

Judge says Vermont law on genetically modified food stands

April 28 2015, by Dave Gram

A Vermont law that could make the state the first in the country to require labeling of genetically modified food has been allowed by a federal judge to stand for now despite opposition by food industry groups.

U.S. District Court Judge Christina Reiss in Burlington on Monday ruled against the Grocery Manufacturers' Association and other industry groups in their request for a preliminary order to block the [law](#) from going into effect as scheduled on July 1, 2016.

The judge partially granted and partially denied the state's motion to dismiss the industry lawsuit, meaning the case is likely to go to trial.

Vermont Attorney General William Sorrell, whose office finalized rules to implement the law on April 17, said in an interview, "There's a lot of good news in this decision for us and for the heart and soul of the labeling law."

The Grocery Manufacturers Association said it was pleased the court "found us likely to succeed on several of our claims" but was disappointed at the denial of its request for a preliminary injunction.

"Manufacturers are being harmed, and they are being harmed now," the association said in a statement. "Act 120 is unconstitutional and imposes burdensome new speech requirements on food manufacturers and retailers."

The ruling comes nearly a year after Democratic Gov. Peter Shumlin signed the law, under which Vermont is expected to become the first state to require [genetically modified](#) organism, or GMO, food labeling. Connecticut and Maine passed laws earlier but required that neighboring states follow suit before they would take effect.

The Grocery Manufacturers Association was joined by the Snack Foods Association, the International Dairy Foods Association and the National Association of Manufacturers as plaintiffs in the lawsuit, seeking to have Vermont's law declared unconstitutional.

Throughout the legislative and legal debate on GMO labeling, industry groups have argued that the First Amendment gives them broad discretion about what to include on their labels and that there's no compelling state interest to offset that.

Supporters of the law have included consumer and environmental groups. Muslims and some Jews avoid pork, and concerns have been raised about pork genes being introduced into other foods.

The judge found that the concerns embedded in Vermont's law were well within the state's purview.

"The safety of food products, the protection of the environment, and the accommodation of religious beliefs and practices are all quintessential governmental interests, as is the State's desire 'to promote informed consumer decision-making,'" she wrote, quoting from the state's court filings.

The court dismissed the industry groups' request that it apply a legal standard of strict scrutiny to the free-speech issues in the case, making it easier at trial for the state to rebut the companies' First Amendment claims. It also dismissed the plaintiffs' request that the law be found to

violate the Commerce Clause of the U.S. Constitution.

Conversely, Sorrell said the court made it clear the state would face "an uphill battle" in defending a ban in the law on food companies labeling genetically modified [food](#) as "natural."

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