

Client Alert.

November 7, 2012

Initiative to Label Genetically Modified Foods Fails in California

By Michael Steel

Yesterday, California voters rejected Proposition 37, the Right to Know Genetically Engineered Food Act by 53 percent to 47 percent.

The voter initiative would have required labeling of most foods with genetically modified ingredients, estimated to include up to 80 percent of the foods found in most grocery stores. It would also have prohibited labeling or advertising processed foods as “natural,” whether they were genetically engineered or not. Enforcement would have been in the hands of private attorneys, similar to the approach used under California’s Proposition 65, but with fewer protections against abusive litigation.

The autopsy of this initiative is not yet in. Did voters reject the initiative because of the inexplicable exemptions? Because it was opposed by farmers? Because it seemed to be driven by lawyers specializing in shakedown lawsuits? Because of the unfortunate precedent set by Proposition 65? Or simply because the public believes genetically modified foods are safe and sees no point to yet another government labeling program?

It may be tempting to argue that it was the big money opposing Proposition 37 that swayed the voters—some \$40 million spent by the “No on 37” campaign. But the other ballot measure with major backing, Proposition 38 (funding for education) backed with \$48 million, failed by a much wider margin in this same election. Money doesn’t explain this result.

The answers to these questions may determine whether similar efforts, perhaps better drafted and better considered, are pursued in the future. But for now, the voters’ rejection was clear and unequivocal.

Contact:

Michael Steel

(415) 268-7350

msteel@mofo.com

About Morrison & Foerster:

We are Morrison & Foerster—a global firm of exceptional credentials in many areas. Our clients include some of the largest financial institutions, investment banks, Fortune 100, technology and life science companies. We’ve been included on *The American Lawyer’s* A-List for nine straight years, and *Fortune* named us one of the “100 Best Companies to Work For.” Our lawyers are committed to achieving innovative and business-minded results for our clients, while preserving the differences that make us stronger. This is MoFo. Visit us at www.mofo.com.

Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations. Prior results do not guarantee a similar outcome.