

By: Alvarado

H.B. No. 3499

A BILL TO BE ENTITLED

AN ACT

relating to the labeling of genetically modified food; authorizing
a civil penalty.

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

SECTION 1. Subtitle A, Title 6, Health and Safety Code, is
amended by adding Chapter 442 to read as follows:

CHAPTER 442. LABELING OF GENETICALLY MODIFIED FOOD

Sec. 442.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health
Services.

(2) "DNA" means deoxyribonucleic acid.

(3) "Enzyme" means a protein that catalyzes chemical
reactions of other substances without being destroyed or altered on
completion of the reactions.

(4) "Executive commissioner" means the executive
commissioner of the Health and Human Services Commission.

(5) "Food" means food intended for human consumption.

(6) "Genetic engineering" means a process by which a
food is produced from an organism in which the genetic material has
been changed through the application of:

(A) in vitro nucleic acid techniques, including
recombinant DNA or RNA techniques, the direct injection of nucleic
acid into cells or organelles, encapsulation, gene deletion, and
doubling; or

1 (B) methods of fusing cells beyond the taxonomic
2 family that overcome natural physiological, reproductive, or
3 recombination barriers and that are not methods used in traditional
4 breeding and selection such as conjugation, transduction, or
5 hybridization.

6 (7) "In vitro nucleic acid techniques" means
7 techniques that use vector systems, including recombinant DNA or
8 RNA techniques, and techniques that involve the direct introduction
9 into an organism of hereditary materials prepared outside the
10 organism, including micro-injection, chemoporation,
11 electroporation, micro-encapsulation, and liposome fusion.

12 (8) "Manufacturer" means a food manufacturer, as
13 defined by Section [431.221](#).

14 (9) "Organism" means any biological entity capable of
15 replicating, reproducing, or transferring genetic material.

16 (10) "Processed food" means any food other than a raw
17 agricultural commodity, including any food produced from a raw
18 agricultural commodity that has been subjected to processing such
19 as canning, smoking, pressing, cooking, freezing, dehydrating,
20 fermenting, or milling.

21 (11) "Processing aid" means a substance that is added
22 to a food:

23 (A) during the processing of the food, but that
24 is removed in some manner from the food before the food is packaged
25 in a finished form;

26 (B) during processing, is converted into
27 constituents normally present in the food, and does not

1 significantly increase the amount of the constituents naturally
2 found in the food; or

3 (C) for the substance's technical or functional
4 effect in the processing, but is present in the finished food at
5 levels that do not have a technical or functional effect in that
6 finished food.

7 (12) "Raw agricultural commodity" has the meaning
8 assigned by Section 431.002.

9 (13) "RNA" means ribonucleic acid.

10 Sec. 442.002. LABELING OF FOOD PRODUCED WITH GENETIC
11 ENGINEERING. (a) Except as provided by Section 442.003, food
12 offered for sale by a retailer shall be labeled as produced entirely
13 or in part from genetic engineering if the food is:

14 (1) offered for sale in this state; and

15 (2) entirely or partially produced with genetic
16 engineering.

17 (b) A food that is required to be labeled under Subsection
18 (a) must be labeled as follows:

19 (1) a manufacturer shall label a packaged raw
20 agricultural commodity with the clear and conspicuous words
21 "produced with genetic engineering";

22 (2) a retailer shall label a raw agricultural
23 commodity that is not separately packaged by posting a label on the
24 retail store shelf or bin in which the commodity is displayed for
25 sale with the clear and conspicuous words "produced with genetic
26 engineering"; and

27 (3) a manufacturer shall label the package of a

1 processed food that contains a product of genetic engineering by
2 labeling the package with the words "partially produced with
3 genetic engineering," "may be produced with genetic engineering,"
4 or "produced with genetic engineering."

5 (c) A manufacturer of a food produced entirely or in part
6 from genetic engineering may not label the product on the package,
7 in signage, or in advertising as "natural," "naturally made,"
8 "naturally grown," "all natural," or any other words that may
9 mislead a consumer.

10 (d) This section does not require:

11 (1) the listing or identification of any ingredient
12 that was genetically engineered; or

13 (2) the placement of the term "genetically engineered"
14 immediately preceding any common name or primary product descriptor
15 of a food.

16 Sec. 442.003. APPLICABILITY OF CHAPTER. This chapter does
17 not apply to:

18 (1) food consisting entirely of an animal, or derived
19 entirely from an animal, that has not been produced with genetic
20 engineering, regardless of whether the animal has been fed or
21 injected with any food, drug, or other substance produced with
22 genetic engineering;

23 (2) a raw agricultural commodity or processed food
24 derived from a raw agricultural commodity that has been grown,
25 raised, or produced without genetic engineering, that is
26 accompanied by a sworn statement described by Section 442.004;

27 (3) a processed food that would otherwise be subject

1 to the labeling requirements of Section 442.002 solely because the
2 food includes a processing aid or enzyme produced with genetic
3 engineering;

4 (4) an alcoholic beverage, as defined by Section 1.04,
5 Alcoholic Beverage Code;

6 (5) a processed food that would otherwise be subject
7 to the labeling requirements of Section 442.002 solely because the
8 food includes a material that has been produced with genetic
9 engineering, if the genetically engineered materials in the
10 aggregate do not account for more than 0.9 percent of the total
11 weight of the processed food;

12 (6) food that an independent organization, approved
13 under Section 442.005(b), has verified was not knowingly or
14 intentionally produced from or commingled with food or seed
15 produced with genetic engineering;

16 (7) food that is certified as organic under the
17 national organic program, as defined by Section 18.001, Agriculture
18 Code;

19 (8) food that is not packaged for retail sale and that
20 is:

21 (A) a processed food prepared and intended for
22 immediate human consumption; or

23 (B) served, sold, or otherwise provided in any
24 restaurant or other food establishment that is primarily engaged in
25 the sale of food prepared and intended for immediate human
26 consumption;

27 (9) medical food as defined in Section 5(b) of the

1 Orphan Drug Act (21 U.S.C. Section 360ee(b)); or

2 (10) milk or a milk product subject to Chapter 435.

3 Sec. 442.004. SWORN STATEMENT. For the purpose of this
4 chapter, a manufacturer or retailer may rely on a sworn statement
5 made by the person who sells a raw agricultural commodity or
6 processed food to the manufacturer or retailer that states the
7 commodity or food has not knowingly been produced with genetic
8 engineering and has not been commingled with food that may have been
9 produced with genetic engineering.

10 Sec. 442.005. POWERS AND DUTIES. (a) The executive
11 commissioner may adopt rules necessary to implement this chapter.

12 (b) The department shall publish a list of approved
13 independent organizations that may verify that a food has not been
14 knowingly produced with genetic engineering.

15 Sec. 442.006. CIVIL PENALTY. (a) A manufacturer or
16 retailer that violates Section 442.002 is liable to the state for a
17 civil penalty of not more than \$1,000 for each uniquely named,
18 designated, or marketed product that is not in compliance with the
19 labeling requirements of that section, regardless of the number of
20 individually labeled products. Each day of a continuing violation
21 constitutes a separate violation.

22 (b) A person who falsely states that a raw agricultural
23 product or processed food has not knowingly been produced with
24 genetic engineering and has not been commingled with food that may
25 have been produced with genetic engineering in a sworn statement
26 described by Section 442.004 is liable for a civil penalty of not
27 more than \$2,500 for each false sworn statement.

1 (c) The attorney general may sue to collect the penalties
2 under this section.

3 Sec. 442.007. RETAILER LIABILITY. (a) A retailer may not be
4 held liable under Section 442.006(a) for the failure to label a
5 processed food as required by Section 442.002, unless the retailer
6 is the producer or manufacturer of the processed food.

7 (b) A retailer may not be held liable under Section
8 442.006(a) for the failure to label a raw agricultural product as
9 required by Section 442.002, if not later than 30 days after the
10 date the retailer is notified of a violation of Section 442.002, the
11 retailer obtains a sworn statement described by Section 442.004.

12 SECTION 2. This Act takes effect September 1, 2016.