

SENATE BILL No. 60

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-42-14.5.

Synopsis: Genetically modified food. Provides that, beginning July 1, 2016, any food that is offered for retail sale is misbranded if it is not disclosed that the food is or may have been entirely or partially produced with genetic engineering. Provides that, beginning July 1, 2016, a food that is genetically engineered or a processed food may not state or imply that the food is natural. Establishes exceptions to the disclosure requirements and prohibition on stating a food is natural. Requires the state department of health (state department) to administer and enforce the disclosure and labeling requirements. Allows the state department to adopt rules. Establishes a Class A infraction for violations. Allows the state department or a person to seek an injunction for a violation.

Effective: July 1, 2015.

Kruse

January 6, 2015, read first time and referred to Committee on Agriculture.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 60



A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-137, AS AMENDED BY P.L.86-2009,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 137. (a) "Food establishment", for purposes of
4 IC 16-42-5, ~~and~~ IC 16-42-5.2, **and IC 16-42-14.5**, means any building,
5 room, basement, vehicle of transportation, cellar, or open or enclosed
6 area occupied or used for handling food.
7 (b) The term does not include the following:
8 (1) A dwelling where food is prepared on the premises by the
9 occupants, free of charge, for their consumption or for
10 consumption by their guests.
11 (2) A gathering of individuals at a venue of an organization that
12 is organized for educational purposes in a nonpublic educational
13 setting or for religious purposes, if:
14 (A) the individuals separately or jointly provide or prepare,
15 free of charge, and consume their own food or that of others
16 attending the gathering; and



- 1 (B) the gathering is for a purpose of the organization.
 2 Gatherings for the purpose of the organization include funerals,
 3 wedding receptions, christenings, bar or bat mitzvahs, baptisms,
 4 communions, and other events or celebrations sponsored by the
 5 organization.
 6 (3) A vehicle used to transport food solely for distribution to the
 7 needy, either free of charge or for a nominal donation.
 8 (4) A private gathering of individuals who separately or jointly
 9 provide or prepare and consume their own food or that of others
 10 attending the gathering, regardless of whether the gathering is
 11 held on public or private property.
 12 (5) Except for food prepared by a for-profit entity, a venue of the
 13 sale of food prepared for an organization:
 14 (A) that is organized for:
 15 (i) religious purposes; or
 16 (ii) educational purposes in a nonpublic educational setting;
 17 (B) that is exempt from taxation under Section 501 of the
 18 Internal Revenue Code; and
 19 (C) that offers the food for sale to the final consumer at an
 20 event held for the benefit of the organization;
 21 unless the food is being provided in a restaurant or a cafeteria
 22 with an extensive menu of prepared foods.
 23 (6) Except for food prepared by a for-profit entity, an Indiana
 24 nonprofit organization that:
 25 (A) is organized for civic, fraternal, veterans, or charitable
 26 purposes;
 27 (B) is exempt from taxation under Section 501 of the Internal
 28 Revenue Code; and
 29 (C) offers food for sale to the final consumer at an event held
 30 for the benefit of the organization;
 31 if the events conducted by the organization take place for not
 32 more than fifteen (15) days in a calendar year.
 33 (7) An individual vendor of a farmer's market or roadside stand if
 34 the individual meets the requirements of IC 16-42-5-29.
 35 SECTION 2. IC 16-18-2-148.2 IS ADDED TO THE INDIANA
 36 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2015]: **Sec. 148.2. "Genetically engineered",**
 38 **for purposes of IC 16-42-14.5, has the meaning set forth in**
 39 **IC 16-42-14.5-2.**
 40 SECTION 3. IC 16-18-2-293.7 IS ADDED TO THE INDIANA
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2015]: **Sec. 293.7. "Processed food", for**



1 purposes of IC 16-42-14.5, has the meaning set forth in
2 IC 16-42-14.5-3.

3 SECTION 4. IC 16-18-2-293.8 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2015]: **Sec. 293.8. "Processing aid", for**
6 **purposes of IC 16-42-14.5, has the meaning set forth in**
7 **IC 16-42-14.5-4.**

8 SECTION 5. IC 16-42-14.5 IS ADDED TO THE INDIANA CODE
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]:

11 **Chapter 14.5. Food: Genetically Engineered Food**

12 **Sec. 1. This chapter may not be construed to require:**

- 13 (1) the listing or identification of any ingredient that is
14 genetically engineered; or
15 (2) that the term "genetically engineered" be placed
16 immediately preceding the common name or primary product
17 descriptor of a food.

18 **Sec. 2. As used in this chapter, "genetically engineered" refers**
19 **to a food that is produced from an organism or organisms in which**
20 **the genetic material has been changed through the application of:**

- 21 (1) in vitro nucleic acid techniques, including recombinant
22 deoxyribonucleic acid (DNA) techniques and the direct
23 injection of nucleic acid into cells or organelles; or
24 (2) the fusion of cells, including protoplast fusion, or
25 hybridization techniques that overcome natural physiological,
26 reproductive, or recombination barriers, where the donor
27 cells or protoplasts do not fall within the same taxonomic
28 family, in a way that does not occur by natural multiplication
29 or natural recombination.

30 **Sec. 3. As used in this chapter, "processed food" means a food**
31 **other than a raw agricultural commodity and includes any food**
32 **produced from a raw agricultural commodity that has been subject**
33 **to processing, including canning, smoking, pressing, cooking,**
34 **freezing, dehydration, fermentation, or milling.**

35 **Sec. 4. As used in this chapter, "processing aid" means:**

- 36 (1) a substance that is added to a food during the processing
37 of the food, but is removed in some manner from the food
38 before the food is packaged in its finished form;
39 (2) a substance that is added to a food during processing, is
40 converted into constituents normally present in the food, and
41 does not significantly increase the amount of the constituents
42 naturally found in the food; or



1 (3) a substance that is added to a food for its technical or
2 functional effect in the processing, but is present in the
3 finished food at insignificant levels and does not have any
4 technical or functional effect in the finished food.

5 Sec. 5. Beginning July 1, 2016, any food that is offered for retail
6 sale is misbranded if it is not disclosed that the food is or may have
7 been entirely or partially produced with genetic engineering as
8 follows:

9 (1) In the case of a raw agricultural commodity, on the
10 package offered for retail sale with the clear and conspicuous
11 words "Genetically Engineered" on the front of the package
12 of the commodity. However, if the raw agricultural
13 commodity is not separately packaged or labeled, the clear
14 and conspicuous words "Genetically Engineered" must
15 appear on a label on the retail store shelf or bin in which the
16 commodity is displayed for sale.

17 (2) In the case of a processed food, in clear and conspicuous
18 language on the front or back of the package of the food, with
19 the words "Partially Produced With Genetic Engineering" or
20 "May Be Partially Produced With Genetic Engineering".

21 Sec. 6. Except for a food that is exempt under section 7 of this
22 chapter, beginning July 1, 2016, a food that is genetically
23 engineered or a processed food may not state or imply:

24 (1) on its label;

25 (2) on an accompanying sign in the retail establishment; or

26 (3) in any advertising or promotional materials;

27 that the food is "natural", "naturally made", "naturally grown",
28 or "all natural", or use any similar words.

29 Sec. 7. The requirements of this chapter do not apply to any of
30 the following:

31 (1) Food consisting entirely of, or derived entirely from, an
32 animal that has not been genetically engineered, regardless of
33 whether the animal has been fed or injected with a genetically
34 engineered food or a drug that has been produced through
35 means of genetic engineering.

36 (2) A raw agricultural commodity or food derived from a raw
37 agricultural commodity if the person who sells the raw
38 agricultural commodity or food:

39 (A) knows that the raw agricultural commodity or food has
40 been grown, raised, or produced without the use of
41 genetically engineered seed or food; or

42 (B) receives from the person who sold or supplies the raw



- 1 agricultural commodity or food to that person, a sworn
 2 statement that the raw agricultural commodity or food:
 3 (i) has not been knowingly or intentionally genetically
 4 engineered; and
 5 (ii) has been segregated from and has not been
 6 knowingly or intentionally commingled with food that
 7 may have been genetically engineered at any time.
- 8 (3) A processed food that would be subject to this chapter
 9 solely because it includes one (1) or more genetically
 10 engineered processing aids or enzymes.
- 11 (4) An alcoholic beverage as defined by IC 7.1-1-3-5.
- 12 (5) Food that the state department or an organization
 13 recognized by the state department has determined has not
 14 been knowingly and intentionally produced from or
 15 commingled with genetically engineered seed or genetically
 16 engineered food, if the determination has been made using a
 17 sampling and testing procedure approved by the state
 18 department, subject to the following:
- 19 (A) The sampling procedure must provide that the
 20 sampling is done according to a statistically valid sampling
 21 plan consistent with principles recommended by an
 22 internationally recognized source, including the
 23 International Standards Organization (ISO) and the Grain
 24 and Feed Trade Association (GAFTA).
- 25 (B) The testing procedure:
- 26 (i) is consistent with the most recent "Guidelines on
 27 Performance Criteria and Validation of Methods for
 28 Detection, Identification and Quantification of Specific
 29 DNA Sequences and Specific Proteins in Foods",
 30 (CAC/GL 74 (2010)) published by the Codex
 31 Alimentarius Commission; and
 32 (ii) does not rely on testing of processed foods in which
 33 no deoxyribonucleic acid (DNA) is detectable.
- 34 (6) Food that has been lawfully certified to be labeled,
 35 marketed, and offered for sale as "organic" under the federal
 36 Organic Food Production Act of 1990 (7 U.S.C. 6501 et seq.)
 37 and regulations adopted under the federal Organic Food
 38 Production Act of 1990, including a product that has been
 39 certified by a certifying agent (as defined by IC 15-15-8-2).
- 40 (7) Food that is not packaged for retail sale and that is:
- 41 (A) a processed food prepared and intended for immediate
 42 human consumption; or



- 1 **(B) served, sold, or provided in a food establishment or**
 2 **other restaurant that is primarily engaged in the sale of**
 3 **food prepared and intended for immediate human**
 4 **consumption, including facilities exempt under**
 5 **IC 16-18-2-137(b).**
- 6 **(8) Medical food that is intended for the specific dietary**
 7 **management of a disease or condition for which distinctive**
 8 **nutritional requirements, based on recognized scientific**
 9 **principles, are established by medical evaluation.**
- 10 **(9) Until July 1, 2021, a processed food that would be subject**
 11 **to this chapter solely because it includes one (1) or more**
 12 **genetically engineered ingredients, if:**
- 13 **(A) a single genetically engineered ingredient does not**
 14 **account for more than one-half of one percent (0.5%) of**
 15 **the total weight of the processed food; and**
- 16 **(B) the processed food does not contain more than ten (10)**
 17 **genetically engineered ingredients.**
- 18 **Sec. 8. (a) The state department shall administer and enforce**
 19 **this chapter.**
- 20 **(b) The state department may adopt rules under IC 4-22-2**
 21 **necessary to implement and enforce this chapter. However, the**
 22 **rules may not create an exemption not specified in section 7 of this**
 23 **chapter.**
- 24 **Sec. 9. A person who violates this chapter commits a Class A**
 25 **infraction.**
- 26 **Sec. 10. (a) The state department or any person may, without**
 27 **proof of injury, maintain an action to enjoin a violation of this**
 28 **chapter.**
- 29 **(b) The court may award court costs and reasonable attorney's**
 30 **fees to the prevailing party in an action under this section.**

