

2) Over 60 countries, including all members of the European Union, have laws or regulations mandating the labeling of genetically engineered foods. Additionally, a small number of states have passed but not yet implemented laws requiring the labeling of genetically engineered foods. The FDA's current voluntary labeling guidelines are not widely used, do not provide enough information, and may never be made mandatory by the federal government. Third party non-GMO and USDA organic labeling account for only a small fraction of consumers' food choices in Colorado, so they are not a substitute for mandatory labeling.

Arguments Against

1) Proposition 105 will result in higher food prices as farmers, food manufacturers, distributors, and retailers pass their costs to comply with the labeling requirements on to consumers. Such businesses will have increased costs for record-keeping, product verification, and separate product storage and handling processes for genetically engineered products. The labeling requirement may be particularly burdensome for small businesses and farmers' markets, since the measure does not provide for any exemptions based on an operation's size.

2) The measure conflicts with existing nationwide voluntary labeling standards that already provide consumers with accurate and reliable information on non-genetically engineered and organic foods. Because of the large number of labeling exemptions included in the measure — most notably food served in restaurants and meat and dairy products regardless of the animal's diet and medications — the proposed labeling requirements would not give consumers a reliable way of knowing which foods contain genetically engineered ingredients, and which do not. These exempted foods will appear as products that were not produced with genetic engineering, which may mislead rather than inform consumers. Requiring the labeling of foods produced with genetic engineering may also send the message to consumers that the foods are unsafe, even though no scientific evidence indicates that genetically engineered foods are any riskier than other foods.

Estimate of Fiscal Impact

State revenue. Passage of Proposition 105 may result in an increase in revenue from fines. A manufacturer, distributor, or retailer that fails to properly label foods that have been produced with genetic engineering commits a violation under the Colorado Food and Drug Act. The penalty for a violation is a fine of not more than \$1,000, six months imprisonment in a county jail, or both. Subsequent violations are punishable by a fine of up to \$2,000, one year in a county jail, or both. In the past five years, one person has been found guilty of mislabeling a food, drug, device, or cosmetic product, so this proposition is not expected to create a significant increase in fine collections from violations.

State spending. The Colorado Department of Public Health and Environment will develop rules for the regulation of the labeling requirements through a stakeholder process and hire staff to handle complaints, perform inspections, gather samples, and test food. The department will also be required to update its computer software to track complaints and food inspections. The frequency of inspections, sampling, and testing will depend on the rules established by the department; however, it is expected that the department will test at least 30 samples annually. The department is expected to hire up to two additional staff to implement the proposition.

Staffing, rulemaking, and computer software updates are expected to cost about \$113,000 in the first year of implementation. Once the rules are in place, staffing, computer software maintenance, and food sampling and testing are estimated to cost \$130,000 annually. Proposition 105 does not identify a funding source to implement the measure's requirements, so it is assumed state General Fund will be used.