A BILL FOR AN ACT

RELATING TO FOOD LABELING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 328, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§328- Genetically engineered material; labeling requirements. (a) Beginning January 1, 2021, no food or raw agricultural commodity shall be sold in the State if it contains a genetically engineered material, or was produced with a genetically engineered material, unless it bears a label that provides the following disclosure notice in bold-face print and not less than ten-point type:

"THIS PRODUCT CONTAINS OR WAS PRODUCED WITH A GENETICALLY ENGINEERED MATERIAL."

(b) A food shall be considered to have been produced with a genetically engineered material if:

(1) The organism from which the food is derived has been injected or otherwise treated with a genetically engineered material; provided that the use of manure
as a fertilizer for raw agricultural commodities shall not be construed to mean that those commodities are produced with a genetically engineered material;

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

(3) The food contains an ingredient that is a food to which paragraph (1) or (2) applies.

(c) For the purposes of this section:

"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.

"Genetically engineered organism" means:

(1) 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 deoxyribonucleic acid and ribonucleic acid techniques, cell fusion, microencapsulation, macroencapsulation, gene deletion and doubling, introducing a foreign gene, and changing the positions of genes, and excluding means consisting exclusively of breeding,
conjugation, fermentation, hybridization, in vitro
fertilization, tissue culture, or mutagenesis; or

(2) An organism made through sexual or asexual
reproduction, or both, of an organism described in
paragraph (1), if the reproduced organism possesses
any of the altered molecular or cellular
characteristics of the original organism or organisms.

(d) This section shall not apply to food that is:

(1) Served in restaurants or other establishments in which
food is served for immediate human consumption;

(2) Processed and prepared primarily in a retail
establishment and is ready for human consumption, of
the type described in paragraph (1), and is offered
for sale to consumers but not for immediate human
consumption in the establishment and is not offered
for sale outside the establishment; or

(3) A medical food as defined in section 346-67.

(e) A violation of this section or any rule adopted
pursuant to this section shall be punishable by a fine of not
more than $1,000 for each violation.
(f) The director of health shall adopt rules pursuant to chapter 91 necessary for the purposes of this section, including rules for the testing of foods to determine the presence and content of genetically engineered material."

SECTION 2. Section 328-10, Hawaii Revised Statutes, is amended to read as follows:

"§328-10 Foods deemed misbranded when. A food shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular; or if its labeling or packaging fails to conform with the requirements of sections 328-2, 328-___, and 328-19.1;

(2) If it is offered for sale under the name of another food;

(3) If it is an imitation of another food for which a definition and standard of identity has been prescribed by rules as provided by section 328-8; or if it is an imitation of another food that is not subject to paragraph (7), unless its label bears in type of uniform size and prominence, the word
"imitation" and, immediately thereafter, the name of
the food imitated;
(4) If its container is so made, formed, or filled as to
be misleading;
(5) If in package form, unless it bears a label containing
(A) the name and place of business of the
manufacturer, packer, or distributor; (B) an accurate
statement of the quantity of the contents in terms of
weight, measure, or numerical count, which statement
shall be separately and accurately stated in a uniform
location upon the principal display panel of the
label; provided that under subparagraph (B) reasonable
variations shall be permitted, and exemptions as to
small packages shall be established, by rules adopted
by the department of health;
(6) If any word, statement, or other information required
by or under authority of this part to appear on the
label or labeling is not prominently placed thereon
with such conspicuousness (as compared with other
words, statements, designs, or devices, in the
labeling) and in such terms as to render it likely to
be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by section 328-8, unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standards, and, insofar as may be required by the rules, the common names of optional ingredients (other than spices, flavoring, and coloring) present in the food;

(8) If it purports to be or is represented as:

(A) A food for which a standard of quality has been prescribed by rules as provided by section 328-8 and its quality falls below such standard unless its label bears, in such manner and form as the rules specify, a statement that it falls below such standard; or

(B) A food for which a standard or standards of fill of container have been prescribed by rules as provided by section 328-8, and it falls below the
standard of fill of container applicable thereto,
unless its label bears, in such manner and form
as the rules specify, a statement that it falls
below such standard;

(9) If it is not subject to paragraph (7), unless its
label bears (A) the common or usual name of the food,
if any there be, and (B) in case it is fabricated from
two or more ingredients, the common or usual name of
each such ingredient; except that spices, flavorings,
and colorings, other than those sold as such, may be
designated as spices, flavorings, and colorings,
without naming each; provided that to the extent that
compliance with the requirements of subparagraph (B)
is impractical or results in deception or unfair
competition, exemptions shall be established by rules
prescribed by the department; and, provided further
that the requirements of subparagraph (B) shall not
apply to food products which are packaged at the
direction of purchasers at retail at the time of sale,
the ingredients of which are disclosed to the
purchasers by other means in accordance with rules prescribed by the department;

(10) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the department determines to be, and by rules prescribes, as necessary in order to fully inform purchasers as to its value for such uses;

(11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by rules prescribed by the department; and, provided further that this paragraph and paragraphs (7) and (9) with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream. The provisions of this paragraph regarding chemical preservatives shall not apply to a pesticide chemical when used in or on a raw
agricultural commodity which is the produce of the soil;

(12) If it is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded;

(13) If it is a color additive unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to the color additive prescribed under the Federal Act;

(14) If it is a raw agricultural commodity which is the produce of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container of such commodity bears labeling which declares the presence of such chemical in or on such commodity and the common or usual name and the function of such chemical; provided that no such declaration shall be required while such commodity, having been removed from the shipping container, is being held or displayed for sale at retail out of such container in accordance with the custom of the trade;
If it is a confectionery and contains alcohol in excess of one-half of one per cent by weight and that fact does not appear on the label for the food."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY:
Report Title:
Genetically Engineered Material; Labeling Requirements

Description:
Establishes, beginning January 1, 2021, labeling requirements for any food or raw agricultural commodity sold in the State that contains a genetically engineered material, or was produced with a genetically engineered material; establishes exceptions; establishes violations; and requires director of health to adopt rules.

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