

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: H.112

Name of Bill: An Act relating to food produced with genetic engineering

Agency/ Dept: Health

Author of Bill Review:

Sarah Vose approved by David Englander 5/2/14

Date of Bill Review: 5.1.14

Status of Bill: (check one):

☐ Upon Introduction ☐ As passed by 1st body ☒ As passed by both bodies ☐ Fiscal

Recommended Position:

☐ Support ☐ Oppose ☒ Remain Neutral ☐ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill proposes to require labeling of food that is produced with genetic engineering. Currently, U.S. consumer products are not labeled as GE-containing crops or products. The proposed bill would require food products offered for retail sale in Vermont that are entirely or partially produced with genetically engineered ingredients to be labeled on the package or retail store shelf with such a disclosure, such as "produced from genetic engineering" or "may be partially produced with genetic engineering". The bill also prohibits foods produced with genetic engineering from being labeled or advertised as "natural", "naturally made," "naturally grown," "all natural," or "any words of similar import that would have a tendency to mislead a consumer."

The bill exempts several products from being required to label or be considered misbranded: food derived from an animal fed or injected with food or drugs produced by genetic engineering; raw agricultural commodities or food derived from them that is not knowingly produced with genetic engineering; processed food that contains processing aids or enzymes produced with GE; alcoholic beverages; processed food with a small percentage of genetically modified ingredients; food lawfully certified as organic; food prepared for immediate consumption; food served in a restaurant or other food establishment; and medical food. The bill also exempts from labeling food that an independent organization has determined to be free from "commingling" with food or seed produced with genetic engineering. The Office of the Attorney General, in consultation with the Department of Health would approve the procedure used to verify the independent organizations process.

The bill grants authority to the Attorney General's Office to promulgate rules to enforce the provisions of 18 V.S.A. Chapter 82 "Labeling of Food, Drugs, Cosmetics and Hazardous Substances."

2. Is there a need for this bill? *Please explain why or why not.*

To date, there is a lack of evidence to support the statement that there is a public health effect from the consumption of genetically engineered food products. A literature review was conducted of epidemiological and toxicological studies. The scientific evidence does not suggest human health effects would be expected

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from consumption of GE foods. There are no epidemiologic studies that show negative health impacts as a result of ingesting GE food. This could be in part, because GE foods are not labeled, so research would be extremely difficult.

Some toxicological studies report biochemical or histological changes in animals fed GE food. In these studies, no evidence of adverse organismal function was presented. Evidence of biochemical or histological changes does not alone constitute a health effect. There are no credible whole animal or whole organ studies that show negative effects. Some of the studies reporting evidence of health effects have methodological problems or find changes that are not dose-related or consistent between both sexes of animals tested. Several peer-reviewed studies from both academic institutions with no financial interest, and companies with financial interest in GE food, find no biochemical changes in animals fed GE food. The weight of scientific evidence does not suggest human health effects would be expected from consumption of GE foods.

Based on current available evidence, there is no established public health need for this bill. Additional arguments for the bill cite various environmental and consumer choice concerns which are not addressed in this review. Although consumers who are interested in purchasing non-GMO products can currently seek out certified organic food and agricultural products, as this labeling already guarantees that no GMO products were used. Furthermore, if evidence was presented that indicated a health effect from the consumption of GMO products, this proposed bill exempts agricultural products from GE labeling requirements and therefore would not be appropriately protective to public health in its current form.

The Department understands that many consumers want to know if their food has been altered by GMS. Whether or not consumers have a right to know is not a public health issue.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

This bill exempts from labeling food that an independent organization has determined to be free from genetic engineering. The Office of the Attorney General, in consultation with the Department of Health would approve the procedure used to verify the independent organizations process. The Department does not have the resources or technical capacity to approve these procedures. Resources could also be used when Vermont food manufacturers inquire with their Food and Lodging inspectors about practices and procedures necessary to follow the legislation. Furthermore, for the most part it is impossible to test in a lab manufactured products for GMOs even using a PCR (DNA screening) that do not show the presence of GMO.

Additionally, there are significant potential federal constitutional challenges to the proposed legislation and litigation should be anticipated if this legislation becomes law which would also place an added burden on the State.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

The Vermont Office of the Attorney General would be impacted by the anticipated legal challenges to the proposed legislation, which would use significant personnel and financial resources.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

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Manufactured food producers will experience additional costs for meeting labeling requirements in Vermont which may be passed on to the consumer.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

Interested consumers, organic farmers, NOFA-VT, Rural Vermont, VPIRG

6.2 Who else is likely to oppose the proposal and why?

Local and out-of-state manufactured food producers selling retail products in Vermont may oppose due to cost of validating ingredient suppliers through documentation, testing requirements, and cost of changing labeling, for products sold in Vermont. Agricultural farmers selling conventional crops may oppose based on perceived stigma associated with having to label crops as being genetically engineered, and how labeling may affect business prices and market interest.

7. Rationale for recommendation:

The Department does not see a health need to support this legislation. Any labeling requirement is likely to be met with substantial and costly legal challenges.

8. Specific modifications that would be needed to recommend support of this bill:

We would recommend that additional organizations such as the Agency of Agriculture and, if possible, the Northeast Farming Association (NOFA) who have more experience in GE and certification processes be included in the verification process. Even with this addition, however, the department does not see a health need to support this legislation.

Secretary/Commissioner has reviewed this document: _____ ***Date:*** _____