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Genetically Engineered Food Right-to-Know Act (Introduced in the Senate)

S 2080 IS

106th CONGRESS

2d Session

S . 2080

To amend the Federal Food, Drug, and Cosmetic Act to require that food that contains a genetically engineered material, or that is produced with a genetically engineered material, be labeled accordingly, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 22, 2000

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to require that food that contains a genetically engineered material, or that is produced with a genetically engineered material, be labeled accordingly, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Genetically Engineered Food Right-to-Know Act'.

SEC. 2. FINDINGS.

Congress finds the following:

- (1) In 1999, 98,600,000 acres in the United States were planted with genetically engineered crops, and more than 1/3 of the soybean crop, and 1/4 of the corn crop, in the United States was genetically engineered.
- (2) The process of genetically engineering foods results in the material change of such foods.
- (3) The health and environmental effects of genetically engineered foods are not yet known.
- (4) Individuals in the United States have the right to know whether food contains or has been produced with genetically engineered material.
- (5) Federal law gives individuals in the United States the right to know whether food contains artificial colors and flavors, chemical preservatives, and artificial sweeteners by requiring the labeling of such food.
- (6) Requirements that genetically engineered food be labeled as genetically engineered would increase consumer knowledge about, and consumer control over consumption of, genetically engineered food.
- (7) Genetically engineered material can be detected in food at levels as low as 0.1 percent by reasonably available technology.

SEC. 3. LABELING REGARDING GENETICALLY ENGINEERED MATERIAL; AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) IN GENERAL- Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following paragraph:

“(t)(1) If it contains a genetically engineered material, or was produced with a genetically engineered material, unless it bears a label (or labeling, in the case of a raw agricultural commodity) that provides notices in accordance with each of the following requirements:

“(A) The label or labeling bears the following notice: ‘GENETICALLY ENGINEERED’.

“(B) The label or labeling bears the following notice: ‘THIS PRODUCT CONTAINS A GENETICALLY ENGINEERED MATERIAL, OR WAS PRODUCED WITH A GENETICALLY ENGINEERED MATERIAL’.

“(C) The notice required in clause (A) immediately precedes the notice required in clause (B) and the type for the notice required in clause (A) is not less than twice the size of the type for the notice required in clause (B).

“(D) The notice required in clause (B) is the same size as would be required if the notice provided nutrition information that is required in paragraph (q)(1).

`(E) The notices required in clauses (A) and (B) are clearly legible and conspicuous.

`(2) This paragraph does not apply to food that--

`(A) is served in restaurants or other similar eating establishments, such as cafeterias and carryouts;

`(B) is a medical food as defined in section 5(b) of the Orphan Drug Act; or

`(C) was grown on a tree that was planted before the date of enactment of the Genetically Engineered Food Right-to-Know Act, in a case in which the producer of the food does not know if the food contains a genetically engineered material, or was produced with a genetically engineered material.

`(3) In this paragraph:

`(A) The term `genetically engineered material' means material derived from any part of a genetically engineered organism, without regard to whether the altered molecular or cellular characteristics of the organism are detectable in the material.

`(B) The term `genetically engineered organism' means--

`(i) an organism that has been altered at the molecular or cellular level by means that are not possible under natural conditions or processes (including recombinant DNA and RNA techniques, cell fusion, microencapsulation, macroencapsulation, gene deletion and doubling, introduction of a foreign gene, and a process that changes the positions of genes), other than a means consisting exclusively of breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture; and

`(ii) an organism made through sexual or asexual reproduction, or both, involving an organism described in subclause (i), if possessing any of the altered molecular or cellular characteristics of the organism so described.

`(C) The term `produced with a genetically engineered material', used with respect to a food, means a food if--

`(i) the organism from which the food is derived has been injected or otherwise treated with a genetically engineered material (except that the use of manure as a fertilizer for raw agricultural commodities may not be construed to be production with a genetically engineered material);

`(ii) the animal from which the food is derived has been fed genetically engineered material; or

`(iii) the food contains an ingredient that is a food to which subclause (i) or (ii) applies.'

(b) GUARANTY-

(1) IN GENERAL- Section 303(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(d)) is amended--

(A) by striking `(d)' and inserting `(d)(1)'; and

(B) by adding at the end the following paragraph:

`(2)(A) No person shall be subject to the penalties of subsection (a)(1) or (h) for a violation of section 301(a), 301(b), or 301(c) involving food that is misbranded within the meaning of section 403(t) if such person (referred to in this paragraph as the `recipient') establishes a guaranty or undertaking that--

`(i) is signed by, and contains the name and address of, a person residing in the United States from whom the recipient received in good faith the food (including the receipt of seeds to grow raw agricultural commodities); and

`(ii) contains a statement to the effect that the food does not contain a genetically engineered material or was not produced with a genetically engineered material.

`(B) In the case of a recipient who, with respect to a food, establishes a guaranty or undertaking in accordance with subparagraph (A), the exclusion under such subparagraph from being subject to penalties applies to the recipient without regard to the manner in which the recipient uses the food, including whether the recipient is--

`(i) processing the food;

`(ii) using the food as an ingredient in a food product;

`(iii) repacking the food; or

`(iv) growing, raising, or otherwise producing the food.

`(C) No person may avoid responsibility or liability for a violation of section 301(a), 301(b), or 301(c) involving food that is misbranded within the meaning of section 403(t) by entering into a contract or other agreement that specifies that another person shall bear such responsibility or liability, except that a recipient may require a guaranty or undertaking as described in this subsection.

`(D) In this paragraph, the terms `genetically engineered material' and `produced with a genetically engineered material' have the meanings given the terms in section 403(t).'

(2) FALSE GUARANTY- Section 301(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(h)) is amended by inserting `or 303(d)(2)' before `, which guaranty or undertaking is false' the first place it appears.

(c) UNINTENDED CONTAMINATION- Section 303(d) of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (b)(1), is further amended by adding at the end the following paragraph:

`(3)(A) No person shall be subject to the penalties of subsection (a)(1) or (h) for a violation of section 301(a), 301(b), or 301(c) involving food that is misbranded within the meaning of section 403(t) if--

`(i) such person is an agricultural producer and the violation occurs because food that is grown, raised, or otherwise produced by such producer, which food does not contain a genetically engineered material and was not produced with a genetically engineered material, is contaminated with a food that contains a genetically engineered material or was produced with a genetically engineered material (including contamination by mingling the 2 foods); and

`(ii) such contamination is not intended by the agricultural producer.

`(B) Subparagraph (A) does not apply to an agricultural producer to the extent that the contamination occurs as a result of the negligence of the producer.'

(d) CIVIL PENALTIES- Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following subsection:

`(h)(1) With respect to a violation of section 301(a), 301(b), or 301(c) involving food that is misbranded within the meaning of section 403(t), any person engaging in such a violation shall be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each such violation.

`(2) Paragraphs (3) through (5) of subsection (g) apply with respect to a civil penalty assessed under paragraph (1) to the same extent and in the same manner as such paragraphs (3) through (5) apply with respect to a civil penalty assessed under paragraph (1) or (2) of subsection (g).'

SEC. 4. GRANTS FOR RESEARCH ON GENETICALLY ENGINEERED FOOD.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

`SEC. 908. GRANTS FOR RESEARCH ON GENETICALLY ENGINEERED FOOD.

`(a) IN GENERAL- The Secretary may make grants to appropriate individuals, organizations, and institutions to conduct research into the public health and environmental risks associated with genetically engineered materials, food that contains a genetically engineered material, and food that is produced with a genetically engineered material, including risks related to--

`(1) increased allergenicity;

`(2) increased toxicity;

`(3) cross-pollination between genetically engineered materials and materials that are not genetically engineered materials; and

`(4) interference with the soil ecosystem and other impacts on the ecosystem.

`(b) AUTHORIZATION OF APPROPRIATIONS-

`(1) IN GENERAL- There is authorized to be appropriated \$5,000,000 for fiscal year 2001 to carry out the objectives of this section.

`(2) AVAILABILITY- Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

`(c) DEFINITIONS- The terms `genetically engineered material' and `produced with a genetically engineered material' have the meanings given the terms in section 403(t)(3) of the Federal Food, Drug, and Cosmetic Act.'

SEC. 5. CONFORMING AMENDMENTS.

(a) Section 1(n) of Public Law 90-201 is amended--

(1) in paragraph (11), by striking `or' at the end;

(2) in paragraph (12), by striking the period at the end and inserting `; or'; and

(3) by adding at the end the following:

`(13) if--

`(A) it contains a genetically engineered material, or was produced with a genetically engineered material; and

`(B)(i) it does not bear a label or labeling, as appropriate, that provides the notices required under the terms and conditions of section 403(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(t)); or

`(ii) it is the subject of a false guaranty or undertaking,

subject to the terms and conditions of section 303(d) of that Act (21 U.S.C. 333(d)) and subject to the penalties described in section 303(h) of that Act (21 U.S.C. 333(h)) and remedies available under this Act.'

(b) Section 4(h) of Public Law 85-172 is amended--

(1) in paragraph (11), by striking `or' at the end;

(2) in paragraph (12), by striking the period at the end and inserting `; or'; and

(3) by adding at the end the following:

`(13) if--

`(A) it contains a genetically engineered material, or was produced with a genetically engineered material; and

`(B)(i) it does not bear a label or labeling, as appropriate, that provides the notices required under the terms and conditions of section 403(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(t)); or

`(ii) it is the subject of a false guaranty or undertaking,

subject to the terms and conditions of section 303(d) of that Act (21 U.S.C. 333(d)) and subject to the penalties described in section 303(h) of that Act (21 U.S.C. 333(h)) and remedies available under this Act.'

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect 180 days after the date of enactment of this Act.

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