

SENATE BILL REPORT

SB 5073

As of February 13, 2013

Title: An act relating to disclosure of foods produced through genetic engineering.

Brief Description: Concerning the disclosure of foods produced through genetic engineering.

Sponsors: Senators Chase, Kline, Keiser, Rolfes and Hasegawa.

Brief History:

Committee Activity: Agriculture, Water & Rural Economic Development:

SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

Staff: Diane Smith (786-7410)

Background: The Washington Intrastate Commerce in Food and Drug Act (Act) is administered by the Department of Agriculture (Department). The regulations prescribed by the Director of the Department for labeling requirements must conform so far as is practicable with those prescribed by the federal regulations. Misbranding is addressed in the Act, however, genetically modified (GM) content is not addressed. Any person who violates the provisions concerning the misbranding of any food, as for any other act prohibited under the Act, is guilty of a misdemeanor and is subject to a penalty of up to \$200. For a second violation, the person is subject to imprisonment for up to 30 days and a fine of up to \$500. If the violation is with intent to defraud or mislead, the penalty is imprisonment for up to 90 days and a fine of up to \$1,000.

Initiatives to the Legislature, if certified, are submitted to the Legislature at its next regular session in January. Once submitted, the Legislature must take one of the following three actions:

- adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- can reject or refuse to act on the proposed initiative, in which case the initiative must be placed on the ballot at the next state general election; or
- can approve an alternative to the proposed initiative, in which case both the original proposal and the Legislature's alternative must be placed on the ballot at the next state general election.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: As of July 1, 2015, food offered for retail sale is misbranded if it was produced with genetic engineering, as defined, and the food does not so state.

However, a retail food that was produced from raw material that is documented by a sworn statement from the person supplying it, not to be knowingly or intentionally produced through genetic engineering or comingled with foods that may have been genetically engineered, is exempt and not considered misbranded.

Another exemption is temporary, expiring on July 1, 2019. This exempts processed foods that use a limited amount of genetically engineered materials so long as the engineered materials in the aggregate do not exceed nine-tenths of one percent of the total weight of the processed food.

Further exemptions include food from an animal that has not been genetically engineered even though the animal has been fed or injected with food or drugs derived from genetic engineering; any processed food that would be subject to the act only because processing aids or enzymes were derived from genetic engineering; alcoholic beverages regulated under the alcoholic beverage control title; food that has been determined by an independent organization not to be knowingly or intentionally produced from or comingled with genetically engineered seed or food, with qualifications; food lawfully certified and labeled organic; restaurant food and processed food intended for immediate human consumption; and medical food.

The Department of Health (DOH) has enforcement authority by use of civil penalties of up to \$1,000 per day. DOH has limited rulemaking authority in that it does not have rulemaking authority to create any exemptions beyond those stated in the act.

Enforcement may also occur through private enforcement actions in the public interest.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.