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Labeling Genetically Engineered Foods: The Safe and Accurate Food Labeling Act of 2015

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As approved by the House Agriculture Committee on July 14, 2015, the Safe and Accurate Food Labeling Act of 2015 (H.R. 1599) would create a national voluntary program governing pre-market review and labeling of genetically engineered (GE) foods and would preempt current and future state laws mandating the labeling of GE foods. The bill passed in the House on July 23 by a vote of 275 to 150. Four amendments were offered on the floor. None was agreed to.

The legislation would amend the Agricultural Marketing Act of 1946 to establish a new legal framework governing the use of labels claiming either the absence of or use of GE foods or food ingredients. The bill would also require the Food and Drug Administration (FDA) to define the term *natural* and to promulgate regulations governing its use on food product labels. Under the new legal framework, states would be prohibited from imposing labeling laws that differed from federal requirements.

Federal policy does not require GE-derived foods to be so labeled as long as they are substantially equivalent to their conventional counterparts. Nonetheless, some consumer groups seek mandatory labeling of all GE foods. These groups argue that U.S. consumers should have an opportunity to see all relevant information on a label so that they can make food choices based on their own views about its perceived quality or safety. The food and biotechnology industries oppose compulsory labeling. They contend that consumers might interpret GE labels as "warning labels" implying that the foods are less safe or nutritious than conventional foods. The industry believes the preponderance of scientific evidence indicates GE foods pose no human health risks and are as nutritious as non-GE foods.

State Labeling Laws

In 2014, Vermont became the first state to pass a mandatory GE labeling law. The law will not be implemented until July 2016. Connecticut and Maine also passed mandatory GE labeling laws in 2013 and 2014, respectively, but they will not go into effect until five contiguous states also pass mandatory GE labeling laws. At least seven other state legislatures are also considering labeling laws.

Opponents of labeling have feared that in the absence of a national labeling law, each state could pass its own specific labeling requirements for GE foods, requiring costly management changes in commodity supply chains to comply with different state laws. H.R. 1599 would preempt any state authority over GE labeling in favor of a voluntary National Genetically Engineered Food Certification Program. The bill would prohibit a state now or in the future from "directly or indirectly establishing under any authority, or continue in effect, as to any covered products in interstate commerce, any requirement for the labeling of a covered product indicating the product has been produced from, containing, or consisting of a

genetically engineered plant" unless the state establishes a voluntary program accredited by USDA as identical to the standards established by H.R. 1599.

While this language is aimed at preempting state labeling laws, questions have arisen concerning whether the preemption language could also affect local non-GE protections—for example, Oregon's GE-free zones that protect the state's seed growing regions. However, a manager's revision is expected to make clear that the bill's preemption language applies only to the sale of GE foods or GE ingredients in food products.

Certification Program

Under the bill, the voluntary National Genetically Engineered Food Certification Program within the U.S. Department of Agriculture (USDA) would establish national standards for labeling both GE and non-GE foods. A "certifying agent" of a state—an official responsible for state agricultural operations—would certify whether food products are produced with or without GE technologies. Food products labeled as not produced with the use of GE technologies would be subject to supply chain process controls to ensure that the producer planting the seed is not using a GE variety. Further supply chain controls would cover the growth, harvesting, storage, processing, and transportation of the non-GE product. In the case of products from livestock, the livestock itself, products consumed by the livestock, and the products used in the processing of products consumed by livestock must be produced without the use of GE technology.

Producers seeking certification under the non-GE labeling program would be required to submit food plans addressing their handling and processing procedures. These food plans would be subject to review by USDA and state certifying agents. The Secretary of Agriculture would also have authority to stipulate other information on the label deemed appropriate. A subsection of the bill prohibits labeling or advertising from suggesting that non-GE food products are safer or of a higher quality than those produced from or containing GE material.

For entities that wish to label their products as deriving from GE materials or containing GE ingredients, a food must be produced and handled in compliance with a GE food plan submitted to USDA and state certifying agents. Consistent with current FDA labeling laws, the GE label must be neither false nor misleading. As with non-GE labeling, a GE label must not claim that the product is safer or of a higher quality than a comparable non-GE product.

FDA Consultation Process

While preserving current jurisdiction, policies, definitions, and regulatory authority of FDA and USDA, H.R. 1599 would also amend the Plant Protection Act by adding a new subtitle, the Coordination of Food Safety and Agriculture Programs. This new subtitle is intended to strengthen the objectives of the 1986 Coordinated Framework for Regulation of Biotechnology by affirming the safety of foods produced from or containing GE plant material.

The voluntary consultative process under FDA's 1992 policy guidelines for the introduction of GE foods would continue. Many opponents of GE products have long supported making FDA's voluntary consultation process a mandatory one. H.R. 1599, as reported, would create a new notification program for GE plants prior to their use in foods by requiring a written notification from FDA that the agency has determined that the GE food is safe and that the agency has no objections to its use in human or animal foods. Products developed by GE technologies but used as a food processing aid or enzyme would not require the premarket notification.

For more information, see CRS Report RL32809, *Agricultural Biotechnology: Background, Regulation, and Policy Issues*, by Tadlock Cowan.

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