

MAINE STATE LEGISLATURE

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Date: 6/6/13 Report C

L.D. 718
(Filing No. H-395)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "C" to H.P. 490, L.D. 718, Bill, "An Act To Protect Maine Food Consumers' Right To Know about Genetically Engineered Food and Seed Stock"

Amend the bill by striking out the title and substituting the following:

'An Act To Protect Maine Food Consumers' Right To Know about Genetically Engineered Food'

Amend the bill in section 1 by inserting before §2591 the following:

§2591. 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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5. Protect religious and cultural practices. Ensure consumers are provided with data from which they may make informed decisions for personal, religious, moral, cultural or ethical reasons.'

Amend the bill in section 1 in §2591 by inserting after subsection 1 the following:

2. DNA. "DNA" means deoxyribonucleic acid.'

Amend the bill in section 1 in §2591 by renumbering the subsections to read consecutively.

Amend the bill in section 1 by striking out all of §2592 and inserting the following:

§2592. Disclosure requirements for genetically engineered food

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

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

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

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

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

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

B. A food product derived from an animal is not considered misbranded if the animal was not genetically engineered but was fed genetically engineered feed. A food product derived from any highly refined ingredients where the effect of a purification process is to remove DNA or novel protein is not considered misbranded; and

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

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

Amend the bill in section 1 in §2593 by striking out all of subsections 1 and 2 (page 2, lines 9 to 16 in L.D.) and inserting the following:

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1 '1. Reliance on affidavit. A distributor or retailer that sells or advertises food that is
2 genetically engineered that fails to make the disclosure required under section 2593,
3 subsection 1 is not subject to liability in any civil action to enforce this chapter if the
4 distributor or retailer relied on the affidavit under section 2596 provided by the producer
5 or grower stating that the food is not subject to the disclosure requirements under this
6 chapter.

7 '2. Eating establishments. Eating establishments are exempt from the disclosure
8 requirements of this chapter.'

9 Amend the bill in section 1 in §2595 by striking out all of the indented paragraph
10 (page 2, lines 27 to 31 in L.D.) and inserting the following:

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

15 Amend the bill in section 1 by renumbering the sections to read consecutively.

16 Amend the bill by striking out all of section 2 and inserting the following:

17 **Sec. 2. Effective date; repeal.**

18 **1. Effective date.** The Commissioner of Agriculture, Conservation and Forestry
19 shall monitor legislative activities in other states and certify to the Secretary of State and
20 the Revisor of Statutes when legislation substantially similar to this Act has been adopted
21 by at least 5 contiguous states including Maine. The commissioner shall notify the joint
22 standing committee of the Legislature having jurisdiction over agriculture, conservation
23 and forestry matters when certification is made. That section of this Act that enacts the
24 Maine Revised Statutes, Title 22, chapter 565 takes effect 30 days after the date of the
25 commissioner's certification.

26 **2. Repeal.** If no certification has been made by the Commissioner of Agriculture,
27 Conservation and Forestry under subsection 1 before January 1, 2018, this Act is repealed
28 on that date.'

29 **SUMMARY**

30 This amendment is one of 2 minority reports. It differs from the majority report by
31 requiring substantially similar legislation to have been enacted in 5 contiguous states
32 including Maine before it takes effect. The amendment adds a purpose section to the new
33 chapter on genetically engineered products. It also changes the conditions governing the
34 contingent effective date and the contingent repeal date of the bill. The amendment
35 establishes a process for the Commissioner of Agriculture, Conservation and Forestry to
36 report to the Secretary of State, the Revisor of Statutes and the joint standing committee
37 of the Legislature having jurisdiction over agriculture, conservation and forestry matters
38 when 5 contiguous states including Maine have adopted substantially similar legislation.
39 The amendment provides that the section of the bill that enacts Title 22, chapter 565 takes

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COMMITTEE AMENDMENT "C" to H.P. 490, L.D. 718

1 effect 30 days after the date of the commissioner's certification. The amendment also
2 proposes to exempt from the labeling requirements of the bill food products derived from
3 any highly refined ingredients, where the effect of the purification process is to remove
4 DNA or novel protein.

5 **FISCAL NOTE REQUIRED**

6 (See attached)



Approved: 05/27/13 *MAC*

126th MAINE LEGISLATURE

LD 718

LR 52(03)

An Act To Protect Maine Food Consumers' Right To Know about Genetically Engineered Food and Seed Stock

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

(LH-395)

Fiscal Note

Potential current biennium cost increase - General Fund

Correctional and Judicial Impact Statements

Potential increase in the number of civil violations;

Potential increase in the collection of additional fines which may increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This legislation requires disclosure of genetic engineering at the point of retail sale of food. The legislation is contingent upon enactment of substantially similar legislation in at least 5 contiguous states. If that happens, the Department of Agriculture, Conservation and Forestry would incur annual General Fund costs of \$128,578 for one Consumer Protection inspector position, one Office Associate II position and related administrative costs to enforce the provisions of the legislation.

The Department of the Attorney General may require additional General Fund appropriations for litigation costs. The amount cannot be estimated at this time.