

BUSINESS DAY

G.M.O.s in Food? Vermonters Will Know

By STEPHANIE STROM JUNE 30, 2016

Nearly all food labels in Vermont are now required to disclose when products include genetically engineered ingredients. The requirement, passed two years ago, became effective on Friday.

The rule is the first of its kind in the United States, and although it applies only within the tiny state, it is having national impact.

Most major food and beverage companies have already added language to their labels to meet the new rule, rather than deal with the logistical hassle of having separate labels for different states. Campbell Soup was the first big company to say it would label all of its products, and General Mills, ConAgra, Mars and Kellogg's followed.

But not all the same products will definitely be on shelves. Coca-Cola said some of its less popular brands may not be available in Vermont right away. (Coca-Cola, Diet Coke and Coke Zero will be available.) And the trade association representing the major food companies has remained staunchly opposed to Vermont's regulation. It has pushed action from Congress, so far unsuccessfully, that would apply to all 50 states. Proponents of the new labels also want a national standard.

Here is what you need to know about the Vermont law and the continuing battle over food labels.

What's Affected?

Vermont's law requires the labeling of most packaged grocery products as well as any whole fruits or vegetables produced with genetic engineering. That means virtually all products containing derivatives of crops like corn, soy, canola and sugar from sugar beets will need labels, as most of those crops in the United States are grown from genetically modified seeds.

Vermont's law is careful, however, to exclude cheese, a big business in the state. Hard cheeses require the use of chymosin, an enzyme found naturally in the stomachs of ruminant animals. But most cheese makers rely on chymosin generated through synthetic biology, a form of genetic engineering.

The law also exempts meat from animals that have eaten feed made from genetically engineered grains.

What's the Label?

The Vermont law requires genetically modified whole foods, like some zucchini, papayas and yellow squash, to be labeled "produced with genetic engineering" on packaging or on bins and cases where they're displayed in grocery stores.

Processed and packaged foods like cereals or snacks have three choices of language: "partially produced with genetic engineering," "may be produced with genetic engineering" or "produced with genetic engineering." Some companies also have opted to put a QR, or quick response, code on their labels. Those codes, when scanned by smartphones, can direct people to a variety of information about a product, including whether it is made using genetically engineered ingredients.

What's the Penalty?

Companies have a six-month grace period to comply with Vermont's law. After that, they can face civil penalties of up to \$1,000 a day per product that is not labeled correctly.

Retailers who fail to put labels on the shelves and bins of the appropriate whole foods must affix the labels within 30 days of being notified of a violation.

The Vermont law also gives the state attorney general and consumers the power to investigate and oversee the program to ensure compliance.

Why Vermont?

The labeling issue has generated heavy and frantic lobbying by the Grocery Manufacturers Association and the trade groups representing major commodity producers of crops like soy and corn, who have wanted a federal law that would prevent mandatory labels. Proponents of labels that disclose genetically modified ingredients have also pushed for a federal law, but one that would make labeling mandatory.

Yet the bills in Congress on G.M.O. labeling have so far stalled or failed to pass, including one in March. That has allowed the Vermont law to shape the decisions of the biggest food companies.

The Senate Agriculture Committee produced a compromise bill just last week, and even advocates for labeling say it has a good chance of passing — should it ever come to the full Senate for a vote. Companies would have three choices for labeling under the bill — a phrase on packaging indicating that a product contained genetically engineered ingredients, a symbol of some sort or a QR or bar code that consumers could scan with their mobile phones. It would still need to pass the House, which has approved G.M.O. labeling bills in the past, and be signed by President Obama.

But the bill is facing unexpected opposition from the Food and Drug Administration, which on June 27 sent a three-page letter detailing shortcomings it has found in the revised bill. Among other things, the F.D.A. criticizes the proposed law for assigning regulatory responsibility for G.M.O. labeling to the Department of Agriculture, which traditionally weighs in only on the labeling of meats and eggs.

But the agency also said that the definition of “bioengineering” that would govern labeling under the new proposal “would result in a somewhat narrow scope of coverage,” meaning that it would not apply to many foods from genetically engineered sources. It gave an example of a product made with oil from genetically engineered soy, which is in many products. After processing, such oil does not

contain any genetic material and thus would not require a label.

What's Next?

No matter what happens in Congress, labeling advocates and food executives agree that far more products will disclose genetically engineered ingredients in the future. Whole Foods Markets will require labels on products sold in its stores in 2018, and once language has been added to a label, there's a risk in removing it.

“In many respects, Washington is now behind the marketplace, so that many brands are just doing a big shrug over what's happening there,” said Gary Hirshberg, co-founder of Stonyfield Farm, an organic yogurt line now owned by Danone, and leader of Just Label It, a coalition created by advocacy groups in favor of G.M.O. labeling. “I think it's mostly the groups representing soy and sugar beets that are still fighting labeling hard.”

Correction: June 30, 2016

An earlier version of this article misstated the owner of Stonyfield Farm. It is Danone, not Unilever.

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