

HOUSE No. 2037

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Moran

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 to establish guidelines for genetically engineered food.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michael J. Moran</i>	<i>18th Suffolk</i>	<i>1/17/2013</i>

HOUSE No. 2037

By Mr. Moran of Boston, a petition (accompanied by bill, House, No. 2037) of Michael J. Moran for legislation to establish guidelines within the Department of Public Health for genetically engineered food. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to establish guidelines 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: Chapter 111 of the Massachusetts General Laws is hereby amended by
2 adding after section 223 the following new sections:-

3 “Section 224: Genetically Engineered Food.

4 SECTION 1. FINDINGS AND DECLARATIONS

5 (a) Massachusetts consumers have the right to know whether the foods they purchase
6 were produced using genetic engineering. Genetic engineering of plants and animals often causes
7 unintended consequences. Manipulating genes and inserting them into organisms is an imprecise
8 process. The results are not always predictable or controllable, and they can lead to adverse
9 health or environmental consequences.

10 (b) Government scientists have stated that the artificial insertion of DNA into plants, a
11 technique unique to genetic engineering, can cause a variety of significant problems with plant
12 foods. Such genetic engineering can increase the levels of known toxicants in foods and
13 introduce new toxicants and health concerns.

14 (c) Mandatory identification of foods produced through genetic engineering can provide a
15 critical method for tracking the potential health effects of eating genetically engineered foods.

16 (d) No federal or Massachusetts law requires that food producers identify whether foods
17 were produced using genetic engineering. At the same time, the U.S. Food and Drug
18 Administration does not require safety studies of such foods. Unless these foods contain a known

19 allergen, the FDA does not even require developers of genetically engineered crops to consult
20 with the agency.

21 (e) Polls consistently show that more than 90 percent of the public want to know if their
22 food was produced using genetic engineering.

23 (f) Fifty countries—including the European Union member states, Japan and other key
24 U.S. trading partners—have laws mandating disclosure of genetically engineered foods. No
25 international agreements prohibit the mandatory identification of foods produced through genetic
26 engineering.

27 (g) Without disclosure, consumers of genetically engineered food can unknowingly
28 violate their own dietary and religious restrictions.

29 (h) The cultivation of genetically engineered crops can also cause serious impacts to the
30 environment. Massachusetts consumers should have the choice to avoid purchasing foods
31 production of which can lead to such environmental harm.

32 SECTION 2. STATEMENT OF PURPOSE

33 The purpose of this measure is to create and enforce the fundamental right of the people
34 of Massachusetts to be fully informed about whether the food they purchase and eat is
35 genetically engineered and not misbranded as natural so that they can choose for themselves
36 whether to purchase and eat such foods. It shall be liberally construed to fulfill this purpose.

37 SECTION 3. DEFINITIONS

38 The following definitions shall apply only for the purposes of this article:

39 (a) Cultivated commercially. “Cultivated commercially” means grown or raised by a
40 person in the course of his business or trade and sold within the United States.

41 (b) Enzyme. “Enzyme” means a protein that catalyzes chemical reactions of other
42 substances without itself being destroyed or altered upon completion of the reactions.

43 (c) Genetically engineered. (1) “Genetically engineered” means any food that is produced
44 from an organism or organisms in which the genetic material has been changed through the
45 application of:

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

48 (B) Fusion of cells, including protoplast fusion, or hybridization techniques that
49 overcome natural physiological, reproductive, or recombination barriers, where the donor

50 cells/protoplasts do not fall within the same taxonomic family, in a way that does not occur by
51 natural multiplication or natural recombination.

52 (2) For purposes of this subdivision:

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

55 (B) "In vitro nucleic acid techniques" include, but are not limited to, recombinant DNA
56 or RNA techniques that use vector systems and techniques involving the direct introduction into
57 the organisms of hereditary materials prepared outside the organisms such as micro-injection,
58 macro-injection, chemoporation, electroporation, micro-encapsulation, and liposome fusion.

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

63 (e) Processing aid. "Processing aid" means:

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

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

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

72 (f) Cooking Facility. "Cooking facility" shall have the meaning set forth in Section 22A
73 of Chapter 140 of the Massachusetts General Laws.

74 SECTION 4. DISCLOSURE WITH RESPECT TO GENETIC ENGINEERING OF 75 FOOD

76 (a) Commencing July 1, 2014, any food offered for retail sale in Massachusetts is
77 misbranded if it is or may have been entirely or partially produced with genetic engineering and
78 that fact is not disclosed:

79 (1) In the case of a raw agricultural commodity on the package offered for retail sale,
80 with the clear and conspicuous words "Genetically Engineered" on the front of the package of
81 such commodity or, in the case of any such commodity that is not separately packaged or

82 labeled, on a label appearing on the retail store shelf or bin in which such commodity is
83 displayed for sale;

84 (2) In the case of any processed food, in clear and conspicuous language on the front or
85 back of the package of such food, with the words “Partially Produced with Genetic Engineering”
86 or “May be Partially Produced with Genetic Engineering.”

87 (b) Subsection (a) of this section and subsection (e) of Section 6 shall not be construed to
88 require either the listing or identification of any ingredient or ingredients that were genetically
89 engineered or that the term “genetically engineered” be placed immediately preceding any
90 common name or primary product descriptor of a food.

91 SECTION 5. MISBRANDING OF GENETICALLY ENGINEERED FOODS AS
92 “NATURAL”

93 In addition to any disclosure required by Section 4, if a food meets any of the definitions
94 in subdivision (c) or (d) of Section 3, and is not otherwise exempted from labeling under Section
95 6, the food may not in Massachusetts, on its label, accompanying signage in a retail
96 establishment, or in any advertising or promotional materials, state or imply that the food is
97 “natural,” “naturally made,” “naturally grown,” “all natural,” or any words of similar import that
98 would have any tendency to mislead any consumer.

99 SECTION 6. LABELING OF GENETICALLY ENGINEERED FOOD—
100 EXEMPTIONS

101 The requirements of Section 5 shall not apply to any of the following:

102 (a) Food consisting entirely of, or derived entirely from, an animal that has not itself been
103 genetically engineered, regardless of whether such animal has been fed or injected with any
104 genetically engineered food or any drug that has been produced through means of genetic
105 engineering.

106 (b) A raw agricultural commodity or food derived therefrom that has been grown, raised,
107 or produced without the knowing and intentional use of genetically engineered seed or food.
108 Food will be deemed to be described in the preceding sentence only if the person otherwise
109 responsible for complying with the requirements of subdivision (a) of Section 5 with respect to a
110 raw agricultural commodity or food obtains, from whoever sold the commodity or food to that
111 person, a sworn statement that such commodity or food: (1) has not been knowingly or
112 intentionally genetically engineered; and (2) has been segregated from, and has not been
113 knowingly or intentionally commingled with, food that may have been genetically engineered at
114 any time. In providing such a sworn statement, any person may rely on a sworn statement from
115 his or her own supplier that contains the affirmation set forth in the preceding sentence.

116 (c) Any processed food that would be subject to Section 5 solely because it includes one
117 or more genetically engineered processing aids or enzymes.

118 (d) Any alcoholic beverage.

119 (e) Until July 1, 2019, any processed food that would be subject to Section 5 solely
120 because it includes one or more genetically engineered ingredients, provided that: (1) no single
121 such ingredient accounts for more than one-half of one percent of the total weight of such
122 processed food; and (2) the processed food does not contain more than 10 such ingredients.

123 (f) Food that an independent organization has determined has not been knowingly and
124 intentionally produced from or commingled with genetically engineered seed or genetically
125 engineered food, provided that such determination has been made pursuant to a sampling and
126 testing procedure approved in regulations adopted by the department. No sampling procedure
127 shall be approved by the department unless sampling is done according to a statistically valid
128 sampling plan consistent with principles recommended by internationally recognized; and

129 (2) it does not rely on testing of processed foods in which no DNA is detectable.

130 (g) Food that has been lawfully certified to be labeled, marketed, and offered for sale as
131 “organic” pursuant to the federal Organic Food Products Act of 1990 and the regulations
132 promulgated pursuant thereto by the United States Department of Agriculture.

133 (h) Food that is not packaged for retail sale and that either: (1) is a processed food
134 prepared and intended for immediate human consumption or (2) is served, sold, or otherwise
135 provided in any restaurant or other food facility that is primarily engaged in the sale of food
136 prepared and intended for immediate human consumption.

137 (i) Medical food.

138 SECTION 7. ADOPTION OF REGULATIONS

139 The department may adopt any regulations that it determines are necessary for the
140 enforcement and interpretation of this act, provided that the department shall not be authorized to
141 create any exemptions beyond those specified.

142 SECTION 8. CONSTRUCTION WITH OTHER LAWS

143 This act shall be construed to supplement, not to supersede, the requirements of any
144 federal or Massachusetts General Laws or regulation that provides for less stringent or less
145 complete labeling of any raw agricultural commodity or processed food subject to the provisions
146 of this initiative.

147 SECTION 9. EFFECTIVE DATE

This act shall become effective upon enactment.”