

**SENATE . . . . . No. 1158**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Brian A. Joyce*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to liability for genetically engineered food.

PETITION OF:

NAME:

*Brian A. Joyce*

DISTRICT/ADDRESS:

*Norfolk, Bristol and Plymouth*

**SENATE . . . . . No. 1158**

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By Mr. Joyce, a petition (accompanied by bill, Senate, No. 1158) of Brian A. Joyce for legislation relative to liability for genetically engineered food. Public Health.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
\_\_\_\_\_

An Act relative to liability for genetically engineered food.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. The General Court finds and declares:

2           (1) Genetic engineering artificially transfers genes at the cellular and molecular level  
3 between species that could never naturally breed and is therefore, qualitatively different from  
4 traditional, selective breeding;

5           (2) Genetic engineering can be used to produce new versions of virtually all plants and  
6 animals used for food. Thus, within a short time, the Massachusetts’s food supply could consist  
7 almost entirely of genetically engineered products;

8           (3) This conversion from a food supply based on selective breeding to one based on  
9 organisms produced through genetic engineering could be one of the most important changes in  
10 the food supply in this century;

11 (4) Genetically engineered food presents new issues of safety that have not been  
12 adequately studied. Some of these suspected risks include decreasing antibiotic effectiveness in  
13 treating common diseases and harming untargeted species;

14 (5) Many of the potential effects of genetically engineered food are unpredictable and  
15 long-term.

16 (6) The biotechnology companies that invent and manufacture genetically engineered  
17 food are the scientific experts concerning this technology;

18 (7) The burden of ensuring environmental and human health safety should be placed on  
19 the biotechnology companies.

20 SECTION 2. Section 1 of chapter 94 of the General Laws as appearing in the 2012  
21 Official Edition, is hereby amended by adding the following definitions:-

22 “Genetically engineered” means--

23 (a) An organism that has been altered at the molecular or cellular level by means that are  
24 not possible under natural conditions or processes (including recombinant DNA and RNA  
25 techniques, cell fusion, microencapsulation, macroencapsulation, gene deletion and doubling,  
26 introduction of foreign genes, and a process that changes the positions of genes), other than  
27 means consisting exclusively of breeding, conjugation, fermentation, hybridization, in vitro  
28 fertilization, or tissue culture; or

29 (b) The offspring of an altered organism, if the offspring possesses any of the changed  
30 molecular or cellular characteristics of the parent.

31           “Genetically engineered food” means items for human consumption that contain or were  
32 produced using seeds or hormones that consist wholly or partly of genetically engineered  
33 organisms.

34           “Person” means a natural person, corporation, partnership, or other business unit.

35           “Strict liability” means absolute liability for any damages that result from the use of  
36 genetically engineered organisms without respect to intention or negligence.

37           “Crop contamination” means any transfer of genetic material from a genetically  
38 engineered growing crop, by cross pollination or other means, to a non-genetically engineered  
39 growing crop; provided, however, that the farmer that grows non-genetically engineered crops  
40 does not also grow genetically engineered crops.

41           “Farmer” means a person, partnership, limited liability company, association,  
42 corporation, cooperative, trust, sharecropper, or other business unit, device, or arrangement who,  
43 as either a landowner or a tenant, is engaged in growing agricultural crops or agriculture products  
44 including dairy production.

45           SECTION 3. Chapter 94 of the General Laws as appearing in the 2012 Official Edition,  
46 is hereby amended by adding the following sections after section 328:-

47           Section 329. (a) Any person who genetically engineers organisms for their use as food,  
48 including seeds, hormones and other products, shall be strictly liable in tort for damages caused  
49 by the use of their products; provided, however, that the harm was not a result of another person  
50 violating reasonable safety precautions that were outlined in a signed agreement by both persons.

51           The damages shall include but are not limited to:

- 52 (1) Human health effects including but not limited to:
- 53 (i) Allergies resulting from added proteins, including proteins not found in the food  
54 supply;
- 55 (ii) Exposure to toxic proteins or other substances added to genetically engineered food  
56 or caused by the effects of genetic engineering;
- 57 (iii) Nutritional loss due to cellular changes; and
- 58 (iv) A decrease in antibiotic resistance because of the spread of antibiotic resistance  
59 genes that are used during genetic engineering;
- 60 (2) Environmental harm including but not limited to:
- 61 (i) Death or injury to non-targeted plants, animals, and other species;
- 62 (ii) Soil destruction; and
- 63 (iii) The spreading of plants or insects resistant to pesticides through unintended gene  
64 transfer;
- 65 (3) Crop contamination including but not limited to:
- 66 (i) Loss of any price premium which would have accrued to a farmer of non-genetically  
67 engineered products by contract or other marketing arrangement, or which would have been  
68 otherwise reasonably available to the farmer through ordinary commercial channels;
- 69 (ii) Any additional transportation, storage, handling, or related charges or costs incurred  
70 by the farmer which would not have been incurred in the absence of crop contamination; and

71           (iii) Any judgment, charge, or penalty for which the farmer of non-genetically engineered  
72 products is liable due to breach of contract including loss of organic certification, for failure to  
73 deliver a crop free of genetically engineered material or for delivering a crop exceeding any  
74 contractually agreed tolerances for the presence of genetically engineered material.

75           (b) Any aggrieved person may bring action in the appropriate court against any person  
76 that causes harm under this act.