

**STATE
FISCAL IMPACT**

Drafting Number: LLS 14-0594
Prime Sponsor(s): Rep. Labuda

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Bill Status: House Health, Insurance & Environment
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SHORT TITLE: VOLUNTARY LABELING GENETICALLY ENGINEERED FOOD

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
Cash Funds	<\$1,000	<\$1,000
State Expenditures	<u>\$134,635</u>	<u>\$128,855</u>
General Fund	124,369	114,397
Centrally Appropriated Costs**	10,266	14,458
FTE Position Change	1.2	1.5
Appropriation Required: \$124,369 - Department of Public Health and Environment (FY 2014-15)		

* This summary shows changes from current law under the bill for each fiscal year.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

This bill amends the Colorado Food and Drug Act to define "genetically engineered" and to allow a person who sells, distributes, or offers food for sale in Colorado to label the food as not containing genetically engineered material if:

- the food contains less than 1 percent genetically engineered material; and
- the person submits an affidavit to the Department of Public Health and Environment (DPHE) affirming that the food meets the above standard.

A person who falsely labels food as not containing genetically engineered material for sale in Colorado, commits a misdemeanor offense. The DPHE 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.

Background

The United States Food and Drug Administration (FDA) rules state that all genetically engineered foods must meet the same requirements as traditional foods. The FDA allows producers to voluntarily label their items as to whether or not they contain genetically engineered material. The FDA can assess penalties for producers that mislabel their products.

A number of producers currently sell foods with a "non-GMO" label issued by a third-party verification organization. The organization currently lists over 10,000 individual food products as having passed its verification process.

State Revenue

Beginning in FY 2014-15, the bill is anticipated to increase state cash fund revenue by less than \$1,000 per year, credited to the Fines Collection Cash Fund in the Judicial Branch. The penalty for this unclassified misdemeanor is a fine of up to \$1,000, incarceration in a county jail for up to six months, or both. If a person has been previously convicted of this offense, the penalty is a fine of up to \$2,000, incarceration in a county jail for up to one year, or both, for each successive offense. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

State Expenditures

This bill is expected to increase General Fund expenditures by **\$134,635 and 1.2 FTE in FY 2014-15** and **\$128,855 and 1.5 FTE in FY 2015-16**. Table 1 illustrates the cost of the bill.

Table 1. Expenditures Under HB14-1058		
Cost Components	FY 2014-15	FY 2015-16
Personal Services	\$82,530	\$98,465
FTE	1.2	1.5
Operating Expenses and Capital Outlay Costs	14,253	5,132
Legal Services	7,286	0
Computer Programming and Maintenance	11,000	1,500
Sample Purchase and Testing	9,300	9,300
Centrally Appropriated Costs*	10,266	14,458
TOTAL	\$134,635	\$128,855

* Centrally appropriated costs are not included in the bill's appropriation.

DPHE. In FY 2014-15, the fiscal note assumes that the DPHE will develop rules for administering the labeling program for non-genetically engineered foods through a stakeholder process with legal services from the Department of Law. Once the rules are in place, affidavits for 1,000 products are estimated to be filed in the first year and an additional 1,000 in the second year. The cost to test a product is estimated at \$300 per sample and it is expected that 30 product samples will be tested annually at a cost of \$9,300 per year. To track product samples, the CDLE will add a module to the web-based database system at a one-time cost of \$11,000 with annual maintenance costs of \$1,500 beginning in FY 2015-16.

Centrally appropriated costs. 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 estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB14-1058*		
Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$5,012	\$6,826
Supplemental Employee Retirement Payments	5,254	7,632
TOTAL	\$10,266	\$14,458

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

Local Government Impact

This bill impacts local governments by creating a new element to the crime of mislabeling a food, drug, device, or cosmetic product, which is an unclassified misdemeanor. The penalty for this unclassified misdemeanor is a fine of up to \$1,000, incarceration in a county jail for up to six months, or both. If a person has been previously convicted of this offense, the penalty is a fine of up to \$2,000, incarceration in a county jail for up to one year, or both, for each successive offense. Because the courts have the discretion of incarceration, imposing a fine, or both, the fiscal impact at the local level cannot be determined. 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 \$51.45 to house state inmates.

Comparable Crime Section

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. This bill creates a new factual basis for mislabeling a food, drug, device, or cosmetic product. One person has been found guilty of mislabeling a food, drug, device, or cosmetic product in the past 5 years, so this bill is not expected to create a significant increase in offenses.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2014-15, the DPHE requires a General Fund appropriation of \$124,369. Of this, \$7,286 is reappropriated to the Department of Law.

State and Local Government Contacts

Public Health and Environment
Law

Corrections
Judicial

Agriculture
Counties