
149 ingredients list. For a processed food containing more than one
150 ingredient that may be genetically engineered, the genetically
151 engineered ingredients listed after the statement must be listed
152 in the same order in which they appear in the full ingredients
153 list.

154 (d) Except as set forth in paragraph (e), a food produced
155 entirely or in part from genetic engineering may not be labeled
156 on the package, in signage, or in advertising as "natural" or

157 with any words of similar import.

158 (e) This subsection does not apply to:

159 1. Food consisting entirely of, or derived entirely from,
160 an animal that has not itself been genetically engineered and
161 that has not been fed a feed containing more than 1.5 percent
162 genetically engineered ingredients.

163 2. A raw agricultural commodity or ingredient that has
164 been grown, raised, or produced without the knowing and
165 intentional use of genetically engineered seed or food. The
166 person responsible for complying with this section must obtain,
167 from whoever sold the commodity or ingredient to such person, a
168 sworn statement that the commodity or ingredient has not been
169 knowingly or intentionally genetically engineered and has been
170 segregated from, and not been knowingly or intentionally
171 commingled with, goods that may have been genetically engineered
172 at any time. The sworn statement must be notarized and include a
173 written declaration stating that such statement is made under
174 the penalties of perjury and fraud. In providing such a sworn
175 statement, a person may rely on a sworn statement from his or
176 her own supplier that contains such an affirmation.

177 3. An alcoholic beverage that is subject to regulation
178 under chapters 561 through 568.

179 4. A processed food that would be subject to this section
180 solely because it includes one or more genetically engineered
181 ingredients, if a single genetically engineered ingredient does
182 not account for more than one-half of 1 percent of the total

183 weight of the processed food.

184 5. Any food not knowingly and intentionally produced from
185 or commingled with genetically engineered seed or genetically
186 engineered food, as determined by an independent organization,
187 such as the Non-GMO Project, if such a determination has been
188 made pursuant to a sampling and testing procedure approved for
189 this purpose in rules adopted by the department.

190 6. Food that has been lawfully certified to be labeled,
191 marketed, and offered for sale as organic pursuant to applicable
192 federal organic food production laws and regulations.

193 7. Food that is not packaged for retail sale and that is:

194 a. A processed food prepared and intended for immediate
195 human consumption;

196 b. Served, sold, or otherwise provided in a restaurant or
197 other food facility that is primarily engaged in the sale of
198 food prepared and intended for immediate human consumption; or

199 c. Medical food, as defined in 21 U.S.C. s. 360ee(b)(3).

200 (3)(a) The department shall:

201 1. Adopt rules to administer this section.

202 2. Select an independent nonprofit organization to approve
203 a sampling and testing procedure consistent with sampling and
204 testing principles recommended and developed by independent
205 nonprofit organizations with the highest internationally
206 recognized standards of genetically engineered labeling
207 requirements. The organization shall be chosen on a 2-year basis
208 by agency rule.

209 3. Create an educational pamphlet regarding the
210 requirements of this section for distribution to farmers in the
211 state.

212 4. Prominently display on its website information
213 regarding:

214 a. Information regarding genetically engineered foods and
215 crops as well as organic foods and crops.

216 b. Standards for nongenetically engineered products
217 developed by independent nonprofit organizations with the
218 highest internationally recognized standards of genetically
219 engineered labeling requirements.

220 c. Penalties imposed under this subsection and any pending
221 cases.

222 (b) After exhausting administrative remedies under chapter
223 120, the department may bring an action in a court of competent
224 jurisdiction to enjoin a person or an entity violating this
225 section.

226 (c) The department may assess a civil penalty against a
227 person or an entity violating this section in an amount not to
228 exceed \$5,000 per seed and \$1,000 per retail package intended to
229 be sold by a retailer. Each day of violation is considered a
230 separate violation. Minimum penalties per day will be based on 3
231 percent of the annual profit of the violating entity. It is the
232 intent of the Legislature that such penalties are imposed to
233 prevent violations of this section and that the cost of such
234 penalties is not passed on to consumers as the cost of doing

HB 1369

2016

235 business.

236 (d) Any political subdivision or municipality of the state
237 or a citizen of the state may maintain an action for injunctive
238 relief against:

239 1. The department to compel it to enforce this section or
240 any rules adopted thereunder. As a condition precedent to the
241 institution of an action pursuant to this subparagraph, the
242 complaining party must first file with the department a verified
243 complaint setting forth the facts upon which the complaint is
244 based and the manner in which the complaining party is affected.
245 Within 7 days after receipt of a complaint, the department must
246 transmit, by registered or certified mail, a copy of the
247 complaint to those parties charged with violating this section
248 or rules adopted thereunder. The department shall have 30 days
249 after the receipt of a complaint to take appropriate action. If
250 such action is not taken within the time prescribed, the
251 complaining party may institute the judicial proceedings
252 authorized in this subparagraph. However, a complainant's
253 failure to comply with this subparagraph does not bar an action
254 for a temporary restraining order to prevent immediate and
255 irreparable harm from the conduct or activity for which a
256 complaint is made. In any action instituted pursuant to this
257 subparagraph, the court, in the interest of justice, may add the
258 department as a party defendant.

259 2. Any person, natural or corporate, or governmental
260 agency or authority to enjoin such persons, agencies, or

HB 1369

2016

261 authorities from violating this section or rules adopted
262 thereunder.

263 (e) In any successful action to enforce a provision of
264 this section, the court shall award the prevailing party, other
265 than the state, reasonable costs and attorney fees.

266 (f) Paragraph (d) does not preclude any person from
267 bringing civil action for damages or personal injury relating to
268 violations of this section.

269 Section 2. This act shall take effect July 1, 2016.