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MOFGA Testimony Neither For Nor Against  
LD 682 - *An Act Regarding Labeling of Packaged Foods for Genetically Modified Organisms*  
March 15, 2023

Good morning Senator Ingwersen, Representative Pluecker and members of the Joint Standing Committee on Agriculture, Conservation and Forestry. My name is Heather Spalding and I am deputy director of the Maine Organic Farmers and Gardeners Association (MOFGA).

A broad-based community, MOFGA is creating a food system that is healthy and fair for all of us. Through education, training and advocacy, we are helping farmers thrive, making more local, organic food available and building sustainable communities.

MOFGA certifies 535 organic farms and processing operations representing roughly \$90 million in sales and we are working hard to create opportunities for Maine's next generation of farmers. Each of these farmers is a Maine businessperson for whom economic health and environmental health are interdependent.

I am speaking neither for nor against LD 682 - *An Act Regarding Labeling of Packaged Foods for Genetically Modified Organisms*. Because the bill is in concept draft form we are not sure what it proposes to do. MOFGA strongly supports consumers' right to know about foods derived from genetically modified organisms (GMOs). In 2013, we led a successful campaign to require clear and consistent labeling on foods sold in Maine.

Sadly, in 2016, federal law preempted Maine's ability to implement meaningful labeling requirements. This was the tragic result of a law passed in Congress, commonly known as The DARK Act – or Deny Americans the Right to Know Act. The DARK Act overturned Vermont's GMO labeling law, and preempted implementation of a similar law in Connecticut, as well as our own law here in Maine, which, in 2013, had been unanimously supported in both chambers of the Legislature and later signed into law by Governor Paul LePage.

Rather than requiring clear, consistent, on-package labeling, the federal DARK Act called for a voluntary system with confusing and inaccessible codes and 800 numbers. USDA conducted rulemaking to implement the DARK Act and, in 2018, issued provisions that would leave the majority of GMO-derived foods unlabeled; discriminate against tens of millions of Americans by permitting minimal disclosure cloaked in the form of QR codes; prohibit the use of the commonly recognized terms "GMO" and "GE" and, instead require the term "bioengineered"; and prohibit retailers from providing more information to consumers.

The Washington, DC-based advocacy group Center for Food Safety led a coalition of food labeling non-profits and retailers in a lawsuit against USDA in 2020, arguing that the law

deprived consumers of their right to receive disclosure in terms they had understood for 25 years, and deprived retailers of their First Amendment right to provide that information. Further, the plaintiffs argued that electronic or digital disclosure on packaging, in the form of QR codes was discriminatory and insufficient. Congress directed USDA to carry out a study on the efficacy of QR code labeling and, though the study concluded that QR codes were insufficient, USDA forged ahead with that minimal requirement. Through MOFGA's membership with the National Organic Coalition, we joined a subsequent lawsuit against USDA in November 2021, asking a federal court to strike down the rules. Though USDA's rules for GMO labeling went into effect in January of 2022, a U.S. District Court ruled last September that USDA had made a "significant error" in its decision to allow only QR code labeling, and ordered that USDA must include additional disclosure options to those foods under USDA's National Bioengineered Food Disclosure Standard.

While the court's ruling on QR codes is welcome, plaintiffs are considering another appeal in light of concessions in the ruling. Unfortunately, the court sided with USDA its use of the unfamiliar term "bioengineered" and disallowance of the terms "GE" or "GMO," and further ruled that USDA could exclude certain "highly refined" products from mandatory disclosure.

It is no secret that MOFGA opposes the use of genetically engineered organisms in agriculture and advocates for significant changes in the regulatory framework governing this technology. We have advocated in local, state, national and international forums ranging from outright bans on genetically engineered organisms in food and agriculture to comprehensive labeling of food products to ensure a consumer's right to know. Organic farmers cannot and will not use seeds, plants or animal feeds that have been genetically engineered. We believe the health and environmental risks of these foods have not been assessed adequately, and the system of federal regulation is in shambles.

Thank you and I'd be happy to answer questions if you have any.

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*The Maine Organic Farmers and Gardeners Association (MOFGA) started in 1971 and is the oldest and largest state organic organization in the country. We're a broad-based community that educates about and advocates for organic agriculture, illuminating its interdependence with a healthy environment, local food production, and thriving communities. We have 15,000 members, we certify more than 500 organic farms and processing facilities representing \$90 million in sales, and we are working hard to provide training and create opportunities for Maine's next generation of farmers. Each of these farmers is a Maine businessperson for whom economic health and environmental health are interdependent. While MOFGA envisions a future of healthy ecosystems, communities, people and economies sustained by the practices of organic agriculture, we attribute our success to collaboration and outreach to growers across the management spectrum.*