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July 12, 2016

Dear Representative Zinke:

On behalf of the Montana Organic Association, we would like to express our opposition to the Senate GMO labeling bill being taken up by the House of Representatives. The Senate GMO Labeling “compromise” bill championed by Senators Roberts and Stabenow falls far short on what Montanans and the American public deserve. We wholeheartedly agree with our colleagues at the National Organic Coalition, whose recent statement highlights our concerns as follows.

The bill allows companies to use “quick response” or QR codes (a machine-readable code that can be read by a smartphone camera), 1-800 numbers and websites rather than fully transparent, on-package labels. Many consumers do not have access to smartphones or the ability to call multiple 1-800 numbers while shopping in search of information.

The bill has huge loopholes and exempts most GE foods from any labeling: the definition of “bioengineering” in the bill is much weaker than other definitions of genetically engineered foods, including the Food and Drug Administration (FDA) definition; as a result, this proposal runs the risk that soy and canola oil, sugar from GE beets, glyphosate-resistant crops, and most Bt crops would be exempt from labeling requirements. In response to concerns raised by FDA about the definitions in the bill, USDA issued a statement saying that the bill gives the agency the “authority” to require labeling for all of these products, but it stopped short of saying that the bill would require the agency to do so. When asked to clarify the vague definitions in the bill to ensure that the new definition does not result in exclusion of all of a broad list of GE products from labeling requirements, Senators Stabenow and Roberts declined to do so. This only confirms our concerns about the intent of these new definitions, and leaves USDA and the courts in the driver’s seat in deciphering Congress’ intent.

There are no enforcement provisions: companies that do not comply face no penalties.

This bill is unnecessary. Many companies, including Kellogg’s, Frito Lay, General Mills, Mars, ConAgra, Dannon, and Campbell’s are already labeling genetically engineered products in response to the Vermont labeling law, which went into effect on July 1. This bill blocks Vermont’s law and gives the USDA two additional years to set labeling rules under this weak and meaningless framework.

These problems include major concerns about the direct impact of the bill on Montana organic farms, businesses and consumers:

1) The bill could undermine GMO prohibitions in organic. A provision suggests that the new definition of genetic engineering (renamed “bioengineering”) in the bill should be harmonized with the Organic Foods Production Act (OFPA) rules and regulations. Specifically, the bill says that the Secretary of Agriculture must “consider establishing consistency” between the new bioengineered disclosure standard in the bill and OFPA regulations and rules. We all know that organic is non-GMO and so much more. But if USDA were to change existing definitions of genetic engineering to align with the new definitions of bioengineering in the bill, it could significantly undermine the role of organic as the gold standard for consumers seeking to purchase non-GMO products. The champions of the Senate GMO bill have given verbal assurances that USDA will not seek to harmonize the two standards based on this bill, but they declined make that clarification for the record. Because of the uncertainty created by this provision for organic farmers, businesses and consumers, USDA will be in the driver’s seat to clarify their intentions with regard to this provision.

2) The bill prohibits States from requiring transparent labeling of GMO seeds. A provision in the preemption section of the Senate GMO labeling bill prohibits states from requiring clear labeling of GE/GMO seeds. It is particularly critical for organic farmers and other farmers selling to non-GMO markets to be able to know what type of seeds they are buying, so they are prohibited from using GE seeds. A couple of states- VA and VT - require clear labeling of GE seeds. This bill would preempt states from requiring that transparency, but does not even attempt to create any federal GMO seed labeling standards. Since the definitions of this bill begins to blur the lines between what is genetic engineering and what is not, the importance of clear seed labeling standards may become even more important. Yet this bill prohibits states from doing so, and fails to establish any federal authority to require such seed labeling transparency. [See Sec. 295(b) of the Senate passed bill]

3) Will the clear GMO food labels already in use in the marketplace be prohibited from use now or in the future? A provision in the Senate-passed bill creates uncertainty about whether or not all the clear, transparent GMO labels currently in the marketplace (as a result of the VT law) will be allowed to continue. Section 293(b)(1) of the Senate passed bill states "IN GENERAL.--- A food may bear a disclosure that the food is bioengineered only in accordance with regulations promulgated by the Secretary in accordance with this subtitle."

Thank you for your consideration of our concerns regarding this bill.

Sincerely,

Doug Crabtree
Chair, Montana Organic Association