The Aftermath of California’s Proposition 37 and Overview of New State Proposals for Labeling Mandates on Genetically Modified Foods

By Jocelyn Arlinghaus, Staff Member

Last November, we discussed the controversial debate surrounding proposed legislation that would mandate the labeling of food products that contain genetically modified organisms (GMOs). GMOs
are produced using genetic engineering which manipulates DNA or distributes it between different organisms.[1] Through this process, crops such as corn and soybeans that are used to produce many of the food products at issue are implanted with herbicide-resistant genes so that the weeds die after the crops are sprayed and the modified crops survive.[2] Although many popular processed foods such as soy milk, cereals, and packaged food contain genetically modified ingredients, the Food and Drug Administration decided not to require labeling on genetically modified foods.[3] This decision has sparked battles in state legislatures across the nation with as many as 37 states considering passing legislation that would require products containing GMOs to be labeled.[4]

California responded with Proposition 37 which sought to require labeling on animal or plant-based food products made using genetically altered material and prohibited labeling such food as “natural,” subject to several exceptions.[5] Supporters argued that requiring genetically engineered foods to be labeled gives consumers essential information to make informed choices about the products they purchase.[6] Opponents argued that there is no proof that genetically modified foods pose any health risks and imposing labeling requirements on perfectly safe products is a waste of time and resources.[7] Ultimately, Proposition 37 was defeated after large corporations spent $40 million on a barrage of TV and radio ads claiming that food labels would raise grocery prices and harm the farming industry.[8] While these harsh opposition tactics led to the demise of Proposition 37, they also propelled the issue into a national debate and alienated customers of large food companies.[9]

Instead of putting an end to the demand for labeling in state legislatures, the debate over Proposition 37 has sparked a ballot initiative in Washington State and proposals in several other states including Connecticut, Vermont, New Mexico, and Missouri, as well as consumer boycotts of several organic product lines made by major food companies.[10]

The next stop on the road to GMO food labeling requirements is Washington State where Initiative 522 will be considered before the state legislature this spring.[11] I-522 would require food and seeds produced through genetic engineering and sold in Washington to be labeled - with the exception of restaurant entrees, medical meals, alcohol, meat and dairy.[12] This would affect common products found on grocery shelves, such as cereal and snacks, which are often made from genetically engineered crops.[13] Aware of the outcome of Proposition 37 in California, proponents of I-522 have taken a much different approach in lobbying for the bill.[14] They argue that the failure to mandate labels will have a devastating impact on the international trade market of Washington’s fish, apple, and wheat industries as foreign nations that require labeling will be much more wary of whole food compared to processed goods.[15] If the Washington legislature does not pass I-522 into law, it may send it to the ballot where it is predicted to stand a much greater chance of passing than California’s Proposition 37.[16] Analysts draw distinctions between the demographics in the respective states, pointing to lower campaign costs, greater support from farmers and rural communities, and more progressive voters in Washington as compared to California, all of which work in favor of I-522.[17]

While supporters of labeling requirements in Washington anticipate a positive outcome, lobbyists in New Mexico have little to celebrate. Introduced as early as January, S.B. 18 would have required all genetically modified food products offered for sale in the state to be labeled.[18] Unlike I-522 in Washington, the bill contained no exception for food offered for sale in restaurants, which opponents argued would have a devastating impact on the restaurant industry in the state.[19] Ultimately, S.B. 18 was rejected due to a procedural issue.[20] The New Mexico Environment Department stated that such severe labeling requirements would make it impossible for many food manufacturers around the world to distribute their products to New Mexico and would place New Mexico food manufacturers at a disadvantage in distributing their products outside of the state.[21]

Further, the N.M.E.D. added that the legislation may confuse consumers as it did not mandate adding any health or safety information to the products.[22]

The debate surrounding labeling requirements for genetically engineered food products is far from over. The state legislatures in Vermont and Connecticut are also considering labeling laws while a senator in Missouri has proposed legislation that would mandate the labeling of genetically modified
meat and fish. Meanwhile, companies such as Wal-Mart, ConAgra, and PepsiCo have abandoned their rigorous tactics in challenging these state bills and are discussing the possibility of lobbying for a national labeling program. While having the largest food companies in the country lobbying for a federal labeling program may sound like a step in the right direction for GMO labeling mandates, skeptics worry that these companies are looking for federal action on GMO labeling in order to preempt state laws. This would halt movement toward the most effective labeling requirements possible.

---

[2] Id.
[10] Id.
[13] Id.
[15] Id.
[17] Id.
[19] Id.
[20] Id.
[21] Id.
[22] Strom, supra note 9.
[23] Id.
UPDATE: D.C. Circuit Continues to Adjudicate E15 Case, Hurting Domestic Industries and Consumers (/full-blog/2013/02/update-dc-circuit-continues-to.html)

Horse: The Other Red Meat (/full-blog/2013/02/horse-other-red-meat.html)

SEARCHABLE ARCHIVE (/PUBLICATION-ARCHIVE-1)

631 SOUTH LIMESTONE, LEXINGTON, KY
40508 (859) 257-4747 BLOG.KJEANRL@GMAIL.COM (MAILTO:BLOG.KJEANRL@GMAIL.COM)