



General Assembly

Substitute Bill No. 6519

January Session, 2013



AN ACT CONCERNING THE LABELING OF GENETICALLY-ENGINEERED FOOD.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-92 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 For the purposes of this chapter, [and] section 21a-65 and sections 2
4 and 3 of this act, the following terms shall have the meanings
5 hereinafter specified:

6 (1) "Advertisement" means all representations disseminated in any
7 manner or by any means, other than by labeling, for the purpose of
8 inducing, or which are likely to induce, directly or indirectly, the
9 purchase of food, drugs, devices or cosmetics;

10 (2) (A) "Color additive" means a material which (i) is a dye, pigment
11 or other substance made by a process of synthesis or similar artifice, or
12 extracted, isolated or otherwise derived, with or without intermediate
13 or final change of identity, from a vegetable, animal, mineral or other
14 source, and (ii) when added or applied to a food, drug or cosmetic, or
15 to the human body or any of its parts, is capable, alone or through
16 reaction with other substance, of imparting color thereto, except that
17 the term "color additive" does not include any material exempted by
18 regulation under the federal act, or which the commissioner, by

19 regulation, determines is used, or intended to be used, solely for a
20 purpose or purposes other than coloring; (B) the term "color" includes
21 black, white and intermediate grays, as well as all other colors; (C)
22 nothing in subparagraph (A) of this subdivision shall be construed to
23 apply to any pesticide chemical, soil or plant nutrient, or other
24 agricultural chemical used, or intended to be used, solely because of its
25 effect in aiding, retarding or otherwise affecting, directly or indirectly,
26 the growth or other natural physiological processes of produce of the
27 soil which thereby affects its color, whether before or after harvest;

28 (3) "Commissioner" means the Commissioner of Consumer
29 Protection;

30 (4) "Contaminated with filth" applies to any food, drug, device or
31 cosmetic not securely protected from dust or dirt, and as far as may be
32 necessary, by all reasonable means, from all foreign or injurious
33 contaminations;

34 (5) "Cosmetic" means (A) articles intended to be rubbed, poured,
35 sprinkled or sprayed on, introduced into, or otherwise applied to the
36 human body or any of its parts for cleansing, beautifying, promoting
37 attractiveness or altering the appearance, and (B) articles intended for
38 use as a component of any such articles; except that such term shall not
39 include soap;

40 (6) "Device", except when used in subdivision (15) of this section
41 and in subsection (i) of section 21a-93, [subsection (f)] subdivision (6)
42 of section 21a-102, as amended by this act, subsection (c) of section 21a-
43 106 and subsection (c) of section 21a-112, means instruments,
44 apparatus and contrivances, including their components, parts and
45 accessories, intended (A) for use in the diagnosis, cure, mitigation,
46 treatment or prevention of disease in man or other animals or (B) to
47 affect the structure or any function of the body of man or other
48 animals;

49 (7) "Director" means the director of the agricultural experiment

50 station;

51 (8) "Drug" means (A) articles recognized in the official United States
52 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United
53 States or official National Formulary, or any supplement to any of
54 them; (B) articles intended for use in the diagnosis, cure, mitigation,
55 treatment or prevention of disease in man or other animals; (C)
56 articles, other than food, intended to affect the structure or any
57 function of the body of man or any other animal; and (D) articles
58 intended for use as a component of any articles specified in this
59 subdivision; but shall not include devices or their components, parts or
60 accessories;

61 (9) "Federal act" means the federal Food, Drug and Cosmetic Act, as
62 amended, Title 21 USC 301 et seq.: 52 Stat. 1040 et seq.;

63 (10) "Food" means (A) articles used for food or drink for man or
64 other animals, and (B) chewing gum, and (C) articles used for
65 components of any such article;

66 (11) "Food additive" means any substance the intended use of which
67 results or reasonably may be expected to result, directly or indirectly,
68 in its becoming a component or otherwise affecting the characteristics
69 of any food, including any substance intended for use in producing,
70 manufacturing, packing, processing, preparing, treating, packaging,
71 transporting or holding food; and including any source of radiation
72 intended for any such use, if such substance is not generally
73 recognized, among experts qualified by scientific training and
74 experience to evaluate its safety, as having been adequately shown
75 through scientific procedures or, in the case of a substance used in
76 food prior to January 1, 1958, through either scientific procedures or
77 experience based on common use in food, to be safe under the
78 conditions of its intended use; except that such term does not include
79 (A) a pesticide chemical in or on a raw agricultural commodity; or (B) a
80 pesticide chemical to the extent that it is intended for use or is used in
81 the production, storage or transportation of any raw agricultural

82 commodity; or (C) a color additive; or (D) any substance used in
83 accordance with a sanction or approval granted prior to June 12, 1963,
84 or the federal Food, Drug and Cosmetic Act, the Poultry Products
85 Inspection Act (21 USC 451 et seq.) or the Meat Inspection Act of
86 March 4, 1907, as amended;

87 (12) "Immediate container" shall not include package liners;

88 (13) "Intrastate commerce" means any and all commerce within the
89 state of Connecticut and subject to its jurisdiction, and shall include the
90 operation of any business or service establishment;

91 (14) "Label" means a display of written, printed or graphic matter
92 upon the immediate container of any article, provided a requirement
93 made by or under authority of this chapter that any information or
94 other word or statement appear on the label shall not be considered to
95 be complied with unless such information or other word or statement
96 also appears on the outside container or wrapper, if any, of the retail
97 package of such article, or is easily legible through the outside
98 container or wrapper;

99 (15) "Labeling" means all labels and other written, printed or
100 graphic matter (A) upon any article or any of its containers or
101 wrappers, or (B) accompanying such article; provided, if an article is
102 alleged to be misbranded because the labeling is misleading, or if an
103 advertisement is alleged to be false because it is misleading, then, in
104 determining whether the labeling or advertisement is misleading, there
105 shall be taken into account, among other things, not only
106 representations made or suggested by statement, word, design, device
107 or sound, or any combination thereof, but also the extent to which the
108 labeling or advertisement fails to reveal facts material in the light of
109 such representations or material with respect to consequences which
110 may result from the use of the article to which the labeling or
111 advertisement relates under the conditions of use prescribed in the
112 labeling or advertisement thereof or under such conditions of use as
113 are customary or usual, and provided the representation of a drug, in

114 its labeling or advertisement, as an antiseptic shall be considered to be
115 a representation that it is a germicide, except in the case of a drug
116 purporting to be, or represented as, an antiseptic for inhibitory use as a
117 wet dressing, ointment or dusting powder or for such other use as
118 involves prolonged contact with the body;

119 (16) "Natural food" means food (A) which has not been treated with
120 preservatives, antibiotics, synthetic additives, artificial flavoring or
121 artificial coloring; [and] (B) which has not been processed in a manner
122 that makes such food significantly less nutritive; and (C) which has not
123 been genetically-engineered, as defined in section 2 of this act.
124 Processing of food by extracting, purifying, heating, fermenting,
125 concentrating, dehydrating, cooling or freezing shall not, of itself,
126 prevent the designation of such food as "natural food";

127 (17) "New drug" means (A) any drug the composition of which is
128 such that such drug is not generally recognized, among experts
129 qualified by scientific training and experience to evaluate the safety
130 and effectiveness of drugs, as safe and effective for use under the
131 conditions prescribed, recommended or suggested in its labeling, or
132 (B) any drug the composition of which is such that such drug, as a
133 result of investigation to determine its safety and effectiveness for use
134 under such conditions, has become so recognized, but which has not,
135 otherwise than in such investigations, been used to a material extent or
136 for a material time under such conditions, except that the provisions of
137 this subsection pertaining to "effectiveness" shall not apply to any drug
138 which (i) was commercially sold or used in the United States on
139 October 9, 1962, (ii) was not a new drug as defined by this subsection
140 prior to the enactment of these provisions, and (iii) was not covered by
141 an effective application under section 21a-110 or under Section 355 of
142 the federal act, when such drug is intended solely for use under
143 conditions prescribed, recommended, or suggested in labeling with
144 respect to such drug on whichever of the above dates is applicable;

145 (18) "Official compendium" means the official United States
146 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United

147 States, official National Formulary, or any supplement to any of them;

148 (19) "Organically grown" means produced through organic farming
149 methods, which involve a system of ecological soil management and
150 mechanical or biological methods to control insects, weeds, pathogens
151 and other pests and which rely on crop rotation, crop residues,
152 composted animal manures, legumes, green manures, composted
153 organic waste or mineral-bearing rocks and not genetically-
154 engineered, as defined in section 2 of this act;

155 (20) "Person" includes any individual, partnership, corporation,
156 limited liability company or association;

157 (21) "Pesticide chemical" means any substance which, alone, in
158 chemical combination or in formulation with one or more other
159 substances is an "economic poison" within the meaning of the federal
160 Insecticide, Fungicide and Rodenticide Act, 7 USC 135-135k, and
161 which is used in the production, storage or transportation of raw
162 agricultural commodities;

163 (22) "Raw agricultural commodity" means any food in its raw or
164 natural state, including all fruits that are washed, colored or otherwise
165 treated in their unpeeled natural form prior to marketing;

166 (23) The term "safe" has reference to the health of man or animal;

167 (24) "Sale" means any and every sale and includes (A) manufacture,
168 processing, packing, canning, bottling or any other production,
169 preparation or putting up; (B) exposure, offer or any other proffer; (C)
170 holding, storing or any other possessing; (D) dispensing, giving,
171 delivering, serving or any other supplying; and (E) applying,
172 administering or any other using.

173 Sec. 2. (NEW) (*Effective October 1, 2013*) For purposes of this section
174 and section 3 of this act:

175 (1) "Enzyme" means a protein that catalyzes chemical reactions of

176 other substances without being destroyed or altered upon completion
177 of such reactions;

178 (2) "Genetically-engineered" or "genetic engineering" means a
179 process whereby any food intended for human consumption (A) is
180 produced from an organism or organisms in which the genetics are
181 materially altered through the application of: (i) In vitro nucleic acid
182 techniques, including recombinant DNA (deoxyribonucleic acid)
183 techniques, the direct injection of nucleic acid into cells or organelles,
184 encapsulation, gene deletion and doubling, or (ii) methods of fusing
185 cells that do not fall within the same taxonomic family, that overcome
186 natural physiological reproductive or recombinant barriers and that
187 are not techniques used in traditional breeding and selection such as
188 conjugation, transduction and hybridization; (B) is treated with a
189 material described in subparagraph (A) of this subdivision, except
190 manure that is used as a fertilizer for a raw agricultural commodity; or
191 (C) contains an ingredient, component or substance described in
192 subparagraph (A) of this subdivision;

193 (3) "Organism" means any biological entity capable of replication,
194 reproduction or transferring genetic material;

195 (4) "Processed food" means any food other than a raw agricultural
196 commodity and includes any food produced from a raw agricultural
197 commodity that has been processed through canning, smoking,
198 pressing, cooking, freezing, dehydration, fermentation or milling;

199 (5) "Processing aid" means: (A) Any substance that is added to a
200 food during the processing of such food but that is removed in some
201 manner from the food before the food is packaged in a finished form;
202 (B) any substance that is added to a food during processing, that is
203 converted into constituents normally present in the food, and that does
204 not significantly increase the amount of the constituents naturally
205 found in the food; or (C) any substance that is added to a food for its
206 technical or functional effect in the processing but that is present in the
207 finished food at insignificant levels and that does not have any

208 technical or functional effect in the finished food;

209 (6) "Retailer" means a person or entity that engages in the sale of
210 food to a consumer;

211 (7) "Distributor" means a person or entity that sells, supplies,
212 furnishes or transports food in this state that such person or entity
213 does not produce; and

214 (8) "Manufacturer" means a person who produces seed, seed stock
215 or food and sells such item to a retailer or distributor.

216 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) On and after the date of
217 adoption of a mandatory labeling law for foods made with the process
218 of genetic engineering by any two of the following states: (1) Maine; (2)
219 New Hampshire; (3) Vermont; (4) Massachusetts; (5) Rhode Island; (6)
220 New York; (7) Pennsylvania; or (8) New Jersey, any food, seed or seed
221 stock introduced or delivered for introduction into commerce in this
222 state that is, or may have been, entirely or partially genetically-
223 engineered, except a processed food in which one or more processing
224 aids or enzymes were produced or derived from genetic engineering,
225 shall be labeled as follows: (A) In the case of wholesale food intended
226 for human consumption that is not intended for retail sale, on the
227 shipping manifest accompanying such food during shipping, with the
228 clear and conspicuous words: "Produced with Genetic Engineering";
229 (B) in the case of food for retail sale contained in a package, by the
230 manufacturer, distributor or retailer of the food, with the clear and
231 conspicuous words: "Produced with Genetic Engineering"; (C) in the
232 case of food that is a raw agricultural commodity, on the package
233 offered for retail sale or, in the case of any such commodity that is not
234 separately packaged or labeled, on the retail store shelf or bin that
235 holds such commodity displayed for sale, by the retailer, with the clear
236 and conspicuous words: "Produced with Genetic Engineering"; and (D)
237 in the case of any seed or seed stock, on the container holding the seed
238 or seed stock displayed for sale, the sales receipt, or any label
239 identifying ownership or possession of the commodity, by the

240 manufacturer or distributor, with the clear and conspicuous words:
241 "Produced with Genetic Engineering".

242 (b) Notwithstanding the provisions of chapter 418 of the general
243 statutes, the Commissioner of Consumer Protection, in consultation
244 with the Commissioners of Agriculture, Energy and Environmental
245 Protection and Public Health, may adopt regulations, pursuant to
246 chapter 54 of the general statutes, to implement and enforce the
247 provisions of this section.

248 Sec. 4. Section 21a-102 of the general statutes is repealed and the
249 following is substituted in lieu thereof (*Effective October 1, 2013*):

250 A food shall be deemed to be misbranded: [(a)] (1) If its labeling is
251 false or misleading in any particular. A statement on the label or
252 labeling either directly or indirectly implying that the product is
253 recommended or endorsed by any agency of the federal or state
254 government shall be considered misleading, unless the agency
255 concerned has approved the statement prior to its use; [(b)] (2) if it is
256 offered for sale under the name of another food; [(c)] (3) if it is an
257 imitation of another food, unless its label bears, in type of uniform size
258 and prominence, the word "imitation" and, immediately thereafter, the
259 name of the food imitated; [(d)] (4) if its container is so made, formed
260 or filled as to be misleading; [(e)] (5) if in package form, unless it bears
261 a label containing [(1)] (A) the name and place of business of the
262 manufacturer, packer or distributor; and [(2)] (B) an accurate statement
263 of the quantity of the contents in terms of weight, measure or
264 numerical count; provided, under [subdivision (2) of this subsection]
265 subparagraph (B) of this subdivision, reasonable variations shall be
266 permitted, and exemptions as to small packages shall be established by
267 regulations promulgated by the commissioner and director, acting
268 jointly; [(f)] (6) if any information or other word or statement, required
269 by or under authority of this chapter to appear on the label or labeling,
270 is not prominently placed thereon with such conspicuousness, as
271 compared with other words, statements, designs or devices, in the
272 labeling, and in such terms, as to render it likely to be read and

273 understood by the ordinary individual under customary conditions of
274 purchase and use; ~~[(g)] (7)~~ if it purports to be or simulates or is
275 represented as a food for which a definition and standard of identity
276 has been prescribed by regulations as provided by section 21a-100,
277 unless ~~[(1)] (A)~~ it conforms to such definition and standard, and ~~[(2)]~~
278 ~~(B)~~ its label bears the name of the food specified in the definition and
279 standard, and, so far as may be required by such regulations, the
280 common names of optional ingredients, other than spices, flavoring
281 and coloring, present in such food; ~~[(h)] (8)~~ if it purports to be or is
282 represented as ~~[(1)] (A)~~ a food for which a standard of quality has been
283 prescribed by regulations as provided by section 21a-100 and its
284 quality falls below such standard, unless its label bears, in such
285 manner and form as such regulations specify, a statement that it falls
286 below such standard; ~~[or (2)] (B)~~ a food for which a standard or
287 standards of fill of container have been prescribed by regulations as
288 provided by section 21a-100, and it falls below the standard of fill of
289 container applicable thereto, unless its label bears, in such manner and
290 form as such regulations specify, a statement that it falls below such
291 standard; ~~[(3)] or (C)~~ a food for which no definition and standard of
292 identity and no standard of quality has been prescribed by regulations
293 as provided by section 21a-100, and it falls below the standard of
294 purity, quality or strength which it purports or is represented to
295 possess; ~~[(i)] (9)~~ if it is not subject to the provisions of ~~[subsection (g)]~~
296 ~~subdivision (7)~~ of this section, unless its label bears ~~[(1)] (A)~~ the
297 common or usual name of the food, if any, and ~~[(2)] (B)~~ if it is
298 fabricated from two or more ingredients, the common or usual name
299 of each such ingredient; except that spices, flavorings and colorings,
300 other than those sold as such, may be designated as spices, flavorings
301 and colorings without naming each; provided, to the extent that
302 compliance with the requirements of ~~[subdivision (2) of this~~
303 ~~subsection]~~ ~~subparagraph (B) of this subdivision~~ is impracticable, or
304 results in deception or unfair competition, exemptions shall be
305 established by regulations promulgated by the commissioner and
306 director, acting jointly; ~~[(j)] (10)~~ if it purports to be or is represented to
307 be for special dietary uses, unless its label bears such information

308 concerning its vitamin, mineral and other dietary properties as is
 309 necessary in order fully to inform purchasers as to its value for such
 310 uses, as provided by regulations promulgated by the commissioner
 311 and director, acting jointly; [(k)] (11) if it bears or contains any artificial
 312 flavoring, artificial coloring, artificial sweetening or chemical
 313 preservative, unless it bears labeling stating that fact; provided, to the
 314 extent that compliance with the requirements of this subsection is
 315 impracticable, exemptions shall be established by regulations
 316 promulgated by the commissioner and director, acting jointly; (12) if it
 317 is genetically-engineered, as defined in section 2 of this act, and does
 318 not bear labeling as required in accordance with section 3 of this act,
 319 unless (A) it is a food produced without the producer's knowledge that
 320 a seed or other component of the food was genetically-engineered, or
 321 (B) on or before July 1, 2019, it is a processed food, as defined in section
 322 2 of this act, that is subject to the provisions of section 3 of this act,
 323 solely because it contains one or more materials that are genetically-
 324 engineered, as defined in section 2 of this act, provided such
 325 genetically-engineered materials do not, in the aggregate, account for
 326 more than nine-tenths of one per cent of the total weight of the
 327 processed food.

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|---|-----------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2013 | 21a-92 |
| Sec. 2 | October 1, 2013 | New section |
| Sec. 3 | October 1, 2013 | New section |
| Sec. 4 | October 1, 2013 | 21a-102 |

Statement of Legislative Commissioners:

In section 1(6), the phrase "subdivision 10 of section 21a-102" was changed to "subdivision (6) of section 21a-102", for accuracy and consistency with the drafting conventions of the general statutes. In section 2, subdivisions (1) and (7) were deleted for clarity and the remaining subdivisions were renumbered.

PH *Joint Favorable Subst.*