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## MEMORANDUM

**From:** Gary Jay Kushner  
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**Date:** November 7, 2012

**RE: California Ballot Proposition 37 Defeated**

Yesterday, California voters appear to have defeated California Ballot Proposition 37 (Prop 37), The California Right to Know Genetically Engineered Food Act, which would have required labeling of genetically engineered (GE) foods and restricted the use of “natural” claims on foods sold in California. With more than 95 percent of votes tallied this morning, Prop 37 was being defeated by a margin of 53 percent against to 47 percent in favor.

The GE labeling requirement would have taken effect on July 1, 2014, but the restrictions on natural labeling could have been read to have taken effect immediately. Prop 37 had been criticized for its confusing structure, inconsistent treatment of similar foods, and private right of action provisions. A coalition of food producers, growers, and sellers, led by the Grocery Manufacturers Association, opposed the ballot measure as unnecessary and costly, and 39 California newspapers joined in opposing the measure.

The measure would have required that foods sold in California containing genetically engineered ingredients be labeled to disclose that the food may have been made with genetic engineering. Prop 37 also would have prohibited using a “natural” claim on a food that contained genetically engineered ingredients or had been processed. Prop 37 contained a number of exemptions that would have created an inconsistent patchwork of “genetically engineered” and “natural” labeling. The proposition would have allowed private parties to file “bounty hunter” lawsuits to enforce its provisions without requiring a showing of damages, leading to additional litigation.

Supporters of Prop 37 have vowed to continue their efforts by lobbying Congress and petitioning the Food and Drug Administration to institute mandatory genetic engineering labeling.

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We will continue to monitor labeling initiatives related to genetically engineered ingredients and “natural” claims. Please do not hesitate to contact us with any questions.