An Act To Protect Maine Food Consumers' Right To Know about Genetically Engineered Food and Seed Stock

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Presented by Representative HARVELL of Farmington.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA c. 565 is enacted to read:

CHAPTER 565

GENETICALLY ENGINEERED PRODUCTS

§2591. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.


2. Genetically engineered. "Genetically engineered" has the same meaning as under Title 7, section 1051, subsection 2.


§2592. Disclosure requirements for genetically engineered food

1. Disclosure. Beginning 18 months after the effective date of this section, any food or seed stock offered for retail sale that is genetically engineered must be accompanied by a conspicuous disclosure that states "Produced with Genetic Engineering." The statement must be located on the package for all packaged food or seed stock or, in the case of unpackaged food or seed stock, on a card or label on the store shelf or bin in which the food or seed stock is displayed.

2. Use of term "natural." A food or seed stock that is subject to disclosure under subsection 1 may not be described on the label or by similar identification as "natural."

3. Misbranding. Any food or seed stock that is genetically engineered that does not display the disclosure required under subsection 1 or that is labeled or identified as natural in violation of subsection 2 is considered misbranded for the purposes of chapter 551, subchapter 1 except that:

A. A food or seed stock is not considered misbranded if the food or seed stock is produced by a person who:

(1) Grows, raises or otherwise produces that food or seed stock without knowledge that the food or seed stock was created from other seed or other food that was genetically engineered; and

(2) Obtains a sworn statement from the person from whom the food or seed stock was obtained that the food or seed stock was not knowingly genetically engineered and was segregated from and not knowingly commingled with a food or seed stock component that may have been genetically engineered;
B. A food product derived from an animal is not considered misbranded if the animal was not genetically engineered but was fed genetically engineered feed; and

C. Until July 1, 2019, a packaged processed food is not considered misbranded if the total weight of the processed food that was genetically engineered is less than 0.9% of the total weight of the processed food.

4. Rules. The commissioner may adopt routine technical rules under Title 5, chapter 375, subchapter 2-A for the administration and enforcement of this chapter.

§2593. Third-party protection

1. Reliance on affidavit. A distributor or retailer that sells or advertises food or seed stock that is genetically engineered that fails to make the disclosure required under section 2592, subsection 1 is not subject to liability in any civil action to enforce this chapter if the distributor or retailer relied on the affidavit under section 2595 provided by the producer or grower stating that the food or seed stock is not subject to the disclosure requirements under this chapter.

2. Restaurants. Restaurants are exempt from the disclosure requirements of this chapter.

3. Exempt products. Alcoholic beverages and medical food are exempt from the disclosure requirements of this chapter.

§2594. Enforcement

1. Authority. The commissioner shall enforce this chapter in the same manner as is authorized for enforcement of chapter 551, subchapter 1.

2. No private right. There is no private right of action to enforce this chapter.

3. Penalty. A person who violates this chapter commits a civil violation for which a fine may be assessed that may not exceed $1,000 per day per misbranded product per sales location.

§2595. Affidavit

The commissioner shall develop an affidavit form that may be provided by a producer or grower of food or seed stock to distributors and retailers and that may be included in shipments of food or seed stock within the State certifying that the food or seed stock being sold or shipped is not subject to the disclosure requirements of this chapter.

Sec. 2. Contingent effective date; contingent repeal. The Commissioner of Agriculture, Conservation and Forestry shall monitor legislative activities in other states and certify to the Secretary of State and the Revisor of Statutes when legislation substantially similar to this Act has been adopted in at least 5 other states or in a state or states with a population or combined population of at least 20,000,000. Those sections of this Act that enact the Maine Revised Statutes, Title 22, chapter 565 take effect 30 days after the date of the commissioner's certification. If no certification has been made by the
commissioner pursuant to this section by January 1, 2023, this Act is repealed on that date.

SUMMARY

This bill requires disclosure of genetic engineering at the point of retail sale of food and seed stock and provides that food or seed stock for which the disclosure is not made is considered to be misbranded and subject to the sanctions for misbranding. The bill provides that food or seed stock may not be labeled as natural if it has been genetically engineered. The bill exempts products produced without knowledge that the products, or items used in their production, were genetically engineered; animal products derived from an animal that was not genetically engineered but was fed genetically engineered food; and products with only a minimum content produced by genetic engineering. The bill also provides that the disclosure requirements do not apply to restaurants, alcoholic beverages or medical food. The disclosure provisions are administered by the Department of Agriculture, Conservation and Forestry.