

# MAINE STATE LEGISLATURE

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Date: 3/23/16

L.D. 991  
(Filing No. H-597)

**AGRICULTURE, CONSERVATION AND FORESTRY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
127TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "B" to H.P. 686, L.D. 991, Bill, "An Act To Amend Maine's Genetically Modified Food Products Labeling Law"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 22 MRSA c. 565-A is enacted to read:

**CHAPTER 565-A**

**GENETICALLY ENGINEERED PRODUCTS**

**§2599. Purpose**

It is the purpose of this chapter to:

**1. Public health and food safety.** Promote food safety and protect public health by enabling consumers to avoid the potential risks associated with genetically engineered foods and serve as a risk management tool enabling consumers, physicians and scientists to identify unintended health effects resulting from the consumption of genetically engineered foods;

**2. Environmental impacts.** Assist consumers who are concerned about the potential effects of genetic engineering on the environment to make informed purchasing decisions;

**3. Consumer confusion and inadvertent deception.** Reduce and prevent consumer confusion and inadvertent deception and promote the disclosure of factual information on food labels to allow consumers to make informed decisions;

**4. Promote economic development.** Create additional market opportunities for those producers who are not certified organic producers and whose products are not produced using genetic engineering and enable consumers to make informed purchasing decisions; and

**COMMITTEE AMENDMENT**

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1 5. Protect religious and cultural practices. Ensure consumers are provided with  
2 data from which they may make informed decisions for personal, religious, moral,  
3 cultural or ethical reasons.

4 **§2599-A. Definitions**

5 As used in this chapter, unless the context otherwise indicates, the following terms  
6 have the following meanings.

7 **1. Commissioner.** "Commissioner" means the Commissioner of Agriculture,  
8 Conservation and Forestry.

9 **2. Food.** "Food" means food intended for human consumption.

10 **3. Genetically engineered.** "Genetically engineered" has the same meaning as  
11 under Title 7, section 1051, subsection 2.

12 **4. Medical food.** "Medical food" means food prescribed by a physician for  
13 treatment of a medical condition.

14 **§2599-B. Disclosure requirements for genetically engineered food**

15 **1. Disclosure.** Beginning 18 months after the effective date of this section, any food  
16 offered for retail sale that is genetically engineered must be accompanied by a  
17 conspicuous disclosure that states "Produced with Genetic Engineering." The statement  
18 must be located on the package for all packaged food or, in the case of unpackaged food,  
19 on a card or label on the store shelf or bin in which the food is displayed.

20 **2. Use of term "natural."** A food that is subject to disclosure under subsection 1  
21 may not be described on the label or by similar identification as "natural."

22 **3. Misbranding.** Any food that is genetically engineered that does not display the  
23 disclosure required under subsection 1 or that is labeled or identified as natural in  
24 violation of subsection 2 is considered misbranded for the purposes of chapter 551,  
25 subchapter 1 except that:

26 **A.** A food is not considered misbranded if the food is produced by a person who:

27 (1) Grows, raises or otherwise produces that food without knowledge that the  
28 food was created from other seed or other food that was genetically engineered;  
29 and

30 (2) Obtains a sworn statement from the person from whom the food was  
31 obtained that the food was not knowingly genetically engineered and was  
32 segregated from and not knowingly commingled with a food component that may  
33 have been genetically engineered;

34 **B.** A food product derived from an animal is not considered misbranded if the animal  
35 was not genetically engineered but was fed genetically engineered feed; and

36 **C.** A packaged processed food is not considered misbranded if the total weight of the  
37 processed food that was genetically engineered is less than 0.9% of the total weight  
38 of the processed food.

1 4. Rules. The commissioner may adopt routine technical rules under Title 5, chapter  
2 375, subchapter 2-A for the administration and enforcement of this chapter.

3 §2599-C. Third-party protection

4 1. Reliance on affidavit. A distributor or retailer that sells or advertises food that is  
5 genetically engineered that fails to make the disclosure required under section 2599-B,  
6 subsection 1 is not subject to liability in any civil action to enforce this chapter if the  
7 distributor or retailer relied on the affidavit under section 2599-E provided by the  
8 producer or grower stating that the food is not subject to the disclosure requirements  
9 under this chapter.

10 2. Eating establishments. Eating establishments are exempt from the disclosure  
11 requirements of this chapter.

12 3. Exempt products. Alcoholic beverages and medical food are exempt from the  
13 disclosure requirements of this chapter.

14 §2599-D. Enforcement

15 1. Authority. The commissioner shall enforce this chapter in the same manner as is  
16 authorized for enforcement of chapter 551, subchapter 1.

17 2. No private right. There is no private right of action to enforce this chapter.

18 3. Penalty. A person who violates this chapter commits a civil violation for which a  
19 fine may be assessed that may not exceed \$1,000 per day per misbranded product per  
20 sales location.

21 §2599-E. Affidavit

22 The commissioner shall develop an affidavit form that may be provided by a  
23 producer or grower of food to distributors and retailers and that may be included in  
24 shipments of food within the State certifying that the food being sold or shipped is not  
25 subject to the disclosure requirements of this chapter.

26 **Sec. 2. PL 2013, c. 436** is repealed.

27 **Sec. 3. Statutory referendum procedure; submission at election; form of**  
28 **question; effective date.** This Act must be submitted to the legal voters of the State at  
29 a statewide election held in the month of November following passage of this Act. The  
30 municipal officers of this State shall notify the inhabitants of their respective cities, towns  
31 and plantations to meet, in the manner prescribed by law for holding a statewide election,  
32 to vote on the acceptance or rejection of this Act by voting on the following question:

33 "Do you favor the mandatory labeling of genetically modified food  
34 products in Maine?"

35 The legal voters of each city, town and plantation shall vote by ballot on this question  
36 and designate their choice by a cross or check mark placed within a corresponding square  
37 below the word "Yes" or "No." The ballots must be received, sorted, counted and  
38 declared in open ward, town and plantation meetings and returns made to the Secretary of  
39 State in the same manner as votes for members of the Legislature. The Governor shall  
40 review the returns. If a majority of the legal votes are cast in favor of this Act, the

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1 Governor shall proclaim the result without delay and this Act becomes effective 30 days  
2 after the date of the proclamation.

3 The Secretary of State shall prepare and furnish to each city, town and plantation all  
4 ballots, returns and copies of this Act necessary to carry out the purposes of this  
5 referendum.'

6 **SUMMARY**

7 This amendment, which is the minority report, repeals the public law that enacted  
8 Maine's genetically modified food products labeling law, which only takes effect if  
9 mandatory labeling is adopted by at least 5 contiguous states, including Maine. This  
10 amendment instead enacts the labeling law contingent on approval by the voters in a  
11 referendum at the general election in November.

**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**



# 127th MAINE LEGISLATURE

LD 991

LR 1698(03)

## An Act To Amend Maine's Genetically Modified Food Products Labeling Law

Fiscal Note for Bill as Amended by Committee Amendment **B** (H-597)

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

### Fiscal Note

Contingent current biennium cost increase - General Fund

#### Referendum Costs

Month/Year	Election Type	Question	Length
Nov-16	General	Referendum	Standard

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November. If the number or size of the referendum questions requires production and delivery of a second ballot, an additional appropriation of \$107,250 may be required.

#### Fiscal Detail and Notes

Under current law, PL 2013, c. 436 requires that if at least five contiguous states, including Maine, adopt legislation requiring mandatory labeling of genetically engineered food by January 1, 2018, then food offered for retail sale that is genetically engineered requires disclosure. This bill, instead, makes PL 2013, c. 436 contingent on approval by the voters at a statewide election in November 2016. If approved by the voters at a statewide election, the Department of Agriculture, Conservation and Forestry would require a General Fund appropriation of \$83,798 in fiscal year 2016-17 for one Consumer Protection Inspector position, one Office Associate II position and other related costs.