

# **HOUSE . . . . . No. 3996**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, March 27, 2014.

The committee on Environment, Natural Resources and Agriculture to whom were referred the petition (accompanied by bill, House, No. 808) of Todd M. Smola relative to the labeling of genetically engineered food and the petition (accompanied by bill, House, No. 813) of Ellen Story and others relative to the labeling of plant seeds, reports recommending that the accompanying bill (House, No. 3996) ought to pass.

For the committee,

ANNE M. GOBI.

**HOUSE . . . . . No. 3996**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Fourteen**  
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An Act relative to the labeling of seed.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 1 of chapter 94 of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by inserting after the definition of “Food” the following new  
3 definition:-

4           “Genetically engineered material”, any material derived in whole or in part from  
5 processes, as identified by the national organic program of the U.S. department of agriculture,  
6 used to modify genetically organisms or influence their growth and development by means that  
7 are not possible under natural conditions or processes. Such methods include cell fusion,  
8 microencapsulation and macroencapsulation, and recombinant DNA technology (including gene  
9 deletion, gene doubling, introducing a foreign gene, and changing the positions of genes when  
10 achieved by recombinant DNA technology). Such methods do not include the use of traditional  
11 breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.  
12 Material grown from genetically engineered seed and genetically engineered plant parts shall be  
13 considered genetically engineered material.

14           SECTION 2. Said chapter 94 is hereby amended by adding after section 184E the  
15 following new section:-

16           Section 184F. The Genetically Engineered Food Right to Know Act

17           On October first following the date the Director of Standards recognizes the occurrence  
18 of both of the following: (1) Four states, not including this state, enact a mandatory labeling law  
19 for genetically-engineered foods that is consistent with the provisions of this subsection,  
20 provided one such state borders Massachusetts; and (2) the aggregate population of such states  
21 located in the northeast region of the United States that have enacted a mandatory labeling law  
22 for genetically-engineered foods that is consistent with this subsection exceed twenty million

23 based on 2010 census figures, (A) food intended for human consumption, and (B) seed or seed  
24 stock that is intended to produce food for human consumption, that is entirely or partially  
25 genetically-engineered, except a processed food subject to the provisions of this section solely  
26 because one or more processing aids or enzymes were produced or derived from genetic  
27 engineering, shall be labeled as follows: (i) In the case of such food that is sold wholesale and is  
28 not intended for retail sale, on the bill of sale accompanying such food during shipping, with the  
29 clear and conspicuous words: "Produced with Genetic Engineering"; (ii) in the case of such food  
30 for retail sale contained in a package, with the clear and conspicuous words: "Produced with  
31 Genetic Engineering"; (iii) in the case of such food that is a raw agricultural commodity, on the  
32 package offered for retail sale or, in the case of any such commodity that is not separately  
33 packaged or labeled, on the bill of sale or invoice for such commodity and on the retail store  
34 shelf or bin that holds such commodity displayed for sale with the clear and conspicuous words:  
35 "Produced with Genetic Engineering"; and (iv) in the case of any such seed or seed stock, on the  
36 container holding the seed or seed stock displayed for sale or on any label identifying ownership  
37 or possession of the commodity with the clear and conspicuous words: "Produced with Genetic  
38 Engineering". Such food labeling shall be displayed in the same size and font as the ingredients  
39 in the nutritional facts panel on the food label. Not later than thirty days after the Director of  
40 Standards recognizes the occurrence of the events described in subdivisions (1) and (2) of this  
41 subsection, the commissioner shall cause to be published in the five newspapers in the state  
42 having the largest circulation, notice of the date the requirements of this section become  
43 effective. For purposes of this section, "states located in the northeast region of the United  
44 States" means Connecticut, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island,  
45 New York, New Jersey, Pennsylvania, Delaware and Maryland.

46 (b) The requirements of subsection (a) of this section shall not apply to any of the  
47 following:

48 (1) Alcoholic beverages;

49 (2) Food intended for human consumption that is not packaged for retail sale and that  
50 either: (A) Is a processed food prepared and intended for immediate consumption, or (B) is  
51 served, sold or otherwise provided in any restaurant or other food facility that is primarily  
52 engaged in the sale of food prepared and intended for immediate consumption;

53 (3) Farm products that are sold by a farmer or the farmer's agent to a consumer at a pick-  
54 your-own farm, roadside stand, on-farm market or farmers' market; and

55 (4) Food consisting entirely of, or derived entirely from, an animal that was not  
56 genetically engineered, regardless of whether such animal was fed or injected with any  
57 genetically-engineered food or any drug that was produced through means of genetic  
58 engineering.

59 (c) Any person selling, offering for sale or distributing in this state any food, seed or seed  
60 stock required to be labeled as provided in this section shall be responsible for ensuring that such  
61 food, seed or seed stock is so labeled.

62 (d) The provisions of this section shall be enforced, within available appropriations, by  
63 the Director of Standards.

64 (e) Any person found to knowingly violate this section shall be liable for a civil penalty  
65 not to exceed one thousand dollars per day, per product. Calculation of such civil penalty shall  
66 not be made or multiplied by the number of individual packages of the same product displayed or  
67 offered for retail sale. Civil penalties assessed under this section shall accrue and be assessed per  
68 each uniquely named, designated or marketed product.

69 (f) Notwithstanding the provisions of subsection (c) of this section, a retailer shall not be  
70 penalized or otherwise held liable for the failure to label pursuant to this section unless (1) the  
71 retailer is the producer or the manufacturer of the genetically-engineered food, seed or seed stock  
72 and sells the genetically-engineered food under a brand it owns, or (2) the retailer's failure to  
73 label was knowing and wilful. In any action in which it is alleged that a retailer has violated the  
74 provisions of this section, it shall be a defense that such retailer reasonably relied on (A) any  
75 disclosure concerning genetically-engineered foods contained in the bill of sale or invoice  
76 provided by the wholesaler or distributor pursuant to subsection (a) of this section, or (B) the  
77 lack of any such disclosure.

78 (g) The Director of Standards may adopt regulations, in accordance with the provisions of  
79 Section 5 of Chapter 24 of the M.G.L., to implement and enforce the provisions of this section.

80 SECTION 3. Section 187 of said chapter 94 is hereby amended by inserting after the  
81 paragraph beginning with the word "Fourteenth," and ending with the words "misleading  
82 labeling." the following paragraphs:-

83 "Fifteenth, if it is intended for human consumption and genetically-engineered, as  
84 defined in section 1 of this act, and does not bear labeling as required in accordance with section  
85 2 of this act, unless (A) it is a food intended for human consumption produced without the  
86 producer's knowledge that a seed or other component of such food was genetically-engineered,  
87 or (B) on or before July 1, 2019, it is a processed food, as defined in section 1 of this act, that is  
88 subject to the provisions of section 2 of this act, solely because it contains one or more materials  
89 that have been produced with genetic engineering, as defined in section 1 of this act, provided  
90 such genetically-engineered materials do not, in the aggregate, account for more than nine-tenths  
91 of one per cent of the total weight of the processed food."

92 "In the case of seed or seed stock intended to produce food for human consumption: First,  
93 if it is genetically engineered as defined in Section 1 of this act, and does not bear labeling as  
94 required in Section 2 of this act."