

CANADA'S HOUSE OF COMMONS REJECTS MANDATORY LABELING OF GENETICALLY MODIFIED FOODS

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As previously discussed [here](#), last summer represented a turning point in the consumer's "right to know" movement, with former President Obama approving a bill that, once the Department of Agriculture has finalized the regulations, will create a federal labeling requirement for genetically modified ("GM") food in the US. This bill arose and was quickly passed in response to the *Vermont Genetically Engineered Food Labeling Act*, which would have created a patchwork of labeling requirements across the US that would have been difficult for companies to comply with. Canada seemed to be on a similar path when a private member's bill, Bill C-291, An Act to Amend the Food and Drugs Act (genetically modified food), that would require labeling of GM foods was introduced in June 2016 and accepted for debate in the House of Commons.

The Sticking Point

While Canada appeared to be following in the US's footsteps, Bill C-291 was defeated by a significant majority at the Second Reading on May 17, 2017. During the Second Reading, the NDP sponsor of Bill C-291 outlined that the purpose was to increase labeling transparency because Canadians have the right to know what they are consuming. There were three main provisions of the Bill. Firstly, it stipulated that no person could sell any GM food unless it was labeled as such. Secondly, the Bill granted regulatory powers to Health Canada to define what constitutes a GM food. Finally, the Bill provided the government with the regulatory authority to determine the form of the required labels.

The two major concerns leading to the defeat of Bill C-291 in the debates were: (1) the potential for GM labeling to create an inappropriately alarmist consumer response to GM foods that are scientifically safe for consumption; and (2) the complications associated with determining what qualifies as a GM food would make the application of any labeling law incredibly challenging.

The first concern came down to the fact that Canada does not currently have a labeling requirement for GM foods because those foods have been declared to be as safe and nutritious as their non-GM counterparts by Health Canada scientific assessment. Thus, many opponents felt that because Canada already has effective food regulations and a national standard for the voluntary labeling of GM foods, Bill C-291 was unnecessary and

a marketing tool.

The second concern raised related to the difficulty in determining what qualifies as a GM food. Bill C-291 proposed to amend the *Food and Drugs Act* to include a definition for the term “genetically modified”, but the *Food and Drugs Regulations* already define the term “genetically modified”. The opposition felt that an additional definition would create confusion and add to the “bureaucratic burden” of the Bill. Furthermore, it was felt that there is no simple way to define or classify GM foods because GM food is any food derived from an organism that has had genetic traits modified – this could capture the common practice of selective breeding. Thus, the complexity that arises in defining GM foods could lead to great difficulty in the practical application of a labeling law.

What Next?

While Bill C-291 has been defeated in the House, it will be interesting to see whether consumers will accept the maintenance of the status quo. A [2016 Health Canada report](#) indicated that only 26% of respondents would be comfortable eating GM food, so it remains possible that consumers will demand further endeavors to impose labeling of GM foods in Canada, if not from the government then from the companies selling into our market.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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