

Industry tries to block genetically modified food labeling (Update)

April 27 2015, by Dave Gram

Food industry lawyers say there's not enough time to implement Vermont's new labeling rules for genetically modified products before the July 2016 effective date and are asking a federal judge to block them.

The legal skirmishing continues a year after Vermont passed a law aimed at making it the first state in the country to require labeling of food containing genetically modified ingredients. Maine and Connecticut passed laws before Vermont, but those measures don't take effect unless neighboring states follow suit. Vermont is trying to go it alone.

The Grocery Manufacturers Association, Snack Foods Association, International Dairy Foods Association and National Association of Manufacturers are asking the court to issue a preliminary injunction, which would block the law from taking effect.

"Plaintiffs have barely more than a year to overhaul their Vermont supply chains," wrote the groups' lawyers, Catherine Stetson and Matthew Byrne. "Thus the irreparable harm that will befall Plaintiffs' member companies absent a preliminary injunction ... grows increasingly imminent by the day."

The Friday filing at the U.S. District Court for Vermont came in response to rules issued a week earlier by Attorney General William Sorrell to implement the law.

In its court filing, the attorney general's office said the package of rules it had adopted "addresses many of the aspects of (the 2014 law) that Plaintiffs challenge." The food industry said in a response that it's not convinced.

The new state rules include a possible escape hatch for companies fearing they may have to track the genetic origins of every ingredient in their products.

A provision in the rules allows food manufacturers to say on labels that a product "may be" produced with genetic engineering. This would be allowed if the manufacturer does not know "after reasonable inquiry" whether the food contains an ingredient that's produced with genetic engineering.

But the result could dilute the content of the labels and weaken the underlying purpose of the law, Stetson argued.

"It really begs the question: Is the whole idea to benefit consumer knowledge? Simply saying for lots and lots and lots of different food products these may contain (genetically modified ingredients) doesn't really advance that interest," she said.

That, in turn, could weaken the argument that there is a compelling enough state interest to limit manufacturers' First Amendment rights to control the contents of their labels. Stetson said there needs to be a strong "fit" between the purpose of the law and its effect.

Sorrell said Monday that the law would require enough specificity, and that companies would not be permitted to use the "may be" terminology at will. "You can't turn a blind eye toward reality. If you know (the product contains genetically modified ingredients), you have to label," he said.

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