

Initiative #48
Labeling Genetically Modified Food

1 **Proposition? proposes amending the Colorado statutes to:**

- 2 ♦ require foods that are genetically modified or produced with genetic
3 engineering to include the words "Produced With Genetic Engineering"
4 on the label or container, with certain exceptions;
- 5 ♦ apply existing food mislabeling penalties in state law to a food
6 manufacturer, distributor, or retailer for failing to comply with labeling
7 requirements;
- 8 ♦ prohibit a consumer from bringing legal action against a manufacturer,
9 distributor, or retailer for failing to comply with labeling requirements;
10 and
- 11 ♦ require the Colorado Department of Public Health and Environment to
12 oversee the labeling requirements.

13 **Summary and Analysis**

14 **Background.** Genetic engineering refers to the process of altering organisms and
15 biological material at the molecular or cellular level by means that are not possible
16 under natural conditions. Genetic engineering was first accomplished in 1973, and
17 became commercialized in 1976. In agriculture, genetic engineering is used to
18 enhance the growth rate, nutritional value, shelf life, herbicidal tolerance, or pest and
19 virus resistance of plants. According to the U.S. Food and Drug Administration (FDA),
20 genetically engineered foods, also called genetically modified organisms or GMOs,
21 have been in the food supply since the 1990s. According to the U.S. Department of
22 Agriculture (USDA), in 2013, 90 percent of corn, 90 percent of cotton, and 93 percent
23 of soybean crops planted in the United States were genetically engineered. Currently,
24 no genetically engineered animals are FDA-approved for human consumption,
25 although animal feed may contain genetically engineered material.

26 **Existing labeling of genetically engineered foods.** FDA rules state that
27 genetically engineered foods and food ingredients must meet the same safety
28 requirements as other foods. The FDA allows food producers to voluntarily label their
29 products as to whether or not they contain genetically engineered material, and has
30 issued draft guidance on this labeling to the food industry. The FDA can assess
31 penalties for producers that mislabel their products.

32 The USDA certifies organic foods under the National Organic Program, which can
33 then be labeled as "USDA Organic." Crops grown with the use of genetic engineering
34 cannot be certified as organic under the USDA program.

1 A number of producers currently sell foods identified as not containing genetically
2 engineered material that have been verified by a third-party verification organization.
3 The products are labeled as "Non-GMO Project Verified." The organization currently
4 lists about 16,000 individual food products as having passed its verification process.

5 **Proposed labeling requirements.** Beginning July 1, 2016, the measure requires
6 that foods sold in Colorado, that are genetically modified or produced with genetic
7 engineering, be labeled "Produced With Genetic Engineering" in a clear and
8 conspicuous manner. For packaged foods that are produced with genetic
9 engineering, the words must be included on the label. Foods produced with genetic
10 engineering that are not separately packaged must be identified with the same
11 wording on the container, bin, or shelf where the foods are displayed for sale by a
12 retailer.

13 **Foods covered by the measure.** "Genetically engineered" is defined in the
14 measure as food produced from a plant or animal that has had its genetics
15 scientifically altered. A food is also considered genetically engineered if the plant or
16 animal from which the food is made has been treated with a genetically engineered
17 material or contains an ingredient, component, or other substance that is genetically
18 engineered.

19 These foods are exempt from the measure:

- 20 • food or drink for animals;
- 21 • chewing gum;
- 22 • alcoholic beverages;
- 23 • foods, such as cheese, that would only be considered genetically
24 engineered because a genetically engineered material was used as a
25 processing aid;
- 26 • prepared foods intended for immediate human consumption;
- 27 • foods sold in a restaurant;
- 28 • foods derived entirely from an animal, regardless of the animal's diet or
29 medications; and
- 30 • medically prescribed foods.

31 **Penalties for violations.** A manufacturer, distributor, or retailer that fails to
32 properly label foods that have been produced with genetic engineering commits a
33 violation under the Colorado Food and Drug Act. The penalty for a violation is a fine
34 of not more than \$1,000, six months imprisonment in a county jail, or both.
35 Subsequent violations are punishable by a fine of up to \$2,000, one year in a county
36 jail, or both. The measure prohibits a consumer from suing a manufacturer,
37 distributor, or retailer for not properly labeling foods produced with genetic
38 engineering.

1 The measure exempts a person who:

- 2 • grows, raises, or produces food without knowing that the food or seed
- 3 had been genetically engineered; and
- 4 • obtains a sworn statement from the seller that the seed or food was not
- 5 knowingly created with genetic engineering.

6 **Regulation by the state.** The measure requires the Colorado Department of
7 Public Health and Environment to establish regulations for labeling foods that have
8 been genetically modified or produced with genetic engineering. These regulations
9 may include procedures for the inspection of manufacturers and testing of food
10 products to ensure compliance with the measure's labeling requirements.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 4, 2014**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

11 **Argument For**

12 1) The labeling of genetically engineered foods will increase the transparency of
13 Colorado's food supply. Current labeling requirements for packaged foods identify
14 ingredients, nutritional values, and either the presence of allergens in the food, or the
15 existence of allergens in the manufacturing facility. The measure's labeling
16 requirement gives Colorado consumers an additional piece of information to consider
17 when making their food purchasing decisions. The issue is not whether foods
18 produced with genetic engineering are good or bad, rather that many consumers want
19 to have the option to choose.

20 2) Over 60 countries, including all members of the European Union, and a small
21 number of states have laws or regulations mandating the labeling of genetically
22 engineered foods. The FDA's current voluntary labeling guidelines do not provide
23 enough information, and the federal government may never mandate the labeling of
24 genetically engineered foods. In the absence of federal action, Colorado can help its
25 citizens make informed food choices by requiring labeling of foods produced with
26 genetic engineering.

27 **Argument Against**

28 1) Requiring the labeling of foods produced with genetic engineering may send
29 the message to consumers that the foods are unsafe, even though the FDA requires
30 that all foods—including genetically engineered foods—be safe. Because the

1 measure does not set a minimum allowable amount, foods containing even less than
2 1 percent of genetically engineered material must be labeled. Colorado foods
3 exported to states where labeling is not required may be compared unfavorably to
4 equivalent products that are not required to be labeled.

5 2) Existing labeling programs that allow a food producer to identify foods that
6 have not been produced with genetic engineering are more reliable than the labeling
7 required under this measure. Because of the large number of food product
8 exceptions, the labeling requirement may mislead rather than inform consumers. Any
9 food that is exempt from labeling will appear to consumers as a product that was not
10 produced with genetic engineering regardless of how it was made. The most reliable
11 way for a consumer to know whether a food was produced without genetic
12 engineering is from the presence of a USDA Organic label, or a Non-GMO Project
13 Verified label, both of which are currently available.