

Myth v. Fact: Roberts/Stabenow Disclosure Agreement

Myth: The proposal proffered by Senators Pat Roberts and Debbie Stabenow is full of loopholes for disclosure, the definition of bioengineering leaves some products out and the legislation would exclude virtually all the GMO products on the market now.

Fact: The bill closes the giant loophole the Vermont law created. It requires disclosure on 24,000 more products than the Vermont law. All GMO food crops on the market are captured by the definition.

According to the USDA, the only agency implementing and enforcing the GMO labeling rules, this authority would include all traditional gene modification products, which have come through the USDA approval process, such as GMO corn, soybeans, sugar and canola products on the market today, as well as products developed using gene editing techniques.

Myth: The use of preemption in the legislation is broader than that GMO labeling of food and seed.

Fact: The bill provides immediate preemption over state GMO labeling laws, preventing a patchwork of state/local GMO labeling standards that threaten farmers' access to agriculture technology, consumer access to safe and affordable foods, and the nation's ability to meet growing global food demand. Preemption is expressly limited by the plain language in the bill to "any requirement related to the labeling of whether a food or seed is genetically engineered."

States would have the ability to establish state disclosure requirements that are identical to the federal standard established by USDA. No other state laws are preempted. State and local consumer protection laws, seed standard laws, biotechnology crop cultivation laws and other similar issues are not impacted.

Myth: The legislation contains no penalties or enforcement mechanism.

Fact: The bill deems failure to comply with the standard a prohibited act. Companies that fail to comply with the disclosure could face legal actions and face remedies under state, federal and common law.

Myth: Under this legislation, food manufacturers could just disclose that their product "may contain GMO" even if they knowingly source bioengineered food.

Fact: The USDA will set specific criteria for "may contain GMO" and any company that uses that term will have to meet very specific criteria. The national disclosure standard would prohibit the use of a statement such as "may contain GMO" that is inconsistent with the criteria that would be established by the USDA.

The "may contain" term recognizes two important aspects about our food supply.

First, many manufacturers have multiple suppliers for multiple ingredients, such as oils, flavorings, colorings, seasonings, and other nutrients. This makes it very difficult for the manufacturer to have insight down the entire ingredient chain and confirm how each ingredient was grown, processed, transported and handled, all of which are factors in determining whether something is GMO or non-GMO.

Second, sometimes a food may be made with a GMO ingredient and other times not. For example, during the year, depending on market conditions, availability of supply, or seasonal factors, a company may be purchasing beet sugar (99% of which is biotech) but then shift over at other points and purchase cane sugar (non-GMO), either produced in the U.S. or imported. The food manufacturer would be unduly burdened if forced to change their disclosure requirements based on whether the sugar they use is beet or cane (GMO vs. non-GMO).

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Myth: The legislation would exempt highly refined products, such as soybean oil and sugar, from labeling.

Fact: This bill gives USDA broad authority to determine the foods that meet the definition of bioengineered foods. Under the mandate in the bill, USDA would determine the amount of a genetic material that may be present in bioengineered food. According to USDA, the legislation provides the Secretary of Agriculture the authority to determine whether highly refined sugars and oils are subject to the disclosure program.

Myth: There is no authority for the USDA to recall products improperly labeled and there are no fines or other punishments for violators.

Fact: While USDA would be prohibited from recalling products, the agency maintains other enforcement options. First, USDA has authority to audit any company that mislabels a food product or does not otherwise comply with the GMO disclosure requirements and subsequently hold them publicly accountable. Second, USDA would have the ability to disclose in a public manner any company that fails to comply with the disclosure requirements. Third, state and federal consumer protection laws are preserved. In addition, FDA and the FTC would retain existing authority to regulate “truthful and misleading” claims on the labels, websites and advertising. Finally, states have the ability to enact an identical state GMO labeling law, which can provide additional enforcement authority if desired.

Myth: QR codes are hard to use and access is limited poor or rural communities.

Fact: QR codes are everywhere. Grocery stores use them to provide coupons. Drivers can pay parking meters using QR codes and movie goers can use them to purchase tickets. Mass transit (airplanes, trains) allow travelers to use QR codes as their tickets. Doctors' offices use QR codes to give more detailed information to their patients. Many of the groups that are complain most about this bill use QR codes and smartphone apps to provide information about grocery items and fundraise.

Smartphone ownership is expected to reach 80% in 2018. And a 2015 Pew study shows smartphone penetration is higher among Hispanic adults (71%) and African American adults (70%) than the 64% national average at that time. In addition, a 2014 study of Texas WIC clients found that they have and use technology: 68% of Texas WIC clients surveyed own a smartphone and 86% access the internet with a mobile device including tablets.

Finally, let's be real on how people get their info, nearly 90% of consumers use search engines for purchase decisions, and all the info that is provided in the QR codes can also be easily accessed by a simple Google search. The great thing about QR codes is that it links the physical world to online content – and online is how today's shopper gets their info. Additionally, with QR codes and other forms of disclosure, consumers will have access to far more information than with an on-pack label. On-pack labels actually limit the amount of information available to consumers.