

SENATE No. 1158

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

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.

The Commonwealth of Massachusetts

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;

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

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

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

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

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

“Genetically engineered” means--

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

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

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

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

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

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

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

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

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

The damages shall include but are not limited to:

(1) Human health effects including but not limited to:

(i) Allergies resulting from added proteins, including proteins not found in the food supply;

(ii) Exposure to toxic proteins or other substances added to genetically engineered food or caused by the effects of genetic engineering;

(iii) Nutritional loss due to cellular changes; and

(iv) A decrease in antibiotic resistance because of the spread of antibiotic resistance genes that are used during genetic engineering;

(2) Environmental harm including but not limited to:

(i) Death or injury to non-targeted plants, animals, and other species;

(ii) Soil destruction; and

(iii) The spreading of plants or insects resistant to pesticides through unintended gene transfer;

(3) Crop contamination including but not limited to:

(i) Loss of any price premium which would have accrued to a farmer of non-genetically engineered products by contract or other marketing arrangement, or which would have been otherwise reasonably available to the farmer through ordinary commercial channels;

(ii) Any additional transportation, storage, handling, or related charges or costs incurred 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.