

September 13, 2012

Proposition 37: Genetically Engineered Foods

LEGISLATIVE ANALYST'S OFFICE

Presented to:
Assembly Committee on Agriculture
Hon. Cathleen Galgiani, Chair
and
Senate Committee on Agriculture
Hon. Anthony Cannella, Chair





Background



Genetically Engineered (GE) Foods

- Genetic engineering is the process of changing the genetic material of a living organism to produce some desired change in that organism's characteristics. In 2011, 88 percent of all corn and 94 percent of all soybeans produced in the U.S. were grown from GE seeds.
- In addition, GE crops are used to make food ingredients (such as high fructose corn syrup) that are often included in processed foods (foods that are not raw agricultural crops). According to some estimates, 40 percent to 70 percent of food products sold in grocery stores in California contain some GE ingredients.



Federal and State Regulation

- Federal and state law do not specifically require the regulation of GE foods. However, the U.S. Department of Agriculture places some restrictions on the use of GE crops that are shown to cause harm to other plants.
- In addition, the U.S. Food and Drug Administration is responsible for ensuring that most foods (regardless of whether they are genetically engineered) and food additives are safe and properly labeled. In California, the Department of Public Health (DPH) is responsible for regulating the safety and labeling of most foods.



Major Provisions of Proposition 37



Labeling of Foods

- Raw foods (such as fruits and vegetables) produced through genetic engineering must be labeled “Genetically Engineered.” Processed foods produced entirely or in part through genetic engineering must be labeled “Partially Produced with Genetic Engineering” or “May Be Partially Produced with Genetic Engineering.”
- Certain food products would be excluded from these requirements, such as alcoholic beverages, restaurant food, and animal products (such as beef or chicken) not directly produced through genetic engineering.
- In addition, the measure prohibits the use of terms such as “natural” or “naturally made” in the labeling or advertising of GE foods. However, there is a possibility that these restrictions could be interpreted by the courts to apply to all processed foods, regardless of whether they are genetically engineered.



State Regulation

- Retailers (such as grocery stores) would be primarily responsible for complying with the measure by ensuring that their food products are correctly labeled.
- The labeling requirements under this measure would be regulated by DPH as part of its existing responsibilities.



Litigation to Enforce the Measure

- Violations of the measure could be prosecuted by state, local, or private parties. In addition, consumers could sue for violations under the state Consumer Legal Remedies Act.



Fiscal Effect of Proposition 37



Increase in State Administrative Costs

- Additional state costs for DPH to regulate the labeling of GE foods, such as reviewing documents and performing periodic inspections.
- Depending on how and the extent to which the department chooses to implement these regulations, these costs could range from a few hundred thousand dollars to over \$1 million annually.



Potential Increase in Costs Associated With Litigation

- Potential, but likely not significant, costs to state and local governments due to litigation resulting from possible violations of the requirements of this measure.
- Some of these costs would be supported by court filing fees that the parties involved in each legal case would be required to pay under existing law.