Testimony Opposing Senate Bill 25
"An Act relating to labeling and identification of genetically modified fish and fish products"

Submitted by the Biotechnology Industry Organization to the Alaska House Labor & Commerce Committee

April 4, 2005

On behalf of the Biotechnology Industry Organization (BIO), we appreciate the opportunity to submit testimony in opposition to Senate Bill 25, "An Act relating to labeling and identification of genetically modified fish and fish products." BIO strongly supports existing federal requirements for accurate and informative food labels. These labeling requirements communicate information that is relevant to health, safety and nutrition of all food products sold in the United States. State-based labeling requirements that differ from previously established, stringently enforced federal guidelines, provide no value for consumers and only serve to disparage biotechnology foods. In addition, Senate Bill 25 is contrary to existing Alaska state law that calls for conformity with federal food labeling guidelines.

The requirements of Senate Bill 25 contradict existing Alaska state and federal laws. Title 17 of Alaska Statute Law (Sec. 17.20.010) states, "the definitions and standards adopted [by the State] shall conform as far as practicable to the definitions and standards adopted under authority of the Federal Food Drug and Cosmetic Act (FDCA)." The U.S. Food and Drug Administration (FDA) does not require labeling of foods derived from biotechnology (genetically modified food) unless that food differs significantly in terms of safety, nutrition, how the food is used, or the consequences of its use. Senate Bill 25 would establish a threshold for labeling that <u>does not exist</u> in federal statute.

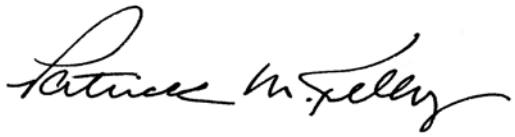
The U.S. Food & Drug Administration's labeling guidance requires that a food label must reveal all ***material*** facts about that food. For instance, the FDCA requires that if a biotech food differs significantly from a conventional food in its nutritional or allergenic properties that fact must be disclosed on the label. The FDA has taken a science-based approach in developing this guidance and decided biotech foods do not inherently "present any different or greater safety concern than foods developed by [conventional methods]." FDA uses the principal of "substantial equivalence"—focusing on the final product, not the process used to develop a food product, to determine how it should be labeled. In addition, mandatory labeling requirements that vary from state-to-state would not only conflict with FDA guidelines, but would be costly and confusing to consumers.

Proposals similar to Senate Bill 25 have been struck-down in federal court. In 1996, the Second Circuit Court of Appeals overturned a Vermont law requiring the labeling of milk products from cows treated with biotechnology-derived growth hormone. The Court ruled mandatory labeling of this kind to be unconstitutional forced speech. Following that decision, a number of states, including Alaska (Alaska Stat. § 17.20.013), adopted laws to regulate the <u>voluntary</u> labeling for milk from cows that were <u>not treated</u> with growth hormones. Consistent with FDA policy, these voluntary labeling guidelines require that such labels clearly state that no significant difference has been shown between milk derived from cows that are treated with the growth hormone and those that are not.

Senate Bill 25 proposes a solution to a situation that does not yet exist in Alaska, or in any state. There has yet to be single biotech fish product approved for human consumption by the FDA. Therefore, this legislation proposes to regulate a food product that does not yet exist. Alaska should not preempt federal decision-making on this issue. Rather, if sellers of conventionally-bred fish wish to label their products as such, they are free to do so in a truthful and non-misleading way according to FDA guidelines (<u>www.cfsan.fda.gov/~lrd/biotechm.html#label</u>). Alaska should not force fish breeders to make disclosures that FDA has deemed are not relevant to the health and safety of consumers.

We strongly encourage the House Labor and Commerce Committee members to oppose Senate Bill 25. If you have any questions or would like additional information on this topic, please feel free to contact Patrick Kelly at 202-962-9503 pkelly@bio.org or Dr. Barbara Glenn, Director of Animal Biotechnology at 202-962-6697 bglenn@bio.org. Thank you for your consideration of this important matter.

Respectfully submitted,



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The Biotechnology Industry Organization (BIO) represents more than 1,000 biotechnology companies, academic institutions, state biotechnology centers and related organizations in 46 U.S. states and 33 other nations.

BIO members are involved in the research and development of health care, agricultural, industrial, and environmental biotechnology products.