

JAN 25 2006

S.B. NO. 2715

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The old adage, "better safe than sorry," is
2 known in policy circles as the "precautionary principle." In
3 the absence of scientific certainty, a party should err on the
4 side of caution. The precautionary principle is very simple and
5 often boils down to just good old common sense, "If we are
6 embarking on something new, we should think very carefully about
7 the risks." This principle has been used throughout the world
8 and was incorporated in the 1992 Earth Summit's Rio Declaration,
9 as well as the 2000 Montreal Summit's Cartagena Biosafety
10 Protocol.

11 The non-precautionary principle is supported by those who
12 believe that the potential of new technologies is so great that
13 new technologies should be accepted even with inadequate
14 testing, and any negative impacts of the technology should be
15 absorbed by society as externalities. Externality is an
16 economic term that refers to a cost or benefit that is
17 experienced by someone who is not a party to the transaction
18 that produced it. However, this raises the issue of whether



1 society should be so accepting of new, untested technologies,
2 and if it is, these companies should be held liable for the
3 their products' consequences or pay financial damages.

4 The precautionary principle correctly places the burden of
5 proof on the proponent of new technologies. It is the
6 proponent's responsibility to demonstrate that the new
7 technology is safe beyond reasonable doubt.

8 In any situation where there is uncertainty, mistakes will
9 occur. The legislature finds that the aim must be to minimize
10 the damage as much as possible. Just as society does not
11 require a defendant to prove his or her innocence, society
12 should not require objectors to prove that a particular
13 technology is harmful. Objectors should be required to present
14 evidence that stands up to scrutiny; however, they should not
15 have to prove that serious dangers are inevitable. The burden
16 of proof should be on the innovators. It is up to those who
17 want to introduce something new to prove, beyond reasonable
18 doubt, that the product is safe.

19 Society balances trials in favor of the defendant because
20 it believes that convicting an innocent person is far worse than
21 failing to convict someone who is actually guilty. Using that
22 same reasoning, society should balance the risks and hazards in



1 favor of safety, especially when damages may be very serious and
2 irredeemable.

3 SECTION 2. Section 26-16, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The department shall:

6 (1) Promote the conservation, development, and utilization
7 of agricultural resources in the State;

8 (2) Assist the farmers of the State and any others engaged
9 in agriculture by research projects, dissemination of
10 information, crop and livestock reporting service,
11 market news service, and any other means of improving
12 the well-being of those engaged in agriculture and
13 increasing the productivity of the lands;


14 (3) Administer the programs of the State relating to
15 animal husbandry, entomology, farm credit, development
16 and promotion of agricultural products and markets,
17 and the establishment and enforcement of the rules on
18 the grading and labeling of agricultural products;
19 [~~and~~]

20 (4) Administer the aquaculture program under section
21 141-2.5[~~-~~]; and

1 (5) Apply the precautionary principle in evaluating all
2 permit applications. "Apply the precautionary
3 principle" as used in this paragraph means evaluating
4 whether it would be prudent to deny a permit
5 application to avert serious or irreversible
6 environmental damage before scientific certainty about
7 the likelihood, magnitude, or causation of the harm
8 exists."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

12
INTRODUCED BY: 
By Request

Report Title:

DOA Permits; Precautionary Principles

Description:

Requires DOA to apply the precautionary principle in making a decision on a permit application.

