

The DARK Act

Fact Sheet • July 2015

H.R. 1599, the Safe and Accurate Food Labeling Act sponsored by Mike Pompeo (R-KS) and a brainchild of the Grocery Manufacturers Association (GMA),¹ would make the already inadequate approval process for genetically engineered (GMO) foods even worse. The bill would make voluntary labeling for GMO foods the national standard and strip away consumers' right to know by blocking all state efforts to require labeling of GMO foods. That's why many advocates for labeling GMOs refer to this bill as the "Deny Americans the Right to Know Act" or DARK Act. In July, the bill passed out of the House. The next step in the process is the Senate.

Here's what the bill would do:

- Vermont, Connecticut and Maine have passed legislation that would require labels on foods with genetically engineered ingredients.² If passed, the DARK Act would override these state laws and prevent other states from requiring labeling in the future.
- Not only would state labeling rules be blocked by the DARK Act, but a provision in the bill would prohibit state and local governments from passing legislation that would directly or indirectly impact cultivation of GMOs, such as a ban on planting GMOs or spraying GMO-associated pesticides.
- The DARK Act would limit the ability of the Food and Drug Administration (FDA) to ever set a national mandatory labeling requirement by enshrining the current failed policy of voluntary labeling into law. The FDA's long-standing policy has been that companies are allowed to voluntarily label their foods if they contain GMOs.³ Under this voluntary policy, no companies have chosen to disclose the use of GMOs on their labels.
- The DARK Act sets up a system for getting GMO foods approved by FDA that is essentially the same as the inadequate system in place now, in which companies notify FDA that they think the food is "substantially equivalent" to its non-engineered version.⁴



- The “natural” label on foods has never been adequately defined or regulated by the FDA.⁵ This bill would give federal regulators the job of defining “natural” on food labels, presumably so they can say that GMOs are allowed in natural foods, something the food industry wants to do.⁶ The bill would also block states from prohibiting the use of a natural label on a food containing GMOs.
- The DARK Act instructs the USDA to set up standards for non-GMO labels, essentially turning something that is currently happening in the marketplace into a USDA program.

The Grocery Manufacturers Association (GMA) and its member companies have poured over \$80 million into political action committees to help block GMO labeling ballot initiatives in California, Washington, Oregon and Colorado.⁷ The passage

of H.R. 1599 would ensure that the GMA and its member companies continue to profit by misleading consumers. It would codify existing failed policies that let the industry continue to use untested, unnecessary GMO ingredients without real disclosure, while stripping away the power of the states to democratically pass legislation that protects consumers’ right to know what’s in their food.

There are bills in Congress that would give consumers the right to know by requiring mandatory GMO labeling. Senator Boxer (D-CA) and Representative DeFazio (D-OR) have introduced bipartisan legislation called the Genetically Engineered Food Right-to-Know Act, which would require labeling of foods that contain genetically modified ingredients. These bills are the right approach to a nationwide standard for GMO labeling.

Tell your Senators to oppose H.R. 1599 and protect your right to know! You can reach them by calling (866) 772-3843.

Endnotes

- 1 Hopkinson, Jenny and Helena Bottemiller Evich. “Food industry to fire preemptive GMO strike.” *Politico*. January 7, 2014.
- 2 Durkin, Alanna. “Maine advances genetically modified food labels.” *Businessweek*. June 12, 2013; National Cotton Council. “Connecticut approves labeling GE foods.” June 10, 2013; Vermont Governor Peter Shumlin. “Gov. Peter Shumlin Signs First-in-the-Nation Genetically Engineered Foods Labeling Law.” [Press Release] May 8, 2014. On file and available at <http://governor.vermont.gov/newsroom-gmo-bill-signing-release>.
- 3 U.S. Food & Drug Administration (FDA). “Draft Guidance for Industry-Voluntary Labeling Indication Whether Foods Have or Have Not Been Developed Using Biotechnology.” January 2001.
- 4 21 CFR 170.30; Pew Initiative on Food and Biotechnology. “Guide to U.S. Regulation of Genetically Modified Food and Agricultural Biotechnology Products.” September 2001 at 21.
- 5 FDA. “What is the meaning of ‘natural’ on the label of food?” Accessed March 24, 2015. On file and available at <http://www.fda.gov/aboutfda/transparency/basics/ucm214868.htm>.
- 6 Strom, Stephanie. “Group seeks special label for food: “natural.” *New York Times*. December 19, 2013.
- 7 Food & Water Watch analysis of campaign data from Behrsin, Pamela. “Data Release: Failed CA Prop. 37 (GMO Labeling) – Funding Profile.” Maplight.org. March 9, 2013; Washington State Public Disclosure Commission. Campaign Finance Database. Accessed January 2014; Colorado Secretary of State TRACER Database. No on 105 Political Action Committee Contributions. Accessed January 2015; Oregon Secretary of State. Campaign Finance - No on 92 Political Action Committee Contributions. Accessed January 2015.

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