

*Note: S.764, the language of which this amendment is intended to replace, is*

***Defund Planned Parenthood Act of 2015***

*Passed House amended (09/18/2015)*

*Summary*

*(Sec. 3) This bill prohibits, for a one-year period, the availability of federal funds for any purpose to Planned Parenthood Federation of America, Inc., or any of its affiliates or clinics, unless they certify that the affiliates and clinics will not perform, and will not provide any funds to any other entity that performs, an abortion during such period.*

*The restriction will not apply in cases of rape or incest or where a physical condition endangers a woman's life unless an abortion is performed.*

*The Department of Health and Human Services and the Department of Agriculture must seek repayment of federal assistance received by Planned Parenthood Federation of America, Inc., or any affiliate or clinic, if it violates the terms of the certification required by this Act.*

*(Sec. 4) Additional funding for community health centers is provided for the one-year period described above.*

*Note: This language is significantly different in many respects from the original S.2609. In particular, Sec. 294 ("Education") was replaced with extended details on labeling.*

AMENDMENTS SUBMITTED AND PROPOSED

SA 3450. Mr. McCONNELL (for Mr. ROBERTS) proposed an amendment to the bill S.764, to reauthorize and amend the National Sea Grant College Program Act, and for other purposes.

TEXT OF AMENDMENTS

**SA 3450.** Mr. McCONNELL (for Mr. ROBERTS) proposed an amendment to the bill S.764, to reauthorize and amend the National Sea Grant College Program Act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following.

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

**SECTION 1. NATIONAL VOLUNTARY BIOENGINEERED FOOD LABELING STANDARD.**

The Agricultural Marketing Act of 1946 ([7 U.S.C. 1621 et seq.](#)) is amended by adding at the end the following:

**"Subtitle E—National Voluntary Bioengineered Food Labeling Standard**

**"SEC. 291. DEFINITIONS.**

"In this subtitle:

- "(1) BIOENGINEERING.—The term ‘bioengineering’, and any similar term, as determined by the Secretary, with respect to a food, refers to a food—
  - "(A) that contains genetic material that has been modified through in vitro recombinant deoxyribonucleic acid (DNA) techniques; and
  - "(B) for which the modification could not otherwise be obtained through conventional breeding or found in nature.
- "(2) FOOD.—The term ‘food’ has the meaning given the term in section 201 of the Federal Food, Drug, and Cosmetic Act ([21 U.S.C. 321](#)).
- "(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

**"SEC. 292. APPLICABILITY.**

"This subtitle shall apply to any claim in the labeling of food that indicates, directly or indirectly, that the food is a bioengineered food or bioengineering was used in the development or production of the food, including a claim that a food is or contains an ingredient that was developed or produced using bioengineering.

**"SEC. 293. ESTABLISHMENT OF NATIONAL VOLUNTARY BIOENGINEERED FOOD LABELING STANDARD.**

- "(a) ESTABLISHMENT OF STANDARD.—Not later than ~~2~~ 1 year after the date of enactment of this subtitle, the Secretary shall—
  - "(1) establish a national voluntary bioengineered food labeling standard with respect to—
    - "(A) any bioengineered food; and
    - "(B) any food that may be bioengineered or may have been produced or developed using bioengineering; and
  - "(2) establish such requirements and procedures as the Secretary determines necessary to carry out the standard.
- "(b) REGULATIONS.—
  - "(1) IN GENERAL.—A food may be labeled as bioengineered only in accordance with regulations promulgated by the Secretary in accordance with this subtitle.
  - "(2) REQUIREMENTS.—A regulation promulgated by the Secretary in carrying out this subtitle shall—
    - "(A) prohibit any express or implied claim that a food is or is not safer or of higher quality solely based on whether the food is or is not—
      - "(i) bioengineered; or
      - "(ii) produced or developed with the use of bioengineering;
    - "(B) determine the amounts of a bioengineered substance that may be present in food, as appropriate, in order for the food to be labeled as a bioengineered food; and
    - "(C) establish a process for requesting and granting a determination by the Secretary regarding other factors and conditions under which a food may be labeled as a

bioengineered food.

"(D) require that, if a food is voluntarily labeled under this section through means of scannable images or codes or other similar technologies—

"(1) the label clearly indicates to consumers that more information is available about the ingredients of the food; and

"(ii) the scannable image, code, or similar technology provides direct access to information regarding whether the food is bioengineered or whether bioengineering was used in the development or production of the food.

"(c) STATE FOOD LABELING STANDARDS.—Notwithstanding section 295, no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce any requirement relating to the labeling or disclosure of whether a food is bioengineered or was developed or produced using bioengineering for a food that is the subject of the bioengineered food labeling standard under this section that is not identical to that voluntary standard.

"(d) CONSISTENCY WITH CERTAIN LAWS.—To the maximum extent practicable, the Secretary shall establish consistency between—

"(1) the national voluntary bioengineered food labeling standard established under this section; and

"(2) the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

#### **"SEC. 294. INFORMATION FOR CONSUMERS.**

~~"(a) EDUCATION.— The Secretary, in coordination with other Federal agencies as appropriate, shall provide science-based information, including any information on the environmental, nutritional, economic, and humanitarian benefits of agricultural biotechnology, through education, outreach, and promotion to address consumer acceptance of agricultural biotechnology.~~

~~"(b) MANDATORY REPORT; PUBLICATION.— Not later than 4 years after the date of enactment of this subtitle, the Secretary and the Secretary of Health and Human Services shall—~~

~~"(1) submit to Congress a report on the availability of information regarding whether food is or is not bioengineered or whether bioengineering was or was not used in the development or production of the food, including information provided through—~~

~~"(A) any relevant labeling requirements under—~~

~~"(i) the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);~~

~~"(ii) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);~~

~~"(iii) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);~~

~~"(iv) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.); and~~

~~"(v) other relevant Federal authorities;~~

~~"(B) process-verified programs; and~~

~~"(C) other voluntary programs or claims relating to a food that are not required by Federal law or approved by a Federal program; and~~

~~"(2) make the report publicly available.~~

**"SEC. 294. RULEMAKING ON SUBSTANTIAL PARTICIPATION.**

- "(a) Definition of Labeled Food.—In this section, the term 'labeled food' means food that bears, or to which is attached, any written, printed, or graphic matter, including on the immediate container or on the package of the food.
- "(b) Rulemaking.—Not later than 1 year after the date of enactment of this subtitle, the Secretary shall promulgate regulations defining the circumstances that constitute substantial participation by labeled foods with voluntary disclosures of whether a food is, is not, or may be bioengineered or whether bioengineering was, was not, or may have been used in the development or production of the food.
- "(c) Consideration.—In promulgating regulations under subsection (b), the Secretary shall consider—
- "(1) the percentage of the labeled foods consumed by consumers that disclose whether the food is, is not, or may be bioengineered or whether bioengineering was, was not, or may have been used in the development or production of the food; and
- "(2) the extent to which there is clear indication in a usual and customary form that information is available for the most frequently consumed labeled foods or direct access to disclosures for the most frequently consumed labeled foods, including through means that are clear and direct other than the label or labeling, such as responses to consumer inquiries through call centers, the Internet, websites, social media, scannable images or codes or other similar technologies that would allow consumers to access the information, or any other means the Secretary considers appropriate for disclosing the bioengineered content of food.
- "(d) Requirement.—In promulgating regulations under subsection (b), the Secretary shall define the term 'most frequently consumed labeled foods'.

**"SEC. 294A. NATIONAL MANDATORY BIOENGINEERED FOOD LABELING STANDARD.**

- "(a) Requirement for Establishment of Mandatory Standard.—
- "(1) In general.—The mandatory standard under subsection (b) shall be established only if the Secretary determines there is not substantial participation as determined in accordance with section 294(b).
- "(2) Deadline.—The Secretary shall make the determination as described in paragraph (1) not earlier than the date that is 2 years after the date on which the Secretary has promulgated regulations under each of sections 293 and 294(b).
- "(3) Initiation.—If the Secretary determines that there is not at least 70 percent substantial participation as determined in accordance with section 294(b), the Secretary shall promulgate regulations to establish a mandatory standard in accordance with this section.
- "(b) Establishment of Mandatory Standard.—If the Secretary determines that there is not substantial participation as described in subsection (a), the Secretary shall—
- "(1) establish a national mandatory bioengineered food labeling standard with respect to—
- "(A) bioengineered food; and
- "(B) food that may be bioengineered or may have been produced or developed using bioengineering; and

"(2) establish such requirements and procedures as the Secretary determines necessary to carry out the standard.

"(c) Regulations.—

"(1) In general.—If the Secretary establishes a mandatory standard under subsection (b), a food may be labeled as bioengineered only in accordance with regulations promulgated by the Secretary in accordance with this section.

"(2) Requirements.—A regulation promulgated by the Secretary in carrying out this section shall—

"(A) prohibit any express or implied claim that a food is or is not safer or of higher quality solely based on whether the food is or is not—

"(i) bioengineered; or

"(ii) produced or developed with the use of bioengineering;

"(B) determine the amounts of a bioengineered substance that may be present in food, as appropriate, in order for the food to be labeled as a bioengineered food;

"(C) establish a process for requesting and granting a determination by the Secretary regarding other factors and conditions under which a food may be labeled as a bioengineered food;

"(D) exclude food served in a restaurant or similar establishment; and

"(E) require an appropriate person (as determined by the Secretary) to disclose food that is subject to the mandatory standard either through—

"(i) a statement made on the food label or labeling; or

"(ii) means other than the label or labeling, including responses to consumer inquiries through call centers, the Internet, websites, social media, scannable images or codes or other similar technologies that would allow consumers to access the information, or any other means the Secretary considers appropriate for disclosing the bioengineered content of food.

"(3) Implementation.—The implementation date for regulations promulgated in accordance with this section shall be not earlier than 2 years after the later of—

"(A) the date on which the Secretary promulgates the final regulations under this section; or

"(B) the date on which the Secretary makes a determination under subsection (a)(1).

"(d) State Food Labeling Standards.—Notwithstanding section 295, no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce any requirement relating to the labeling or disclosure of whether a food is bioengineered or was developed or produced using bioengineering for a food that is the subject of the bioengineered food labeling standard under this section that is not identical to the mandatory labeling requirement under this section.

"(e) Enforcement.—

"(1) Prohibited act.—It shall be a prohibited act for a person to knowingly fail to make a disclosure as required under this section.

"(2) Recordkeeping.—Each person subject to the mandatory labeling requirement under this section shall maintain, and make available to the Secretary, on request, such records as the Secretary determines to be customary or reasonable in the food industry, by regulation, to establish compliance with this section.

"(3) Examination and audit.—

"(A) In general.—The Secretary may conduct an examination, audit, or similar activity with respect to any records required under paragraph (2).

"(B) Notice and hearing.—A person subject to an examination, audit, or similar activity under subparagraph (A) shall be provided notice and opportunity for a hearing before an administrative law judge on the results of any examination, audit, or similar activity.

"(C) Audit results.—After the notice and opportunity for a hearing under subparagraph (B), the Secretary shall make public the summary of any examination, audit, or similar activity under subparagraph (A).

"(4) Recall authority.—The Secretary shall have no authority to recall any food subject to this subtitle on the basis of whether the food is labeled as bioengineered or developed or produced using bioengineering.

**"SEC. 294B. SAVINGS PROVISIONS.**

"(a) Trade.—This subtitle shall be applied in a manner consistent with United States obligations under international agreements.

"(b) Other.—Nothing in this subtitle—

"(1) affects the authority of the Secretary of Health and Human Services or creates any rights or obligations for any person under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

"(2) affects the authority of the Secretary of the Treasury or creates any rights or obligations for any person under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.).

**"Subtitle F—Labeling of Certain Food**

**"SEC. 295. FEDERAL PREEMPTION.**

"(a) DEFINITION OF FOOD.—In this subtitle, the term ‘food’ has the meaning given the term in section 201 of the Federal Food, Drug, and Cosmetic Act ([21 U.S.C. 321](#)).

"(b) FEDERAL PREEMPTION.—No State or a political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food or seed in interstate commerce any requirement relating to the labeling of whether a food (including food served in a restaurant or similar establishment) or seed is genetically engineered (which shall include such other similar terms as determined by the Secretary of Agriculture) or was developed or produced using genetic engineering, including any requirement for claims that a food or seed is or contains an ingredient that was developed or produced using genetic engineering."