

ORIGINAL

SECRET

<p>SUPREME COURT OF COLORADO 2 East 14th Ave. Denver, CO 80203</p> <hr/> <p>Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board</p> <hr/> <p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2013-2014 #48 (“Labeling Genetically Modified Food”)</p> <p><b>Petitioners: MARC ARNUSCH and MARY LOU CHAPMAN</b> v. <b>Respondents: LARRY COOPER and CHERYL GRAY</b></p> <p>and</p> <p><b>Title Board: SUZANNE STAIERT; DANIEL DOMENICO; and JASON GELENDER</b></p>	<p>FILED IN THE SUPREME COURT</p> <p>DEC 17 2013</p> <p>OF THE STATE OF COLORADO Christophers, Dore, Clerk</p> <p>▲ COURT USE ONLY ▲</p>
<p>Attorneys for Petitioners: Mark G. Grueskin, #14621 RECHT KORNFELD, P.C. 1600 Stout Street, Suite 1000 Denver, CO 80202 Phone: 303-573-1900 Facsimile: 303-446-9400 Email: <a href="mailto:mark@rechtkornfeld.com">mark@rechtkornfeld.com</a></p>	<p>Case No. _____</p> <p><b>13SA 335</b></p>
<p><b>PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2013- 2014 #48 (“LABELING GENETICALLY MODIFIED FOOD”)</b></p>	

Marc Arnusch and Mary Lou Chapman (“Petitioners”), registered electors of the State of Colorado, through their undersigned counsel, respectfully petition this court pursuant to C.R.S. § 1-40-107(2), to review the actions of the Title Setting Board with respect to the title, ballot title, and submission clause set for Initiative 2013-2014 #48 (“Labeling Genetically Modified Food”).

## **STATEMENT OF THE CASE**

### **A. Procedural History of Proposed Initiative #48**

Larry Cooper and Cheryl Gray (hereafter “Proponents”) proposed Initiative 2013-2014 #48 (the “Proposed Initiative”). A review and comment hearing was held before representatives of the Offices of Legislative Council and Legislative Legal Services. Thereafter the Proponents submitted a final version of the Proposed Initiative to the Secretary of State for purposes of submission to the Title Board, of which the Secretary or his designee is a member.

A Title Board hearing was held on December 4, 2013 to establish the Proposed Initiative’s single subject and set a title. On December 11, 2013 Petitioners filed a Motion for Rehearing, alleging that the title was confusing, misleading, and failed to reflect the intent of the Proponents. The rehearing was held on December 18, 2013, at which time the Title Board granted in part the

Motion for Rehearing to cure certain deficiencies in the title it had set but denied the Motion in other respects, some of which are at issue in this appeal.

### **B. Jurisdiction**

Petitioners are entitled to a review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioners timely filed the Motion for Rehearing with the Title Board. *See* C.R.S. § 1-40-107(1). Additionally, Petitioners timely filed this Petition for Review within five days from the date of the hearing on the Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: (1) the draft, amended, and final versions of the initiative filed by the Proponents; (2) the original ballot title set for this measure; (3) the Motion for Rehearing filed by the Petitioners; and (4) the ruling on the Motion for Rehearing as reflected by the title and ballot title and submission clause set by the Board. Petitioners believe that the Title Board erred in denying certain aspects of the Motion for Rehearing. Consequently, this matter is properly before this Court.

### **GROUND FOR APPEAL**

In violation of C.R.S. §§ 1-40-106, -107, the title set by the Title Board is unfair, misleading, does not fairly and correctly express the true meaning of the

Proposed Initiative, and will lead to voter confusion. The following is an advisory list of issues to be addressed in Petitioners' brief:

1. The titles incorrectly summarize the measure in stating that labeling is required for "food that has been... treated with genetically modified material;" in fact, the measure requires labeling only if "the organism from which the food is derived" – not the food product itself – "has been treated with a genetically engineered material."
2. The single subject statement in the titles ("concerning labeling of genetically modified food") is misleading because it does not reflect that the Proposed Initiative deals with labeling of some, rather than all, genetically modified foods.
3. The titles do not inform voters that the essence of the Proposed Initiative is that the failure to label genetically modified food is treated as "misbranding" of food.
4. The titles do not inform voters that the misbranding of food can be punished by various means including criminal prosecution.
5. The titles do not inform voters that the measure exempts genetically engineered foods from treatment as "misbranded" food if they are produced without specific knowledge on the part of the manufacturer.

6. The titles do not inform voters that the measure provides a unique definition of "genetically modified" and "genetically engineered," such that foods qualify under these definitions if they contain any genetically engineered ingredient, component, or other article, whether or not the ultimate food product itself has gone through the process of having been genetically modified.
7. The titles do not inform voters that the measure exempts from the labeling requirement any processed food that is produced with genetically engineered enzymes or additives.
8. The titles do not inform voters that the measure's informational requirements apply to raw agricultural commodities but do so only at the point of retail sale rather than at the point of consumption.
9. The titles contain the mandated wording of the label even though such detail is not a central measure of the initiative.

### **PRAYER FOR RELIEF**

Petitioners respectfully request that, after consideration of the parties' briefs, this Court determine that the title set for the Proposed Initiative is neither fair nor

accurate and remand the Proposed Initiative to the Title Board with instructions to redraft the title to accurately and fairly represent the text of the Proposed Initiative.

Respectfully submitted this 24<sup>th</sup> day of December, 2013.



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Mark G. Grueskin, #14621  
RECHT KORNFELD, P.C.  
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Denver, CO 80202  
Phone: 303-573-1900  
Facsimile: 303-446-9400  
Email: [mark@rechkornfeld.com](mailto:mark@rechkornfeld.com)  
**ATTORNEYS FOR PETITIONERS**

**CERTIFICATE OF SERVICE**

I, Laurene Ulberz, hereby affirm that a true and accurate copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2013-2014 #48 (“LABELING GENETICALLY MODIFIED FOOD”)** was sent this day, December 24<sup>th</sup>, 2013, via first class U.S. mail, postage pre-paid to the proponents and their counsel and to counsel for the Title Board at:

Larry Cooper  
6961 Lee Street  
Arvada, CO 80004

Cheryl Gray  
665 Eldorado Blvd., #434  
Broomfield, CO 80021

Thomas Rogers  
Lewis Roca Rothgerber  
1200 Seventeenth Street, Suite 3000  
Denver, CO 80202

LeeAnn Morrill  
Office of the Attorney General  
1300 Broadway, 6th Floor  
Denver, CO 80203

Laurene Ulberz



# STATE OF COLORADO

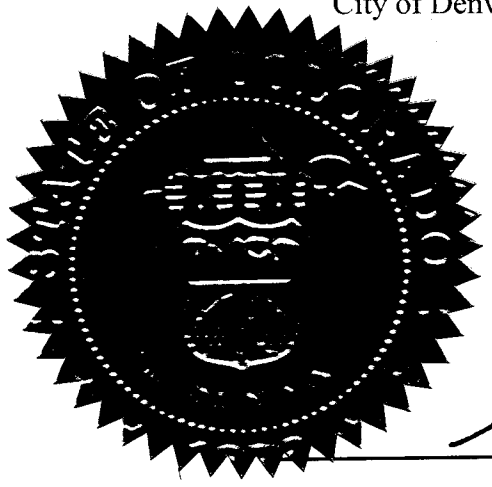
DEPARTMENT OF  
STATE

## CERTIFICATE

I, **SCOTT GESSLER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the filed text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2013-2014 #48 'Labeling Genetically Modified Food'".....

..... **IN TESTIMONY WHEREOF** I have unto set my hand .....  
and affixed the Great Seal of the State of Colorado, at the  
City of Denver this 5<sup>th</sup> day of January, 2012.



A handwritten signature in cursive script, reading "Scott Gessler", is written over a horizontal line.

SECRETARY OF STATE



**Ballot Title Setting Board**

**Proposed Initiative 2013-2014 #48**

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes concerning labeling of genetically modified food; and, in connection therewith, requiring food that has been genetically modified or treated with genetically modified material to be labeled, "Produced With Genetic Engineering" starting on July 1, 2016; exempting some foods including but not limited to food from animals that are not genetically modified but have been fed or injected with genetically modified food or drugs, certain food that is not packaged for retail sale and is intended for immediate human consumption, alcoholic beverages, food for animals, and medically prescribed food; requiring the Colorado department of public health and environment to regulate the labeling of genetically modified food; and specifying that no private right of action is created for failure to conform to the labeling requirements.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes concerning labeling of genetically modified food; and, in connection therewith, requiring food that has been genetically modified or treated with genetically modified material to be labeled, "Produced With Genetic Engineering" starting on July 1, 2016; exempting some foods including but not limited to food from animals that are not genetically modified but have been fed or injected with genetically modified food or drugs, certain food that is not packaged for retail sale and is intended for immediate human consumption, alcoholic beverages, food for animals, and medically prescribed food; requiring the Colorado department of public health and environment to regulate the labeling of genetically modified food; and specifying that no private right of action is created for failure to conform to the labeling requirements?

*Hearing December 4, 2013:*

*Single subject approved; staff draft amended, titles set.*

*Hearing adjourned 1:40 p.m.*

*Rehearing December 18, 2013:*

*Motion for Rehearing granted to the extent that the Board made changes to the title; denied in all other respects.*

*Hearing adjourned 12:22 p.m.*

**RECEIVED**



DEC 11 2013

ELECTIONS  
SECRETARY OF STATE

4:20

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

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MARC ARNUSCH and MARY LOU CHAPMAN, Objectors

vs.

LARRY COOPER and CHERYL GRAY, Proponents.

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**MOTION FOR REHEARING**

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Marc Arnusch and Mary Lou Chapman, through their legal counsel, Recht Kornfeld P.C., objects to the Title Board's title and ballot title and submission clause set for Initiative 2013-14 #48 ("Labeling Genetically Modified Food").

On December 4, 2013, the Board set the following ballot title and submission clause:

Shall there be a change to the Colorado Revised Statutes concerning labeling of genetically modified food; and, in connection therewith, requiring that the words, "Produced With Genetic Engineering" appear in a clear and conspicuous manner on the label starting on July 1, 2016; exempting certain food that is not packaged for retail sale, alcoholic beverages, animal food, and medically prescribed food; authorizing the Colorado department of public health and environment to regulate the labeling of genetically modified food; and specifying that no private right of action is created in connection with the labeling requirements?

**GROUNDNS FOR RECONSIDERATION**

A. Contrary to the statutory requirements for a ballot title that is not confusing, not misleading, and reflective of the intent of the proponents, C.R.S. §§ 1-40-106, -107, the Board has erred by setting titles that do not reveal that the measure:

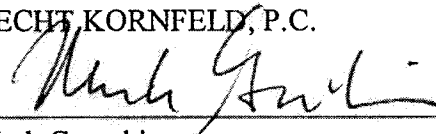
- (1) Requires, rather than authorizes, state agency regulation of food labeling;
- (2) Does not create a blanket prohibition against private rights of action;
- (3) Addresses the subject of "labeling food" rather than just "labeling of genetically modified food";
- (4) Addresses the subject of labeling of "some" rather than the entire sphere of "genetically modified food";

- (5) Exempts from the measure's labeling requirements all restaurant food;
- (6) Exempts from labeling requirements any animal products from animals that were given food, injections, or drugs that include genetically modified organisms;
- (7) Exempts from the measure's labeling requirements all animal food, whether for livestock or domestic animals;
- (8) Exempts from labeling requirements certain foods, but not others, that contain or have been affected by genetically modified processing aids;
- (9) Exempts against allegation of misbranding food sellers who (i) lack knowledge that seeds or foods were derived using genetic engineering and (ii) so certify at time of delivery;
- (10) Does not immunize retailers, manufacturers, or distributors against private rights of action that are not related to conformance to labeling requirements;
- (11) Extends immunity against private rights of action to advertising as well as sale and labeling of food;
- (12) Fails to indicate that raw agricultural commodities are not required to be labeled at the point of sale but are subject to signage requirements reflecting information provided by manufacturers and distributors;
- (13) Requires labeling by raw agricultural commodity manufacturers;
- (14) Requires raw agricultural commodity distributors to maintain labels for retailers;
- (15) Redefines existing definition of "food" by eliminating many food components and chewing gum for purposes of this labeling;
- (16) Fails to disclose that a food is considered to be genetically modified if it contains any ingredient, component, or other article that is genetically engineered;
- (17) Fails to disclose that a food is considered to be genetically modified if it has been treated with any genetically engineered material;
- (18) Confuses voters by using two different terms ("genetically modified" and "genetic engineering") to describe the same food(s).

B. The label's wording, quoted in the title, is not a central element of the measure.

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of December, 2013.

RECHT KORNFELD, P.C.



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Mark Grueskin

1600 Stout Street, Suite 1000

Denver, CO 80202

Phone: 303-573-1900

Email: [mark@rechtkornfeld.com](mailto:mark@rechtkornfeld.com)

Objectors' Addresses:

Marc Arnusch  
6506 County Road 65  
Keenesburg, CO 80643

Mary Lou Chapman  
9525 West 71st Avenue  
Arvada, CO 80004

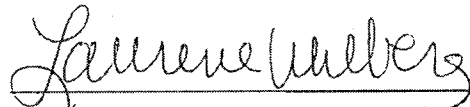
**CERTIFICATE OF SERVICE**

I hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING** of Marc Arnusch and Mary Lou Chapman was sent this day, December 11, 2013, via first class U.S. mail, postage pre-paid to the proponents and their counsel at:

Larry Cooper  
6961 Lee Street  
Arvada, CO 80004

Cheryl Gray  
665 Eldorado Blvd., #434  
Broomfield, CO 80021

Thomas Rogers  
Lewis Roca Rothgerber  
1200 Seventeenth Street  
Suite 3000  
Denver, CO 80202



**Ballot Title Setting Board**

**Proposed Initiative 2013-2014 #48**

The title as designated and fixed by the Board is as follows:

A change to the Colorado Revised Statutes concerning labeling of genetically modified food; and, in connection therewith, requiring that the words, "Produced With Genetic Engineering" appear in a clear and conspicuous manner on the label starting on July 1, 2016; exempting certain food that is not packaged for retail sale, alcoholic beverages, animal food, and medically prescribed food; authorizing the Colorado department of public health and environment to regulate the labeling of genetically modified food; and specifying that no private right of action is created in connection with the labeling requirements.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be a change to the Colorado Revised Statutes concerning labeling of genetically modified food; and, in connection therewith, requiring that the words, "Produced With Genetic Engineering" appear in a clear and conspicuous manner on the label starting on July 1, 2016; exempting certain food that is not packaged for retail sale, alcoholic beverages, animal food, and medically prescribed food; authorizing the Colorado department of public health and environment to regulate the labeling of genetically modified food; and specifying that no private right of action is created in connection with the labeling requirements?

*Hearing December 4, 2013:*

*Single subject approved; staff draft amended, titles set.*

*Hearing adjourned 1:40 p.m.*

**RECEIVED**

**NOV 22 2013**

**ELECTIONS/LICENSING  
SECRETARY OF STATE**

S. WARD  
1:30 P.M.

2013-14 #48 – FINAL TEXT

**Colorado Right to Know Act  
(Statutory Amendment)**

*Text of Measure:*

*Be it Enacted by the People of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add 25-5-401.5** as follows:

**25-5-401.5. LEGISLATIVE DECLARATION.** (1) THE ELECTORATE OF COLORADO HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(1) LABELING OF GENETICALLY MODIFIED FOOD IS INTENDED TO PROVIDE CONSUMERS WITH THE OPPORTUNITY TO MAKE AN INFORMED CHOICE OF THE PRODUCTS THEY CONSUME AND TO PROTECT THE PUBLIC'S HEALTH, SAFETY AND WELFARE;

(2) PERSONS WITH CERTAIN RELIGIOUS, CULTURAL AND MORAL BELIEFS OBJECT TO CONSUMING GENETICALLY MODIFIED FOOD BECAUSE OF OBJECTIONS TO TAMPERING WITH THE GENETIC MAKEUP OF LIFE FORMS AND THE RAPID INTRODUCTION AND PROLIFERATION OF GENETICALLY ENGINEERED ORGANISMS;

(3) U.S. FEDERAL LAW DOES NOT PROVIDE FOR THE REGULATION OF THE SAFETY AND LABELING OF GENETICALLY MODIFIED FOOD;

(4) THE LONG TERM HEALTH, SAFETY AND ENVIRONMENTAL CONSEQUENCES OF GROWING AND CONSUMING GENETICALLY MODIFIED FOOD ARE NOT YET FULLY RESEARCHED AND ARE NOT YET WELL UNDERSTOOD BY SCIENCE;

(5) CONSUMERS HAVE A RIGHT TO KNOW IF THE FOOD THEY ARE CONSUMING HAS BEEN GENETICALLY MODIFIED OR HAS BEEN PRODUCED WITH GENETIC ENGINEERING.

**SECTION 2.** In Colorado Revised Statutes, 25-5-402, **add (8.5), (9.5), (12.5), (15.5), (16.5), (20.3), (20.5), and (21.5)** as follows:

**25-5-402. Definitions.** As used in this part 4, unless the context otherwise requires:

(8.5) "DISTRIBUTOR" MEANS A PERSON OR BUSINESS ENGAGED IN ANY METHOD OF DISTRIBUTING OR TRANSPORTING A FOOD OR FOOD PRODUCT FROM ONE PLACE TO ANOTHER.

(9.5) "ENZYME" MEANS A PROTEIN THAT CATALYZES CHEMICAL REACTIONS OF OTHER SUBSTANCES WITHOUT BEING DESTROYED OR ALTERED UPON COMPLETION OF SUCH REACTIONS.

(12.5) "GENETICALLY ENGINEERED" OR "GENETICALLY MODIFIED" MEANS FOOD PRODUCED FROM OR WITH AN ORGANISM OR ORGANISMS WITH ITS GENETICS ALTERED THROUGH APPLICATION OF:

(a) IN VITRO AND IN VIVO NUCLEIC ACID TECHNIQUES, INCLUDING RECOMBITANT DEOXYRIBONUCLEIC ACID (DNA) TECHNIQUES AND THE DIRECT INJECTION OF NUCLEIC ACID INTO CELLS OR ORGANELLES; OR

**2013-14 #48 – FINAL TEXT**

(b) METHODS OF FUSING CELLS BEYOND THE TAXONOMIC FAMILY THAT OVERCOME NATURAL PHYSIOLOGICAL REPRODUCTIVE OR RECOMBINANT BARRIERS, AND THAT ARE NOT TECHNIQUES USED IN TRADITIONAL BREEDING AND SELECTION SUCH AS CONJUGATION, TRANSDUCTION, AND HYBRIDIZATION.

(c) A FOOD SHALL OTHERWISE BE CONSIDERED TO BE GENETICALLY ENGINEERED IF:

(I) THE ORGANISM FROM WHICH THE FOOD IS DERIVED HAS BEEN TREATED WITH A GENETICALLY ENGINEERED MATERIAL; EXCEPT THAT THE USE OF MANURE AS A FERTILIZER FOR RAW AGRICULTURAL COMMODITIES MAY NOT BE CONSTRUED TO MEAN THAT SUCH COMMODITIES ARE PRODUCED WITH A GENETICALLY ENGINEERED MATERIAL; OR

(II) THE FOOD CONTAINS AN INGREDIENT, COMPONENT, OR OTHER ARTICLE THAT IS GENETICALLY ENGINEERED.

(15.5) "MANUFACTURER" MEANS A PERSON OR BUSINESS ENGAGED IN THE PRODUCTION OR PROCESSING OF SEED, SEED STOCK, FOOD, OR ANY FOOD PRODUCT.

(16.5) "ORGANISM" MEANS ANY BIOLOGICAL ENTITY CAPABLE OF REPLICATION, REPRODUCTION OR TRANSFERRING GENETIC MATERIAL.

(20.3) "PROCESSED FOOD" MEANS ANY FOOD OTHER THAN A RAW AGRICULTURAL COMMODITY AND INCLUDES ANY FOOD PRODUCED FROM A RAW AGRICULTURAL COMMODITY THAT HAS BEEN SUBJECT TO PROCESSING SUCH AS CANNING, SMOKING, PRESSING, COOKING, FREEZING, DEHYDRATION, FERMENTATION, OR MILLING.

(20.5) "PROCESSING AID" MEANS:

(a) A SUBSTANCE THAT IS ADDED TO A FOOD DURING THE PROCESSING OF THE FOOD BUT IS REMOVED IN SOME MANNER FROM THE FOOD BEFORE IT IS PACKAGED IN ITS FINAL FORM;

(b) A SUBSTANCE THAT IS ADDED TO A FOOD DURING PROCESSING, IS CONVERTED INTO CONSTITUENTS NORMALLY PRESENT IN THE FOOD, AND DOES NOT SIGNIFICANTLY INCREASE THE AMOUNT OF THE CONSTITUENTS FOUND IN THE FOOD; OR

(c) A SUBSTANCE THAT IS ADDED TO A FOOD FOR ITS TECHNICAL OR FUNCTIONAL EFFECTS IN THE PROCESSING BUT IS PRESENT IN THE FINISHED FOOD AT INSIGNIFICANT LEVELS AND DOES NOT HAVE ANY TECHNICAL OR FUNCTIONAL EFFECT IN THAT FINISHED FOOD.

(21.5) "RETAILER" MEANS A PERSON OR BUSINESS ENGAGED IN SELLING THE FOOD FROM INDIVIDUALS OR BUSINESSES TO THE END-USER.

**SECTION 3:** In Colorado Revised Statutes, 25-5-411, add (1)(q), (1)(r), (3) and (4) as follows:

**25-5-411. Definitions of "misbranding".** (1) A food shall be deemed to be misbranded:

**2013-14 #48 – FINAL TEXT**

(q) BEGINNING JULY 1, 2016, IF IT HAS BEEN GENETICALLY MODIFIED OR HAS BEEN PRODUCED WITH GENETIC ENGINEERING, UNLESS THE WORDS "PRODUCED WITH GENETIC ENGINEERING" APPEAR IN A CLEAR AND CONSPICUOUS MANNER ON ITS LABEL, IN THE CASE OF PACKAGED FOOD. IN THE CASE OF A RAW AGRICULTURAL COMMODITY THAT IS NOT SEPARATELY PACKAGED OR LABELED, THE WORDS "PRODUCED WITH GENETIC ENGINEERING" SHALL BE PLACED IN A CLEAR AND CONSPICUOUS MANNER ON THE CONTAINER USED FOR PACKAGING, HOLDING OR TRANSPORT BY THE MANUFACTURER, AND SHALL BE MAINTAINED BY THE DISTRIBUTOR, AND DISPLAYED IN A CLEAR AND CONSPICUOUS MANNER ON THE RETAIL STORE SHELF OR BIN IN WHICH SUCH COMMODITY IS DISPLAYED FOR SALE BY THE RETAILER. THIS PARAGRAPH (q) OF SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO:

(I) FOOD OR DRINK FOR ANIMALS;

(II) CHEWING GUM;

(III) ALCOHOLIC BEVERAGES;

(IV) ANY PROCESSED FOOD THAT WOULD BE SUBJECT TO SUBSECTION (q) SOLELY BECAUSE ONE OR MORE PROCESSING AIDS OR ENZYMES WERE PRODUCED OR DERIVED WITH GENETIC ENGINEERING;

(V) ANY FOOD WHICH IS NOT PACKAGED FOR RETAIL SALE AND THAT EITHER:

(a) IS A PROCESSED FOOD PREPARED AND INTENDED FOR IMMEDIATE HUMAN CONSUMPTION;

(b) IS SERVED, SOLD, OR OTHERWISE PROVIDED IN ANY RESTAURANT OR OTHER FOOD ESTABLISHMENT THAT IS PRIMARILY ENGAGED IN THE SALE OF FOOD PREPARED AND INTENDED FOR IMMEDIATE HUMAN CONSUMPTION;

(VI) FOOD CONSISTING ENTIRELY OF, OR DERIVED ENTIRELY FROM, AN ANIMAL THAT HAS NOT ITSELF BEEN GENETICALLY ENGINEERED, REGARDLESS OF WHETHER THE ANIMAL HAS BEEN FED OR INJECTED WITH ANY FOOD PRODUCED WITH GENETIC ENGINEERING OR ANY DRUG THAT HAS BEEN PRODUCED THROUGH MEANS OF GENETIC ENGINEERING; OR

(VII) MEDICALLY PRESCRIBED FOOD.

(3) FOOD WILL NOT BE CONSIDERED MISBRANDED UNDER PARAGRAPH (q) OF SUBSECTION (1) OF THIS SECTION IF IT IS PRODUCED BY A PERSON WHO:

(a) GROWS, RAISES, OR OTHERWISE PRODUCES SUCH FOOD WITHOUT KNOWLEDGE THAT THE FOOD WAS CREATED WITH SEED OR OTHER FOOD THAT WAS DERIVED IN ANY WAY THROUGH A PROCESS OF GENETIC ENGINEERING; AND

(b) OBTAINS A SWORN STATEMENT FROM THE PARTY THAT SOLD TO SUCH PERSON THE SEED OR FOOD THAT SUCH SUBSTANCE HAS NOT BEEN KNOWINGLY ENGINEERED, WAS ENTIRELY SEGREGATED FROM, AND HAS NOT KNOWINGLY BEEN COMMINGLED WITH A FOOD OR FOOD COMPONENT THAT MAY HAVE BEEN CREATED THROUGH A PROCESS OF GENETIC ENGINEERING. THE SWORN STATEMENT MUST BE OBTAINED AT THE TIME THE SEED OR FOOD IS DELIVERED FROM THE SELLER.

(4) THERE IS NO PRIVATE RIGHT OF ACTION AGAINST A DISTRIBUTOR, MANUFACTURER, OR RETAILER THAT SELLS OR ADVERTISES FOOD FOR FAILURE TO CONFORM TO THE LABELING



**2013-14 #48 – FINAL TEXT**

REQUIREMENTS UNDER PARAGRAPH (q) OF SUBSECTION (1) OF THIS SECTION.

(5) THE DEPARTMENT SHALL PROMULGATE REGULATIONS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 25-5-420 CONCERNING THE PROCEDURES FOR PROMULGATING SUCH REGULATIONS, TO CARRY OUT THE LABELING REQUIREMENTS OF PARAGRAPH (q) OF SUBSECTION (1) OF THIS SECTION. SUCH REGULATIONS MAY PRESCRIBE THE PROCEDURES FOR INSPECTIONS AND TESTING OF PRODUCTS TO ENSURE COMPLIANCE WITH PARAGRAPH (q) OF SUBSECTION (1) OF THIS SECTION.

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NOV 22 2013

ELECTIONS/LICENSING  
SECRETARY OF STATE

S.WARD 1:30P.M.

2013-14 #48 – AMENDED TEXT

Colorado Right to Know Act  
(Statutory Amendment)

Text of Measure:

Be it Enacted by the People of the State of Colorado:

~~SECTION 1. Part 4 of Article 5 of Title 25 in Colorado Revised Statutes, add 25-5-401.5 as follows; is amended by the addition of Section 401.5 to read:~~

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~~25-5-401.5. LEGISLATIVE DECLARATION. (1) THE ELECTORATE OF COLORADO HEREBY FINDS, DETERMINES, AND DECLARES THAT:~~

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(1) LABELING OF GENETICALLY MODIFIED FOOD IS INTENDED TO PROVIDE CONSUMERS WITH THE OPPORTUNITY TO MAKE AN INFORMED CHOICE OF THE PRODUCTS THEY CONSUME AND TO PROTECT THE PUBLIC'S HEALTH, SAFETY AND WELFARE;

(2) PERSONS WITH CERTAIN RELIGIOUS, CULTURAL AND MORAL BELIEFS OBJECT TO CONSUMING GENETICALLY MODIFIED FOOD BECAUSE OF OBJECTIONS TO TAMPERING WITH THE GENETIC MAKEUP OF LIFE FORMS AND THE RAPID INTRODUCTION AND PROLIFERATION OF GENETICALLY ENGINEERED ORGANISMS;

(3) U.S. FEDERAL LAW DOES NOT PROVIDE FOR THE REGULATION OF THE SAFETY AND LABELING OF GENETICALLY MODIFIED FOOD;

(4) IF THE LONG TERM HEALTH, SAFETY AND ENVIRONMENTAL CONSEQUENCES OF GROWING AND CONSUMING GENETICALLY MODIFIED FOOD ARE NOT YET FULLY RESEARCHED AND ARE NOT YET WELL UNDERSTOOD BY SCIENCE;

(5) CONSUMERS HAVE A RIGHT TO KNOW IF THE FOOD THEY ARE CONSUMING HAS BEEN GENETICALLY MODIFIED OR HAS BEEN PRODUCED WITH GENETIC ENGINEERING.

~~SECTION 2. In Colorado Revised Statutes, amend 25-5-402, add (8.5), (9.5), (12.5), (15.5), (16.5), (20.3), (20.5), and (21.5) as follows:~~

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~~25-5-402. Definitions. As used in this part 4, unless the context otherwise requires:~~

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~~(1) "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.~~

~~(2) "Color" includes black, white, and intermediate grays.~~

~~(3)(a) "Color additive" means a material which:~~