

# HOUSE BILL No. 1196

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-42-14.5.

**Synopsis:** Genetically engineered food. Provides that, beginning July 1, 2014, any food that is offered for retail sale is misbranded if it is not disclosed that the food is or may have been entirely or partially produced with genetic engineering. Provides that, beginning July 1, 2014, a food that is genetically engineered or a processed food may not state or imply that the food is natural. Establishes exceptions to the disclosure requirements and prohibition on stating a food is natural. Requires the state department of health (department) to administer and enforce the disclosure and labeling requirements. Allows the department to adopt rules. Establishes a Class A infraction for violations. Allows the department or a person to seek an injunction for a violation.

**Effective:** July 1, 2013.

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## Forestal, Shackelford

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January 10, 2013, read first time and referred to Committee on Agriculture and Rural Development.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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## HOUSE BILL No. 1196



A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-18-2-137, AS AMENDED BY P.L.86-2009,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2013]: Sec. 137. (a) "Food establishment", for purposes of
- 4 IC 16-42-5, ~~and~~ IC 16-42-5.2, **and IC 16-42-14.5**, means any building,
- 5 room, basement, vehicle of transportation, cellar, or open or enclosed
- 6 area occupied or used for handling food.
- 7 (b) The term does not include the following:
- 8 (1) A dwelling where food is prepared on the premises by the
- 9 occupants, free of charge, for their consumption or for
- 10 consumption by their guests.
- 11 (2) A gathering of individuals at a venue of an organization that
- 12 is organized for educational purposes in a nonpublic educational
- 13 setting or for religious purposes, if:
- 14 (A) the individuals separately or jointly provide or prepare,
- 15 free of charge, and consume their own food or that of others
- 16 attending the gathering; and
- 17 (B) the gathering is for a purpose of the organization.



1 Gatherings for the purpose of the organization include funerals,  
 2 wedding receptions, christenings, bar or bat mitzvahs, baptisms,  
 3 communions, and other events or celebrations sponsored by the  
 4 organization.

5 (3) A vehicle used to transport food solely for distribution to the  
 6 needy, either free of charge or for a nominal donation.

7 (4) A private gathering of individuals who separately or jointly  
 8 provide or prepare and consume their own food or that of others  
 9 attending the gathering, regardless of whether the gathering is  
 10 held on public or private property.

11 (5) Except for food prepared by a for-profit entity, a venue of the  
 12 sale of food prepared for an organization:

13 (A) that is organized for:

14 (i) religious purposes; or

15 (ii) educational purposes in a nonpublic educational setting;

16 (B) that is exempt from taxation under Section 501 of the  
 17 Internal Revenue Code; and

18 (C) that offers the food for sale to the final consumer at an  
 19 event held for the benefit of the organization;

20 unless the food is being provided in a restaurant or a cafeteria  
 21 with an extensive menu of prepared foods.

22 (6) Except for food prepared by a for-profit entity, an Indiana  
 23 nonprofit organization that:

24 (A) is organized for civic, fraternal, veterans, or charitable  
 25 purposes;

26 (B) is exempt from taxation under Section 501 of the Internal  
 27 Revenue Code; and

28 (C) offers food for sale to the final consumer at an event held  
 29 for the benefit of the organization;

30 if the events conducted by the organization take place for not  
 31 more than fifteen (15) days in a calendar year.

32 (7) An individual vendor of a farmer's market or roadside stand if  
 33 the individual meets the requirements of IC 16-42-5-29.

34 SECTION 2. IC 16-18-2-148.2 IS ADDED TO THE INDIANA  
 35 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
 36 [EFFECTIVE JULY 1, 2013]: **Sec. 148.2. "Genetically engineered",**  
 37 **for purposes of IC 16-42-14.5, has the meaning set forth in**  
 38 **IC 16-42-14.5-2.**

39 SECTION 3. IC 16-18-2-293.7 IS ADDED TO THE INDIANA  
 40 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
 41 [EFFECTIVE JULY 1, 2013]: **Sec. 293.7. "Processed food", for**  
 42 **purposes of IC 16-42-14.5, has the meaning set forth in**

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1 **IC 16-42-14.5-3.**

2 SECTION 4. IC 16-18-2-293.8 IS ADDED TO THE INDIANA  
3 CODE AS A NEW SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2013]: **Sec. 293.8. "Processing aid", for**  
5 **purposes of IC 16-42-14.5, has the meaning set forth in**  
6 **IC 16-42-14.5-4.**

7 SECTION 5. IC 16-42-14.5 IS ADDED TO THE INDIANA CODE  
8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2013]:

10 **Chapter 14.5. Food: Genetically Engineered Food**

11 **Sec. 1. This chapter may not be construed to require:**

- 12 (1) the listing or identification of any ingredient that is  
13 genetically engineered; or  
14 (2) that the term "genetically engineered" be placed  
15 immediately preceding the common name or primary product  
16 descriptor of a food.

17 **Sec. 2. As used in this chapter, "genetically engineered" refers**  
18 **to a food that is produced from an organism or organisms in which**  
19 **the genetic material has been changed through the application of:**

- 20 (1) in vitro nucleic acid techniques, including recombinant  
21 deoxyribonucleic acid (DNA) techniques and the direct  
22 injection of nucleic acid into cells or organelles; or  
23 (2) fusion of cells, including protoplast fusion, or  
24 hybridization techniques that overcome natural physiological,  
25 reproductive, or recombination barriers, where the donor  
26 cells or protoplasts do not fall within the same taxonomic  
27 family, in a way that does not occur by natural multiplication  
28 or natural recombination.

29 **Sec. 3. As used in this chapter, "processed food" means a food**  
30 **other than a raw agricultural commodity and includes any food**  
31 **produced from a raw agricultural commodity that has been subject**  
32 **to processing, including canning, smoking, pressing, cooking,**  
33 **freezing, dehydration, fermentation, or milling.**

34 **Sec. 4. As used in this chapter, "processing aid" means:**

- 35 (1) a substance that is added to a food during the processing  
36 of the food, but is removed in some manner from the food  
37 before the food is packaged in its finished form;  
38 (2) a substance that is added to a food during processing, is  
39 converted into constituents normally present in the food, and  
40 does not significantly increase the amount of the constituents  
41 naturally found in the food; or  
42 (3) a substance that is added to a food for its technical or

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1 functional effect in the processing, but is present in the  
 2 finished food at insignificant levels and does not have any  
 3 technical or functional effect in the finished food.

4 **Sec. 5. Beginning July 1, 2014, any food that is offered for retail**  
 5 **sale is misbranded if it is not disclosed that the food is or may have**  
 6 **been entirely or partially produced with genetic engineering as**  
 7 **follows:**

8 (1) In the case of a raw agricultural commodity, on the  
 9 package offered for retail sale with the clear and conspicuous  
 10 words "Genetically Engineered" on the front of the package  
 11 of the commodity. However, if the raw agricultural  
 12 commodity is not separately packaged or labeled, the clear  
 13 and conspicuous words "Genetically Engineered" must  
 14 appear on a label on the retail store shelf or bin in which the  
 15 commodity is displayed for sale.

16 (2) In the case of a processed food, in clear and conspicuous  
 17 language on the front or back of the package of the food, with  
 18 the words "Partially Produced With Genetic Engineering" or  
 19 "May Be Partially Produced With Genetic Engineering".

20 **Sec. 6. Except for a food that is exempt under section 7 of this**  
 21 **chapter, beginning July 1, 2014, a food that is genetically**  
 22 **engineered or a processed food may not state or imply:**

- 23 (1) on its label;  
 24 (2) on an accompanying sign in the retail establishment; or  
 25 (3) in any advertising or promotional materials;

26 that the food is natural, naturally made, naturally grown, or all  
 27 natural, or use any similar words.

28 **Sec. 7. The requirements of this chapter do not apply to any of**  
 29 **the following:**

30 (1) Food consisting entirely of, or derived entirely from, an  
 31 animal that has not been genetically engineered, regardless of  
 32 whether the animal has been fed or injected with a genetically  
 33 engineered food or a drug that has been produced through  
 34 means of genetic engineering.

35 (2) A raw agricultural commodity or food derived from a raw  
 36 agricultural commodity if the person who sells the raw  
 37 agricultural commodity or food:

38 (A) knows that the raw agricultural commodity or food has  
 39 been grown, raised, or produced without the use of  
 40 genetically engineered seed or food; or

41 (B) receives from the person who sold or supplies the raw  
 42 agricultural commodity or food to that person, a sworn

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- 1 statement that the raw agricultural commodity or food:  
 2 (i) has not been knowingly or intentionally genetically  
 3 engineered; and  
 4 (ii) has been segregated from and has not been  
 5 knowingly or intentionally commingled with food that  
 6 may have been genetically engineered at any time.  
 7 (3) A processed food that would be subject to this chapter  
 8 solely because it includes one (1) or more genetically  
 9 engineered processing aids or enzymes.  
 10 (4) An alcoholic beverage as defined by IC 7.1-1-3-5.  
 11 (5) Until July 1, 2019, a processed food that would be subject  
 12 to this chapter solely because it includes one (1) or more  
 13 genetically engineered ingredients, if:  
 14 (A) a single genetically engineered ingredient does not  
 15 account for more than one-half of one percent (0.5%) of  
 16 the total weight of the processed food; and  
 17 (B) the processed food does not contain more than ten (10)  
 18 genetically engineered ingredients.  
 19 (6) Food that the state department or an organization  
 20 recognized by the state department has determined has not  
 21 been knowingly and intentionally produced from or  
 22 commingled with genetically engineered seed or genetically  
 23 engineered food, if the determination has been made using a  
 24 sampling and testing procedure approved by the state  
 25 department, subject to the following:  
 26 (A) The sampling procedure must provide that the  
 27 sampling is done according to a statistically valid sampling  
 28 plan consistent with principles recommended by an  
 29 internationally recognized source, including the  
 30 International Standards Organization (ISO) and the Grain  
 31 and Feed Trade Association (GAFTA).  
 32 (B) The testing procedure:  
 33 (i) is consistent with the most recent "Guidelines on  
 34 Performance Criteria and Validation of Methods for  
 35 Detection, Identification and Quantification of Specific  
 36 DNA Sequences and Specific Proteins in Foods",  
 37 (CAC/GL 74 (2010)) published by the Codex  
 38 Alimentarius Commission; and  
 39 (ii) does not rely on testing of processed foods in which  
 40 no deoxyribonucleic acid (DNA) is detectable.  
 41 (7) Food that has been lawfully certified to be labeled,  
 42 marketed, and offered for sale as "organic" under the federal

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**Organic Food Production Act of 1990 (7 U.S.C. 6501 et seq.) and regulations adopted under the federal Organic Food Production Act of 1990, including a product that has been certified by a certifying agent (as defined by IC 15-15-8-2).**

- (8) Food that is not packaged for retail sale and that is:**
  - (A) a processed food prepared and intended for immediate human consumption; or**
  - (B) served, sold, or provided in a food establishment or other restaurant that is primarily engaged in the sale of food prepared and intended for immediate human consumption, including facilities exempt under IC 16-18-2-137(b).**
- (9) Medical food that is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.**

**Sec. 8. (a) The state department shall administer and enforce this chapter.**

**(b) The state department may adopt rules under IC 4-22-2 necessary to implement and enforce this chapter. However, the rules may not create an exemption not specified in section 7 of this chapter.**

**Sec. 9. A person who violates this chapter commits a Class A infraction.**

**Sec. 10. (a) The state department or any person may, without proof of injury, maintain an action to enjoin a violation of this chapter.**

**(b) The court may award court costs and reasonable attorney's fees to the prevailing party in an action under this section.**

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