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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **3140**

03/17/2014 Authored by Clark, Laine, Isaacson, Mullery and Davnie

The bill was read for the first time and referred to the Committee on Commerce and Consumer Protection Finance and Policy

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] PURPOSE; CONSTRUCTION.**

1.7 Subdivision 1. **Purpose.** Sections 325F.1792 to 325F.1798 prohibit advertising or  
1.8 sale of seed grown for human food if the seed is genetically engineered and that fact is not  
1.9 disclosed as required under section 325F.1794.

1.10 Subd. 2. **Construction.** Sections 325F.1792 to 325F.1798 shall be construed to  
1.11 supplement and not conflict with any federal law or regulation.

1.12 Sec. 2. **[325F.1793] DEFINITIONS.**

1.13 Subdivision 1. **Applicability.** For the purposes of sections 325F.1793 to 325F.1798,  
1.14 the terms in this section have the meanings given.

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

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

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

2.1 Subd. 5. **Genetically engineered and similar terms.** "Genetically engineered,"  
 2.2 "genetic engineering," "genetically modified," "genetic modification," "genetically  
 2.3 manipulated," "genetic manipulation," or similar terms, when applied to human food,  
 2.4 means a food that is produced from or with an organism or organisms with genetics altered  
 2.5 materially through the application of: (1) in vitro and in vivo nucleic acid techniques,  
 2.6 including recombinant ribonucleic acid (RNA) techniques, recombinant deoxyribonucleic  
 2.7 acid (DNA) techniques, and the direct injection of nucleic acid into cells or organelles;  
 2.8 or (2) methods of fusing cells beyond the taxonomic family that overcome natural  
 2.9 physiological reproductive or recombinant barriers, and that are not techniques used in  
 2.10 traditional breeding and selection such as conjugation, transduction, and hybridization.  
 2.11 "Genetically engineered," "genetic engineering," "genetically modified," "genetic  
 2.12 modification," "genetically manipulated," "genetic manipulation," or similar terms, when  
 2.13 applied to human food, also mean a food derived from an organism that was treated with  
 2.14 a genetically engineered material and a food that contains an ingredient, component, or  
 2.15 other article that is genetically engineered.

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

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

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

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

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

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

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

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

3.4 Subd. 11. **Retailer.** "Retailer" means a person or business engaged in selling food  
3.5 from individuals or businesses to the end user. For the purposes of section 325F.1794,  
3.6 "retailer" does not mean a manufacturer when the manufacturer is also acting as a retailer  
3.7 with respect to the food item at issue.

3.8 **Sec. 3. [325F.1794] DISCLOSURE OF GENETICALLY ENGINEERED FOOD**  
3.9 **OR SEED.**

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

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

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

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

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

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

3.32 (1) the package must not be considered misbranded if it is for a commodity or food  
3.33 produced by a person who grows, raises, or otherwise produces the commodity or food  
3.34 without knowledge that the commodity or food was created with seed or other food that  
3.35 was derived in any way through a process of genetic engineering. The person must obtain

4.1 a signed, written statement from the party that sold the seed or food to the person that  
4.2 the substance was not knowingly genetically engineered, was entirely segregated from,  
4.3 and has not knowingly been commingled with a food or food component that may have  
4.4 been created through genetic engineering; or

4.5 (2) the package will not be considered misbranded if it is a processed food that  
4.6 would be subject to this disclosure requirement solely because it includes one or more  
4.7 materials produced with genetic engineering, provided that the genetically engineered  
4.8 materials in the aggregate do not account for more than nine-tenths of one percent of the  
4.9 total weight of the processed food.

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

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

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

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

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

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

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

4.34 Sec. 4. **[325F.1795] THIRD-PARTY PROTECTION.**

5.1 A retailer that sells or advertises a processed food product, when the product fails  
 5.2 to conform to the disclosure requirements under section 325F.1794, shall not be found  
 5.3 liable or negligent in any civil proceeding brought to enforce this chapter. Protection  
 5.4 afforded by this section does not apply to fruit, vegetables, or animals produced with  
 5.5 genetic engineering.

5.6 **Sec. 5. [325F.1796] MISBRANDING OF NATURAL FOODS PROHIBITED.**

5.7 A food, food product, seed, or seed stock that is subject to disclosure under section  
 5.8 325F.1794 may not be described on the label, packaging, or by similar identification as  
 5.9 "natural."

5.10 **Sec. 6. [325F.1797] ENFORCEMENT; PRIVATE ACTION PROHIBITED.**

5.11 The commissioner of commerce shall enforce sections 325F.1793 to 325F.1796.  
 5.12 There is no private right of action to enforce sections 325F.1793 to 325F.1796.

5.13 **Sec. 7. [325F.1798] SEVERABILITY.**

5.14 If any provision of this act or its application to any person or circumstance is  
 5.15 held invalid or in violation of the state or United States Constitution or any other law  
 5.16 of the United States, the invalidity or the violation shall not affect other provisions of  
 5.17 sections 325F.1792 to 325F.1798 that can be given effect without the invalid provision or  
 5.18 application, and to this end, the provisions of this act are severable.

5.19 **Sec. 8. FINDINGS.**

5.20 The legislature finds that:

5.21 (1) the state regulates the release of genetically engineered organisms under  
 5.22 Minnesota Statutes, chapter 18F;

5.23 (2) the state requires that an environmental impact statement be completed prior to  
 5.24 development of genetically engineered wild rice;

5.25 (3) Minnesota Statutes, sections 31.021 to 31.103 and 34A.03, establish requirements  
 5.26 for the labeling of food sold in Minnesota;

5.27 (4) 64 countries require that foods containing ingredients derived from genetically  
 5.28 engineered crops be labeled as such;

5.29 (5) three states (Connecticut, Maine, and Alaska) have adopted genetically  
 5.30 engineered organism labeling statutes;

5.31 (6) the free market is dependent on the provision of truthful and transparent  
 5.32 information regarding products offered for sale;

6.1 (7) markets for identity-preserved (IP), nongenetically engineered organism crops  
6.2 and products are expanding rapidly, providing opportunities for Minnesota agricultural  
6.3 producers and food processors;

6.4 (8) polls consistently show overwhelming support for the mandatory labeling of  
6.5 foods containing genetically engineered organisms;

6.6 (9) researchers at the University of Minnesota have attributed the decline in Monarch  
6.7 butterfly populations to the widespread planting of genetically engineered organism crops;

6.8 (10) research in Indiana has shown that toxins in genetically engineered Bt corn  
6.9 persist in soil and water and cause mortality among aquatic organisms;

6.10 (11) research in Iowa has established that genetically engineered organism soybeans  
6.11 contain high levels of glyphosate, while nongenetically engineered organism soybeans  
6.12 contain no such residues;

6.13 (12) research in Iowa has also shown that female hogs fed genetically engineered  
6.14 organism feeds for 22 weeks had significantly heavier uteri and all hogs had significantly  
6.15 higher levels of digestive system problems than hogs fed nongenetically engineered  
6.16 organism rations;

6.17 (13) research in France has shown that rats fed genetically engineered corn for  
6.18 their entire lives develop tumors and die earlier than rats fed normal corn, while research  
6.19 in Canada has shown that Bt toxins in genetically engineered organism corn cross the  
6.20 placental barrier and are found in fetal cord blood;

6.21 (14) over 20 weed species in the United States have developed herbicide resistance  
6.22 since the introduction of genetically engineered organism crops, leading to an increase in  
6.23 herbicide use and increased costs for producers;

6.24 (15) according to researchers in Minnesota, Iowa, and Illinois, corn rootworms have  
6.25 developed resistance to Bt toxins in genetically engineered organism corn, leading to an  
6.26 increase in insecticide use and increased costs for producers;

6.27 (16) the costs of agricultural seeds have more than tripled since the introduction of  
6.28 patented genetically engineered organism crops;

6.29 (17) the establishment of mandatory genetically engineered organism labeling  
6.30 and traceability will contribute to functional coexistence between farmers who grow  
6.31 genetically engineered organism, nongenetically engineered organism, and organic crops  
6.32 by reducing transaction costs (delayed planting, isolation buffers, testing) for producers  
6.33 who choose not to grow genetically engineered organism crops; and

6.34 (18) genetically engineered organism labeling will provide consumer choice and  
6.35 expand market opportunities for Minnesota's agricultural producers and food processors.

7.1        **Sec. 9. EFFECTIVE DATE.**

7.2        Sections 1 to 8 are effective August 1, 2015.