

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

H.P. 490 - L.D. 718

**An Act To Protect Maine Food Consumers' Right To Know about
Genetically Engineered Food**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA c. 565 is enacted to read:

CHAPTER 565

GENETICALLY ENGINEERED PRODUCTS

§2591. Purpose

It is the purpose of this chapter to:

1. Public health and food safety. Promote food safety and protect public health by enabling consumers to avoid the potential risks associated with genetically engineered foods and serve as a risk management tool enabling consumers, physicians and scientists to identify unintended health effects resulting from the consumption of genetically engineered foods;

2. Environmental impacts. Assist consumers who are concerned about the potential effects of genetic engineering on the environment to make informed purchasing decisions;

3. Consumer confusion and inadvertent deception. Reduce and prevent consumer confusion and inadvertent deception and promote the disclosure of factual information on food labels to allow consumers to make informed decisions;

4. Promote economic development. Create additional market opportunities for those producers who are not certified organic producers and whose products are not produced using genetic engineering and enable consumers to make informed purchasing decisions; and

5. Protect religious and cultural practices. Ensure consumers are provided with data from which they may make informed decisions for personal, religious, moral, cultural or ethical reasons.

§2592. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Commissioner. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.

2. Food. "Food" means food intended for human consumption.

3. Genetically engineered. "Genetically engineered" has the same meaning as under Title 7, section 1051, subsection 2.

4. Medical food. "Medical food" means food prescribed by a physician for treatment of a medical condition.

§2593. Disclosure requirements for genetically engineered food

1. Disclosure. Beginning 18 months after the effective date of this section, any food offered for retail sale that is genetically engineered must be accompanied by a conspicuous disclosure that states "Produced with Genetic Engineering." The statement must be located on the package for all packaged food or, in the case of unpackaged food, on a card or label on the store shelf or bin in which the food is displayed.

2. Use of term "natural." A food that is subject to disclosure under subsection 1 may not be described on the label or by similar identification as "natural."

3. Misbranding. Any food that is genetically engineered that does not display the disclosure required under subsection 1 or that is labeled or identified as natural in violation of subsection 2 is considered misbranded for the purposes of chapter 551, subchapter 1 except that:

A. A food is not considered misbranded if the food is produced by a person who:

(1) Grows, raises or otherwise produces that food without knowledge that the food was created from other seed or other food that was genetically engineered; and

(2) Obtains a sworn statement from the person from whom the food was obtained that the food was not knowingly genetically engineered and was segregated from and not knowingly commingled with a food component that may have been genetically engineered;

B. A food product derived from an animal is not considered misbranded if the animal was not genetically engineered but was fed genetically engineered feed; and

C. A packaged processed food is not considered misbranded if the total weight of the processed food that was genetically engineered is less than 0.9% of the total weight of the processed food.

4. Rules. The commissioner may adopt routine technical rules under Title 5, chapter 375, subchapter 2-A for the administration and enforcement of this chapter.

§2594. Third-party protection

1. Reliance on affidavit. A distributor or retailer that sells or advertises food that is genetically engineered that fails to make the disclosure required under section 2593, subsection 1 is not subject to liability in any civil action to enforce this chapter if the distributor or retailer relied on the affidavit under section 2596 provided by the producer or grower stating that the food is not subject to the disclosure requirements under this chapter.

2. Eating establishments. Eating establishments are exempt from the disclosure requirements of this chapter.

3. Exempt products. Alcoholic beverages and medical food are exempt from the disclosure requirements of this chapter.

§2595. Enforcement

1. Authority. The commissioner shall enforce this chapter in the same manner as is authorized for enforcement of chapter 551, subchapter 1.

2. No private right. There is no private right of action to enforce this chapter.

3. Penalty. A person who violates this chapter commits a civil violation for which a fine may be assessed that may not exceed \$1,000 per day per misbranded product per sales location.

§2596. Affidavit

The commissioner shall develop an affidavit form that may be provided by a producer or grower of food to distributors and retailers and that may be included in shipments of food within the State certifying that the food being sold or shipped is not subject to the disclosure requirements of this chapter.

Sec. 2. Effective date; repeal.

1. Effective date. The Commissioner of Agriculture, Conservation and Forestry shall monitor legislative activities in other states and certify to the Secretary of State and the Revisor of Statutes when legislation requiring mandatory labeling of genetically engineered food has been adopted by at least 5 contiguous states including Maine. The commissioner shall notify the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters when certification is made. That section of this Act that enacts the Maine Revised Statutes, Title 22, chapter 565 takes effect 30 days after the date of the commissioner's certification.

2. Repeal. If no certification has been made by the Commissioner of Agriculture, Conservation and Forestry under subsection 1 before January 1, 2018, this Act is repealed on that date.