

HOUSE BILL 903

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By: **Delegates Glass, Dwyer, Ivey, Kipke, Morhaim, and Pena-Melnyk**
Introduced and read first time: February 7, 2013
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Genetically Engineered Food – Disclosure and Labeling Requirements**

3 FOR the purpose of establishing that certain foods offered for retail sale in the State
4 and produced with genetic engineering are misbranded if certain disclosure or
5 labeling requirements are not met; establishing that certain requirements of
6 this Act do not apply to certain foods, commodities, and beverages; establishing
7 that certain commodities or foods shall be deemed to have been grown, raised,
8 or produced in a certain manner under certain circumstances; prohibiting the
9 Department of Health and Mental Hygiene from approving a certain procedure
10 for sampling and testing food for a certain purpose unless the procedure meets
11 certain requirements; defining certain terms; and generally relating to
12 disclosure and labeling requirements for genetically engineered food offered for
13 retail sale in the State.

14 BY adding to
15 Article – Health – General
16 Section 21–210
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2012 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Health – General**

22 **21–210.**

23 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
24 **MEANINGS INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) “ENZYME” MEANS A PROTEIN THAT CATALYZES CHEMICAL
2 REACTIONS OF OTHER SUBSTANCES WITHOUT ITSELF BEING DESTROYED OR
3 ALTERED ON COMPLETION OF THE REACTIONS.

4 (3) “FARMER’S MARKET” MEANS A PUBLIC MARKET AT WHICH
5 PRODUCERS OF RAW AGRICULTURAL COMMODITIES SELL THE PRODUCTS
6 DIRECTLY TO THE PUBLIC.

7 (4) “GENETIC ENGINEERING” MEANS A FOOD OR FOOD
8 INGREDIENT THAT IS PRODUCED FROM AN ORGANISM OR ORGANISMS IN WHICH
9 THE GENETIC MATERIAL HAS BEEN CHANGED THROUGH THE APPLICATION OF:

10 (I) IN VITRO NUCLEIC ACID TECHNIQUES, INCLUDING
11 RECOMBINANT DNA TECHNIQUES AND THE DIRECT INJECTION OF NUCLEIC
12 ACID INTO CELLS OR ORGANELLES; OR

13 (II) FUSION OF CELLS, INCLUDING PROTOPLAST FUSION,
14 OR HYBRIDIZATION TECHNIQUES THAT OVERCOME NATURAL PHYSIOLOGICAL,
15 REPRODUCTIVE, OR RECOMBINATION BARRIERS, WHERE THE DONOR CELLS OR
16 PROTOPLASTS DO NOT FALL WITHIN THE SAME TAXONOMIC FAMILY, IN A WAY
17 THAT DOES NOT OCCUR BY NATURAL MULTIPLICATION OR NATURAL
18 RECOMBINATION.

19 (5) “IN VITRO NUCLEIC ACID TECHNIQUES” MEANS TECHNIQUES,
20 INCLUDING RECOMBINANT DNA TECHNIQUES OR RNA TECHNIQUES, THAT USE
21 VECTOR SYSTEMS AND TECHNIQUES INVOLVING THE DIRECT INTRODUCTION
22 INTO THE ORGANISMS OF HEREDITARY MATERIALS PREPARED OUTSIDE THE
23 ORGANISMS SUCH AS MICRO-INJECTION, CHEMOPORATION,
24 ELECTROPORATION, MICRO-ENCAPSULATION AND LIPOSOME FUSION.

25 (6) “ORGANISM” MEANS ANY BIOLOGICAL ENTITY CAPABLE OF
26 REPLICATION, REPRODUCTION, OR TRANSFERRING OF GENETIC MATERIAL.

27 (7) (I) “PROCESSED FOOD” MEANS ANY FOOD OTHER THAN A
28 RAW AGRICULTURAL COMMODITY.

29 (II) “PROCESSED FOOD” INCLUDES ANY FOOD PRODUCED
30 FROM A RAW AGRICULTURAL COMMODITY THAT HAS BEEN SUBJECT TO
31 PROCESSING SUCH AS CANNING, SMOKING, PRESSING, COOKING, FREEZING,
32 DEHYDRATION, FERMENTATION, OR MILLING.

33 (8) “PROCESSING AID” MEANS A SUBSTANCE THAT:

1 **(I) IS ADDED TO A FOOD DURING THE PROCESSING OF THE**
2 **FOOD BUT IS REMOVED IN SOME MANNER FROM THE FOOD BEFORE THE FOOD IS**
3 **PACKAGED IN FINISHED FORM;**

4 **(II) 1. IS ADDED TO A FOOD DURING THE PROCESSING**
5 **OF THE FOOD;**

6 **2. IS CONVERTED INTO CONSTITUENTS NORMALLY**
7 **PRESENT IN THE FOOD; AND**

8 **3. DOES NOT SIGNIFICANTLY INCREASE THE**
9 **AMOUNT OF THE CONSTITUENTS NATURALLY FOUND IN THE FOOD; OR**

10 **(III) IS ADDED TO A FOOD FOR ITS TECHNICAL OR**
11 **FUNCTIONAL EFFECT IN THE PROCESSING BUT IS PRESENT IN THE FINISHED**
12 **FOOD AT INSIGNIFICANT LEVELS AND DOES NOT HAVE ANY TECHNICAL OR**
13 **FUNCTIONAL EFFECT IN THE FINISHED FOOD.**

14 **(9) (I) “RAW AGRICULTURAL COMMODITY” MEANS ANY FOOD**
15 **IN ITS RAW OR NATURAL STATE.**

16 **(II) “RAW AGRICULTURAL COMMODITY” INCLUDES ANY**
17 **FRUIT THAT IS WASHED, COLORED, OR OTHERWISE TREATED IN ITS UNPEELED**
18 **NATURAL FORM BEFORE MARKETING.**

19 **(B) A FOOD OFFERED FOR RETAIL SALE IN THE STATE IS MISBRANDED**
20 **IF IT IS ENTIRELY OR PARTIALLY PRODUCED WITH GENETIC ENGINEERING AND**
21 **THAT FACT IS NOT DISCLOSED:**

22 **(1) IF THE FOOD IS A RAW AGRICULTURAL COMMODITY, WITH**
23 **THE CLEAR AND CONSPICUOUS WORDS “GENETICALLY ENGINEERED” ON THE**
24 **FRONT OF THE PACKAGE OF THE FOOD;**

25 **(2) IF THE FOOD IS A RAW AGRICULTURAL COMMODITY THAT IS**
26 **NOT SEPARATELY PACKAGED OR LABELED, WITH THE CLEAR AND CONSPICUOUS**
27 **WORDS “GENETICALLY ENGINEERED” ON A LABEL APPEARING ON THE STORE**
28 **SHELF OR BIN IN WHICH THE FOOD IS DISPLAYED FOR SALE; OR**

29 **(3) IF THE FOOD IS A PROCESSED FOOD, WITH THE CLEAR AND**
30 **CONSPICUOUS WORDS “PARTIALLY PRODUCED WITH GENETIC ENGINEERING”**
31 **OR “MAY BE PARTIALLY PRODUCED WITH GENETIC ENGINEERING” ON THE**
32 **FRONT OR BACK OF THE PACKAGE OF THE FOOD.**

1 **(C) A FOOD OFFERED FOR RETAIL SALE IN THE STATE IS MISBRANDED**
2 **IF IT IS PRODUCED WITH GENETIC ENGINEERING AND ITS LABEL,**
3 **ACCOMPANYING SIGNAGE IN A RETAIL ESTABLISHMENT, OR ANY ADVERTISING**
4 **OR PROMOTIONAL MATERIAL:**

5 **(1) STATES OR IMPLIES THAT THE FOOD IS “NATURAL”,**
6 **“NATURALLY MADE”, “NATURALLY GROWN”, OR “ALL NATURAL”;** OR

7 **(2) USES ANY WORDS OR TERMS SIMILAR TO THOSE LISTED IN**
8 **ITEM (1) OF THIS SUBSECTION THAT WOULD TEND TO MISLEAD A CONSUMER.**

9 **(D) THIS SECTION DOES NOT APPLY TO:**

10 **(1) FOOD CONSISTING OF, OR DERIVED ENTIRELY FROM, AN**
11 **ANIMAL THAT HAS NOT ITSELF BEEN GENETICALLY ENGINEERED, REGARDLESS**
12 **OF WHETHER THE ANIMAL HAS BEEN FED OR INJECTED WITH ANY FOOD OR**
13 **DRUG PRODUCED WITH GENETIC ENGINEERING;**

14 **(2) A RAW AGRICULTURAL COMMODITY OR FOOD DERIVED FROM**
15 **THE RAW AGRICULTURAL COMMODITY THAT:**

16 **(I) SUBJECT TO SUBSECTION (E) OF THIS SECTION, HAS**
17 **BEEN GROWN, RAISED, OR PRODUCED WITHOUT THE KNOWING AND**
18 **INTENTIONAL USE OF FOOD OR SEED PRODUCED WITH GENETIC ENGINEERING;**
19 **OR**

20 **(II) IS OFFERED FOR SALE AT A FARMER’S MARKET;**

21 **(3) ANY PROCESSED FOOD THAT WOULD BE SUBJECT TO**
22 **SUBSECTION (B) OF THIS SECTION SOLELY BECAUSE IT INCLUDES ONE OR MORE**
23 **PROCESSING AIDS OR ENZYMES PRODUCED WITH GENETIC ENGINEERING;**

24 **(4) ANY ALCOHOLIC BEVERAGE REGULATED UNDER ARTICLE 2B**
25 **OF THE CODE;**

26 **(5) BEFORE JULY 1, 2019, ANY PROCESSED FOOD THAT WOULD**
27 **BE SUBJECT TO SUBSECTION (B) OF THIS SECTION SOLELY BECAUSE IT**
28 **INCLUDES ONE OR MORE INGREDIENTS THAT HAVE BEEN PRODUCED WITH**
29 **GENETIC ENGINEERING IF:**

30 **(I) NO SINGLE INGREDIENT PRODUCED WITH GENETIC**
31 **ENGINEERING ACCOUNTS FOR MORE THAN ONE-HALF OF 1% OF THE TOTAL**
32 **WEIGHT OF THE PROCESSED FOOD; AND**

1 **(II) THE PROCESSED FOOD DOES NOT CONTAIN MORE THAN**
2 **10 INGREDIENTS THAT HAVE BEEN PRODUCED WITH GENETIC ENGINEERING;**

3 **(6) FOOD THAT AN INDEPENDENT ORGANIZATION HAS**
4 **DETERMINED HAS NOT BEEN KNOWINGLY AND INTENTIONALLY PRODUCED**
5 **FROM OR COMMINGLED WITH FOOD OR SEED PRODUCED WITH GENETIC**
6 **ENGINEERING IF THE DETERMINATION HAS BEEN MADE UNDER A SAMPLING**
7 **AND TESTING PROCEDURE THAT MEETS THE REQUIREMENTS OF SUBSECTION**
8 **(F) OF THIS SECTION AND IS APPROVED IN REGULATIONS ADOPTED BY THE**
9 **DEPARTMENT;**

10 **(7) FOOD THAT HAS BEEN LAWFULLY CERTIFIED TO BE LABELED,**
11 **MARKETED, AND OFFERED FOR SALE AS “ORGANIC” UNDER THE FEDERAL**
12 **ORGANIC FOOD PRODUCTS ACT OF 1990 AND ANY REGULATIONS ADOPTED**
13 **UNDER THE ACT BY THE UNITED STATES DEPARTMENT OF AGRICULTURE;**

14 **(8) FOOD THAT:**

15 **(I) IS NOT PACKAGED FOR RETAIL SALE; AND**

16 **(II) 1. IS PROCESSED FOOD PREPARED AND INTENDED**
17 **FOR IMMEDIATE HUMAN CONSUMPTION; OR**

18 **2. IS SERVED, SOLD, OR OTHERWISE PROVIDED IN**
19 **RESTAURANT OR OTHER FOOD SERVICE FACILITY THAT IS PRIMARILY ENGAGED**
20 **IN THE SALE OF FOOD PREPARED AND INTENDED FOR IMMEDIATE HUMAN**
21 **CONSUMPTION; AND**

22 **(9) MEDICAL FOOD, AS DEFINED IN THE FEDERAL ORPHAN DRUG**
23 **ACT.**

24 **(E) (1) A RAW AGRICULTURAL COMMODITY OR FOOD DERIVED FROM**
25 **A RAW AGRICULTURAL COMMODITY OR FOOD SHALL BE DEEMED TO HAVE BEEN**
26 **GROWN, RAISED, OR PRODUCED WITHOUT THE KNOWING AND INTENTIONAL USE**
27 **OF FOOD OR SEED PRODUCED WITH GENETIC ENGINEERING ONLY IF THE**
28 **PERSON OTHERWISE RESPONSIBLE FOR COMPLYING WITH THE REQUIREMENTS**
29 **OF SUBSECTION (B) OF THIS SECTION OBTAINS FROM THE PERSON WHO SOLD**
30 **THE COMMODITY OR FOOD TO THAT PERSON A SWORN STATEMENT THAT THE**
31 **COMMODITY OR FOOD:**

32 **(I) HAS NOT BEEN KNOWINGLY OR INTENTIONALLY**
33 **GENETICALLY PRODUCED WITH GENETIC ENGINEERING; AND**

1 **(II) HAS BEEN SEGREGATED FROM, AND HAS NOT BEEN**
2 **KNOWINGLY OR INTENTIONALLY COMMINGLED, AT ANY TIME, WITH FOOD THAT**
3 **MAY HAVE BEEN PRODUCED WITH GENETIC ENGINEERING.**

4 **(2) IN PROVIDING A SWORN STATEMENT UNDER THIS**
5 **SUBSECTION, A PERSON MAY RELY ON A SWORN STATEMENT FROM THE**
6 **SUPPLIER THAT CONTAINS THE AFFIRMATION UNDER PARAGRAPH (1) OF THIS**
7 **SUBSECTION.**

8 **(F) THE DEPARTMENT MAY NOT APPROVE A PROCEDURE FOR**
9 **SAMPLING AND TESTING FOOD TO DETECT GENETIC ENGINEERING UNLESS:**

10 **(1) SAMPLING IS DONE ACCORDING TO A STATISTICALLY VALID**
11 **SAMPLING PLAN CONSISTENT WITH PRINCIPLES RECOMMENDED BY**
12 **INTERNATIONALLY RECOGNIZED SOURCES, INCLUDING THE INTERNATIONAL**
13 **STANDARDS ORGANIZATION AND THE GRAIN AND FEED TRADE ASSOCIATION;**

14 **(2) THE PROCEDURE IS CONSISTENT WITH THE MOST RECENT**
15 **“GUIDELINES ON PERFORMANCE CRITERIA AND VALIDATION METHODS FOR**
16 **DETECTION, IDENTIFICATION AND QUALIFICATION OF SPECIFIC DNA**
17 **SEQUENCES AND SPECIFIC PROTEINS IN FOODS” PUBLISHED BY THE CODEX**
18 **ALIMENTARIOUS COMMISSION; AND**

19 **(3) THE PROCEDURE DOES NOT RELY ON TESTING OF PROCESSED**
20 **FOODS IN WHICH NO DNA IS DETECTABLE.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2013.