

# House Bill 3121

Sponsored by Representatives HOLVEY, BUCKLEY

## 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 on behalf of public interest seeking injunction against continued misbranding.

Applies to raw agricultural commodities held or offered for sale on or after January 1, 2018, and processed food packaged on or after January 1, 2018.

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 2015 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 2015 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 a nucleic acid or other hereditary material 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) Ensuring that Oregon consumers are fully informed about the food they purchase and  
27 consume includes, but is not limited to, helping consumers to avoid confusion and to have

**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 relevant information at the time they choose the food they purchase and consume and ena-  
 2 bling consumers to consider the potential impact of those choices on their health and wel-  
 3 fare;

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

6 (d) Oregon has a substantial state interest in protecting Oregon’s agricultural economy  
 7 and environment;

8 (e) Identifying food produced through genetic engineering will help to protect Oregon’s  
 9 agricultural economy and environment; and

10 (f) Sections 4 and 5 of this 2015 Act establish a consistent and enforceable standard for  
 11 labeling genetically engineered food that provides Oregon consumers with reliable informa-  
 12 tion regarding how their food is produced.

13 (2) It is the intent of the Legislative Assembly that sections 4 and 5 of this 2015 Act fa-  
 14 cilitate the ability of Oregon consumers to exercise their right to be fully informed about  
 15 whether the food they purchase and consume is genetically engineered.

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

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

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

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

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

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

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

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

42 (3) The department may adopt rules to require labeling on a package of genetically engi-  
 43 neered processed food in which the portion of the food that is genetically engineered is  
 44 nine-tenths of one percent or less by weight. The department may require labeling under this  
 45 subsection only if the department determines that the availability of processed food content

1 is such that it is economically and commercially practicable to manufacture the processed  
 2 food with a percentage by weight of genetically engineered content lower than the percentage  
 3 specified by rule.

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

6 **SECTION 6.** Sections 4 and 5 of this 2015 Act do not require:

7 (1) The listing or type identification of genetically engineered content in a raw agricul-  
 8 tural commodity or processed food; or

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

12 **SECTION 7.** (1) Notwithstanding ORS 616.315 and except as provided in subsection (2) of  
 13 this section, a person adversely affected or aggrieved by the misbranding of a genetically  
 14 engineered raw agricultural commodity or processed food in violation of section 4 or 5 of this  
 15 2015 Act may, 60 or more days after giving notice of the alleged violation to the Attorney  
 16 General, the State Department of Agriculture and the person alleged to have committed the  
 17 violation, bring an action on behalf of the public interest in the Circuit Court for Marion  
 18 County to enjoin the person alleged to have committed the violation from continuing to  
 19 misbrand the genetically engineered raw agricultural commodity or processed food. The  
 20 court may award a plaintiff prevailing in an action under this subsection actual costs in-  
 21 curred to secure necessary exhibits and witnesses, reasonable attorney fees and other costs.

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

24 (a) Filed for or obtained an injunction prohibiting the person alleged to have committed  
 25 the violation from continuing to misbrand the genetically engineered raw agricultural com-  
 26 modity or processed food; or

27 (b) Obtained an assurance of voluntary compliance from the person alleged to have  
 28 committed the violation stating that the person will comply with any applicable labeling re-  
 29 quirements imposed under section 4 or 5 of this 2015 Act.

30 (3) Except as provided in subsection (1) of this section, sections 4 and 5 of this 2015 Act  
 31 do not create a new public or private cause of action or alter or preclude an existing cause  
 32 of action.

33 (4) A violation of section 4 or 5 of this 2015 Act may not be asserted as the basis for per  
 34 se negligence.

35 **SECTION 8.** The State Department of Agriculture shall adopt rules for carrying out  
 36 sections 4 and 5 of this 2015 Act.

37 **SECTION 9.** ORS 616.330 is amended to read:

38 616.330. ORS 616.205 to 616.215, 616.225 to 616.256, 616.286, 616.295, 616.310, 616.315, 616.325,  
 39 616.341, 616.350 to 616.366, 616.790, 616.992[,] and sections 4 and 5 of this 2015 Act and rules  
 40 adopted by the Oregon Health Authority under ORS 616.077 (1) [*and this section*] do not apply to  
 41 alcoholic beverages.

42 **SECTION 10.** Sections 4 and 5 of this 2015 Act apply to:

43 (1) Raw agricultural commodities held or offered for retail sale on or after January 1,  
 44 2018; and

45 (2) Processed food packaged on or after January 1, 2018.

1        **SECTION 11.** This 2015 Act shall be submitted to the people for their approval or re-  
2        **jection at the next regular general election held throughout this state.**  
3        \_\_\_\_\_