

House Bill 4100

Sponsored by Representatives HOLVEY, BUCKLEY, BOONE (Presession filed.)

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 legislative findings and declarations regarding genetically engineered food. Requires labeling of genetically engineered raw agricultural commodities and packages of genetically engineered processed food offered or expected to be offered for retail sale within state. Declares commodity or food misbranded if not labeled as required.

Authorizes person adversely affected or aggrieved by violation of labeling requirement to bring action in public interest seeking injunction against continued misbranding.

Applies to raw agricultural commodities held or offered for sale on or after January 1, 2016, and processed food packaged on or after January 1, 2016.

Refers Act to people for their approval or rejection at next regular general election.

A BILL FOR AN ACT

1
2 Relating to genetically engineered food; creating new provisions; amending ORS 616.330; and pro-
3 viding that this Act shall be referred to the people for their approval or rejection.

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

5 **SECTION 1. Sections 2 to 8 of this 2014 Act are added to and made a part of ORS 616.205**
6 **to 616.295.**

7 **SECTION 2. As used in sections 3 to 7 of this 2014 Act:**

8 (1) "Genetically engineered" means produced from one or more organisms in which the
9 genetic material has been changed through the application of:

10 (a) Recombinant deoxyribonucleic acid or ribonucleic acid vector systems or techniques
11 for directly introducing nucleic acid or other hereditary materials prepared outside the
12 organism into the cells, organelles or other parts of the organism by chemoporation,
13 electroporation, encapsulation, gene deletion, gene doubling, liposome fusion,
14 microencapsulation, macroinjection, microinjection or other in vitro nucleic acid techniques;
15 or

16 (b) Methods for fusing cells from donors of different taxonomic families that overcome
17 natural physiological reproductive or recombinant barriers and that are not methods used
18 in traditional breeding and selection such as conjugation, hybridization or transduction.

19 (2) "Processed food" means food other than:

20 (a) A raw agricultural commodity; or

21 (b) Food that is prepared in whole or in part at the site of retail sale and sold in a form
22 suitable for immediate consumption, including but not limited to food sold in restaurants.

23 **SECTION 3. (1) The Legislative Assembly finds and declares that:**

24 (a) Oregon has a substantial state interest in ensuring that Oregon consumers are fully
25 informed about the food they purchase and consume;

26 (b) The labeling of genetically engineered food is necessary to ensure that Oregon con-
27 sumers are fully informed about the food they purchase and consume;

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 (c) Oregon has a substantial state interest in protecting Oregon’s agricultural economy
2 and environment;

3 (d) Identifying food produced through genetic engineering will help to protect Oregon’s
4 agricultural economy and environment; and

5 (e) Sections 4 and 5 of this 2014 Act establish a consistent and enforceable standard for
6 labeling genetically engineered food that provides Oregon consumers with reliable informa-
7 tion regarding how their food is produced.

8 (2) It is the intent of the Legislative Assembly that sections 4 and 5 of this 2014 Act fa-
9 cilitate the ability of Oregon consumers to exercise their right to be fully informed about
10 whether the food they purchase and consume is genetically engineered.

11 **SECTION 4.** (1) A genetically engineered raw agricultural commodity in package form
12 must be labeled on the front or back of the package in a clear and conspicuous manner with
13 the words “Genetically Engineered” if the commodity is sold or may reasonably be expected
14 to be sold at retail in this state for human consumption.

15 (2) A shelf, bin or other display location where an unpackaged genetically engineered raw
16 agricultural commodity is offered for retail sale in this state for human consumption must
17 be labeled in a clear and conspicuous manner with the words “Genetically Engineered.”

18 (3) A shipping container or outer wrapping that is used to transport genetically engi-
19 neered raw agricultural commodities in bulk or in quantity to a retailer in this state to be
20 sold for human consumption must be labeled in a clear and conspicuous manner with the
21 words “Genetically Engineered.”

22 (4) A genetically engineered raw agricultural commodity is misbranded if packaged, of-
23 fered, sold or transported in a manner that violates a labeling requirement imposed under
24 this section.

25 **SECTION 5.** (1) A package containing genetically engineered processed food must be la-
26 beled in a clear and conspicuous manner with the words “Produced with Genetic
27 Engineering” or, to the extent allowed by the State Department of Agriculture by rule, with
28 the words “Partially Produced with Genetic Engineering” if the processed food is sold or may
29 reasonably be expected to be sold at retail in this state for human consumption and the ge-
30 netically engineered content meets or exceeds the amounts described in subsection (2) of this
31 section.

32 (2) The labeling requirement in subsection (1) of this section applies to packages of pro-
33 cessed food in which the portion of the food that is genetically engineered exceeds:

34 (a) Nine-tenths of one percent by weight; or

35 (b) A percentage by weight established for the food by department rule as provided under
36 subsection (3) of this section.

37 (3) The department may adopt rules to require labeling on a package of genetically engi-
38 neered processed food in which the portion of the food that is genetically engineered is
39 nine-tenths of one percent or less by weight. The department may require labeling under this
40 subsection only if the department determines that the availability of processed food content
41 is such that it is economically and commercially practicable to manufacture the processed
42 food with a percentage by weight of genetically engineered content lower than the percentage
43 specified by rule.

44 (4) A genetically engineered processed food that lacks package labeling required for the
45 food under this section is misbranded.

SECTION 6. Sections 4 and 5 of this 2014 Act do not require:

(1) The listing or type identification of genetically engineered content in the raw agricultural commodity or processed food; or

(2) That the words “Genetically Engineered,” “Produced with Genetic Engineering” or “Partially Produced with Genetic Engineering” immediately precede the common name or primary descriptor of the raw agricultural commodity or processed food.

SECTION 7. (1) Notwithstanding ORS 616.315 and except as provided in subsection (2) of this section, a person adversely affected or aggrieved by the misbranding of a genetically engineered raw agricultural commodity or processed food in violation of section 4 or 5 of this 2014 Act may, 60 or more days after giving notice of the alleged violation to the Attorney General, the State Department of Agriculture and the person alleged to have committed the violation, bring an action on behalf of the public interest in the circuit court for Marion County to enjoin the person alleged to have committed the violation from continuing to misbrand the genetically engineered raw agricultural commodity or processed food. The court may award a plaintiff prevailing in an action under this subsection actual costs incurred to secure necessary exhibits and witnesses, reasonable attorney fees and other costs.

(2) A person may not bring an action under subsection (1) of this section if the Attorney General has:

(a) Filed for or obtained an injunction prohibiting the person alleged to have committed the violation from continuing to misbrand the genetically engineered raw agricultural commodity or processed food; or

(b) Obtained an assurance of voluntary compliance from the person alleged to have committed the violation stating that the person will comply with any applicable labeling requirements imposed under section 4 or 5 of this 2014 Act.

(3) Except as provided in subsection (1) of this section, sections 4 and 5 of this 2014 Act do not create a new public or private cause of action or alter or preclude an existing cause of action.

(4) A violation of section 4 or 5 of this 2014 Act may not be asserted as the basis for per se negligence.

SECTION 8. The State Department of Agriculture shall adopt rules for carrying out sections 4 and 5 of this 2014 Act.

SECTION 9. ORS 616.330 is amended to read:

616.330. ORS 616.205 to 616.215, 616.225 to 616.256, 616.286, 616.295, 616.310, 616.315, 616.325, 616.341, 616.350 to 616.366, 616.790, 616.992[,] and sections 4 and 5 of this 2014 Act and rules adopted by the Oregon Health Authority under ORS 616.077 (1) [and this section] do not apply to alcoholic beverages.

SECTION 10. Sections 4 and 5 of this 2014 Act apply to:

(1) Raw agricultural commodities held or offered for retail sale on or after January 1, 2016; and

(2) Processed food packaged on or after January 1, 2016.

SECTION 11. This 2014 Act shall be submitted to the people for their approval or rejection at the next regular general election held throughout this state.