



Rep. Deborah Mell

Filed: 3/14/2013

09800HB3085ham001

LRB098 03781 RPM 42884 a

1 AMENDMENT TO HOUSE BILL 3085

2 AMENDMENT NO. _____. Amend House Bill 3085 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Genetically Engineered Food Labeling Act.

6 Section 5. Legislative findings. The General Assembly
7 finds as follows:

8 (1) Illinois consumers have the right to know whether the
9 foods they purchase were produced with genetic engineering so
10 they can make informed purchasing decisions. Labeling is
11 necessary to ensure that consumers are fully and reliably
12 informed about the products they purchase and consume.

13 (2) Consumers overwhelmingly favor knowing whether the
14 food they purchase and consume is produced with genetic
15 engineering for a variety of reasons, including health,
16 economic, environmental, religious, and ethical reasons. Polls

1 consistently show that the vast majority of the public, more
2 than 90%, wants to know if its food was produced with genetic
3 engineering.

4 (3) There is currently no federal or State requirement that
5 genetically engineered (GE) foods be labeled. In contrast, 61
6 countries, including Japan, South Korea, China, Australia,
7 Russia, Malaysia, the European Union member states, and other
8 key U.S. trading partners, already have laws mandating the
9 disclosure of GE foods on food labels. In 2011, Codex
10 Alimentarius, the food standards organization of the United
11 Nations, stated that governments are free to decide on whether
12 and how to label foods produced with genetic engineering.

13 (4) The U.S. Food and Drug Administration (FDA) does not
14 require or conduct safety studies of GE foods. Instead, any
15 safety consultations are voluntary, and GE food developers may
16 decide what information to provide to the agency.

17 (5) The genetic engineering of plants and animals often
18 causes unintended consequences. Manipulating genes via genetic
19 engineering and inserting them into organisms is an imprecise
20 process. The results are not always predictable or
21 controllable. Mixing plant, animal, bacterial, and viral genes
22 through genetic engineering in combinations that cannot occur
23 in nature may produce results that lead to adverse health or
24 environmental consequences.

25 (6) United States government scientists have stated that
26 the artificial insertion of genetic material into plants via

1 genetic engineering can cause a variety of significant problems
2 with plant foods. Such genetic engineering can increase the
3 levels of known toxicants or allergens in foods and create new
4 toxicants or allergens with consequent health concerns.

5 (7) Mandatory identification of foods produced with
6 genetic engineering can provide a method for detecting, at a
7 large epidemiological scale, the potential health effects of
8 consuming such foods.

9 (8) Without mandatory disclosure, consumers of GE foods may
10 unknowingly violate their dietary and religious beliefs.

11 (9) Numerous foreign markets with restrictions on foods
12 produced through genetic engineering have restricted imports
13 of U.S. crops due to concerns about genetic engineering. Some
14 foreign markets are choosing to purchase agricultural products
15 from countries other than the U.S. because GE crops are not
16 identified in the U.S., which makes it impossible for buyers to
17 determine what does or does not meet their national labeling
18 laws or restrictions and thus renders U.S. products less
19 desirable.

20 (10) Mandatory identification of foods produced with
21 genetic engineering can be a critical method of preserving the
22 economic value of exports or domestically sensitive markets
23 with restrictions on or prohibitions against genetic
24 engineering.

25 (11) Organic food sales are increasing. While total U.S.
26 food sales are virtually unchanged, growing less than one

1 percent yearly, the organic food industry grew at a rate of
2 9.5% in 2011, and, for the first time, surpassed the \$30
3 billion mark. Sales of organic fruits and vegetables are up
4 11.8%, accounting for approximately 12% of all U.S. fruit and
5 vegetable sales. Organic dairy is growing at 9% per year and
6 comprises nearly 6% of the total U.S. dairy market. Trade
7 industry data shows that over the long term organic farming is
8 more profitable and economically secure than conventional
9 farming. Organic farmers are prohibited from using GE seeds.
10 Nonetheless, organic crops are routinely threatened with
11 contamination from neighboring fields of GE crops. The risk of
12 contamination can erode public confidence in organic products,
13 significantly undermining the job-creating, economy-boosting
14 growth of the organic market.

15 (12) Foods identified as non-GE constitute the fastest
16 growing market segment in agriculture, with annual sales
17 increases in 2011 between 20% and 27%. However, only a small
18 portion of the food industry participates in voluntary labeling
19 of foods claimed not to be the product of genetic engineering.
20 There are no consistent standards for such labeling or for
21 enforcement of voluntary labels. Because of this, voluntary
22 labels are insufficient to provide consumers with adequate
23 information on whether or not the food they are purchasing was
24 produced with genetic engineering, and in some cases these
25 labels may be misleading.

26 (13) The cultivation of GE crops can have serious effects

1 on the environment. For example, in 2012, 93% of all soy grown
2 in the U.S. was engineered to be herbicide resistant. In fact,
3 the vast majority of GE crops are designed to withstand
4 herbicides, and they therefore promote indiscriminate
5 herbicide use. As a result, GE crops have caused 527 million
6 pounds of additional herbicides to be applied to the nation's
7 farmland. These toxic herbicides damage the vitality and
8 quality of our soil, contaminate our drinking water, and pose
9 health risks to consumers and farmworkers. Further, because of
10 the consequent massive increase in use of herbicides,
11 herbicide-resistant weeds have developed and flourished,
12 infesting farm fields and roadsides, complicating weed control
13 for farmers, and causing farmers to resort to more and
14 increasingly toxic herbicides.

15 (14) The people of Illinois should have the choice to avoid
16 purchasing foods produced in ways that can lead to such
17 environmental harm.

18 Section 10. Purpose. This Act shall establish a
19 consistent and enforceable standard for labeling all foods
20 produced using genetic engineering, and thus provide citizens
21 of this State with knowledge of how their food is produced.

22 The purpose of this Act is to facilitate the exercise of
23 the fundamental right of the people of Illinois to be fully
24 informed about whether the food they purchase and eat is
25 produced with genetic engineering so that they can choose for

1 themselves whether to purchase and eat such foods. Identifying
2 foods produced through genetic engineering will help protect
3 our State's agricultural economy and environment. This Act
4 shall be liberally construed to fulfill these purposes.

5 Section 15. In this Act:

6 "Agriculture" means the science, art, or practice of
7 cultivating soil, producing crops, and raising livestock or
8 fish and, in varying degrees, the preparation and marketing of
9 the resulting products.

10 "Cultivated commercially" means agricultural commodities
11 grown or raised in the course of business or trade and sold
12 within the United States.

13 "Department" means the Department of Public Health.

14 "Enzyme" means a protein that catalyzes chemical reactions
15 of other substances without itself being destroyed or altered
16 upon completion of the reactions.

17 "Food" means any articles used to feed or nourish man or
18 other animals, chewing gum, and articles used for components,
19 including food additives, of any such article.

20 "Genetically engineered" means a process that results in a
21 substance that is produced from an organism or organisms in
22 which the genetic material has been changed through the
23 application of the following:

24 (1) in vitro nucleic acid techniques, which include,
25 but are not limited to, recombinant deoxyribonucleic acid

1 (DNA), direct injection of nucleic acid into cells or
2 organelles, encapsulation, gene deletion, and doubling; or

3 (2) methods of fusing cells beyond the taxonomic family
4 that overcome natural physiological reproductive or
5 recombinant barriers, and that are not techniques used in
6 traditional breeding and selection, such as conjugation,
7 transduction, and hybridization.

8 "Label" means a display of written, printed, or graphic
9 matter upon or connected to the immediate container or surface
10 of any article. In order to meet the definition of "label", any
11 word, statement, or other information appearing on the label
12 shall appear on the outside container or wrapper, if any, of
13 the bulk, wholesale, or retail package of the article or be
14 easily legible through the outside container or wrapper.

15 "Labeling" means any written, printed, or graphic matter
16 that is present on the label, accompanies the food, or is
17 displayed near the food, including that for the purpose of
18 promoting its sale or disposal.

19 "Manufacturer" means the person or business that makes,
20 processes, combines, or packages food ingredients into a
21 finished food product.

22 "Medical food" means a food that is formulated to be
23 consumed or administered enterally under the supervision of a
24 physician and which is intended for the specific dietary
25 management of a disease or condition for which distinctive
26 nutritional requirements, based on recognized scientific

1 principles, are established by medical evaluation.

2 "Organism" means any biological entity capable of
3 replication, reproduction, or transferring genetic material.

4 "Processed food" means any food other than a raw
5 agricultural commodity, including any food produced from a raw
6 agricultural commodity that has been subject to processing such
7 as canning, smoking, pressing, cooking, freezing, dehydration,
8 fermentation, or milling.

9 "Processing aid" means the following:

10 (a) a substance that is added to a food during the
11 processing of the food but is removed in some manner from
12 the food before it is packaged in its final form;

13 (b) a substance that is added to a food during
14 processing, is converted into constituents normally
15 present in the food, and does not significantly increase
16 the amount of the constituents found in the food; or

17 (c) a substance that is added to a food for its
18 technical or functional effects in the processing but is
19 present in the finished food at insignificant levels and
20 does not have any technical or functional effect in that
21 finished food.

22 "Raw agricultural commodity" means any plant, animal, or
23 fungi grown or produced for human food use purposes.

24 Section 20. Labeling of genetically engineered foods.

25 (a) Beginning on the effective date of this Act, any food

1 offered for retail sale in this State is misbranded if it is
2 entirely or partially produced with genetic engineering and
3 that fact is not disclosed as follows:

4 (1) In the case of a raw agricultural commodity, on the
5 package offered for retail sale, with the words
6 "Genetically Engineered" appearing clearly and
7 conspicuously on the label on the front of the package of
8 the commodity or, in the case of any such commodity that is
9 not separately packaged or labeled, on a clear and
10 conspicuous label appearing on the retail store shelf or
11 bin in which the commodity is displayed for sale.

12 (2) In the case of processed food containing some
13 products of genetic engineering, the manufacturer must
14 label the product, in clear and conspicuous language on the
15 front or back of the package of such food, with the words
16 "Produced with Genetic Engineering" or "Partially Produced
17 with Genetic Engineering".

18 (b) This Act shall not be construed to require either the
19 listing or identification of any ingredient or ingredients that
20 were genetically engineered, nor that the term "genetically
21 engineered" be placed immediately preceding any common name or
22 primary product descriptor of a food.

23 (c) Until the effective date of this Act, any processed
24 food that would be subject to this Section solely because it
25 includes one or more materials produced by genetic engineering
26 is not misbranded provided that the engineered materials in the

1 aggregate do not account for more than nine-tenths of one
2 percent of the total weight of the processed food.

3 (d) Subsection (a) of this Section does not apply to any of
4 the following:

5 (1) food consisting entirely of, or derived entirely
6 from, an animal that has not itself been genetically
7 engineered, regardless of whether the animal has been fed
8 or injected with any food produced with genetic engineering
9 or any drug or vaccine that has been produced through means
10 of genetic engineering;

11 (2) a raw agricultural commodity or food that has been
12 grown, raised, produced, or derived without the knowing and
13 intentional use of genetically engineered seed or food; to
14 be included within the exclusion under this subsection (d),
15 the person responsible for complying with this Section with
16 respect to a raw agricultural commodity or food must
17 obtain, from whoever sold the raw agricultural commodity or
18 food to that person, a sworn statement that the raw
19 agricultural commodity or food (A) has not been knowingly
20 or intentionally genetically engineered and (B) has been
21 segregated from, and has not been knowingly or
22 intentionally commingled with, foods that may have been
23 genetically engineered at any time; in providing the a
24 sworn statement, a person may rely on a sworn statement
25 from his or her own supplier that contains such an
26 affirmation;

1 (3) any processed food that would be subject to this
2 Section solely because one or more processing aids or
3 enzymes were produced or derived with genetic engineering;

4 (4) any alcoholic beverage that is subject to
5 regulation under the Liquor Control Act of 1934;

6 (5) food that has been lawfully certified to be
7 labeled, marketed, and offered for sale as organic pursuant
8 to the federal Organic Foods Production Act of 1990, 7
9 U.S.C. 6501, et seq., and the National Organic Program
10 regulations promulgated pursuant thereto by the United
11 States Department of Agriculture;

12 (6) food that is not packaged for retail sale and that
13 either (A) is a processed food prepared and intended for
14 immediate human consumption or (B) is served, sold, or
15 otherwise provided in any restaurant or other food service
16 establishment that is primarily engaged in the sale of food
17 prepared and intended for immediate human consumption; or

18 (7) medical food.

19 Section 25. Right of action for violations, damages, and
20 attorneys' fees.

21 (a) The Department, acting through the Attorney General,
22 may bring an action in a court of competent jurisdiction to
23 enjoin any person violating this Act.

24 (b) The Department may assess a civil penalty against any
25 person violating this Act.

1 (c) Any citizen of this State acting in the public interest
2 may bring an action to enjoin a violation of this Act in any
3 court of competent jurisdiction if the action is commenced more
4 than 60 days after the person has given notice of the alleged
5 violation to the Department, to the Attorney General, and to
6 the alleged violator.

7 (d) The court may award to a prevailing plaintiff
8 reasonable costs and attorneys' fees incurred in investigating
9 and prosecuting an action to enforce this Act.

10 Section 30. Enforcement and regulation. The Department
11 shall adopt rules necessary to implement this Act.

12 Section 97. Severability. The provisions of this Act are
13 severable under Section 1.31 of the Statute on Statutes.".