

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OREGON:

Section 1. Title

This Act shall be known as “The Oregon Right to Know Genetically Engineered Food Act.”

Section 2. Findings and Declarations

- (a) Oregon consumers have the right to know whether the foods they purchase were produced using genetic engineering. Genetic engineering of plants and animals often causes unintended consequences. Manipulating genes and inserting them into organisms is an imprecise process. The results are not always predictable or controllable, and they can lead to adverse health or environmental consequences.
- (b) Government scientists have stated that the artificial insertion of DNA into plants, a technique unique to genetic engineering, can cause a variety of significant problems with plant foods. Such genetic engineering can increase the levels of known toxicants in foods and introduce new toxicants and health concerns.
- (c) Mandatory identification of foods produced through genetic engineering can provide a critical method for tracking the potential health effects of eating genetically engineered foods.
- (d) No federal or Oregon law requires that food producers identify whether foods were produced using genetic engineering. At the same time, the U.S. Food and Drug Administration does not require safety studies of such foods. Unless these foods contain a known allergen, the FDA does not even require developers of genetically engineered crops to consult with the agency.
- (e) Polls consistently show that more than 90 percent of the public want to know if their food was produced using genetic engineering.
- (f) Fifty countries—including the European Union member states, Japan and other key U.S. trading partners—have laws mandating disclosure of genetically engineered foods. No international agreements prohibit the mandatory identification of foods produced through genetic engineering.
- (g) Without disclosure, consumers of genetically engineered food can unknowingly violate their own dietary and religious restrictions.
- (h) The cultivation of genetically engineered crops can also cause serious impacts to the environment. For example, most genetically engineered crops are designed to withstand weed-killing pesticides known as herbicides. As a result, hundreds of millions of pounds of additional herbicides have been used on U.S. farms. Because of the massive use of such products, herbicide resistant weeds have flourished—a problem that has resulted, in turn, in the use of increasingly

toxic herbicides. These toxic herbicides damage our agricultural areas, impair our drinking water, and pose health risks to farm workers and consumers. Oregon consumers should have the choice to avoid purchasing foods where the production of which can lead to such environmental harm.

(j) The labeling, advertising and marketing of genetically engineered foods using terms such as “natural,” “naturally made,” “naturally grown,” or “all natural” is misleading to Oregon consumers.

Section 3. Purpose

This Act relates to the labeling of food, and is added to and made part of ORS 616.205 to 616.385

The purpose of this measure is to create and enforce the fundamental right of the people of Oregon to be fully informed about whether the food they purchase and eat is genetically engineered and not misbranded as natural so that they can choose for themselves whether to purchase and eat such foods. It shall be liberally construed to fulfill this purpose.

Section 4. Definitions

The following definitions shall apply only for the purposes of this Act

- (a) Cultivated commercially. “Cultivated commercially” means grown or raised by a person in the course of his business or trade and sold within the United States.
- (b) Enzyme. “Enzyme” means a protein that catalyzes chemical reactions of other substances without itself being destroyed or altered upon completion of the reactions.
- (c) Genetically engineered.
 - (1) “Genetically Engineered or Genetically Modified” and equivalent terms, mean any food that is produced from an organism or organisms in which the genetic material has been changed through the application of:
 - (i) In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) techniques and the direct injection of nucleic acid into cells or organelles, or
 - (ii) Fusion of cells (including protoplast fusion) or hybridization techniques that overcome natural physiological, reproductive or recombination barriers, where the donor cells/protoplasts do not fall within the same taxonomic family, in a way that does not occur by natural multiplication or natural recombination.
 - (2) For purposes of this subsection (c):

(i) “Organism” means any biological entity capable of replication, reproduction or transferring genetic material.

(ii) “In vitro nucleic acid techniques” include but are not limited to recombinant DNA or RNA techniques that use vector systems and techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organisms such as microinjection, macro-injection, chemoporation, electroporation, microencapsulation and liposome fusion.

(d) Processed food. “Processed food” means any food other than a raw agricultural commodity and includes any food produced from a raw agricultural commodity that has been subject to processing such as canning, smoking, pressing, cooking, freezing, dehydration, fermentation or milling.

(e) Processing aid. “Processing aid” means:

(1) A substance that is added to a food during the processing of such food but is removed in some manner from the food before it is packaged in its finished form;

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

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

(f) Food Facility. “Food facility” shall have the meaning set forth in ORS 616.205 (10).

Section 5 – Implementation

Supplementing or appending ORS 616.250 with the following rules for defining when a food shall be deemed misbranded:

(a) Any food offered for retail sale in Oregon is misbranded if it is or may have been entirely or partially produced with genetic engineering and that fact is not disclosed.

(i) In the case of a raw agricultural commodity on the package offered for retail sale, with the clear and conspicuous words “Genetically Engineered” on the front of the package of such commodity or in the case of any such commodity that is not separately packaged or labeled, on a label appearing on the retail store shelf or bin in which such commodity is displayed for sale;

(ii) In the case of any processed food, in clear and conspicuous language on the front or back of the package of such food, with the words “Partially Produced with Genetic Engineering” or “May be Partially Produced with Genetic Engineering”.

(b) Any food offered for retail sale in Oregon is misbranded if the food is entirely or partially produced with genetic engineering, is not otherwise exempted from labeling under Section 6, and its label, accompanying signage in a retail establishment, or in any advertising or promotional materials, state or imply that the food is “natural” “naturally made”, “naturally grown”, “all natural” or any words of similar import that would have any tendency to mislead any consumer.

Section 6 – Exemptions

The following foods shall not be deemed to be misbranded under section 5:

(a) Food consisting entirely of, or derived entirely from, an animal that has not itself been genetically engineered, regardless of whether such animal has been fed or injected with any genetically engineered food or any drug that has been produced through means of genetic engineering.

(b) A raw agricultural commodity or food derived therefrom that has been grown, raised or produced without the knowing and intentional use of genetically engineered seed or food. Food will be deemed to be described in the preceding sentence only if the person otherwise responsible for complying with the requirements of subsection (a) of Section 5 with respect to a raw agricultural commodity or food obtains, from whoever sold the commodity or food to that person, a sworn statement that such commodity or food:

(i) has not been knowingly or intentionally genetically engineered; and

(ii) has been segregated from, and has not been knowingly or intentionally commingled with, food that may have been genetically engineered at any time. In providing such a sworn statement, any person may rely on a sworn statement from his own supplier that contains the affirmation set forth in the preceding sentence.

(c) Any processed food that would be subject to section 5 (a) solely because it includes one or more genetically engineered processing aids or enzymes.

(d) Any alcoholic beverage that is subject to the Alcoholic Beverage Exemption in ORS 616.330.

(e) Until July 1, 2019, any processed food that would be subject to section 5 (a) solely because it includes one or more genetically engineered ingredients, provided that:

- (i) no single such ingredient accounts for more than one-half of one percent of the total weight of such processed food; and
 - (ii) the processed food does not contain more than ten such ingredients.
- (f) Food that an independent organization has determined has not been knowingly and intentionally produced from or commingled with genetically engineered seed or genetically engineered food, provided that such determination has been made pursuant to a sampling and testing procedure approved in regulations adopted by the department. No sampling procedure shall be approved by the department unless sampling is done according to a statistically valid sampling plan consistent with principles recommended by internationally recognized sources such as the International Standards Organization (ISO) and the Grain and Feed Trade Association (GAFTA). No testing procedure shall be approved by the department unless:
- (i) it is consistent with the most recent “Guidelines on Performance Criteria and Validation of Methods for Detection, Identification and Quantification of Specific DNA Sequences and Specific Proteins in Foods,” (CAC/GL 74 (2010)) published by the Codex Alimentarius Commission; and
 - (ii) it does not rely on testing of processed foods in which no DNA is detectable.
- (g) Food that has been lawfully certified to be labeled, marketed and offered for sale as “organic” pursuant to the federal Organic Food Products Act of 1990 and the regulations promulgated pursuant thereto by the United States Department of Agriculture.
- (h) Food that is not packaged for retail sale and that either:
- (i) is a processed food prepared and intended for immediate human consumption or
 - (ii) is served, sold or otherwise provided in any restaurant or other food facility that is primarily engaged in the sale of food prepared and intended for immediate human consumption.
- (i) Medical Food

Section 7 – Adoption of Regulations

The State Department of Agriculture may adopt any regulations that it determines are necessary for the enforcement and interpretation of this Article, provided that the department shall not be authorized to create any exemptions beyond those specified in section 6.

Section 8 – Enforcement

As the provisions of this Act supplement and/or append ORS Chapter 616, violations of this Act constitute misbranding, a prohibited act in accordance with OS 616.215. Enforcement of violations to this act subsequently adhere to the rules set forth in Chapter 616.

Section 9 – Severability

The provisions of this Act are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Act is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of this Act. The people of the State of Oregon hereby declares that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this Act even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

Section 10 – Construction With Other Laws

This initiative shall be construed to supplement, not to supersede, the requirements of any federal or Oregon statute or regulation that provides for less stringent or less complete labeling of any raw agricultural commodity or processed food subject to the provisions of this initiative.

Section 11 – Effective Date

This Act shall take effect on July 1, 2014.

Section 12 – Conflicting Measures

In the event that another measure or measures appearing on the same statewide ballot impose additional requirements relating to the production, sale and/or labeling of genetically engineered food, then the provisions of the other measure or measures, if approved by the voters, shall be harmonized with the provisions of this Act, provided that the provisions of the other measure or measures do not prevent, or excuse, compliance with the requirements of this Act.

In the event that the provisions of the other measure or measures prevent, or excuse, compliance with the provisions of this Act, and this Act receives a greater number of affirmative votes, then the provisions of this Act shall prevail in their entirety, and the other measure or measures shall be null and void.

Section 13 – Amendments

This initiative may be amended or supplemented by additional legislation, but only if the legislation furthers the intent and purpose of this initiative with more stringent and detailed labeling requirements for genetically engineered foods.