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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 3051

05/09/2012 Authored by Clark

The bill was read for the first time and referred to the Committee on Agriculture and Rural Development Policy and Finance

1.1 A bill for an act
1.2 relating to food safety; regulating genetically engineered food; authorizing
1.3 rulemaking; requiring a report; proposing coding for new law in Minnesota
1.4 Statutes, chapter 31.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[31.98] DEFINITIONS.**

1.7 Subdivision 1. **Applicability.** For the purposes of sections 31.98 to 31.982, the
1.8 following terms have the meanings given.

1.9 Subd. 2. **Cultivated commercially.** "Cultivated commercially" means grown or
1.10 raised by a person in the course of the person's business or trade and sold within the
1.11 United States.

1.12 Subd. 3. **Enzyme.** "Enzyme" means a protein that catalyzes chemical reactions of
1.13 other substances without being destroyed or altered upon completion of such reactions.

1.14 Subd. 4. **Genetically engineered.** "Genetically engineered" means any food that
1.15 is produced from an organism or organisms in which the genetic material was modified
1.16 through the application of: (1) in vitro nucleic acid techniques, including recombinant
1.17 deoxyribonucleic acid techniques and the direct injection of nucleic acid into cells or
1.18 organelles; or (2) fusion of cells, including protoplast fusion, or hybridization techniques
1.19 that overcome natural physiological, reproductive, or recombination barriers, where the
1.20 donor cells or protoplasts do not fall within the same taxonomic family, in a way that does
1.21 not occur by natural multiplication or natural recombination.

1.22 Subd. 5. **Organism.** "Organism" means any biological entity capable of replication,
1.23 reproduction, or transferring genetic material.

2.1 Subd. 6. **In vitro nucleic acid techniques.** "In vitro nucleic acid techniques"
2.2 means techniques, including, but not limited to, recombinant deoxyribonucleic acid
2.3 or ribonucleic acid techniques, that use vector systems and techniques involving the
2.4 direct introduction into the organisms of hereditary materials prepared outside the
2.5 organisms such as microinjection, macroinjection, chemoporation, electroporation,
2.6 microencapsulation, and liposome fusion.

2.7 Subd. 7. **Processed food.** "Processed food" means any food other than a
2.8 raw agricultural commodity and includes any food produced from a raw agricultural
2.9 commodity that was processed through canning, smoking, pressing, cooking, freezing,
2.10 dehydration, fermentation, or milling.

2.11 Subd. 8. **Processing aid.** "Processing aid" means: (1) any substance that is added to
2.12 a food during the processing of such food but that is removed in some manner from the
2.13 food before the food is packaged in a finished form; (2) any substance that is added to a
2.14 food during processing that is converted into constituents normally present in the food and
2.15 that does not significantly increase the amount of the constituents naturally found in the
2.16 food; or (3) any substance that is added to a food for its technical or functional effect in
2.17 the processing but that is present in the finished food at insignificant levels and that does
2.18 not have any technical or functional effect in the finished food.

2.19 **Sec. 2. [31.981] GENETICALLY ENGINEERED FOOD.**

2.20 (a) On and after July 1, 2014, any food offered for retail sale in this state shall be
2.21 deemed misbranded if such food is, or may have been, entirely or partially produced with
2.22 genetic engineering and such fact is not disclosed, as follows:

2.23 (1) in the case of a raw agricultural commodity, on the package offered for retail
2.24 sale, with the clear and conspicuous words "Genetically Engineered" on the front of the
2.25 package of such commodity, or in the case of any such commodity that is not separately
2.26 packaged or labeled, on a label that appears on the retail store shelf or bin in which such
2.27 commodity is displayed for sale; and

2.28 (2) in the case of any processed food, in clear and conspicuous language on the front
2.29 or back of the package of such food, with the words "Partially Produced with Genetic
2.30 Engineering" or "May be Partially Produced with Genetic Engineering."

2.31 (b) Nothing in paragraph (a) shall be construed to require either the listing or
2.32 identification of any ingredient or ingredients that were genetically engineered, nor that
2.33 the term "genetically engineered" be placed immediately preceding any common name
2.34 or primary product descriptor of a food.

2.35 (c) The requirements of paragraph (a) do not apply to any of the following:

3.1 (1) food consisting entirely of, or derived entirely from, an animal that was not
3.2 genetically engineered, regardless of whether such animal was fed or injected with any
3.3 genetically engineered food or any drug that was produced through means of genetic
3.4 engineering;

3.5 (2) a raw agricultural commodity or food derived from such commodity that was
3.6 raised or produced without the knowing and intentional use of genetically engineered
3.7 seed or food, provided any person required to comply with the provisions of this section
3.8 obtains a sworn statement from the person providing such commodity or food that such
3.9 commodity or food: (i) was not knowingly or intentionally genetically engineered; and
3.10 (ii) has been segregated from, and was not knowingly or intentionally commingled with,
3.11 food that may have been genetically engineered at any time. In providing such a sworn
3.12 statement, any person may rely on a sworn statement from the person's own supplier
3.13 that contains such an affirmation;

3.14 (3) any processed food that would be subject to the provisions of this section solely
3.15 because it includes one or more genetically engineered processing aids or enzymes;

3.16 (4) any alcoholic beverage;

3.17 (5) until July 1, 2019, any processed food that would be subject to the provisions
3.18 of this section solely because such processed food includes one or more genetically
3.19 engineered ingredients, provided: (i) no single such ingredient accounts for more than
3.20 one-half of one percent of the total weight of such processed food; and (ii) such processed
3.21 food does not contain more than ten such ingredients;

3.22 (6) food that an independent organization determines was not knowingly and
3.23 intentionally produced from or commingled with genetically engineered seed or genetically
3.24 engineered food, provided such determination is made pursuant to a sampling and testing
3.25 procedure approved in rules adopted by the commissioner. No sampling procedure shall be
3.26 approved by the commissioner under this section unless such sampling is: (i) performed
3.27 according to a statistically valid sampling plan consistent with principles recommended
3.28 by internationally recognized sources such as the International Standards Organization
3.29 (ISO) and the Grain and Feed Trade Association (GAFTA); (ii) consistent with the most
3.30 recent "Guidelines on Performance Criteria and Validation of Methods for Detection,
3.31 Identification and Quantification of Specific DNA Sequences and Specific Proteins in
3.32 Foods, (CAC/GL 74 (2010))" published by the Codex Alimentarius Commission; and (iii)
3.33 not reliant on testing of processed foods in which no DNA is detectable;

3.34 (7) food that is lawfully certified to be labeled, marketed, and offered for sale as
3.35 organic pursuant to the federal Organic Food Products Act of 1990 and the regulations
3.36 promulgated by the United States Department of Agriculture;

4.1 (8) food that is not packaged for retail sale and that either is a processed food
4.2 prepared and intended for immediate human consumption or is served, sold, or otherwise
4.3 provided in any restaurant or other food facility that is primarily engaged in the sale of
4.4 food prepared and intended for immediate human consumption; and

4.5 (9) medical food.

4.6 (d) The commissioner, in consultation with the commissioner of health, may adopt
4.7 rules necessary for the implementation and enforcement of the provisions of this section.

4.8 (e) Any person may bring an action in district court to enforce the provisions of this
4.9 section and the court shall have jurisdiction upon hearing and for cause shown to grant a
4.10 temporary or permanent injunction restraining any person from violating any provision
4.11 of this section. In addition to any injunctive relief provided, the court may award to the
4.12 person bringing the action reasonable attorney fees and all reasonable costs incurred in
4.13 the investigation and prosecution of such action, as determined by the court. Nothing in
4.14 this paragraph shall be construed to limit or alter the powers of the commissioner to bring
4.15 an action to enforce this section.

4.16 Sec. 3. **[31.982] BEST PRACTICES.**

4.17 The commissioner shall adopt rules that establish best practices for farmers who
4.18 cultivate commercially any genetically engineered crop. Such regulations shall require the
4.19 implementation of practices by such farmers to: (1) eliminate or minimize the degree to
4.20 which such genetically engineered crop affects neighboring lands; and (2) minimize the
4.21 amount of herbicides used by such farmers to eradicate herbicide-resistant weeds.

4.22 Sec. 4. **DISPLAY PREFERENCE.**

4.23 No later than October 15, 2012, the commissioner of agriculture shall report to
4.24 the legislative committees with jurisdiction over agriculture and health on a method
4.25 to implement a program to provide preference in the display of food items at retail
4.26 establishments for any food item that is voluntarily labeled in such a manner as to indicate
4.27 whether such food item is genetically engineered or contains genetically engineered
4.28 ingredients.

4.29 Sec. 5. **LIST REQUIRED.**

4.30 No later than October 15, 2012, the commissioner of agriculture, in consultation with
4.31 the commissioner of health, shall publish a list on the Department of Agriculture's Web
4.32 site that indicates those raw agricultural commodities known to be genetically engineered.
4.33 The commissioner shall update such list not less than once every calendar year.

5.1 Sec. 6. **PROCUREMENT GUIDELINES.**

5.2 No later than January 1, 2013, the commissioner of administration shall develop
5.3 recommendations for the implementation of state agency procurement guidelines that will
5.4 provide a preference for the use and purchase of processed foods and raw agricultural
5.5 commodities that are voluntarily labeled to indicate whether such processed foods or raw
5.6 agricultural commodities contain genetically engineered ingredients or are genetically
5.7 engineered, respectively. The commissioner shall also submit any requisite statutory
5.8 or rule changes for the implementation of such recommendations to the legislative
5.9 committees with jurisdiction over agriculture, health, and state government finance.