

By: Burnam

H.B. No. 876

A BILL TO BE ENTITLED

AN ACT

relating to the use in food of genetically engineered non-food materials.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 3, Agriculture Code, is amended by adding Chapter 50B to read as follows:

CHAPTER 50B. USE OF GENETICALLY ENGINEERED NON-FOOD MATERIALS

Sec. 50B.001. DEFINITIONS. In this chapter:

(1) "Animal feed" means an item used or intended for use as a food for an animal or as a source of nutrients in the diet of an animal, including a mixture that is the sole ration for an animal.

(2) "Food" means:

(A) an item used as food or drink for a human;

(B) chewing gum; and

(C) an item used as a component of an item described by Paragraph (A) or (B).

(3) "Genetic engineering" means the insertion of foreign genetic material into the genetic material of an organism.

Sec. 50B.002. CERTAIN GENETIC ENGINEERING PROHIBITED. (a) A person may not genetically engineer crops or livestock that are used as food or animal feed so that the crops or livestock contain or produce drugs, industrial chemicals, or other non-food materials.

1 (b) A person may not produce, transport, or release in this
2 state food, animal feed, crops, or livestock genetically engineered
3 to contain or produce drugs, industrial chemicals, or other
4 non-food materials.

5 Sec. 50B.003. APPLICABILITY. This chapter does not apply
6 to a substance intended to provide crop protection, provided that
7 the substance is otherwise permitted under Section 431.081, Health
8 and Safety Code.

9 SECTION 2. Section 431.081, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 431.081. ADULTERATED FOOD. A food shall be deemed to
12 be adulterated:

13 (a) if:

14 (1) it bears or contains any poisonous or deleterious
15 substance which may render it injurious to health; but in case the
16 substance is not an added substance the food shall not be considered
17 adulterated under this subdivision if the quantity of the substance
18 in the food does not ordinarily render it injurious to health; or

19 (2) it:

20 (A) bears or contains any added poisonous or
21 added deleterious substance, other than one that is a pesticide
22 chemical in or on a raw agricultural commodity, a food additive, a
23 color additive, or a new animal drug which is unsafe within the
24 meaning of Section 431.161; or

25 (B) is a raw agricultural commodity and it bears
26 or contains a pesticide chemical which is unsafe within the meaning
27 of Section 431.161(a); or

1 (C) is, or it bears or contains, any food
2 additive which is unsafe within the meaning of Section 431.161(a);
3 provided, that where a pesticide chemical has been used in or on a
4 raw agricultural commodity in conformity with an exemption granted
5 or a tolerance prescribed under Section 431.161(a), and such raw
6 agricultural commodity has been subjected to processing such as
7 canning, cooking, freezing, dehydrating, or milling, the residue of
8 such pesticide chemical remaining in or on such processed food
9 shall, notwithstanding the provisions of Section 431.161 and
10 Section 409 of the federal Act, not be deemed unsafe if such residue
11 in or on the raw agricultural commodity has been removed to the
12 extent possible in good manufacturing practice, and the
13 concentration of such residue in the processed food, when ready to
14 eat, is not greater than the tolerance prescribed for the raw
15 agricultural commodity; or

16 (D) is, or it bears or contains, a new animal
17 drug, or a conversion product of a new animal drug, that is unsafe
18 under Section 512 of the federal Act; or

19 (E) is, or it bears or contains, material that is
20 genetically engineered to produce a drug, industrial chemical, or
21 other non-food material; or

22 (3) it consists in whole or in part of a diseased,
23 contaminated, filthy, putrid, or decomposed substance, or if it is
24 otherwise unfit for foods; or

25 (4) it has been produced, prepared, packed or held
26 under unsanitary conditions whereby it may have become contaminated
27 with filth, or whereby it may have been rendered diseased,

1 unwholesome, or injurious to health; or

2 (5) it is, in whole or in part, the product of a
3 diseased animal, an animal which has died otherwise than by
4 slaughter, or an animal that has been fed upon the uncooked offal
5 from a slaughterhouse; or

6 (6) its container is composed, in whole or in part, of
7 any poisonous or deleterious substance which may render the
8 contents injurious to health; or

9 (7) it has been intentionally subjected to radiation,
10 unless the use of the radiation was in conformity with a regulation
11 or exemption in effect in accordance with Section 409 of the federal
12 Act;

13 (b) if:

14 (1) any valuable constituent has been in whole or in
15 part omitted or abstracted therefrom; or

16 (2) any substance has been substituted wholly or in
17 part therefor; or

18 (3) damage or inferiority has been concealed in any
19 manner; or

20 (4) any substance has been added thereto or mixed or
21 packed therewith so as to increase its bulk or weight, or reduce its
22 quality or strength or make it appear better or of greater value
23 than it is; or

24 (5) it contains saccharin, dulcin, glucin, or other
25 sugar substitutes except in dietary foods, and when so used shall be
26 declared; or

27 (6) it be fresh meat and it contains any chemical

1 substance containing sulphites, sulphur dioxide, or any other
2 chemical preservative which is not approved by the United States
3 Department of Agriculture, the Animal Plant Health Inspection
4 Service (A.P.H.I.S.) or by rules of the board;

5 (c) if it is, or it bears or contains, a color additive that
6 is unsafe under Section 431.161(a); or

7 (d) if it is confectionery and:

8 (1) has any nonnutritive object partially or
9 completely imbedded in it; provided, that this subdivision does not
10 apply if, in accordance with rules of the board, the object is of
11 practical, functional value to the confectionery product and would
12 not render the product injurious or hazardous to health;

13 (2) bears or contains any alcohol, other than alcohol
14 not in excess of five percent by volume. Any confectionery that
15 bears or contains any alcohol in excess of one-half of one percent
16 by volume derived solely from the use of flavoring extracts and less
17 than five percent by volume:

18 (A) may not be sold to persons under the legal age
19 necessary to consume an alcoholic beverage in this state;

20 (B) must be labeled with a conspicuous, readily
21 legible statement that reads, "Sale of this product to a person
22 under the legal age necessary to consume an alcoholic beverage is
23 prohibited";

24 (C) may not be sold in a form containing liquid
25 alcohol such that it is capable of use for beverage purposes as that
26 term is used in the Alcoholic Beverage Code;

27 (D) may not be sold through a vending machine;

1 (E) must be labeled with a conspicuous, readily
2 legible statement that the product contains not more than five
3 percent alcohol by volume; and

4 (F) may not be sold in a business establishment
5 which derives less than 50 percent of its gross sales from the sale
6 of confectioneries; or

7 (3) bears or contains any nonnutritive substance;
8 provided, that this subdivision does not apply to a nonnutritive
9 substance that is in or on the confectionery by reason of its use
10 for a practical, functional purpose in the manufacture, packaging,
11 or storage of the confectionery if the use of the substance does not
12 promote deception of the consumer or otherwise result in
13 adulteration or misbranding in violation of this chapter; and
14 provided further, that the board may for the purpose of avoiding or
15 resolving uncertainty as to the application of this subdivision,
16 adopt rules allowing or prohibiting the use of particular
17 nonnutritive substances.

18 SECTION 3. This Act takes effect September 1, 2005.