

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 13-0376

**Date:** February 20, 2013

**Prime Sponsor(s):** Rep. Labuda

**Bill Status:** House Health, Insurance & Environment

**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**TITLE:** CONCERNING LABELING REQUIREMENTS FOR GENETICALLY ENGINEERED FOOD.

<b>Fiscal Impact Summary</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>
<b>State Revenue</b>		
Cash Funds		
Fines Collection Cash Fund		<\$5,000
<b>State Expenditures</b>		
General Fund	\$114,496	\$468,994
<b>FTE Position Change</b>	1.2 FTE	5.6 FTE
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2013-2014:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Summary of Legislation**

This bill amends the Colorado Food and Drug Act to require that food sold in Colorado that contains more than 1 percent genetically engineered material, or was produced with genetically engineered material, be labeled to that effect. Genetically engineered refers to organisms and biological materials that have been altered at the molecular or cellular level by means that are not possible under natural conditions or processes. The labeling requirements do not apply to the following:

- chewing gum;
- alcoholic beverages;
- food prescribed by a physician;
- organic foods;
- food sold in a restaurant;
- processed food that is intended for immediate consumption and not packaged for retail sale; or
- food produced under the Colorado Cottage Foods Act.

The Colorado Department of Public Health and Environment (CDPHE) may promulgate rules for administration and enforcement of the provisions of the bill including a testing methodology to determine the presence of genetically engineered material.

**State Revenue**

This bill may result in an increase in revenue from fines to the Fines Collection Cash Fund. Violations of the bill are class 1 misdemeanors and are subject to a penalty of up to six months imprisonment in a county jail, a fine of up to \$1,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact to the Fines Collection Cash Fund cannot be determined, but is expected to be less than \$5,000 per year, beginning in FY 2014-15.

**State Expenditures**

To implement a program to enforce the provisions of the bill, General Fund expenditures in the Division of Environmental Health and Sustainability in CDPHE will increase by **\$114,496** and **1.2 FTE** in FY 2013-14 and **\$468,994** and **5.6 FTE** in FY 2014-15 and thereafter.

The fiscal note assumes that the labeling requirements will be in place July 1, 2014. This gives the division time to conduct stakeholder meetings, develop labeling rules, hire staff, and conduct outreach with food manufacturers and sellers. For FY 2013-14, this effort will require \$114,496 and 1.2 FTE for an environmental protection specialist and administrative support. Included in that amount is 80 hours of legal services at a rate of \$77.25 per hour for a total of \$6,180.

In FY 2014-15, the genetically engineered material labeling program will be operational with a staff of 5.6 FTE and expenditures of \$468,994. Environmental protection staff will process consumer complaints, inspect manufacturers, and randomly sample products offered for sale. An outside lab is expected to test product samples for the existence of more than 1 percent genetically engineered material. This is a more complex test than for identifying just the presence of a genetically engineered material and is expected to cost \$300 per sample. The fiscal note assumes that 200 samples will be analyzed per year. For violations of the labeling requirements, the division will seek compliance with food manufacturers and sellers and take enforcement actions if those efforts are unsuccessful. Expenditure detail is shown in Table 1.

<b>Table 1. Expenditures Under HB 13-1192</b>		
<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Personal Services	\$90,967	\$379,753
FTE	1.2	5.6
Operating Expenses and Capital Outlay	7,349	27,741
Computer Programming	10,000	1,500
Laboratory Testing		60,000
Legal Services	6,180	
<b>TOTAL</b>	<b>\$114,496</b>	<b>\$468,994</b>

**Expenditures Not Included**

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

<b>Table 2. Expenditures Not Included Under HB 13-1192*</b>		
<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,214	\$37,741
Supplemental Employee Retirement Payments	5,584	26,372
<b>TOTAL</b>	<b>\$13,798</b>	<b>\$64,113</b>

*\*More information is available at: <http://colorado.gov/fiscalnotes>*

**Comparable Crime**

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. House Bill 13-1192 adds a new factual basis for a violation of misbranding a consumer commodity, which exists under current law. The division seeks compliance prior to filing suit and no cases have been filed to date. As such, this analysis assumes filings will be minimal.

**Local Government Impact**

This bill creates a class 1 misdemeanor for misbranding certain consumer commodities that contain genetically engineered material. The penalty for a class 1 misdemeanor is up to six months imprisonment in a county jail, a fine of up to \$1,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined, but is assumed to be minimal. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$50.44 to house state inmates.

**State Appropriations**

For FY 2013-14, the Colorado Department of Public Health and Environment requires a General Fund appropriation of \$114,496 and 1.2 FTE. The Department of Law requires \$6,180, reappropriated funds.

**Departments Contacted**

Agriculture

Law

Public Health and Environment