

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 335

(SENATE AUTHORS: MARTY, Hawj, Goodwin and Hayden)

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1.1 A bill for an act
 1.2 relating to commerce; providing consumer protection; requiring disclosure of
 1.3 genetically engineered food; authorizing rulemaking; proposing coding for new
 1.4 law in Minnesota Statutes, chapter 325F.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **PURPOSE.**

1.7 (a) This act establishes a consistent and enforceable standard for labeling foods
 1.8 produced using genetic engineering, and thus provides the citizens of Minnesota with
 1.9 knowledge of how their food is produced.

1.10 (b) The purposes of this act are:

1.11 (1) to promote food safety and protect public health by enabling consumers to
 1.12 avoid potential risks associated with genetically engineered foods, and to serve as a risk
 1.13 management tool enabling consumers, physicians, and scientists to identify unintended
 1.14 health effects resulting from consumption of genetically engineered foods;

1.15 (2) to assist consumers who are concerned about the potential effects of genetic
 1.16 engineering on the environment to make informed purchasing decisions;

1.17 (3) to reduce and prevent consumer confusion and deception and promote the
 1.18 disclosure of factual information on food labels to allow consumers to make informed
 1.19 decisions;

1.20 (4) to create and protect nongenetically engineered markets and enable consumers to
 1.21 make informed purchasing decisions; and

1.22 (5) to provide consumers with data from which they may make informed decisions
 1.23 for personal, religious, moral, cultural, or ethical reasons.

2.1 **Sec. 2. FINDINGS.**

2.2 (a) Minnesota consumers have the right to know whether the foods they purchase
2.3 were produced with genetic engineering so they can make informed purchasing decisions.
2.4 Labeling is necessary to ensure that Minnesota consumers are fully and reliably informed
2.5 about the products they purchase and consume. Labels provide informed consent and
2.6 prevent consumer deception. Polls consistently show that the majority of the public wants
2.7 to know if its food was produced with genetic engineering, for a variety of reasons.

2.8 (b) For multiple health, personal, economic, environmental, religious, and cultural
2.9 reasons, the state of Minnesota finds that food produced with genetic engineering should
2.10 be labeled as such, as evidenced by the following:

2.11 (1) In the United States, there is currently no federal requirement that genetically
2.12 engineered foods be labeled. Four states including Connecticut, Maine, Vermont, and
2.13 Alaska have adopted genetically engineered organism labeling statutes. Sixty-four
2.14 countries, including Japan, South Korea, China, Australia, Russia, India, the European
2.15 Union member states, and other key United States trading partners, already have
2.16 laws mandating disclosure of genetically engineered foods on food labels. In 2011,
2.17 Codex Alimentarius, the food standards organization of the United Nations, stated that
2.18 governments are free to decide whether and how to label foods produced with genetic
2.19 engineering.

2.20 (2) The United States Food and Drug Administration (FDA) does not require or
2.21 conduct safety studies of genetically engineered foods. Instead, any safety consultations
2.22 are voluntary, and genetically engineered food developers may decide what information to
2.23 provide to the agency. Market approval of genetically engineered food is based on industry
2.24 research alone. There have been no long-term or epidemiological studies in the United
2.25 States that examine the safety of human consumption of genetically engineered foods.

2.26 (3) The genetic engineering of plants and animals may cause unintended
2.27 consequences. Manipulating genes via genetic engineering and inserting them into
2.28 organisms is an imprecise process. The results are not always predictable or controllable.
2.29 Mixing plant, animal, bacterial, and viral genes through genetic engineering in
2.30 combinations that cannot occur in nature may produce results that lead to adverse
2.31 health or environmental consequences. Currently, Minnesota regulates the release of
2.32 genetically engineered organisms under Minnesota Statutes, chapter 18F, and requires that
2.33 an environmental impact statement be completed prior to development of genetically
2.34 engineered wild rice.

2.35 (4) United States government agency scientists have stated that the artificial insertion
2.36 of genetic material into plants via genetic engineering can cause a variety of significant

3.1 problems with plant foods. Such genetic engineering may increase the levels of known
3.2 toxicants or allergens in foods and create new toxicants or allergens with consequent
3.3 health concerns. Additionally, research in France published in the Environmental Sciences
3.4 Europe Journal in 2014 has shown that rats fed genetically engineered corn for their entire
3.5 lives develop tumors and die earlier than rats fed normal corn, while research in Canada
3.6 published in the Reproductive Toxicology Journal in 2011 has shown that Bt toxins in
3.7 genetically engineered corn cross the placental barrier and are found in fetal cord blood.

3.8 (5) Independent scientists are limited from conducting safety and risk-assessment
3.9 research of genetically engineered materials used in food products due to industry
3.10 restrictions on research of genetically engineered materials used in food products.

3.11 (6) Mandatory identification of foods produced with genetic engineering can provide
3.12 a method for detecting, at a large epidemiological scale, the potential health effects
3.13 of consuming such foods.

3.14 (7) Without mandatory disclosure, consumers of genetically engineered food may
3.15 unknowingly violate their dietary and religious beliefs.

3.16 (8) Numerous foreign markets with restrictions on foods produced with genetic
3.17 engineering have restricted imports of United States crops due to concerns about genetic
3.18 engineering. Some foreign markets are choosing to purchase agricultural products from
3.19 countries other than the United States because genetically engineered crops are not
3.20 identified in the United States, which makes it impossible for buyers to determine what
3.21 does or does not meet their national labeling laws or restrictions and thus renders United
3.22 States products less desirable.

3.23 (9) Mandatory identification of foods produced with genetic engineering can be a
3.24 critical method of preserving the economic value of exports or domestically sensitive
3.25 markets with restrictions on, or prohibitions against, genetic engineering. Markets for
3.26 identity-preserved (IP), nongenetically engineered organism crops and products are
3.27 expanding rapidly, providing opportunities for Minnesota agricultural producers and
3.28 food processors.

3.29 (10) Minnesota's agricultural economy is critical to the state's economic health.
3.30 According to United States Department of Agriculture data, Minnesota is among the top
3.31 five states in terms of producing corn, soybeans, sugar beets, spring wheat, oats, dry
3.32 edible beans, flaxseed, canola, sweet corn for processing and green peas for processing.
3.33 Minnesota ranks sixth out of all 50 states in terms of the value of its agricultural exports.
3.34 Minnesota's agriculture sector provides more than 340,000 jobs for the state and creates
3.35 \$75,000,000,000 in economic activity. In addition to the state's 81,000 farms, Minnesota
3.36 has nearly 1,000 agricultural and food companies. Preserving the identity, quality, and

4.1 reliability of Minnesota's agricultural products and exports is critical to Minnesota's
4.2 economic well-being.

4.3 (11) The organic food industry is a rapidly growing industry, with \$2,700,000,000
4.4 in growth in 2012. While total United States food sales grew at a rate of 3.7 percent,
4.5 the organic food industry grew at a rate of 10.2 percent in 2012, accounting for
4.6 \$31,500,000,000 in sales. Sales of organic fruits and vegetables account for 43 percent of
4.7 those new dollars, 34.8 percent of total organic food sales, and 10.3 percent of all United
4.8 States fruit and vegetable sales. Organic dairy grew at a rate of 7.1 percent in 2012 and
4.9 comprises over six percent of the total United States dairy market. Trade industry data
4.10 shows that, over the long term, organic farming is more profitable and economically
4.11 secure than conventional farming. United States Department of Agriculture data shows
4.12 that Minnesota ranks fourth in the number of certified organic acres harvested, seventh in
4.13 the number of certified organic operations, and tenth in total organic acres. This important
4.14 element of Minnesota's economy must be protected. Organic farmers are prohibited from
4.15 producing agricultural products via the use of genetic engineering methods or products,
4.16 which includes genetically engineered seeds and plants. Nonetheless, organic crops
4.17 are routinely threatened with transgenic contamination and pesticide contamination
4.18 from neighboring fields of genetically engineered crops. The risk of contamination can
4.19 erode public confidence in organic products, significantly undermining the job-creating,
4.20 economy-boosting growth of the organic market. Requiring the labeling of foods
4.21 produced through genetic engineering will help protect organics nationwide by increasing
4.22 identification of genetically engineered foods through the food production process, thereby
4.23 reducing the risk of contamination and improving food system transparency.

4.24 (12) Foods identified as nongenetically engineered constitute the fastest growing
4.25 market segment in agriculture. However, only a small portion of the food industry
4.26 participates in voluntary labeling of foods claimed not to be the product of genetic
4.27 engineering. Nor are there consistent standards for such labeling, or for enforcement of
4.28 voluntary labels. As such, voluntary labels are insufficient to provide consumers with
4.29 adequate information on whether or not the food they are purchasing was produced with
4.30 genetic engineering and may be misleading.

4.31 (13) Requiring that foods produced through genetic engineering be labeled as such
4.32 will create additional market opportunities for producers who are not certified as organic
4.33 and whose products are not produced through genetic engineering. Such additional market
4.34 opportunities will also contribute to vibrant and diversified agricultural communities
4.35 in Minnesota.

5.1 (c) The cultivation of genetically engineered crops can have serious effects on the
5.2 environment. For example, in 2013, 93 percent of all soy grown in the United States was
5.3 engineered to be herbicide resistant. In fact, the vast majority of genetically engineered
5.4 crops are designed to withstand herbicides, and therefore promote indiscriminate herbicide
5.5 use. A 2012 Washington State University study shows that genetically engineered,
5.6 herbicide resistant crops have caused 527 million pounds of additional herbicides to
5.7 be applied to the nation's farmland. These toxic herbicides damage the vitality and
5.8 quality of our soil, harm wildlife, contaminate our drinking water, and pose health risks to
5.9 consumers and farmworkers. Further, because of the consequent massive increase in the
5.10 use of herbicides, herbicide-resistant weeds have developed and flourished, infesting farm
5.11 fields and roadsides, complicating weed control for farmers, and causing farmers to resort
5.12 to more and increasingly toxic herbicides. Additionally:

5.13 (1) over 20 weed species in the United States have developed herbicide resistance
5.14 since the introduction of genetically engineered crops, leading to an increase in herbicide
5.15 use and increased costs for producers; and

5.16 (2) corn rootworms have developed resistance to Bt toxins in genetically engineered
5.17 corn, leading to an increase in insecticide use and increased costs for producers.

5.18 (d) The people of Minnesota should have the choice to avoid purchasing foods
5.19 produced in ways that can lead to such environmental harm.

5.20 (e) Because neither the FDA nor federal law requires the labeling of food produced
5.21 with genetic engineering, the state should require foods produced with genetic engineering
5.22 to be labeled as such in order to serve the interests of the state, which include but are
5.23 not limited to preventing consumer deception, preventing potential risks to human
5.24 health, promoting food safety, protecting cultural and religious practices, protecting the
5.25 environment, and promoting economic development.

5.26 **Sec. 3. [325F.1792] DEFINITIONS.**

5.27 Subdivision 1. **Applicability.** For the purposes of sections 325F.1792 to 325F.1796,
5.28 the terms in this section have the meanings given.

5.29 Subd. 2. **Cultivated commercially.** "Cultivated commercially" means grown or
5.30 raised in the course of a business or trade and sold or offered for sale within this state or
5.31 the United States generally.

5.32 Subd. 3. **Distributor.** "Distributor" means a person or business engaged in any
5.33 method of distributing or transporting a food or food product intended for human
5.34 consumption in this state from one place to another that the person or business did not
5.35 produce.

6.1 Subd. 4. **Enzyme.** "Enzyme" means a protein that catalyzes chemical reactions of
6.2 other substances without being destroyed or altered upon completion of the reactions.

6.3 Subd. 5. **Genetically engineered and similar terms.** "Genetically engineered,"
6.4 "genetic engineering," "genetically modified," "genetic modification," "genetically
6.5 manipulated," "genetic manipulation," or similar terms, when applied to human food,
6.6 means a food that is produced from or with an organism or organisms with genetics altered
6.7 materially through the application of:

6.8 (1) in vitro nucleic acid techniques which include, but are not limited to, recombinant
6.9 deoxyribonucleic acid (DNA) or ribonucleic acid (RNA), direct injection of nucleic acid
6.10 into cells or organelles, encapsulation, gene deletion, and doubling; or

6.11 (2) methods of fusing cells beyond the taxonomic family that overcome natural
6.12 physiological, reproductive, or recombination barriers, and that are not techniques used in
6.13 traditional breeding and selection such as conjugation, transduction, and hybridization.

6.14 Subd. 6. **In vitro and in vivo nucleic acid techniques.** "In vitro and in vivo nucleic
6.15 acid techniques" means techniques, including but not limited to recombinant DNA or
6.16 RNA techniques that use vector systems; techniques involving the direct introduction into
6.17 the organisms of hereditary materials prepared outside the organisms such as biolistics,
6.18 microinjection, macroinjection, chemoporation, electroporation, microencapsulation,
6.19 and liposome fusion.

6.20 Subd. 7. **Manufacturer.** "Manufacturer" means a person or business engaged in the
6.21 production or processing of seed, seed stock, food, or any food product.

6.22 Subd. 8. **Organism.** "Organism" means any biological entity capable of replication,
6.23 reproduction, or transferring genetic material.

6.24 Subd. 9. **Processed food.** "Processed food" means any food other than a
6.25 raw agricultural commodity and includes any food produced from a raw agricultural
6.26 commodity that was processed through canning, smoking, pressing, cooking, freezing,
6.27 dehydration, fermentation, or milling.

6.28 Subd. 10. **Processing aid.** "Processing aid" means:

6.29 (1) a substance that is added to a food during the processing of the food but is
6.30 removed from the food in some manner before the food is packaged in a final form;

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

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

7.1 Subd. 11. **Retailer.** "Retailer" means a person or business engaged in selling food
7.2 from individuals or businesses to the end user. For the purposes of section 325F.1793,
7.3 "retailer" does not mean a manufacturer when the manufacturer is also acting as a retailer
7.4 with respect to the food item at issue.

7.5 Sec. 4. **[325F.1793] DISCLOSURE OF GENETICALLY ENGINEERED FOOD.**

7.6 Subdivision 1. **Disclosure required.** On and after January 1, 2017, any raw food or
7.7 packaged food sold or offered for sale in this state is misbranded if it is entirely or partially
7.8 produced with genetic engineering and that fact is not disclosed as follows:

7.9 (1) in the case of the package offered for sale, the words "Produced with Genetic
7.10 Engineering" shall be placed on the package offered for sale in a clear and conspicuous
7.11 manner by the manufacturer; and

7.12 (2) in the case of a food, food product, or agricultural commodity that is not
7.13 separately packaged or labeled, the words "Produced with Genetic Engineering" shall
7.14 be placed on the container used for packaging, holding, or transporting in a clear and
7.15 conspicuous manner by the manufacturer, and maintained by the distributor, and on
7.16 the retail store shelf or bin in which the commodity is displayed for sale in a clear and
7.17 conspicuous manner by the retailer.

7.18 Subd. 2. **Exceptions.** (a) The requirements in subdivision 1 do not apply to a
7.19 processed food that would be subject to this section solely because one or more processing
7.20 aids or enzymes were produced or derived with genetic engineering.

7.21 (b) A food package that contains a commodity or food produced in any way with
7.22 genetic engineering that does not display a disclosure as required in subdivision 1, clause
7.23 (1) or (2), shall be deemed misbranded in this state, except that:

7.24 (1) the package must not be considered misbranded if it is for a commodity or food
7.25 produced by a person who grows, raises, or otherwise produces the commodity or food
7.26 without knowledge that the commodity or food was created with seed or other food that
7.27 was derived in any way through a process of genetic engineering. The person must obtain
7.28 a signed, written statement from the party that sold the seed or food to the person that
7.29 the substance was not knowingly genetically engineered, was entirely segregated from,
7.30 and has not knowingly been commingled with a food or food component that may have
7.31 been created through genetic engineering; or

7.32 (2) the package will not be considered misbranded if it is a processed food that
7.33 would be subject to this disclosure requirement solely because it includes one or more
7.34 materials produced with genetic engineering, provided that the genetically engineered

8.1 materials in the aggregate do not account for more than nine-tenths of one percent of the
8.2 total weight of the processed food.

8.3 (c) The use of manure as a fertilizer for a raw agricultural commodity must not be
8.4 construed to mean that the commodity was produced with a genetically engineered material.

8.5 (d) A person who initially provides the affirmation required in paragraph (b), clause
8.6 (1), may rely on a sworn statement maintained by the person's supplier that contains
8.7 the required affirmation.

8.8 (e) The disclosure requirements of this section do not apply to food intended for
8.9 human consumption that is not packaged for retail sale and that either (1) is a processed
8.10 food prepared and intended for immediate consumption, or (2) is served, sold, or otherwise
8.11 provided in any restaurant or other food facility that is primarily engaged in the sale of
8.12 food prepared and intended for immediate consumption.

8.13 (f) The disclosure requirements of this section do not apply to food consisting
8.14 entirely of, or derived entirely from, an animal that was not genetically engineered,
8.15 regardless of whether such animal was fed or injected with any genetically engineered
8.16 food or any drug that was produced through means of genetic engineering.

8.17 (g) The disclosure requirements of this section do not apply to food or food products,
8.18 certified as "organic" under the Organic Foods Production Act of 1990, United States
8.19 Code, title 7, section 6501, et seq., and its implementing regulations.

8.20 (h) A person or entity who unknowingly produces, transports, or sells agricultural
8.21 commodities that (1) have been affected by the unintended presence of genetically
8.22 engineered materials, and (2) were grown on land owned or operated by that person or
8.23 entity, shall not be found liable or negligent in any civil proceeding brought to enforce
8.24 this chapter.

8.25 Subd. 3. **Rulemaking.** The commissioner of commerce may adopt rules to
8.26 implement this section.

8.27 **Sec. 5. [325F.1794] THIRD-PARTY PROTECTION.**

8.28 A retailer that sells or advertises a processed food product, when the product fails
8.29 to conform to the disclosure requirements under section 325F.1793, shall not be found
8.30 liable or negligent in any civil proceeding brought to enforce this chapter. Protection
8.31 afforded by this section does not apply to fruit, vegetables, or animals produced with
8.32 genetic engineering.

8.33 **Sec. 6. [325F.1795] MISBRANDING OF NATURAL FOODS PROHIBITED.**

9.1 A food or food product that is subject to disclosure under section 325F.1793 may not
9.2 be described on the label, packaging, or by similar identification as "natural."

9.3 **Sec. 7. [325F.1796] ENFORCEMENT.**

9.4 The commissioner of commerce shall have the powers granted under section 45.027
9.5 to enforce sections 325F.1792 to 325F.1795.

9.6 **Sec. 8. EFFECTIVE DATE.**

9.7 Sections 1 to 7 are effective August 1, 2015.