

JAN 17 2014

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# A BILL FOR AN ACT

RELATING TO GENETIC ENGINEERING.

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

1           SECTION 1. The legislature finds that the economic health  
2 of Hawaii's agricultural sector is critical to the overall  
3 health of Hawaii's economy, and that this depends in major part  
4 on the high reputation of Hawaii's farmers and their  
5 agricultural products.

6           Growth in genetically engineered agricultural production  
7 has been swift and pervasive throughout the nation. The quick  
8 acceptance of the new technology by American farmers may,  
9 however, pose serious consequences for conventional  
10 agriculture -- consequences that scientists do not yet fully  
11 understand. Those consequences have created doubt within the  
12 farming community and Congress about the wisdom of growing  
13 genetically engineered agricultural products.

14           The greatest potential harm of genetically engineered crops  
15 is that the use of genetically engineered seeds and plants by a  
16 farmer could unintentionally alter the crops being produced by a  
17 neighboring farmer or alter other plants or animals, including



1 insects and microorganisms that interact with domestic crops, as  
2 well as plants and animals within the natural environment.

3 No practical way of safeguarding against this risk is  
4 available, other than abstaining from use of genetically  
5 engineered material. The effect on the United States economy is  
6 significant. China recently rejected 545,000 tons of imported  
7 U.S. corn found to contain an unapproved genetically modified  
8 strain, according to a December 20, 2013, Associated Press  
9 article. In Hawaii, the counties of Kauai and Hawaii recently  
10 adopted ordinances to restrict the growing of genetically  
11 modified organisms, while Maui is considering a similar  
12 ordinance. As reported in the *Honolulu Star-Advertiser* on  
13 December 9, 2013, "Some environmentalists and farmers on Maui  
14 appear poised for a conflict on a bill to add more regulations  
15 on those using pesticides commercially, including businesses  
16 involved in producing genetically modified organisms . . . [T]he  
17 bill is similar to legislation passed in November in Kauai  
18 County."

19 The purpose of this Act is to require a biotech company  
20 that sells a genetically engineered organism to provide written  
21 disclosure of possible risks from the use of such an organism.



1 SECTION 2. Chapter 147, Hawaii Revised Statutes, is  
2 amended by adding a new section to Part IX to be appropriately  
3 designated and to read as follows:

4 "§ - Disclosure. (a) A biotech company that sells  
5 any genetically engineered animal, genetically engineered plant,  
6 or genetically engineered seed that the biotech company knows,  
7 or has reason to believe, will be used to produce an  
8 agricultural commodity shall provide written notice to the  
9 purchaser that fully and clearly discloses the possible legal  
10 and environmental risks that the use of the genetically  
11 engineered animal, genetically engineered plant, or genetically  
12 engineered seed may pose to the purchaser.

13 (b) The provision of written notice under subsection (a)  
14 shall not relieve the biotech company from any liability that  
15 may result from the release of genetically engineered material  
16 into the environment. The receipt of the written notice by the  
17 purchaser shall not be construed to waive any liability under  
18 this section.

19 (c) The chairperson of the board of agriculture may bring  
20 an action to recover a civil penalty against any person who  
21 violates this section or who has knowingly violated a rule or  
22 order made pursuant to this section. A civil penalty of not



1 more than \$100,000 may be assessed for each violation. Any  
2 penalty assessed under this section is in addition to any civil  
3 or criminal actions otherwise available against the same  
4 conduct.

5 (d) For purposes of this section:

6 "Biotech company" means a person, partnership, corporation,  
7 or other entity engaged in the business of genetically  
8 engineering an organism, or obtaining the patent rights to such  
9 an organism for the purposes of commercial use of that organism.

10 "Genetically engineered animal" means an animal that  
11 contains a genetically engineered material or was produced with  
12 a genetically engineered material. An animal shall be  
13 considered to contain a genetically engineered material or to  
14 have been produced with a genetically engineered material if the  
15 animal has been injected or otherwise treated with a genetically  
16 engineered material, or is the offspring of an animal that has  
17 been so injected or treated.

18 "Genetically engineered material" means material that has  
19 been altered at the molecular or cellular level by means that  
20 are not possible under natural conditions or processes  
21 (including recombinant DNA or RNA techniques, cell fusion,  
22 microencapsulation, gene deletion and doubling, introducing a



1 foreign gene, and changing the positions of genes), other than a  
2 means consisting exclusively of breeding, conjugation,  
3 fermentation, hybridization, in vitro fertilization, tissue  
4 culture, or mutogenesis.

5 "Genetically engineered plant" means a plant that contains  
6 a genetically engineered material or was produced with a  
7 genetically engineered material. A plant shall be considered to  
8 contain a genetically engineered material if the plant has been  
9 injected or otherwise treated with a genetically engineered  
10 material (except that the use of manure as a fertilizer for the  
11 plant may not be construed to mean that the plant is produced  
12 with a genetically engineered material).

13 "Genetically engineered seed" means a seed that contains a  
14 genetically engineered material or was produced with a  
15 genetically engineered material. A seed shall be considered to  
16 contain a genetically engineered material or to have been  
17 produced with a genetically engineered material if the seed (or  
18 the plant from which the seed is derived) has been injected or  
19 otherwise treated with a genetically engineered material (except  
20 that the use of manure as a fertilizer for the plant may not be  
21 construed to mean that any resulting seeds are produced with a  
22 genetically engineered material)."



1 SECTION 3. New statutory material is underscored.

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

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# S.B. NO. 2737

**Report Title:**

Genetic Engineering; Disclosure

**Description:**

Requires a biotech company that sells a genetically engineered organism to provide written disclosure of possible risks from the use of such an organism; written notice does not waive any liability a biotech company may have toward a purchaser.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

