

**SENATE BILL NO. 158**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY SENATOR WIELECHOWSKI

Introduced: 2/5/14  
Referred: Resources

**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) "in vitro nucleic acid techniques" means

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

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

31 (6) "intentionally" has the meaning given in AS 11.81.900;

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

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

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

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

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

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

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

16 (a) Food is misbranded if

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

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

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

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

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

29 (6) a word, statement, or other information required by or under  
30 authority of this chapter to appear on the label or labeling is not prominently placed  
31 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) in case it is fabricated from two or more ingredients, the common or usual name of  
19 each ingredient; except that, however, spices, flavorings, and colorings, other than  
20 those sold as such, may be designated as spices, flavorings, and colorings, without  
21 naming each; however, to the extent that compliance with the requirements of (B) of  
22 this paragraph is impracticable, or results in deception or unfair competition,  
23 exemptions shall be established by regulations adopted by the department, but the  
24 requirements of (B) of this paragraph do not apply to food products that are packaged  
25 at the direction of purchasers at retail at the time of sale, the ingredients of which are  
26 disclosed to the purchasers by other means in accordance with regulations adopted by  
27 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (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.** The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 NOTICE OF ENACTMENT BY OTHER STATES. The commissioner of  
25 environmental conservation shall notify the lieutenant governor and the revisor of statutes  
26 when four other states have enacted legislation with requirements for the labeling of food  
27 produced with genetic engineering substantially similar to the requirements in this Act.

28 \* **Sec. 7.** This Act takes effect 18 months after the day after the date on which the  
29 commissioner of environmental conservation notifies the revisor of statutes that four other  
30 states have enacted legislation with requirements for the labeling of food produced with  
31 genetic engineering substantially similar to the requirements in this Act or on July 1, 2015,

1 whichever is earlier.