

HOUSE BILL NO. 219

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KAWASAKI

Introduced: 1/10/14

Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the labeling of food; relating to the misbranding of food; and**
2 **requiring labeling of food produced with genetic engineering."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 17.20 is amended by adding a new section to read:

5 **Sec. 17.20.035. Labeling of genetically engineered food.** (a) Food wholly or
6 partially produced with genetic engineering that is purchased by a retailer after the
7 effective date of this Act for retail sale in the state shall be labeled as wholly or
8 partially produced with genetic engineering. If the food is

9 (1) a raw agricultural commodity, the label must read "produced with
10 genetic engineering" or "genetically engineered";

11 (2) a processed food, the label must read "partially produced with
12 genetic engineering" or "may be partially produced with genetic engineering."

13 (b) Unpackaged food required to be labeled under (a) of this section may be
14 labeled on the shelf or bin where the food is displayed for retail sale.

1 (c) Food subject to the labeling requirements of this section may not be
2 identified on a label, in an advertisement, or elsewhere with the term "natural,"
3 "naturally made," "naturally grown," "all natural," or another term that is reasonably
4 likely to mislead a consumer regarding the use of genetic engineering to produce the
5 food.

6 (d) This section does not require the listing or identification of the specific
7 ingredient or ingredients that were genetically engineered or the use of the term
8 "genetically engineered" to modify the name or description of a food.

9 (e) The labeling requirements in this section do not apply to

10 (1) genetically modified fish or genetically modified fish products;

11 (2) food consisting entirely of or derived entirely from an animal that
12 has not been wholly or partially produced with genetic engineering, even if the animal
13 has been fed or injected with a food or drug that was produced with genetic
14 engineering;

15 (3) a raw agricultural commodity or a processed food that has been
16 grown, raised, or produced without the knowing or intentional use of food or seed
17 produced with genetic engineering; to qualify for an exemption from the labeling
18 requirement under this paragraph, the person otherwise responsible for complying
19 with the labeling requirement shall obtain a statement from the supplier of the raw
20 agricultural commodity or processed food that the raw agricultural commodity or
21 processed food was not knowingly or intentionally produced with genetic engineering
22 and has been segregated from and not knowingly or intentionally commingled with
23 food that may have been produced with genetic engineering;

24 (4) food that would be subject to the labeling requirements of this
25 section only because a processing aid or enzyme produced with genetic engineering
26 was used to produce the food;

27 (5) an alcoholic beverage;

28 (6) processed food that would be subject to the labeling requirements
29 of this section before July 1, 2019, solely because one or more of its ingredients were
30 produced with genetic engineering; for the exception in this paragraph to apply, the
31 genetically engineered ingredients in the processed food may not account for more

1 than 9/10 of one percent of the total weight of the processed food;

2 (7) processed food prepared and intended for immediate human
3 consumption;

4 (8) medical food as defined in 21 U.S.C. 360ee.

5 (f) The labeling requirements of this section are in addition to the other
6 requirements of this chapter.

7 (g) In this section,

8 (1) "alcoholic beverage" has the meaning given in AS 04.21.080;

9 (2) "enzyme" means a protein that catalyzes chemical reactions of
10 other substances without itself being destroyed or altered upon completion of the
11 reactions;

12 (3) "genetic engineering" means a process whereby the genetic
13 material of an organism or organisms is changed through

14 (A) the application of in vitro nucleic acid techniques,
15 including recombinant deoxyribonucleic acid techniques and the direct
16 injection of nucleic acid into cells or organelles; or

17 (B) fusion of cells, including protoplast fusion, or hybridization
18 techniques that overcome natural physiological, reproductive, or recombination
19 barriers, where the donor cells or protoplasts do not fall within the same
20 taxonomic group, in a way that does not occur by natural multiplication or
21 natural recombination;

22 (4) "human consumption" means eating or ingestion by a natural
23 person;

24 (5) "in vitro nucleic acid techniques" means

25 (A) recombinant deoxyribonucleic acid techniques, ribonucleic
26 acid techniques, or other techniques that use vector systems; and

27 (B) techniques involving the direct introduction into an
28 organism of hereditary material prepared outside of the organism through
29 methods such as micro-injection, chemoporation, electroporation, micro-
30 encapsulation, and liposome fusion;

31 (6) "intentionally" has the meaning given in AS 11.81.900;

- 1 (7) "knowingly" has the meaning given in AS 11.81.900;
- 2 (8) "organism" means a biological entity capable of replication,
3 reproduction, or transferring of genetic material;
- 4 (9) "processing aid" means a substance that is added to a processed
5 food
- 6 (A) during processing and removed before the food is packaged
7 or offered for retail sale;
- 8 (B) during processing and converted into a constituent
9 normally present in the food and does not significantly increase the amount of
10 that constituent; or
- 11 (C) because of the technical or functional effect of the
12 substance on the processing of the food and that remains present in the food in
13 an amount that does not have a technical or functional effect on the food after
14 the processing is complete.

15 * **Sec. 2.** AS 17.20.040(a) is amended to read:

- 16 (a) Food is misbranded if
- 17 (1) its labeling is false or misleading in any particular;
- 18 (2) it is offered for sale under the name of another food;
- 19 (3) it is an imitation of another food, unless its label bears, in type of
20 uniform size and prominence, the word "imitation" and, immediately thereafter, the
21 name of the food imitated;
- 22 (4) its container is made, formed, or filled so as to be misleading;
- 23 (5) it is in package form unless it bears a label containing (A) the name
24 and place of business of the manufacturer, packer, or distributor; and (B) an accurate
25 statement of the quantity of the contents in terms of weight, measure, or numerical
26 count; however, under (B) of this paragraph, reasonable variations are permitted, and
27 exemptions for small packages shall be established by regulations prescribed by the
28 department;
- 29 (6) a word, statement, or other information required by or under
30 authority of this chapter to appear on the label or labeling is not prominently placed
31 with the conspicuousness (as compared with other words, statements, designs, or

1 devices in the labeling) and in terms that make it likely to be read and understood by
2 the ordinary individual under customary conditions of purchase and use;

3 (7) it purports to be or is represented as a food for which a definition
4 and standard of identity has been prescribed by regulations as provided by
5 AS 17.20.010, unless (A) it conforms to the definition and standard, and (B) its label
6 bears the name of the food specified in the definition and standard and the common
7 names of optional ingredients other than spices, flavoring, and coloring present in the
8 food as required by regulation;

9 (8) it purports to be or is represented as (A) a food for which a
10 standard of quality has been prescribed by regulations, and its quality falls below that
11 standard, unless its label bears, in the manner and form the regulations specify, a
12 statement that it falls below that standard; or (B) a food for which a standard of fill of
13 container has been prescribed by regulation as provided by AS 17.20.010 and it falls
14 below the applicable standard of fill of container, unless its label bears, in the manner
15 and form as the regulations specify, a statement that it falls below that standard;

16 (9) it is not subject to the provisions of (7) of this subsection, unless it
17 bears labeling clearly giving (A) the common or usual name of the food, if any, and
18 (B) in case it is fabricated from two or more ingredients, the common or usual name of
19 each ingredient; except that, however, spices, flavorings, and colorings, other than
20 those sold as such, may be designated as spices, flavorings, and colorings, without
21 naming each; however, to the extent that compliance with the requirements of (B) of
22 this paragraph is impracticable, or results in deception or unfair competition,
23 exemptions shall be established by regulations adopted by the department, but the
24 requirements of (B) of this paragraph do not apply to food products that are packaged
25 at the direction of purchasers at retail at the time of sale, the ingredients of which are
26 disclosed to the purchasers by other means in accordance with regulations adopted by
27 the department;

28 (10) it purports to be or is represented for special dietary uses, unless
29 its label bears information concerning its vitamin, mineral, and other dietary properties
30 the commissioner determines to be, and by regulations prescribes as, necessary in
31 order fully to inform purchasers as to its value for those uses;

1 (11) it bears or contains artificial flavoring, artificial coloring, or
 2 chemical preservative, unless it bears labeling stating that fact; however, to the extent
 3 that compliance with the requirements of this paragraph is impracticable, exemption
 4 shall be established by regulations adopted by the department;

5 (12) the food is a farmed halibut, salmon, or sablefish product, unless

6 (A) the product is labeled to identify the product as farmed fish
 7 raised outside the state, if the product is sold in a packaged form; or

8 (B) the product is conspicuously identified as farmed fish
 9 raised outside the state, if the product is sold in an unpackaged form;

10 (13) the labeling, advertisement, or identification of the food is
 11 inconsistent with the labeling, advertisement, or identification provisions of
 12 AS 17.20.035, 17.20.048, [AS 17.20.048] or 17.20.049;

13 (14) the food is a genetically modified fish or genetically modified fish
 14 product unless

15 (A) the food is conspicuously labeled to identify the fish or fish
 16 product as a genetically modified fish or fish product if the fish or fish product
 17 is sold in a packaged form; [OR]

18 (B) the food is conspicuously identified as a genetically
 19 modified fish or fish product if the fish or fish product is sold in an unpackaged
 20 form; or

21 (C) the food is conspicuously labeled "produced with
 22 genetic engineering" or "genetically engineered";

23 (15) it fails to satisfy a labeling requirement in AS 17.20.035 for
 24 food produced with genetic engineering.

25 * **Sec. 3.** AS 17.20 is amended by adding a new section to read:

26 **Sec. 17.20.348. Liability of retail seller of processed food.** Notwithstanding
 27 AS 17.20.290, 17.20.305, or 17.20.315, a retail seller of food is not subject to civil or
 28 criminal liability arising from failure to label a processed food as required under
 29 AS 17.20.035 unless the retail seller

30 (1) is the producer or manufacturer of the processed food; or

31 (2) offers the processed food for sale under a brand owned by the retail

1 seller.

2 * **Sec. 4.** AS 17.20.370 is amended by adding new paragraphs to read:

3 (17) "genetically modified fish" means

4 (A) a finfish or shellfish whose genetic structure has been
5 altered at the molecular level by means that are not possible under natural
6 conditions or processes, including recombinant deoxyribonucleic acid and
7 ribonucleic acid techniques, cell fusion, gene deletion or doubling, introduction
8 of exogenous genetic material, alteration of the position of a gene, or similar
9 procedure;

10 (B) the progeny of a finfish or shellfish described in (A) of this
11 paragraph;

12 (18) "genetically modified fish product" means a product prepared
13 from a genetically modified fish;

14 (19) "processed food" means a food produced from a raw agricultural
15 commodity that has been subjected to processing, such as canning, smoking, pressing,
16 cooking, freezing, dehydration, fermentation, or milling; "processed food" does not
17 include a raw agricultural commodity;

18 (20) "raw agricultural commodity" means a fruit that is raw and
19 unpeeled after having been washed, colored, or otherwise treated or a food in its raw
20 or natural state.

21 * **Sec. 5.** AS 17.20.040(b)(2) and 17.20.040(b)(3) are repealed.