VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 9: Commerce And Trade

Chapter 82A: Labeling Of Food Produced With Genetic Engineering

[Section 3041 effective July 1,2016.]

[Section 3041 effective July 1, 2016.]

§ 3041. Purpose

It is the purpose of this chapter to:

(1) Public health and food safety. Establish a system by which persons may make informed decisions regarding the potential health effects of the food they purchase and consume and by which, if they choose, persons may avoid potential health risks of food produced from genetic engineering.

(2) Environmental impacts. Inform the purchasing decisions of consumers who are concerned about the potential environmental effects of the production of food from genetic engineering.

(3) Consumer confusion and deception. Reduce and prevent consumer confusion and deception by prohibiting the labeling of products produced from genetic engineering as "natural" and by promoting the disclosure of factual information on food labels to allow consumers to make informed decisions.

(4) Protecting religious practices. Provide consumers with data from which they may make informed decisions for religious reasons. (Added 2013, No. 120 (Adj. Sess.), § 2, eff. July 1, 2016.)

[Section 3042 effective July 1,2016.]

[Section 3042 effective July 1, 2016.]

§ 3042. Definitions

As used in this chapter:

(1) "Consumer" shall have the same meaning as in subsection 2451a(a) of this title.

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

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

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

(A) in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) techniques and the direct injection of nucleic acid into cells or organelles; or

(B) fusion of cells (including protoplast fusion) or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells or protoplasts do not fall within the same taxonomic group, in a way that does not occur by natural multiplication or natural recombination.

(5) "In vitro nucleic acid techniques" means techniques, including recombinant DNA or ribonucleic acid techniques, that use vector systems and techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organisms such as micro-injection, chemoporation, electroporation, micro-encapsulation, and liposome fusion.

(6) "Manufacturer" means a person who:

(A) produces a processed food or raw agricultural commodity under its own brand or label for sale in or into the State;

(B) sells in or into the State under its own brand or label a processed food or raw agricultural commodity produced by another supplier;

(C) owns a brand that it licenses or licensed to another person for use on a processed food or raw commodity sold in or into the State;

(D) sells in, sells into, or distributes in the State a processed food or raw agricultural commodity that it packaged under a brand or label owned by another person;

(E) imports into the United States for sale in or into the State a processed food or raw agricultural commodity produced by a person without a presence in the United States; or

(F) produces a processed food or raw agricultural commodity for sale in or into the State without affixing a brand name.

(7) "Organism" means any biological entity capable of replication, reproduction, or transferring of genetic material.

(8) "Processed food" means any food other than a raw agricultural commodity and includes any food produced from a raw agricultural commodity that has been subjected to processing such as canning, smoking, pressing, cooking, freezing, dehydration, fermentation, or milling.

(9) "Processing aid" means:

(A) a substance that is added to a food during the processing of the food but that is removed in some manner from the food before the food is packaged in its finished form;

(B) a substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; or

(C) a substance that is added to a food for its technical or functional effect in the processing but is present in the finished food at levels that do not have any technical or functional effect in that finished food.

(10) "Raw agricultural commodity" means any food in its raw or natural state, including any fruit or vegetable that is washed, colored, or otherwise treated in its unpeeled natural form prior to marketing. (Added 2013, No. 120 (Adj. Sess.), § 2, eff. July 1, 2016.)

[Section 3043 effective July 1,2016.]

[Section 3043 effective July 1, 2016.]

§ 3043. Labeling of food produced with genetic engineering

(a) Except as set forth in section 3044 of this title, food offered for sale by a retailer after July 1, 2016 shall be labeled as produced entirely or in part from genetic engineering if it is a product:

(1) offered for retail sale in Vermont; and

(2) entirely or partially produced with genetic engineering.

(b) If a food is required to be labeled under subsection (a) of this section, it shall be labeled as follows:

(1) in the case of a packaged raw agricultural commodity, the manufacturer shall label the package offered for retail sale, with the clear and conspicuous words "produced with genetic engineering";

(2) in the case of any raw agricultural commodity that is not separately packaged, the retailer shall post a label appearing on the retail store shelf or bin in which the commodity is displayed for sale with the clear and conspicuous words "produced with genetic engineering"; or

(3) in the case of any processed food that contains a product or products of genetic engineering, the manufacturer shall label the package in which the processed food is offered for sale with the words: "partially produced with genetic engineering"; "may be produced with genetic engineering"; or "produced with genetic engineering."

(c) Except as set forth under section 3044 of this title, a manufacturer of a food produced entirely or in part from genetic engineering shall not label the product on the package, in signage, or in advertising as "natural," "naturally made," "naturally grown," "all natural," or any words of similar import that would have a tendency to mislead a consumer.

(d) This section and the requirements of this chapter shall not be construed to require:

(1) the listing or identification of any ingredient or ingredients that were genetically engineered; or

(2) the placement of the term "genetically engineered" immediately preceding any common name or primary product descriptor of a food. (Added 2013, No. 120 (Adj. Sess.), § 2, eff. July 1, 2016.)

[Section 3044 effective July 1,2016.]

[Section 3044 effective July 1, 2016.]

§ 3044. Exemptions

The following foods shall not be subject to the labeling requirements of section 3043 of this title:

(1) Food consisting entirely of or derived entirely from an animal which has not itself been produced with genetic engineering, regardless of whether the animal has been fed or injected with any food, drug, or other substance produced with genetic engineering.

(2) A raw agricultural commodity or processed food derived from it that has been grown, raised, or produced without the knowing or intentional use of food or seed produced with genetic engineering. Food will be deemed to be as described in this subdivision only if the person otherwise responsible for complying with the requirements of subsection 3043(a) of this title with respect to a raw agricultural commodity or processed food obtains, from whomever sold the raw agricultural commodity or processed food to that person, a sworn statement that the raw agricultural commodity or processed food has not been knowingly or intentionally produced with genetic engineering and has been segregated from and has not been knowingly or intentionally commingled with food that may have been produced with genetic engineering at any time. In providing such a sworn statement, any person may rely on a sworn statement from his or her own supplier that contains the affirmation set forth in this subdivision.

(3) Any processed food which would be subject to subsection 3043(a) of this title solely because it includes one or more processing aids or enzymes produced with genetic engineering.

(4) Any beverage that is subject to the provisions of Title 7.

(5) Any processed food that would be subject to subsection 3043(a) of this title solely because it includes one or more materials that have been produced with genetic engineering, provided that the genetically engineered materials in the aggregate do not account for more than 0.9 percent of the total weight of the processed food.

(6) Food that an independent organization has verified has not been knowingly or intentionally produced from or commingled with food or seed produced with genetic engineering. The Office of the Attorney General, after consultation with the Department of Health, shall approve by procedure the independent organizations from which verification shall be acceptable under this subdivision (6).

(7) Food that is not packaged for retail sale and that is:

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

(B) served, sold, or otherwise provided in any restaurant or other food establishment, as defined in 18 V.S.A. § 4301, that is primarily engaged in the sale of food prepared and intended for immediate human consumption.

(8) Medical food, as that term is defined in 21 U.S.C. § 360ee(b)(3). (Added 2013, No. 120 (Adj. Sess.), § 2, eff. July 1, 2016.)

[Section 3045 effective July 1,2016.]

[Section 3045 effective July 1, 2016.]

§ 3045. Retailer liability

(a) A retailer shall not be liable for the failure to label a processed food as required by section 3043 of this title, unless the retailer is the producer or manufacturer of the processed food.

(b) A retailer shall not be held liable for failure to label a raw agricultural commodity as required by section 3043 of this title, provided that the retailer, within 30 days of any proposed enforcement action or notice of violation, obtains a sworn statement in accordance with subdivision 3044(2) of this title. (Added 2013, No. 120 (Adj. Sess.), § 2, eff. July 1, 2016.)

[Section 3046 effective July 1,2016.]

[Section 3046 effective July 1, 2016.]

§ 3046. Severability

If any provision of this chapter or its application to any person or circumstance is held invalid or in violation of the Constitution or laws of the United States or in violation of the Constitution or laws of Vermont, the invalidity or the violation shall not affect other provisions of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable. (Added 2013, No. 120 (Adj. Sess.), § 2, eff. July 1, 2016.)

[Section 3047 effective July 1,2016.]

[Section 3047 effective July 1, 2016.]

§ 3047. False certification

It shall be a violation of this chapter for a person knowingly to provide a false statement under subdivision 3044(2) of this title that a raw agricultural commodity or processed food has not been knowingly or intentionally produced with genetic engineering and has been segregated from and has not been knowingly or intentionally commingled with food that may have been produced with genetic engineering at any time. (Added 2013, No. 120 (Adj. Sess.), § 2, eff. July 1, 2016.)

[Section 3048 effective July 1,2016.]

[Section 3048 effective July 1, 2016.]

§ 3048. Penalties; enforcement

(a) Any person who violates the requirements of this chapter shall be liable for a civil penalty of not more than $1,000.00 per day, per product. Calculation of the civil penalty shall not be made or multiplied by the number of individual packages of the same product displayed or offered for retail sale. Civil penalties assessed under this section shall accrue and be assessed per each uniquely named, designated, or marketed product.

(b) The Attorney General shall have the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under subchapter 1 of chapter 63 of this title. Consumers shall have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title. (Added 2013, No. 120 (Adj. Sess.), § 2, eff. July 1, 2016.)