

# House Bill 3272

Sponsored by Representative HOLVEY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Makes foods that contain or are produced using genetically engineered material subject to labeling requirements. Declares food that contains or is produced using genetically engineered material and does not conform with labeling requirements to be misbranded.

Applies to foods packaged on or after January 1, 2012.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to food labeling; creating new provisions; amending ORS 616.360; and declaring an emer-  
3 gency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 616.205 to**  
6 **616.385.**

7 **SECTION 2. (1) As used in this section:**

8 (a) "Genetically engineered material" means a substance derived from any part of a ge-  
9 netically engineered organism, whether or not the altered molecular or cellular character-  
10 istics of the organism are detectable in the substance.

11 (b) "Genetically engineered organism" means:

12 (A) A life form that has been altered at the molecular or cellular level by means that are  
13 not possible under natural conditions or processes, except means consisting exclusively of  
14 breeding, conjugation, fermentation, hybridization, in vitro fertilization, tissue culture or  
15 mutagenesis; or

16 (B) A life form produced through sexual or asexual reproduction involving an initial life  
17 form described in subparagraph (A) of this paragraph, if the life form produced possesses any  
18 of the altered molecular or cellular characteristics of the initial life form.

19 (2) A packaged food shall be deemed to be misbranded if:

20 (a) The food contains, or was produced using, a genetically engineered material and the  
21 labeling does not include a clear and prominent statement that the food contains genetically  
22 engineered material; or

23 (b) The food contains, or was produced using, a genetically engineered material and the  
24 labeling includes any statement indicating that the food does not contain genetically engi-  
25 neered material.

26 (3) A food is considered to have been produced using a genetically engineered material  
27 for purposes of subsection (2) of this section if:

28 (a) Except as provided in subsection (4) of this section, the organism from which the food  
29 is derived has been injected or otherwise treated with a genetically engineered material;

30 (b) An animal from which the food is derived has been fed genetically engineered mate-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 rial; or

2 (c) The food contains an ingredient that is a food produced as described in paragraph (a)  
 3 or (b) of this subsection.

4 (4) For purposes of subsection (3)(a) of this section, the use of manure from an animal  
 5 fed genetically engineered material in the growing of a raw agricultural commodity is not  
 6 an injection or treatment of the commodity with genetically engineered material.

7 (5) Subsection (2) of this section does not apply to:

8 (a) Foods that are certified and comply with the federal Organic Foods Production Act  
 9 (P.L. 101-624, as amended by P.L. 109-97) and the implementing regulations for the Act; or

10 (b) Foods that are produced with genetically engineered material that does not exceed  
 11 one percent of the materials used to produce the food, as determined by the State Depart-  
 12 ment of Agriculture, if no validated method of testing for the presence of that genetically  
 13 engineered material in the food has been identified by the State Department of Agriculture  
 14 or the United States Department of Agriculture. If the State Department of Agriculture or  
 15 the United States Department of Agriculture identifies a validated method of testing that can  
 16 detect the presence of genetically engineered material in food that is produced using not  
 17 more than one percent genetically engineered material, the State Department of Agriculture  
 18 may establish a zero tolerance for the material or may exempt foods produced with a lower  
 19 percentage of genetically engineered material that cannot be detected by a validated method  
 20 of testing.

21 (6) The department shall adopt rules for carrying out this section. The rules may include,  
 22 but need not be limited to, rules for identifying packaged foods and food production processes  
 23 that use genetically engineered material and rules for food package labeling statements re-  
 24 garding the presence or absence of genetically engineered material.

25 (7) The department may inspect consumer commodities and products in the possession  
 26 of an agricultural commodity producer, food manufacturer, processor, packager, wholesaler  
 27 or retailer, may obtain samples of the foods, food ingredients and materials used to produce  
 28 food and may seize foods, food ingredients and materials used to produce food to the extent  
 29 the department considers necessary to prevent the offering of misbranded foods to the pub-  
 30 lic.

31 (8) This section and any rules for the administration and enforcement of this section do  
 32 not create a new public or private cause of action or preclude an existing cause of action.

33 **SECTION 3.** ORS 616.360 is amended to read:

34 616.360. In the promulgation of rules under ORS 616.341, 616.345, 616.350, 616.366 and 616.380  
 35 and section 2 of this 2011 Act, the State Department of Agriculture shall give appropriate con-  
 36 sideration to:

37 (1) Measures and procedures required to protect the health and life of animals and the people  
 38 of this state.

39 (2) The laws of other states.

40 (3) The laws of the United States. The department's rules shall conform in so far as practicable  
 41 with, but shall not be more restrictive than, the laws and rules of the federal Food and Drug Ad-  
 42 ministration.

43 (4) The opinions of recognized experts and governmental agencies in the field of food additives.

44 **SECTION 4. Section 2 of this 2011 Act applies to foods that are packaged on or after**  
 45 **January 1, 2012.**

1        **SECTION 5.** This 2011 Act being necessary for the immediate preservation of the public  
2        peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
3        on its passage.  
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