



## MAINE AQUACULTURE ASSOCIATION

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March 4, 2015

The Honorable Linda L. Baker, Senate Chair  
The Honorable Walter A. Kumiega III, House Chair  
Joint Standing Committee on Marine Resources  
Cross State Office Building, Room 206  
Augusta, ME 04333

Senator Baker, Representative Kumiega, Honorable Members of the Joint Standing Committee on Marine Resources:

My name is Sebastian Belle and I am the Executive Director of the Maine Aquaculture Association (MAA). The MAA represents Maine's aquatic farmers and the many infrastructure companies that provide goods and services to our producers. MAA and its member growers are deeply committed to the sustainable use and stewardship of Maine's resources. MAA has had a long standing policy in opposition to the use of genetically engineered salmon. This policy is consistent with a similar statement issued by the International Salmon Farmers Association of which I am a founding board member. It should also be noted that it is currently illegal under Maine law to culture genetically modified finfish. This requirement is in any clean water act discharge permit that a finfish grower is required to comply with in state waters.

The MAA and its members strongly support the right of consumers to know what is in the food they are purchasing and consuming. Having said that, I stand before you today in opposition to LD 425, "An Act To Prohibit False Labeling of Marine Organisms". This bill represents a slightly modified version of a bill Representative Chapman submitted in the 126<sup>th</sup> Maine Legislative session. While I appreciate Representative Chapman's persistence and concern for the state's salmon farming sector, I do not believe that LD 425 is necessary or helpful. In the 126<sup>th</sup> legislative session, you and your colleagues passed legislation that will require the labeling of genetically modified food products. LD 718, "An Act to Protect Maine Food Consumer's Right to Know About Genetically Engineered Food", was passed into law on January 12, 2014. (See, attached.) This legislation requires the labeling of any and all genetically engineered food products but does not take effect until at least five contiguous states including Maine pass similar legislation. The reason for this provision is so that Maine farms and businesses are not placed at a competitive disadvantage relative to similar operations in adjacent states.

As was the case in the last legislation session, we continue to oppose the singling out of one particular food group, marine organisms, for additional labeling requirements. The labeling of one food group while others remain unlabeled or are required to comply with different labeling requirements will cause significant confusion amongst consumers and put that differentially labeled group at a disadvantage in the marketplace. MAA supported LD 718 and we remain convinced that if any labeling of genetically modified foods occurs it should apply to ALL food groups uniformly. To further confuse matters, it is unclear whether the current proposed LD 425 will require additional discriminatory labeling or duplicative discriminatory labeling than that required under the previously passed legislation when it takes effect. MAA respectfully asks the committee to vote *OUGHT NOT TO PASS* on LD 425 and let the uniform labeling move forward as passed in the prior legislative session.

Sincerely yours,

Sebastian M. Belle

SMB/rkc

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND THIRTEEN

—  
H.P. 490 - L.D. 718

**An Act To Protect Maine Food Consumers' Right To Know about  
Genetically Engineered Food**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA c. 565 is enacted to read:

**CHAPTER 565**

**GENETICALLY ENGINEERED PRODUCTS**

**§2591. Purpose**

It is the purpose of this chapter to:

**1. Public health and food safety.** Promote food safety and protect public health by enabling consumers to avoid the potential risks associated with genetically engineered foods and serve as a risk management tool enabling consumers, physicians and scientists to identify unintended health effects resulting from the consumption of genetically engineered foods;

**2. Environmental impacts.** Assist consumers who are concerned about the potential effects of genetic engineering on the environment to make informed purchasing decisions;

**3. Consumer confusion and inadvertent deception.** Reduce and prevent consumer confusion and inadvertent deception and promote the disclosure of factual information on food labels to allow consumers to make informed decisions;

**4. Promote economic development.** Create additional market opportunities for those producers who are not certified organic producers and whose products are not produced using genetic engineering and enable consumers to make informed purchasing decisions; and

5. **Protect religious and cultural practices.** Ensure consumers are provided with data from which they may make informed decisions for personal, religious, moral, cultural or ethical reasons.

**§2592. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.

2. **Food.** "Food" means food intended for human consumption.

3. **Genetically engineered.** "Genetically engineered" has the same meaning as under Title 7, section 1051, subsection 2.

4. **Medical food.** "Medical food" means food prescribed by a physician for treatment of a medical condition.

**§2593. Disclosure requirements for genetically engineered food**

1. **Disclosure.** Beginning 18 months after the effective date of this section, any food offered for retail sale that is genetically engineered must be accompanied by a conspicuous disclosure that states "Produced with Genetic Engineering." The statement must be located on the package for all packaged food or, in the case of unpackaged food, on a card or label on the store shelf or bin in which the food is displayed.

2. **Use of term "natural."** A food that is subject to disclosure under subsection 1 may not be described on the label or by similar identification as "natural."

3. **Misbranding.** Any food that is genetically engineered that does not display the disclosure required under subsection 1 or that is labeled or identified as natural in violation of subsection 2 is considered misbranded for the purposes of chapter 551, subchapter 1 except that:

A. A food is not considered misbranded if the food is produced by a person who:

(1) Grows, raises or otherwise produces that food without knowledge that the food was created from other seed or other food that was genetically engineered; and

(2) Obtains a sworn statement from the person from whom the food was obtained that the food was not knowingly genetically engineered and was segregated from and not knowingly commingled with a food component that may have been genetically engineered;

B. A food product derived from an animal is not considered misbranded if the animal was not genetically engineered but was fed genetically engineered feed; and

C. A packaged processed food is not considered misbranded if the total weight of the processed food that was genetically engineered is less than 0.9% of the total weight of the processed food.

4. Rules. The commissioner may adopt routine technical rules under Title 5, chapter 375, subchapter 2-A for the administration and enforcement of this chapter.

#### **§2594. Third-party protection**

1. Reliance on affidavit. A distributor or retailer that sells or advertises food that is genetically engineered that fails to make the disclosure required under section 2593, subsection 1 is not subject to liability in any civil action to enforce this chapter if the distributor or retailer relied on the affidavit under section 2596 provided by the producer or grower stating that the food is not subject to the disclosure requirements under this chapter.

2. Eating establishments. Eating establishments are exempt from the disclosure requirements of this chapter.

3. Exempt products. Alcoholic beverages and medical food are exempt from the disclosure requirements of this chapter.

#### **§2595. Enforcement**

1. Authority. The commissioner shall enforce this chapter in the same manner as is authorized for enforcement of chapter 551, subchapter 1.

2. No private right. There is no private right of action to enforce this chapter.

3. Penalty. A person who violates this chapter commits a civil violation for which a fine may be assessed that may not exceed \$1,000 per day per misbranded product per sales location.

#### **§2596. Affidavit**

The commissioner shall develop an affidavit form that may be provided by a producer or grower of food to distributors and retailers and that may be included in shipments of food within the State certifying that the food being sold or shipped is not subject to the disclosure requirements of this chapter.

#### **Sec. 2. Effective date; repeal.**

**1. Effective date.** The Commissioner of Agriculture, Conservation and Forestry shall monitor legislative activities in other states and certify to the Secretary of State and the Revisor of Statutes when legislation requiring mandatory labeling of genetically engineered food has been adopted by at least 5 contiguous states including Maine. The commissioner shall notify the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters when certification is made. That section of this Act that enacts the Maine Revised Statutes, Title 22, chapter 565 takes effect 30 days after the date of the commissioner's certification.

**2. Repeal.** If no certification has been made by the Commissioner of Agriculture, Conservation and Forestry under subsection 1 before January 1, 2018, this Act is repealed on that date.