114TH CONGRESS
2D SESSION

S. _____

To amend the Federal Food, Drug, and Cosmetic Act with respect to genetically engineered food transparency and uniformity.

IN THE SENATE OF THE UNITED STATES

Mr. MERKLEY (for himself, Mr. LEAHY, Mr. TESTER, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Federal Food, Drug, and Cosmetic Act with respect to genetically engineered food transparency and uniformity.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Biotechnology Food Labeling Uniformity Act''.

SEC. 2. AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) IN GENERAL.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(z)(1) If the food or an ingredient of the food is produced or derived from genetic engineering, unless it bears labeling stating that fact in accordance with paragraphs (3) and (4).

''(2) The provisions of this paragraph shall not apply—

''(A) if it is a processed food and the ingredients produced from genetic engineering do not, in the aggregate, account for more than nine-tenths of 1 percent of the total weight of the processed food;

''(B) if the food would be subject to this paragraph solely because a genetically engineered vaccine was used at any point in the production of the food or the life cycle of its agricultural inputs; or

''(C) if it is a food or processed food that would be subject to this paragraph solely because it was produced using a processing aid (including yeast) or enzyme that was produced or derived from genetic engineering.

''(3) In the case of a food that is not a food described in paragraph (4), a producer shall meet the labeling requirement under this paragraph by inserting either—

''(A) the words 'genetically engineered' or the abbreviation 'GE' in parenthesis immediately following the common or usual name of each genetically engineered ingredient;

''(B) an asterisk next to the common or usual name of each genetically engineered ingredient with a statement, in a font size no smaller than the words 'Ingredient List', at the bottom of the ingredient list that denotes that the ingredient or ingredients are genetically engineered;

''(C) a statement, established by the Secretary of Health and Human Services, at the bottom of the ingredient list (or if there is no such ingredient list, on the information panel of the food) that would disclose that the food is produced or partially produced with genetic engineering or contains genetically engineered ingredients; or

''(D) a symbol, established by the Secretary, that would disclose the presence of a genetically engineered ingredient or genetically engineered ingredients in the food in a clear and conspicuous manner.

''(4) In the case of a food or an ingredient of a food that is produced or derived from genetic engineering and is a raw agricultural commodity either unpackaged or packaged for retail sale, the producer complies with labeling regulations established by the Secretary of Health and Human Services, in consultation with the Secretary of Agriculture.

''(5) For purposes of this paragraph, whether a food or ingredient of a food was produced or derived from a genetically engineered plant variety or animal shall, by itself, constitute information that is material within the meaning of section 201(n).''.

SEC. 3. REGULATIONS.

(a) INTERIM RULE.—Not later than December 31, 2016, the Secretary of Health and Human Services shall issue an interim final rule regarding the implementation of section 403(z) of the Federal Food, Drug, and Cosmetic Act, as added by section 2 of this Act.

(b) PROPOSED REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations to implement section 403(z) of the Federal Food, Drug, and Cosmetic Act, as added by section 2 of this Act, which shall—

(1) include definitions of all relevant terms in such section 403(z);

(2) be based on existing Federal regulations, State law, and international standards; and

(3) be updated as needed.

(c) FINAL REGULATIONS.—Not later than 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue final regulations described in subsection (b).

SEC. 4. FEDERAL PREEMPTION.

(a) IN GENERAL.—No State or political subdivision of a State shall impose different or additional requirements to state the presence of the same genetically engineered food or ingredients covered by this Act under the laws, regulations, requirements, or standards of such State or political subdivision of a State.

(b) SCOPE.—Nothing in this Act, nor any amendment, regulation, rule, or requirement promulgated pursuant to this Act, shall be construed to preempt or otherwise affect the authority of a State or political subdivision of a State to enforce any action taken or requirement imposed pursuant to the authority of a State, political subdivision of a State, or local law, regulation, requirement or standard that otherwise relates to food labeling and is not described in subsection (a).

(c) NO PREEMPTION OF COMMON LAW OR STATUTORY CAUSES OF ACTION.—Nothing in this Act, nor any amendment, regulation, rule, or requirement promulgated pursuant to this Act, shall be construed to preempt, displace, or supplant any State or Federal common law rights or any State or Federal statute creating a remedy for civil relief, including those for civil damage, or a penalty for a criminal conduct.