

HB 660-FN – AS INTRODUCED

2013 SESSION

13-0535  
08/10

HOUSE BILL            **660-FN**

AN ACT                requiring the labeling of genetically engineered foods and agricultural commodities.

SPONSORS:            Rep. M. Mann, Rock 32; Rep. Massimilla, Graf 1; Rep. Perry, Straf 3; Rep. Suzanne Smith, Graf 8; Rep. Raymond, Belk 4

COMMITTEE:          Environment and Agriculture

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ANALYSIS

This bill requires the labeling of genetically engineered foods and agricultural commodities.

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Explanation:          Matter added to current law appears in **bold italics**.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT requiring the labeling of genetically engineered foods and agricultural commodities.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Subdivision; Genetically Engineered Foods. Amend RSA 146 by inserting after section 21  
2 the following new subdivision:

3 Genetically Engineered Foods

4 146:22 Definitions. In this subdivision:

5 I. “Genetically engineered” means any food that is produced from an organism or organisms  
6 in which the genetic material changed through the application of:

7 (a) In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA)  
8 techniques and the direct injection of nucleic acid into cells or organelles; or

9 (b) Fusion of cells, including protoplast fusion, or hybridization techniques that overcome  
10 natural physiological, reproductive, or recombination barriers, where the donor cells or protoplasts  
11 do not fall within the same taxonomic family, in a way that does not occur by natural multiplication  
12 or natural recombination.

13 II. “Organism” means any biological entity capable of replication, reproduction, or  
14 transferring of genetic material.

15 III. “In vitro nucleic acid techniques” means techniques, including, but not limited to,  
16 recombinant deoxyribonucleic acid or ribonucleic acid techniques, that use vector systems and  
17 techniques involving the direct introduction into the organisms of hereditary materials prepared  
18 outside the organisms such as microinjection, macroinjection, chemoporation, electroporation,  
19 microencapsulation and liposome fusion.

20 IV. “Processed food” means any food other than a raw agricultural commodity and includes  
21 any food produced from a raw agricultural commodity that was processed through canning, smoking,  
22 pressing, cooking, freezing, dehydration, fermentation, or milling.

23 146:23 Genetically Engineered Foods; Label Required.

24 I. On and after July 1, 2014, any human or animal food offered for retail sale in this state  
25 shall be deemed misbranded if such food is, or may have been, entirely or partially produced with  
26 genetic engineering and such fact is not disclosed.

27 II. In the case of a raw agricultural commodity, the package offered for retail sale shall  
28 include the clear and conspicuous words “Genetically Engineered” on the front of the package of such  
29 commodity, or in the case of any such commodity that is not separately packaged or labeled, on a  
30 label that appears on the retail store shelf or bin in which such commodity is displayed for sale.

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1           III. In the case of any processed food, the package offered for retail sale shall include the  
2 clear and conspicuous words “Partially Produced with Genetic Engineering” or “May be Partially  
3 Produced with Genetic Engineering.”

4           2 Genetically Engineered Crops. Amend RSA 433:14 to read as follows:  
5           433:14 Rulemaking.

6           **I.** The commissioner of agriculture, markets, and food is hereby authorized to adopt all  
7 necessary rules and to establish such fees as are necessary to carry out the provisions of this  
8 subdivision.

9           **II.** *The commissioner of the department of agriculture, markets and foods shall*  
10 *adopt rules establishing best practices for farmers who grow or raise a genetically-*  
11 *engineered crop for trade or sale in the United States. Such rules shall require the farmers*  
12 *to implement the practices to eliminate or minimize the impact of genetically-engineered*  
13 *crops on neighboring lands and minimize herbicide use to eradicate herbicide-resistant*  
14 *weeds.*

15           3 List of Genetically Engineered Agricultural Commodities. Not later than October 15, 2015,  
16 the attorney general, in consultation with the commissioners of the departments of agriculture,  
17 markets and food, health and human services, and environmental services, shall publish a list on the  
18 attorney general’s web site that indicates those raw agricultural commodities known to be  
19 genetically engineered. The attorney general shall update such list not less than once every calendar  
20 year.

21           4 Effective Date. This act shall take effect July 1, 2014.

**HB 660 FISCAL NOTE**

AN ACT                requiring the labeling of genetically engineered foods and agricultural commodities.

**FISCAL IMPACT:**

The Department of Health and Human Services, the Department of Agriculture, Markets and Food, and the Department of Justice state this bill, **as introduced**, will increase state revenues and expenditures by an indeterminable amount in FY 2015 and each fiscal year thereafter. There will be no fiscal impact on county and local revenues or expenditures.

**METHODOLOGY:**

The Department of Health and Human Services (DHHS) states this bill requires the labeling of genetically engineered foods and agricultural commodities; authorizes the Department of Agriculture Markets and Food to adopt all necessary rules, including the establishment of fees, necessary to carry out the provisions of the proposed legislation; and requires the publication of a list of raw agricultural commodities known to be genetically engineered to be published on the Attorney General's website. The bill establishes that after July 1, 2014, any human or animal food offered for retail sale in this state shall be deemed misbranded if not properly labeled as a genetically engineered food. Although the proposed legislation authorizes the Department of Agriculture, Markets and Food to adopt all necessary rules and to establish such fees as necessary to carry out the provisions of the proposed legislation; and charges the DHHS with enforcement authority including the promulgation of rules establishing the definitions and standards of identity for determining misbranding of foods and the establishment of administrative fines (not to exceed \$2,000) for associated violations; the DHHS notes there would be significant challenges in the implementation and enforcement of the proposed legislation. The DHHS does not have any New Hampshire specific data to determine the extent of genetically modified food currently available throughout the state. However, the DHHS states the Center for Food Safety claims up to 85% of US grown corn, up to 91% of soybeans, and 88% of cotton (used in the production of cottonseed oil) is genetically engineered. The Department also states industry estimates show up to 95% of sugar beets are now genetically engineered and that almost 70% of processed foods sold in supermarkets contain genetically engineered ingredients.

The DHHS also notes according to the New Hampshire Grocer's Association 85 to 95% of the food on New Hampshire grocery shelves is from outside of the state and for these products, any state labeling laws would be preempted if they conflicted with federal law thereby further complicating the implementation of the proposed legislation. Accordingly, the DHHS states the extent of the labeling that would be required and the logistical issues associated with the implementation of the law would be significant. Currently the DHHS does not have a means of determining what foods are genetically modified and would subsequently be beholden to the food industry to provide this information. Although the proposed legislation provides the DHHS with the necessary authority to effect the law if enacted, the Department cannot estimate the costs associated with the regulatory oversight required for proper enforcement of the proposed legislation.

The Department of Agriculture, Markets, and Food states the proposed legislation authorizes the Department to adopt necessary rules and establish fees to carry out the provisions of the proposed legislation. The Department is unable to estimate, at this time, the increase in state revenues that would be realized as a result of these fees as the Department is unable to determine the nature and amount of those fees or specifically to whom the fees would be charged. The Department estimates it would require one additional agriculture inspector to implement and carry out the provisions of the proposed legislation at a cost of approximately \$81,219 in FY 2015 and \$65,901 in FY 2016 plus an indeterminable amount of mileage reimbursement, however, the Department is unable to estimate the extent to which the additional personnel costs would be offset by the fees established.

	<b>FY 2015</b>	<b>FY 2016</b>
Salary (LG 18, with annual steps)	\$33,540	\$34,866
Full-Time Benefits		
Social Security (6.2% of salary)	\$2,079	\$2,162
Medicare (1.45% of salary)	\$486	\$506
Retirement (12.13% of salary)	\$4,068	\$4,229
Life Insurance	\$12	\$12
Dental Insurance	\$938	\$976
Health Insurance	\$16,651	\$18,150
<i>Total Salary and Benefits</i>	<i>\$57,774</i>	<i>\$60,901</i>
PLUS Other Expenses		
Current Expenses	\$5,000	\$5,000
Equipment (one-time)		
State Vehicle	\$17,245	
Computer	\$1,200	
<b>TOTAL POSITION COSTS</b>	<b>\$81,219</b>	<b>\$65,901</b>

The Department of Justice states the proposed legislation will have no fiscal impact on the Department as the costs associated with the implementation of the proposed legislation could be absorbed within their current operating budget.

This bill does not contain an appropriation or authorize any additional positions.