

State's Leadership on Food Labeling and Healthy Food at Risk Under Proposed Trade Deals

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Recent Trade Deals Affecting US State-level Food Labeling Policies

- The Trans-Pacific Partnership (TPP), a 12-nation deal encompassing 40 percent of the world's economy
- The Trans-Atlantic Trade and Investment Partnership (TTIP), a giant free trade deal currently under negotiation between the United States and the European Union.

Consumers Demand Effective Food Labeling

- *Consumer Reports* found that two-thirds of Americans check to see if the food is locally produced
- 59% of shoppers check to see if food is “natural”
- 92% want food labels to reflect country of origin
- 83% of consumers want government-mandated labels identifying meat from animals routinely given antibiotics
- Over 90% of Americans support mandatory labeling of genetically modified foods (GMO)

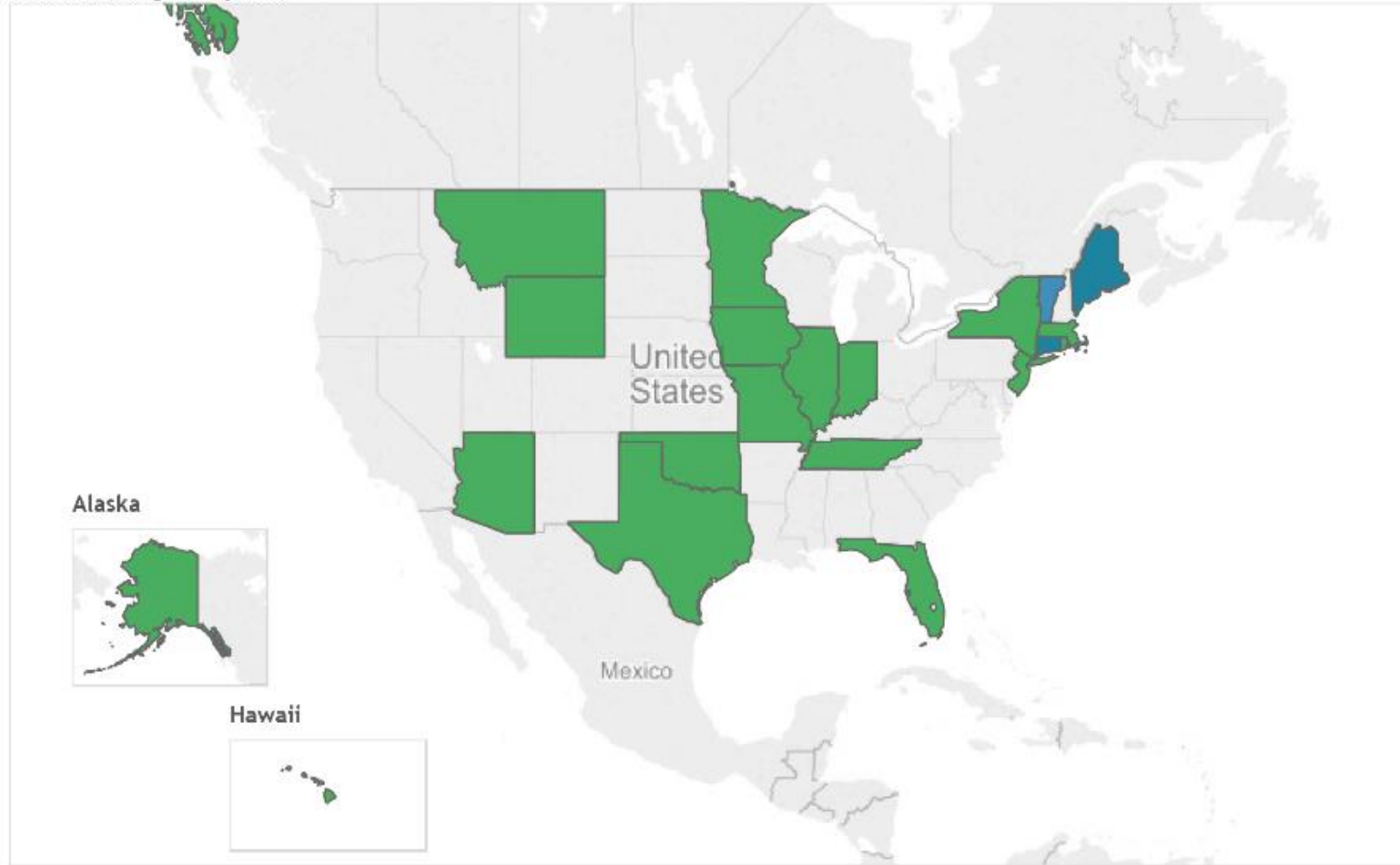
States Act in the Absence of Federal Labeling

Virtually every US state had legislation; 300 food labeling bills introduced in 2014 and 2015 combined

- Nutrition and calorie disclosures
- Identifying foods containing GMOs (already enacted in **Vermont, Maine, Connecticut**)
- Warning labels on sugary drinks (proposed in **California, New York, Vermont**)
- Identifying locally produced or harvested products including olive oil and seafood

Enacted & Proposed State GMO Labeling

2015 GE Labeling Bills by State



Key

-  Passed Mandatory Labeling Legislation
-  GE Labeling

Quiz

Question 1 of 1 ▾ Point Value: 1 | Total Points: 0 out of 1

Which regulator has required labeling of GMO ingredients in food starting July 2016?

- All of the Above
- Vermont Legislature
- US Food and Drug Agency (FDA)
- California Department of Health
- US Department of Agriculture (USDA)

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State Food Labels are at Risk Under International Trade Rules

- TPP and TTIP seek to reduce so-called “trade irritants” – including consumer and public health regulations
- Laws limiting the sale of GMO-containing foods would be considered “trade irritants”
- Laws requiring labeling of food with GMO ingredients or warning consumers of the health hazards of sugary drinks are examples of so-called “trade irritants” that the TPP and TTIP seek to limit.

Technical Barriers to Trade (TBT)

- Both the TPP and the TTIP will have a chapter on “technical barriers to trade” and state food labeling laws are vulnerable to challenge under these rules
- Similar provisions already in effect under World Trade Organization (WTO) rules have been used to challenge federal food labeling standards, including the popular Country of Origin Labeling for meat
- Canada and Mexico are seeking over one billion dollars in trade sanctions, and Congress has passed legislation to repeal Country of Origin Labeling.

The Technical Barriers to Trade Provisions in TPP and TTIP go beyond WTO rules

- Proposed TTIP language would require food labels to be justified as “necessary” and “least trade restrictive”. This standard is much more difficult to meet than the U.S. Constitution requires.
- The TPP has a special “junk food” annex. This annex would make it more difficult to gather information about food additives when developing food label regulations.
- **Mandatory GMO labels:** Are these “least trade restrictive” and “necessary”? When FDA fails to require labels & lightly regulates GMO practices?

The EU's Regulatory Cooperation Proposal in TTIP Threatens State-level Food Labels

State food labeling laws are at risk from a sweeping – and previously unheard of – proposal for a “Regulatory Cooperation” chapter that’s being pushed by European Union negotiators in TTIP.





Business groups openly state their interest in using TTIP to thwart state regulations

TTIP would also inject foreign governments' concerns into domestic policies and procedures.

Regulatory cooperation would institutionalize and promote interference with state and federal legislative procedures through the early warning system and regulatory exchanges.

The consequences could extend well beyond increased red tape and imposing new burdens on budget-strapped state agencies and legislatures.

Procedures intended to “harmonize” standards could result in setting federal and international minimum standards as the regulatory ceiling

- Regulatory Cooperation fails to recognize or preserve any right to regulate outside of federal government
- State standards that impose additional or different requirements on businesses will be reined in
- Labeling requirements stricter than federal regulations, such as GMO labels, are threatened.

Quiz

Question 1 of 1 ▾

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Regulatory cooperation would:

- Limit US state authority to regulate by harmonizing laws between the EU and US and promoting international standards
- Recognize and protect the authority of US states to adopt stricter food regulations than either the EU or US federal government
- Encourage the most protective food labeling standards in both the EU and US

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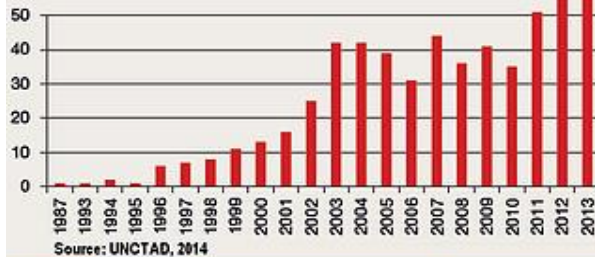
Both TPP and TTIP will include a [private legal system just for corporations

- Investor-State Dispute Settlement (ISDS) could be used to challenge existing or proposed state labeling requirements that foreign corporations claim would reduce profits
- ISDS bypasses the courts and has been used repeatedly to attack environmental and public health measures including US state and Canadian provincial policies
- Even unsuccessful challenges take years to resolve, cost millions to defend and have a chilling effect on the development of new legislation

By the Numbers

A numerical look at the ISDS regime

Known ISDS cases, annual (1987-2013)



Source: UNCTAD, 2014

In the *first 30 years* that the ISDS regime existed, just 50 cases were launched...

...but in the *last 3 years*, over 50 cases were launched **each** year.

Tribunals can award corporations unlimited amounts of taxpayer money.



Under U.S. pacts alone...

...governments have been ordered to pay over \$3.6 billion in compensation to foreign firms...



....and more than \$34 billion remains in pending cases.



Learn More at: www.ISDSCorporateAttacks.org



<http://www.thesleuthjournal.com>

Quiz

Question 1 of 1 ▾ | Point Value: 1 | Total Points: 0 out of 1

What is ISDS?

- A private international standards organization that proposes technical rules, such as packaging labels
- A corporate arbitration system used to challenge regulations
- Another name for Regulatory Cooperation

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There is still time to affect the outcome of these trade agreements!

- Congress is divided on the merits of the Trans-Pacific Partnership, and many members are undecided. ISDS and food safety issues are especially controversial. There is still time to share your views with your state's delegation.
- The Trans-Atlantic trade deal with the European Union is still being negotiated. ***Both regulatory cooperation and ISDS are extremely controversial in the European Union.***
- If people in the US speak up and share their concerns, problematic provisions could be removed from TTIP, or the entire agreement could be stopped.



Links to Resources & Further Reading

- Institute for Agriculture & Trade Policy, *State's Leadership on Healthy Food and Farming at Risk Under Proposed Trade Deals* (November 2015):
http://www.iatp.org/files/2015_11_20_FoodFarmingLeadership_ST_1.pdf
- Center for International Environmental Law, *Preempting the Public Interest* (September 2015):
<http://www.ciel.org/reports/preempting-the-public-interest-how-ttip-will-limit-us-states-public-health-and-environmental-protections-sep-2015/>
- Institute for Agriculture and Trade Policy, *The TPP SPS chapter: not a “model for the rest of the world”* (November 2015): <http://www.iatp.org/documents/the-tpp-sps-chapter-not-a-“model-for-the-rest-of-the-world”>
- National Caucus of Environmental Legislators, www.ncel.net
- National Conference of State Legislatures, www.ncsl.org

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