

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2865

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DATE	D-PG	OFFICIAL STATUS
03/21/2014	6503	Introduction and first reading Referred to Jobs, Agriculture and Rural Development

1.1 A bill for an act
 1.2 relating to commerce; providing consumer protection; requiring disclosure
 1.3 of genetically engineered food and seed; proposing coding for new law in
 1.4 Minnesota Statutes, chapter 325F.

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

1.6 Section 1. **[325F.1792] DEFINITIONS.**

1.7 Subdivision 1. **Applicability.** For the purposes of sections 325F.1792 to 325F.1796,
 1.8 the terms in this section have the meanings given.

1.9 Subd. 2. **Cultivated commercially.** "Cultivated commercially" means grown or
 1.10 raised in the course of a business or trade and sold or offered for sale within this state or
 1.11 the United States generally.

1.12 Subd. 3. **Distributor.** "Distributor" means a person or business engaged in any
 1.13 method of distributing or transporting a food or food product intended for human
 1.14 consumption in this state from one place to another that the person or business did not
 1.15 produce.

1.16 Subd. 4. **Enzyme.** "Enzyme" means a protein that catalyzes chemical reactions of
 1.17 other substances without being destroyed or altered upon completion of the reactions.

1.18 Subd. 5. **Genetically engineered and similar terms.** "Genetically engineered,"
 1.19 "genetic engineering," "genetically modified," "genetic modification," "genetically
 1.20 manipulated," "genetic manipulation," or similar terms, when applied to human food,
 1.21 means a food that is produced from or with an organism or organisms with genetics altered
 1.22 materially through the application of: (1) in vitro and in vivo nucleic acid techniques,
 1.23 including recombinant ribonucleic acid (RNA) techniques, recombinant deoxyribonucleic
 1.24 acid (DNA) techniques, and the direct injection of nucleic acid into cells or organelles;

2.1 or (2) methods of fusing cells beyond the taxonomic family that overcome natural
2.2 physiological reproductive or recombinant barriers, and that are not techniques used in
2.3 traditional breeding and selection such as conjugation, transduction, and hybridization.
2.4 "Genetically engineered," "genetic engineering," "genetically modified," "genetic
2.5 modification," "genetically manipulated," "genetic manipulation," or similar terms, when
2.6 applied to human food, also mean a food derived from an organism that was treated with
2.7 a genetically engineered material and a food that contains an ingredient, component, or
2.8 other article that is genetically engineered.

2.9 Subd. 6. **In vitro and in vivo nucleic acid techniques.** "In vitro and in vivo
2.10 nucleic acid techniques" means techniques, including but not limited to recombinant
2.11 deoxyribonucleic acid techniques that use vector systems and techniques involving the
2.12 direct introduction into the organisms of hereditary material or other nucleic acid molecules,
2.13 such as RNAi, prepared outside the organisms, such as microinjection, macroinjection,
2.14 chemoporation, electroportation, microencapsulation, and liposome fusion.

2.15 Subd. 7. **Manufacturer.** "Manufacturer" means a person or business engaged in the
2.16 production or processing of seed, seed stock, food, or any food product.

2.17 Subd. 8. **Organism.** "Organism" means any biological entity capable of replication,
2.18 reproduction, or transferring genetic material.

2.19 Subd. 9. **Processed food.** "Processed food" means any food other than a
2.20 raw agricultural commodity and includes any food produced from a raw agricultural
2.21 commodity that was processed through canning, smoking, pressing, cooking, freezing,
2.22 dehydration, fermentation, or milling.

2.23 Subd. 10. **Processing aid.** "Processing aid" means:

2.24 (1) a substance that is added to a food during the processing of the food but is
2.25 removed from the food in some manner before the food is packaged in a final form;

2.26 (2) a substance that is added to a food during processing, is converted into
2.27 constituents normally present in the food, and does not significantly increase the amount
2.28 of the constituents found in the food; or

2.29 (3) a substance that is added to a food for its technical or functional effect in the
2.30 processing but is present in the finished food at insignificant levels and does not have any
2.31 technical or functional effect in the finished food.

2.32 Subd. 11. **Retailer.** "Retailer" means a person or business engaged in selling food
2.33 from individuals or businesses to the end user. For the purposes of section 325F.1793,
2.34 "retailer" does not mean a manufacturer when the manufacturer is also acting as a retailer
2.35 with respect to the food item at issue.

3.1 Sec. 2. [325F.1793] DISCLOSURE OF GENETICALLY ENGINEERED FOOD
3.2 OR SEED.

3.3 Subdivision 1. Disclosure required. On and after January 1, 2015, any food or seed
3.4 sold or offered for sale in this state is misbranded if it is, or may have been, genetically
3.5 engineered and that fact is not disclosed as follows:

3.6 (1) in the case of the package offered for sale, the words "Produced with Genetic
3.7 Engineering" shall be placed on the package offered for sale in a clear and conspicuous
3.8 manner by the manufacturer;

3.9 (2) in the case of a food, food product, or agricultural commodity that is not
3.10 separately packaged or labeled, the words "Produced with Genetic Engineering" shall
3.11 be placed on the container used for packaging, holding, or transporting in a clear and
3.12 conspicuous manner by the manufacturer, and maintained by the distributor, and on
3.13 the retail store shelf or bin in which the commodity is displayed for sale in a clear and
3.14 conspicuous manner by the retailer;

3.15 (3) in the case of any seed or seed stock, the words "Produced with Genetic
3.16 Engineering" shall be placed on the seed or seed stock container, on the sales receipt, or on
3.17 any other reference to identification, ownership, or possession in a clear and conspicuous
3.18 manner by the manufacturer or other entity responsible for producing the seed or seed stock.

3.19 Subd. 2. Exceptions. (a) The requirements in subdivision 1 do not apply to a
3.20 processed food that would be subject to this section solely because one or more processing
3.21 aids or enzymes were produced or derived with genetic engineering.

3.22 (b) A food package that contains a commodity or food produced in any way with
3.23 genetic engineering that does not display a disclosure as required in subdivision 1, clause
3.24 (1) or (2), shall be deemed misbranded in this state, except that:

3.25 (1) the package must not be considered misbranded if it is for a commodity or food
3.26 produced by a person who grows, raises, or otherwise produces the commodity or food
3.27 without knowledge that the commodity or food was created with seed or other food that
3.28 was derived in any way through a process of genetic engineering. The person must obtain
3.29 a signed, written statement from the party that sold the seed or food to the person that
3.30 the substance was not knowingly genetically engineered, was entirely segregated from,
3.31 and has not knowingly been commingled with a food or food component that may have
3.32 been created through genetic engineering; or

3.33 (2) the package will not be considered misbranded if it is a processed food that
3.34 would be subject to this disclosure requirement solely because it includes one or more
3.35 materials produced with genetic engineering, provided that the genetically engineered

4.1 materials in the aggregate do not account for more than nine-tenths of one percent of the
4.2 total weight of the processed food.

4.3 (c) The use of manure as a fertilizer for a raw agricultural commodity must not be
4.4 construed to mean that the commodity was produced with a genetically engineered material.

4.5 (d) A person who initially provides the affirmation required in paragraph (b), clause
4.6 (1), may rely on a sworn statement maintained by the person's supplier that contains
4.7 the required affirmation.

4.8 (e) The disclosure requirements of this section do not apply to food intended for
4.9 human consumption that is not packaged for retail sale and that either (1) is a processed
4.10 food prepared and intended for immediate consumption, or (2) is served, sold, or otherwise
4.11 provided in any restaurant or other food facility that is primarily engaged in the sale of
4.12 food prepared and intended for immediate consumption.

4.13 (f) The disclosure requirements of this section do not apply to food consisting
4.14 entirely of, or derived entirely from, an animal that was not genetically engineered,
4.15 regardless of whether such animal was fed or injected with any genetically engineered
4.16 food or any drug that was produced through means of genetic engineering.

4.17 (g) The disclosure requirements of this section do not apply to food, food products,
4.18 seed, or seed stock certified as "organic" under the Organic Foods Production Act of 1990,
4.19 United States Code, title 7, section 6501, et seq., and its implementing regulations.

4.20 (h) A person or entity who unknowingly produces, transports, or sells agricultural
4.21 commodities that (1) have been affected by the unintended presence of genetically
4.22 engineered materials, and (2) were grown on land owned or operated by that person or
4.23 entity, shall not be found liable or negligent in any civil proceeding brought to enforce
4.24 this chapter.

4.25 Subd. 3. **Rulemaking.** The commissioner of commerce may adopt rules to
4.26 implement this section.

4.27 **Sec. 3. [325F.1794] THIRD-PARTY PROTECTION.**

4.28 A retailer that sells or advertises a processed food product, when the product fails
4.29 to conform to the disclosure requirements under section 325F.1793, shall not be found
4.30 liable or negligent in any civil proceeding brought to enforce this chapter. Protection
4.31 afforded by this section does not apply to fruit, vegetables, or animals produced with
4.32 genetic engineering.

4.33 **Sec. 4. [325F.1795] MISBRANDING OF NATURAL FOODS PROHIBITED.**

5.1 A food, food product, seed, or seed stock that is subject to disclosure under section
5.2 325F.1793 may not be described on the label, packaging, or by similar identification as
5.3 "natural."

5.4 Sec. 5. **[325F.1796] ENFORCEMENT.**

5.5 The commissioner of commerce shall have the powers granted under section 45.027
5.6 to enforce sections 325F.1792 to 325F.1796.