NORTHWEST FOOD PROCESSORS ASSOCIATION

March 21, 2013

Representative Brad Witt, Chair
House Agriculture and Natural Resources Committee
900 Court St NE, H-374
Salem, OR 97301

RE: Requiring labeling of genetically engineered foods (HB 2175, HB 2532)

Dear Representative Witt:

Thank you for the opportunity to comment on HB 2175 and HB 2532, requiring the labeling of genetically engineered foods. The Northwest Food Processors Association (NWFPA) serves as the voice of the food processing industry in Washington, Oregon and Idaho, representing small, medium and large processors of fruit and vegetable, seafood, dairy, poultry, bakery, specialty and fresh-cut food products. Food processing is the third largest manufacturing employment sector in Oregon, employing over 24,000 people in the state and providing over $42.5 billion in regional economic impact in the Pacific Northwest.

The Northwest Food Processors Association is opposed to HB 2175 and HB 2532. These measures would impose expensive and unnecessary labeling requirements on food processors that may be in conflict with federal labeling law and would put Oregon processors at a competitive disadvantage relative to processors in other states.

Individual state labeling regulations impact the production and distribution of food nationally. Nationally uniform labeling policy is critical because uniform labeling minimizes confusion, increases consumer confidence, and helps control labeling and distribution costs to consumers. If one state establishes a rule on food labeling, a company must shift production and distribution to accommodate that law. This process involves increased production costs and ultimately impacts the consumer.

The Food and Drug Administration (FDA) regulates the labeling of all food, including that of food derived from genetic engineering (GE) techniques. Virtually all food processors operating in the state of Oregon (and elsewhere, if they are selling product in the US) must comply with FDA labeling regulations.

FDA requires that any label statements about the presence or absence of GE ingredients must be truthful, not misleading and must be substantiated. Since FDA does not consider the methods used in plant development to be material information for the purposes of labeling, label statements that imply that products with or without GE ingredients are somehow better or different than their approved traditional counterparts may be considered misleading or untruthful under federal regulations. These proposals raise many questions about whether Oregon law would be in conflict with federal regulations by misleading consumers about the superiority of one product over another or by not providing sufficient information about the nature of the modification.

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In any case, substantiation would be required of all food processors who do not declare the presence of GE ingredients on their product labels. Testing and substantiation carry a significant cost, as any organic or GE-free food processor knows from experience. Factors influencing the cost of production include:

- FDA requires that both types of labels – those that declare the presence of GE ingredients and those that imply the absence – must be substantiated so as not to be untruthful or misleading. Where standardized testing methods are available, those must be used for substantiation. Testing for GE ingredients is expensive and, to guard against liability to the processor, should be conducted on each lot of ingredient used in product formulation.
- Ingredients used in GE-free products must be segregated from GE ingredients to avoid cross contamination, thus increasing storage and handling costs.
- Personnel across the farm-to-finished product continuum must be trained on proper handling to avoid unintentional contamination, increasing training costs to producers and processors.
- Records must also be maintained throughout the system, which increases costs to those systems.
- If analytical substantiation is not available, certification systems must be established and maintained.
- Consistent sourcing of ingredients reduces flexibility in ingredient pricing negotiations, thus increasing the cost of raw materials.
- Insufficient supplies of appropriate ingredients that are consistent with label declarations or ingredient statements can delay or discontinue production. Costs are associated with lost sales, accounts, customer goodwill, etc.
- If labels become inaccurate due to any product formulation changes, all existing label stock must be destroyed and new labels designed, substantiated and purchased. If the same product formulation is produced under a number of SKUs, this label change cost would apply to all them.
- Ingredient transportation costs may increase if local market availability decreases or disappears.
- Distribution costs associated with shipping state-specific labeled products to their intended destinations increase and liabilities associated with shipping errors increase the risk to processors from mislabeled product.

These companies invest significant resources in differentiating themselves in the marketplace to provide products that certain consumers want and for which they are willing to pay. A company with many different product lines, each with a variety of ingredients from multiple sources, would face significant costs to prove to regulators that they are not misleading in their labeling. Compliance and verification extends far beyond Oregon's borders, across the supply chain.

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Labeling of genetically engineered foods is not supported by science. According to the American Medical Association (AMA H-480.958 Bioengineered (Genetically Engineered) Crops and Foods):

> "(a)There is no evidence that unique hazards exist either in the use of rDNA techniques or in the movement of genes between unrelated organisms; (b) The risks associated with the introduction of rDNA-engineered organisms are the same in kind as those associated with the introduction of unmodified organisms and organisms modified by other methods…" and "…there is no scientific justification for special labeling of bioengineered foods…".

Consumers who are concerned about avoiding GE foods already have an avenue to do so. Under United States Department of Agriculture (USDA) requirements, food products that are certified organic cannot contain genetically engineered ingredients. This is a fast-growing sector of the food processing industry and provides what proponents of GE-labeling are seeking without placing new legal and regulatory burdens on other food industry sectors.

Small and medium-sized enterprises are the fastest growing segment of the food processing industry and will be hit hardest by these new requirements. HB 2175 and HB 2532 will harm those companies based in the state who support rural and urban communities with employment and taxes. Oregon food processors primarily marketing in Oregon would be put at an economic disadvantage against processors outside the state who can simply choose not to market within Oregon and avoid compliance costs and liabilities.

The Northwest Food Processors Association urges you not to move forward with state based GE-labeling. An Oregon-only solution will not work for food processors, would create additional costs for consumers and processors, and would disproportionately harm our homegrown businesses.

Sincerely,

James Curry
Director, Government Affairs

CC: Honorable members, House Agriculture and Natural Resources Committee

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