

Can Vermont's GMO labeling bill stand up to legal challenge?

Vermont's GMO labeling bill is expected to be challenged in the courts soon after it is signed by the Governor. The two biggest constitutional hurdles for Vermont's law are federal preemption and the First Amendment guarantee of free speech.

The labeling of foods containing meat or poultry is governed by USDA under the Federal Meat Inspection Act and Poultry Products Inspection Act. Both of those statutes expressly preempt state laws imposing labeling requirements "in addition to, or different than" federal law. Vermont's law requires labeling in addition to and different than that required by USDA and, thus, it likely is preempted with respect to foods containing meat or poultry.

The First Amendment analysis could go either way, largely depending on what test the court decides to use. Although the Vermont bill declares that it has an interest in preventing consumer deception, preventing potential risks to human health, protecting religious practices, and protecting the environment, it is not clear that the State has *evidence* sufficient to prove that these are legitimate concerns or that labeling of GMO foods would materially advance any of these interests.

Vermont will have a difficult time, I think, in distinguishing its present interest in informing consumers about the presence of GMOs from its earlier interest in disclosure of rBST. Thus, Vermont's "triumph" is far from a sure thing.

Read the full, original article: [Will Vermont's GMO Labeling Law Survive Legal Challenge?](#)