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SENATE BILL 6298

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Chase, Nelson, Shin, Keiser, Rolfes, and Conway

Read first time 01/17/12. Referred to Committee on Agriculture, Water & Rural Economic Development.

1 AN ACT Relating to labeling foods containing genetically engineered  
2 material; adding a new chapter to Title 15 RCW; and prescribing  
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Consumers should have the right to know whether the foods they  
7 purchase contain genetically engineered material. The genetic  
8 engineering of plants and animals often causes unintended consequences.  
9 Manipulating genes and inserting them into organisms is an imprecise  
10 process. The results are not always predictable or controllable, and  
11 can lead to adverse health or environmental consequences.

12 (b) Government scientists have stated that the artificial insertion  
13 of genetic material into plants, a technique unique to genetic  
14 engineering, can cause a variety of significant problems with plant  
15 foods. Such genetic engineering can increase the levels of known  
16 toxicants in foods, introduce new toxicants or new allergies, and  
17 reduce the nutritional value of food.

18 (c) Mandatory labeling of genetically engineered foods can provide

1 a critical method for tracking the potential health effects of  
2 consuming genetically engineered foods.

3 (d) Currently, there is no federal or state requirement that foods  
4 be labeled to disclose that they are genetically engineered. At the  
5 same time, the United States food and drug administration does not  
6 require safety studies of such foods. Unless these foods contain a  
7 known allergen, the United States food and drug administration does not  
8 even require the producers to consult with the agency regarding  
9 genetically engineered crops or other foods.

10 (e) The vast majority of the public want labels on genetically  
11 engineered foods.

12 (f) Fifty countries, including the European Union member states,  
13 Japan, and other key United States trading partners, have laws  
14 mandating disclosure of genetically engineered foods on food labels.  
15 No intentional agreements prohibit the mandatory labeling of such  
16 foods.

17 (g) Without labeling, consumers of genetically engineered food can  
18 unknowingly violate their own dietary and religious restrictions.

19 (h) The cultivation of genetically engineered crops can also cause  
20 serious impacts to the environment. For example, most genetically  
21 engineered crops are designed to withstand weed-killing herbicides. As  
22 a result, hundreds of millions of pounds of additional herbicides have  
23 been used on the nation's farms. Because of the massive use of such  
24 products, herbicide-resistant weeds have flourished, a problem that has  
25 resulted, in turn, in the use of increasingly toxic herbicides. These  
26 toxic herbicides damage our agricultural areas, impair our drinking  
27 water, and pose health risks to consumers and farmworkers. The public  
28 should have the choice to avoid purchasing foods produced in ways that  
29 can lead to such harm.

30 (i) Organic farmers are prohibited from using genetically  
31 engineered seeds. Nonetheless, these farmers' crops are regularly  
32 threatened with accidental contamination from neighboring lands where  
33 genetically engineered crops abound. This risk of contamination can  
34 erode public confidence in organic products, significantly undermining  
35 this industry. Consumers should have the choice to avoid purchasing  
36 foods whose production could harm the state's organic farmers and its  
37 organic foods industry.

1 (2) The purpose of this act is to ensure that people are fully  
2 informed about whether the food they purchase and eat is genetically  
3 engineered so that they can choose for themselves whether to purchase  
4 and eat such foods.

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

7 (1) "Cultivated commercially" means grown or raised by a person in  
8 the course of a business or trade.

9 (2) "Department" means the department of agriculture.

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

13 (4) "Food facility" means an operation that stores, prepares,  
14 packages, serves, vends, or otherwise provides food for human  
15 consumption at the retail level, including an operation where food is  
16 consumed on or off the premises, regardless of whether there is a  
17 charge for the food.

18 (5) "Genetically engineered" means any food that consists of, is  
19 composed of, contains, or is produced from an organism or organisms in  
20 which the genetic material has been changed through the application of:

21 (a) In vitro nucleic acid techniques, including recombinant  
22 deoxyribonucleic acid techniques and the direct injection of nucleic  
23 acid into cells or organelles. Such techniques include but are not  
24 limited to recombinant deoxyribonucleic acid or ribonucleic acid  
25 techniques that use vector systems and techniques involving the direct  
26 introduction into the organisms of hereditary material prepared outside  
27 the organisms such as micro-injection, macro-injection, chemoporation,  
28 electroporation, micro-encapsulation, and liposome fusion; or

29 (b) Fusion of cells, including protoplast fusion, or hybridization  
30 techniques that overcome natural physiological, reproductive, or  
31 recombination barriers, where the donor cells or protoplasts do not  
32 fall within the same taxonomic family, in a way that does not occur by  
33 natural multiplication or natural recombination.

34 (6) "Ingredient" means any substance that is used in the  
35 manufacture, or contained in the final form, of a processed food.

36 (7) "Processed food" means any food other than a raw agricultural

1 commodity and includes any food produced from a raw agricultural  
2 commodity that has been subject to processing such as canning, smoking,  
3 pressing, cooking, freezing, dehydration, fermentation, or milling.

4 (8) "Processing aid" means:

5 (a) A substance that is added to a food during the processing of  
6 the food but is removed in the same manner from the food before it is  
7 packaged in its finished form;

8 (b) A substance that is added to a food during processing, is  
9 converted into constituents normally present in the food, and does not  
10 significantly increase the amount of the constituents naturally found  
11 in the food; or

12 (c) A substance that is added to a food for its technical or  
13 functional effects in the processing but is present in the finished  
14 good at insignificant levels and does not have any technical or  
15 functional effect in that finished food.

16 NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2014, for any  
17 genetically engineered raw agricultural commodity that is offered for  
18 retail sale, a clear and conspicuous statement consisting of the words  
19 "genetically engineered" must appear either:

20 (a) On the front package or label of any such commodity; or

21 (b) In the case of such a commodity that is not separately packaged  
22 or labeled, on a label appearing on the retail store shelf or bin in  
23 which such a commodity is displayed for sale.

24 (2) Beginning July 1, 2014, any package offered for retail sale  
25 containing processed food that is made with or derived from any  
26 genetically engineered ingredient must include a clear and conspicuous  
27 statement consisting of the words "contains genetically engineered  
28 ingredient(s)," followed by the name of the ingredient or ingredients.  
29 If an ingredients list appears on the package:

30 (a) This statement must appear underneath the ingredients list; and

31 (b) In the case of processed food containing more than one  
32 genetically engineered ingredient, the genetically engineered  
33 ingredients listed after this statement must be listed in the same  
34 order in which they appear in the full ingredients list.

35 (3) In lieu of compliance with subsection (2) of this section, any  
36 package containing processed food that is made with or is derived from  
37 any ingredient that may be genetically engineered must include a clear

1 and conspicuous statement consisting of the words "may contain  
2 genetically engineered ingredient(s)," followed by the name of the  
3 ingredients. If an ingredients list appears on the package:

4 (a) This statement must appear underneath the ingredients list; and

5 (b) In the case of processed food containing more than one  
6 ingredient that may be genetically engineered, the genetically  
7 engineered ingredients listed after this statement must be listed in  
8 the same order in which they appear in the full ingredients list.

9 (4) The requirements of subsections (1) through (3) of this section  
10 do not apply to any of the following:

11 (a) Any raw agricultural commodity that, on the date it is offered  
12 for retail sale, is not listed in section 4(2) of this act, or in the  
13 most recent list published pursuant to section 4(3) of this act;

14 (b) A processed food that does not contain any ingredient derived  
15 from a raw agricultural commodity that, on the date the processed food  
16 is manufactured, is listed in either section 4(2) of this act, or in  
17 the most recent list published pursuant to section 4(3) of this act;

18 (c) Food consisting entirely of, or derived entirely from, an  
19 animal that has not itself been genetically engineered, regardless of  
20 whether the animal has been fed or injected with any genetically  
21 engineered food or any drug that has been produced through means of  
22 genetic engineering;

23 (d) A raw agricultural commodity or ingredient that has been grown,  
24 raised, or produced without the knowing and intentional use of  
25 genetically engineered seed or food. To be included within this  
26 exclusion, the person responsible for complying with this section with  
27 respect to a raw agricultural commodity or ingredient must obtain, from  
28 whoever sold the commodity or ingredient to that person, a sworn  
29 statement that the commodity or ingredient: (i) Has not been knowingly  
30 or intentionally genetically engineered; and (ii) has been segregated  
31 from, and has not been knowingly or intentionally commingled with,  
32 goods that may have been genetically engineered at any time. In  
33 providing such a sworn statement, any person may rely on a sworn  
34 statement from his or her own supplier that contains such an  
35 affirmation;

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

1 (f) Any alcoholic beverage that is subject to regulation under  
2 Title 66 RCW;

3 (g) Until July 1, 2019, any processed food that would be subject to  
4 this section solely because it includes one or more genetically  
5 engineered ingredients, provided that:

6 (i) No single ingredient accounts for more than one-half of one  
7 percent of the total weight of the processed food; and

8 (ii) The processed food does not contain more than ten such  
9 ingredients;

10 (h) Food that an independent organization has determined has not  
11 been knowingly and intentionally produced from or commingled with  
12 genetically engineered seed or genetically engineered food, provided  
13 that such a determination has been made pursuant to a sampling and  
14 testing procedure approved for this purpose in rules adopted by the  
15 department. These rules may not approve a sampling and testing  
16 procedure unless it is consistent with sampling and testing principles  
17 recommended by internationally recognized standards organizations;

18 (i) Food that has been lawfully certified to be labeled, marketed,  
19 and offered for sale as "organic" pursuant to applicable federal  
20 organic food production laws and regulations;

21 (j) Food that is not packaged for retail sale and that either:

22 (i) Is a processed food prepared and intended for immediate human  
23 consumption; or

24 (ii) Is served, sold, or otherwise provided in any restaurant or  
25 other food facility that is primarily engaged in the sale of food  
26 prepared and intended for immediate human consumption; and

27 (k) Medical food.

28 NEW SECTION. **Sec. 4.** (1) The department may adopt rules necessary  
29 to implement this chapter, provided that the department is not  
30 authorized to create any exemptions beyond those provided in section  
31 3(4) of this act.

32 (2) The legislature finds that as of November 1, 2011, the  
33 following raw agricultural commodities are commonly cultivated  
34 commercially in genetically engineered form:

35 (a) Alfalfa;

36 (b) Canola;

37 (c) Corn;

- 1 (d) Cotton;
- 2 (e) Papaya;
- 3 (f) Soy;
- 4 (g) Sugar beets; and
- 5 (h) Zucchini and yellow summer squash.

6 (3) By July 1, 2013, and annually thereafter, the department shall  
7 publish an updated list of additional raw agricultural commodities that  
8 are at that time commonly cultivated commercially in genetically  
9 engineered form. The list must be based on the most current available  
10 information.

11 NEW SECTION. **Sec. 5.** (1) The department, acting through the  
12 attorney general, may bring an action in a court of competent  
13 jurisdiction to enjoin any person violating this chapter.

14 (2) The department may assess a civil penalty against any person  
15 violating this chapter in an amount not to exceed one thousand dollars  
16 per day. Each day of violation is considered a separate violation.

17 (3) An action to enjoin a violation of this chapter may be brought  
18 in any court of competent jurisdiction by any person in the public  
19 interest if both of the following requirements are met:

20 (a) The action is commenced more than sixty days after the person  
21 has given notice of the alleged violation to the department, the  
22 attorney general, and to the alleged violator; and

23 (b) The department, acting through the attorney general, has  
24 commenced an action against the alleged violation.

25 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute  
26 a new chapter in Title 15 RCW.

27 NEW SECTION. **Sec. 7.** If any provision of this act or its  
28 application to any person or circumstance is held invalid, the  
29 remainder of the act or the application of the provision to other  
30 persons or circumstances is not affected.

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