

## HOUSE BILL NO. 92

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES TARR, Kawasaki

Introduced: 1/30/15

Referred: Resources, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to the labeling of food; relating to the misbranding of food; requiring  
2 labeling of food produced with genetic engineering; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 17.20 is amended by adding a new section to read:

5       **Sec. 17.20.035. Labeling of genetically engineered food.** (a) Food wholly or  
6 partially produced with genetic engineering that is purchased by a retailer after the  
7 effective date of this Act for retail sale in the state shall be labeled as wholly or  
8 partially produced with genetic engineering. If the food is

9               (1) a raw agricultural commodity, the label must read "produced with  
10 genetic engineering" or "genetically engineered";

11               (2) a processed food, the label must read "partially produced with  
12 genetic engineering" or "may be partially produced with genetic engineering."

13               (b) Unpackaged food required to be labeled under (a) of this section may be  
14 labeled on the shelf or bin where the food is displayed for retail sale.

1 (c) Food subject to the labeling requirements of this section may not be  
2 identified on a label, in an advertisement, or elsewhere with the term "natural,"  
3 "naturally made," "naturally grown," "all natural," or another term that is reasonably  
4 likely to mislead a consumer regarding the use of genetic engineering to produce the  
5 food.

6 (d) This section does not require the listing or identification of the specific  
7 ingredient or ingredients that were genetically engineered or the use of the term  
8 "genetically engineered" to modify the name or description of a food.

9 (e) The labeling requirements in this section do not apply to

10 (1) genetically modified fish or genetically modified fish products;

11 (2) food consisting entirely of or derived entirely from an animal that  
12 has not been wholly or partially produced with genetic engineering, even if the animal  
13 has been fed or injected with a food or drug that was produced with genetic  
14 engineering;

15 (3) a raw agricultural commodity or a processed food that has been  
16 grown, raised, or produced without the knowing or intentional use of food or seed  
17 produced with genetic engineering; to qualify for an exemption from the labeling  
18 requirement under this paragraph, the person otherwise responsible for complying  
19 with the labeling requirement shall obtain a statement from the supplier of the raw  
20 agricultural commodity or processed food that the raw agricultural commodity or  
21 processed food was not knowingly or intentionally produced with genetic engineering  
22 and has been segregated from and not knowingly or intentionally commingled with  
23 food that may have been produced with genetic engineering;

24 (4) food that would be subject to the labeling requirements of this  
25 section only because a processing aid or enzyme produced with genetic engineering  
26 was used to produce the food;

27 (5) an alcoholic beverage;

28 (6) processed food that would be subject to the labeling requirements  
29 of this section before July 1, 2019, solely because one or more of its ingredients were  
30 produced with genetic engineering; for the exception in this paragraph to apply, the  
31 genetically engineered ingredients in the processed food may not account for more

1 than 9/10 of one percent of the total weight of the processed food,

2 (7) processed food prepared and intended for immediate human  
3 consumption;

4 (8) medical food as defined in 21 U.S.C. 360ee.

5 (f) The labeling requirements of this section are in addition to the other  
6 requirements of this chapter.

7 (g) In this section,

8 (1) "alcoholic beverage" has the meaning given in AS 04.21.080;

9 (2) "enzyme" means a protein that catalyzes chemical reactions of  
10 other substances without itself being destroyed or altered upon completion of the  
11 reactions;

12 (3) "genetic engineering" means a process whereby the genetic  
13 material of an organism or organisms is changed through

14 (A) the application of in vitro nucleic acid techniques,  
15 including recombinant deoxyribonucleic acid techniques and the direct  
16 injection of nucleic acid into cells or organelles; or

17 (B) fusion of cells, including protoplast fusion, or hybridization  
18 techniques that overcome natural physiological, reproductive, or recombination  
19 barriers, where the donor cells or protoplasts do not fall within the same  
20 taxonomic group, in a way that does not occur by natural multiplication or  
21 natural recombination;

22 (4) "human consumption" means eating or ingestion by a natural  
23 person;

24 (5) "intentionally" has the meaning given in AS 11.81.900;

25 (6) "in vitro nucleic acid techniques" means

26 (A) recombinant deoxyribonucleic acid techniques, ribonucleic  
27 acid techniques, or other techniques that use vector systems; and

28 (B) techniques involving the direct introduction into an  
29 organism of hereditary material prepared outside of the organism through  
30 methods such as micro-injection, chemoporation, electroporation, micro-  
31 encapsulation, and liposome fusion;

(7) "knowingly" has the meaning given in AS 11.81.900;

(8) "organism" means a biological entity capable of replication, reproduction, or transferring of genetic material;

(9) "processing aid" means a substance that is added to a processed food

(A) during processing and removed before the food is packaged or offered for retail sale;

(B) during processing and converted into a constituent normally present in the food and does not significantly increase the amount of that constituent; or

(C) because of the technical or functional effect of the substance on the processing of the food and that remains present in the food in an amount that does not have a technical or functional effect on the food after the processing is complete.

\* **Sec. 2.** AS 17.20.040(a) is amended to read:

(a) Food is misbranded if

(1) its labeling is false or misleading in any particular;

(2) it is offered for sale under the name of another food;

(3) it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated;

(4) its container is made, formed, or filled so as to be misleading;

(5) it is in package form unless it bears a label containing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; however, under (B) of this paragraph, reasonable variations are permitted, and exemptions for small packages shall be established by regulations prescribed by the department;

(6) a word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed with the conspicuousness (as compared with other words, statements, designs, or

1 devices in the labeling) and in terms that make it likely to be read and understood by  
2 the ordinary individual under customary conditions of purchase and use;

3 (7) it purports to be or is represented as a food for which a definition  
4 and standard of identity has been prescribed by regulations as provided by  
5 AS 17.20.010, unless (A) it conforms to the definition and standard, and (B) its label  
6 bears the name of the food specified in the definition and standard and the common  
7 names of optional ingredients other than spices, flavoring, and coloring present in the  
8 food as required by regulation;

9 (8) it purports to be or is represented as (A) a food for which a  
10 standard of quality has been prescribed by regulations, and its quality falls below that  
11 standard, unless its label bears, in the manner and form the regulations specify, a  
12 statement that it falls below that standard; or (B) a food for which a standard of fill of  
13 container has been prescribed by regulation as provided by AS 17.20.010 and it falls  
14 below the applicable standard of fill of container, unless its label bears, in the manner  
15 and form as the regulations specify, a statement that it falls below that standard;

16 (9) it is not subject to the provisions of (7) of this subsection, unless it  
17 bears labeling clearly giving (A) the common or usual name of the food, if any, and  
18 (B) if [IN CASE] it is fabricated from two or more ingredients, the common or usual  
19 name of each ingredient; [EXCEPT THAT,] however, spices, flavorings, and  
20 colorings, other than those sold as such, may be designated as spices, flavorings, and  
21 colorings, without naming each; however, to the extent that compliance with the  
22 requirements of (B) of this paragraph is impracticable, or results in deception or unfair  
23 competition, exemptions shall be established by regulations adopted by the  
24 department, but the requirements of (B) of this paragraph do not apply to food  
25 products that are packaged at the direction of purchasers at retail at the time of sale,  
26 the ingredients of which are disclosed to the purchasers by other means in accordance  
27 with regulations adopted by the department;

28 (10) it purports to be or is represented for special dietary uses, unless  
29 its label bears information concerning its vitamin, mineral, and other dietary properties  
30 the commissioner determines to be, and by regulations prescribes as, necessary in  
31 order fully to inform purchasers as to its value for those uses;

(11) it bears or contains artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; however, to the extent that compliance with the requirements of this paragraph is impracticable, exemption shall be established by regulations adopted by the department;

(12) the food is a farmed halibut, salmon, or sablefish product, unless

(A) the product is labeled to identify the product as farmed fish raised outside the state, if the product is sold in a packaged form; or

(B) the product is conspicuously identified as farmed fish raised outside the state, if the product is sold in an unpackaged form;

(13) the labeling, advertisement, or identification of the food is inconsistent with the labeling, advertisement, or identification provisions of AS 17.20.035, 17.20.048, [AS 17.20.048] or 17.20.049;

(14) the food is a genetically modified fish or genetically modified fish product unless

(A) the food is conspicuously labeled to identify the fish or fish product as a genetically modified fish or fish product if the fish or fish product is sold in a packaged form; [OR]

(B) the food is conspicuously identified as a genetically modified fish or fish product if the fish or fish product is sold in an unpackaged form; or

(C) the food is conspicuously labeled "produced with genetic engineering" or "genetically engineered";

(15) it fails to satisfy a labeling requirement in AS 17.20.035 for food produced with genetic engineering.

\* Sec. 3. AS 17.20 is amended by adding a new section to read:

**Sec. 17.20.348. Liability of retail seller of processed food.** Notwithstanding AS 17.20.290, 17.20.305, or 17.20.315, a retail seller of food is not subject to civil or criminal liability arising from failure to label a processed food as required under AS 17.20.035 unless the retail seller

(1) is the producer or manufacturer of the processed food; or

(2) offers the processed food for sale under a brand owned by the retail

1 seller.

2 \* **Sec. 4.** AS 17.20.370 is amended by adding new paragraphs to read:

3 (17) "genetically modified fish" means

4 (A) a finfish or shellfish whose genetic structure has been  
5 altered at the molecular level by means that are not possible under natural  
6 conditions or processes, including recombinant deoxyribonucleic acid and  
7 ribonucleic acid techniques, cell fusion, gene deletion or doubling, introduction  
8 of exogenous genetic material, alteration of the position of a gene, or similar  
9 procedure;

10 (B) the progeny of a finfish or shellfish described in (A) of this  
11 paragraph;

12 (18) "genetically modified fish product" means a product prepared  
13 from a genetically modified fish;

14 (19) "processed food" means a food produced from a raw agricultural  
15 commodity that has been subjected to processing, such as canning, smoking, pressing,  
16 cooking, freezing, dehydration, fermentation, or milling; "processed food" does not  
17 include a raw agricultural commodity;

18 (20) "raw agricultural commodity" means a fruit that is raw and  
19 unpeeled after having been washed, colored, or otherwise treated or a food in its raw  
20 or natural state.

21 \* **Sec. 5.** AS 17.20.040(b)(2) and 17.20.040(b)(3) are repealed.

22 \* **Sec. 6.** This Act takes effect January 1, 2016.