



MARtha COAKLEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

(617) 727-2200  
(617) 727-4765 TTY  
www.mass.gov/ago

**Initiative Petition Information Sheet**

Title of Petition: Genetically Modified Food Right to Know Act

Petition Number: 13-16

**Proponents' Contact**

Name: Liam Madden

Residential Address:

Phone: 617-922-5546

Email: [Maddenlm@gmail.com](mailto:Maddenlm@gmail.com)

Business Address:

Phone:

**Proponents' Attorney**

Name:

Address:

Phone:

Email:

**Optional:**

Will the proponents propose a summary by the Monday, 5 days after the petition-filing deadline?

Yes

No

Will the proponents submit a memo of law by the Friday 9 days after the petition-filing deadline?

Yes

No

Please note that the above information will be made available to the public and particularly to possible opponents of certification. The Proponent and Proponents' Attorney (if any) will receive copies of any materials submitted by the public regarding certification.

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*(to be filled in by Attorney General's Office staff)*

**AGO Staff Person Receiving Petition: TK**

**Date: 8/7/2013**

## Genetically Modified Food Right to Know Act

Be it enacted by the People, and by their authority:

This law requires that all foods available for sale in Massachusetts, which contain genetically modified material, be clearly labeled as such according to the provisions herein. In addition to nutrition information currently mandated by law to be included on all food items, this law further clarifies ingredients in the contents of all foods available for consumption in order to afford the public the opportunity to make more fully informed decisions about their food and their health.

### Section 1

#### Definition:

“Genetically modification” (GM), for the purposes of this act, means the alteration of the genetic makeup of any organism through introduction of **foreign DNA** (DNA of other species) or **synthetic genes**, including the subsequent generations of organisms that have been subject to such genetic engineering. Traditional plant and animal breeding, conducted without the use of foreign genes or synthetic DNA, is not considered genetic modification for the purposes of this act.

“Genetically modified organism” (“GMO”) means an organism that has undergone genetic modification as defined above.

“Genetically modified food” (“GM Food”) means any product containing a GMO or GMOs.

### Section 2

#### Applicability:

The labels discussed herein are applicable to food products under the following conditions:

A) When any ingredient in the ingredients list contains GMOs, or, in the case of produce or other items with no ingredients list, when such items or produce contains GMOs or was grown through the use of genetic modification as defined herein.

B) In the case of animal products such as meat, eggs, milk or any other animal-derived substances sold for consumption, when the product has been derived from livestock that are raised with feed containing GMOs or when the animal’s genetic makeup is altered through genetic modification as defined herein.

### Section 3

#### Labeling

A) All food products meeting the above conditions must be labeled prior to sale in the Commonwealth in the applicable manner described below:

(1) All processed or packaged foods must be labeled by conspicuously placing print (minimum 14 font) on the front of the package or product that states “Contains

- Genetically Modified Organisms (GMO). The long term health consequences of consuming GM materials are not comprehensively understood.”
- (2) The signifier “GMO” shall be placed next to the applicable ingredient(s) in the ingredients list of processed and packaged foods in the same font size as the denoted ingredient.
  - (3) If the food item does not have packaging, the phrase in item (1) above must appear on the shelf or bin where the item is displayed for sale. (Minimum 18 font)
  - (4) In addition to the requirement in item (3), all genetically modified produce, including produce marked with PLU numbers sold at retail establishments, shall bear authorized stickers (stickers described in Section (6)(C)) stating “Contains GMOs” or “GMO.” Stickers will be made available for purchase to establishments selling GM produce by the Department of Public Health.
  - (5) If meat and other animal products are derived from livestock that are raised with feed containing GMOs, such products shall be labeled with “Grown with feed from Genetically Modified Organisms (GMOs)” prominently displayed on the front of the package (minimum 15 font). The ingredients lists of packaged foods must denote “GMO fed” for each applicable ingredient, in addition to any other requirements above that may apply. Raw meats, or meat or animal products with no packaging, shall be accompanied by a prominently displayed sign (minimum 24 font) that denotes either “Contains Genetically Modified Organisms” or “Grown with feed from Genetically Modified Organisms (GMOs).”
  - (6) If a party required to label a product wishes to forego all of the requirements in Section (A) (1) through (A)(5), the party may alternatively label the product with a DPH authorized sticker outlined in Section (6)(C).

B) This act is intended to regulate labeling and disclosures relating to the intentional use of genetic modification. If food products have been accidentally, or without any intentional act on the part of the grower or supplier, contaminated with GMOs, the labeling and disclosure provisions herein shall not apply to such grower or supplier. However, if greater than 10% of a grower or supplier’s product has been contaminated, and the grower or supplier has been made aware of the contamination, regardless of fault, the items shall be labeled with “May contain GMO” (size 13 font on front of package, if there is no package the item shall be labeled according to the applicable portions of Section(3) (A)) at the point of sale. The grower or supplier shall disclose the presence of such contamination to all direct recipients.

C) Products that sometimes contain genetically modified ingredients because of variations in the sourcing of ingredients must be labeled as though they always contain genetically modified material (in accordance with the standards set forth herein) unless each batch can be separately labeled and tracking information for the batches documented.

D) The use of terms such as “natural,” “naturally made,” “naturally grown,” “all natural,” “organic,” “organics,” “whole,” “wholesome,” “healthy,” “health promoting,” or “good for you” or other substantially similar term in the labeling, branding, naming and advertising of GMO foods is prohibited.

#### Section 4:

##### Disclosure:

Disclosure of the presence of genetically modified food shall be required if such products are not labeled according to the standards herein at the time of transfer. Regardless of such disclosure, proper labeling standards shall be met prior to sale to the public.

Entities throughout the food supply chain (such as food producers and food growers) that sell products containing GMOs or GMO fed animal products to persons, organizations or establishment in Massachusetts must inform all direct recipients of their products if any of their products contains GMOs, or GMO fed animal products.

All suppliers, producers, growers and processors shall disclose the presence of GMOs or animal products raised with GMO feed to Massachusetts officials seeking to document GMO containing products for the official state database.

#### Section 5

##### Restaurants and Dining Facilities:

All restaurants or other establishments that serve prepared foods containing GMOs, or serve meat or animal products derived from livestock raised with feed containing GMOs, shall place on their menus the words, "Some items on this menu contain genetically modified organisms (GMOs), or were prepared from animals raised on GMO feed. The long term health consequences of consuming GM foods are not comprehensively understood." Alternatively, establishments can denote each item on the menu that contains any ingredient derived from GMOs by noting "Contains GMOs" or "GMO fed" next to such item.

#### Section 6

##### Enforcement:

- (A) The Enforcement of all GMO labeling standards set forth in this act shall be carried out by the state Department of Public Health ("DPH"), which shall conduct regular inspections, respond to reports of violations and levy fines and/or order the removal of improperly labeled items from sale venues.
  - (i) DPH may assess fines for any violation of the labeling standards specified herein, in the amount not to exceed \$300 per violation for the first 10 offenses. Subsequent fines shall not exceed \$5,000 per violation. Fines shall not be levied if the product was improperly labeled as a result of deliberate misrepresentation from a party's suppliers. Fines shall not be assessed when a party was not aware of the presence of GM food in the improperly labeled product.
  - (ii) Entities that supply GM products, and are aware of the presence of GM products, shall face criminal prosecution and fines if they obstruct the disclosure of the genetic status of their products or deceive parties seeking to document the presence of such products. An intentional violation of the disclosure

standards set forth in this act, or any willful neglect of such standards, shall be regarded as equivalent to deliberate misrepresentation for purposes of this subsection. Fines will not be less than \$350,000 for each case of deliberately concealing the presence of such products. Failure to disclose GMO products in cases not considered deliberate concealment or obstruction shall result in a fine of not exceeding \$1,000.

- (iii) Fines assessed against growers, suppliers, wholesalers, and GM technology and/or seed stock firms that supply GM products or animal products raised with GMO feed, and are aware of the presence of GM products, whose improper disclosure was not the result of deliberate misrepresentation shall not exceed \$20,000 and shall not be less than \$5,000. Fines shall not be assessed as a result of contamination of which any grower or supplier was not aware.

(B) Any establishment serving, preparing or selling food will have access to a GM Food Database provided and maintained by DPH, for the purpose of cross referencing their products and/or ingredients to those that have been identified by DPH as requiring labeling as specified herein. DPH shall compile and make available such a database by 120 days after the effective date of this act.

- (i) The GM Food Database shall list products that DPH has identified as requiring labeling in accordance with the standards set forth herein. In addition to regular updates performed by DPH staff, members of the public may request updates by submitting a "GM Food Inquiry Request" to DPH. A GM Food Inquiry Request must be signed by not less than 100 verified Massachusetts registered voters, and must include voter verifications stamped by the town or city registrar applicable to each voter. Upon review of such a GM Food Inquiry Request, DPH shall determine whether the product in review is subject to the labeling standards stated herein and, if so, shall add the product to the GM Food Database within 120 days of making this determination. All GM Food inquiry Requests received by DPH shall be posted on its website.
- (ii) When new items are added to the list, any establishment serving, preparing or selling food with access to the (GMFD) shall have up to 60 days to label such products.

(C) The authorized stickers sold by DPH as stated above shall be no less than 1 inch in diameter featuring a cartoon figure of an ear of corn with eyeballs, insect legs and a skunk tail. The sticker shall have the type "Contains Genetically Modified Organisms" in type no less than 12 font. The cost charged by DPH for purchasing the sticker shall not exceed 110% of the state's cost, per sticker, of producing and/or acquiring them.

- (D) An establishment that is required by DPH to remove improperly labeled items shall be subject to no less than two subsequent visits by inspection authorities within 60 days of the date of DPH's order of removal.
  
- (E) Permits for the operation of restaurants or other establishments serving prepared foods shall not be issued or renewed by local health officials until their menu displays are determined by DPH to be in compliance with the aforementioned labeling standards pertaining to restaurants.
  
- (F) Public Reports- DPH shall make paper and electronic forms available to the public for the purpose of reporting suspected violations of the labeling provisions of this act. DPH shall respond to all reports within 30 days by initiating an investigation, and, if a violation is found following an investigation, the enforcement officer shall require the subject establishment to either remove the items from sales venues or label them by purchasing authorized stickers from DPH, as specified below.

Section 7:

State Regulation All regulatory and enforcement procedures not explicitly mentioned in this law shall be instituted at the discretion of DPH, as part of its existing responsibility to regulate the safety and labeling of foods.

Effective Date: This Act shall take effect on May 1, 2015.

Signers:

Liam Madden  
Lauren Murphy  
Sage Radachowsy  
Anne Erde  
Rima Mahmoud  
Bill Perkins  
Phoebe Sinclair  
Rusell Wallack  
Ashley Clements  
Vida Mia Ruiz  
Cheryl Desanctis