

JAN 20 2017

A BILL FOR AN ACT

RELATING TO GENETICALLY MODIFIED MATERIAL.

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 modified agricultural production has
7 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 agriculture
10 -- consequences that scientists do not yet fully understand.
11 Those consequences have created doubt within the farming
12 community and Congress about the wisdom of growing genetically
13 modified agricultural products.

14 The greatest potential harm of genetically modified crops
15 is that the use of genetically modified 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 modified material. The effect on the United States economy is
6 significant. China recently rejected 908,800 tons of imported
7 United States corn found to contain an unapproved genetically
8 modified strain, according to a March 25, 2014, Reuters article.

9 In Hawaii, the counties of Kauai, Hawaii, and Maui recently
10 adopted ordinances to restrict the growing of genetically
11 modified organisms. As reported in an Associated Press article
12 on August 25, 2014, a federal judge ruled that the county of
13 Kauai ordinance is preempted by state law and therefore invalid.
14 On November 14, 2014, the Associated Press reported that a
15 federal judge is preventing implementation of the county of Maui
16 ordinance, which was approved by voters in the 2014 general
17 election, pending a lawsuit brought by Monsanto Co. and Dow
18 Chemical Co. On November 26, 2014, the Honolulu Civil Beat
19 reported that the county of Hawaii ordinance had also been
20 invalidated by a federal judge due to preemption by state law.



1 Currently there is no ban or partial ban of genetically modified
2 organisms in effect in the State of Hawaii.

3 The purpose of this Act is to require a biotech company
4 that sells genetically modified material to provide written
5 disclosure of possible risks from the use of such material.

6 SECTION 2. Chapter 147, Hawaii Revised Statutes, is
7 amended by adding a new part to be appropriately designated and
8 to read as follows:

9 **"PART X. GENETICALLY MODIFIED MATERIAL**

10 **§147- Definitions.** As used in this part, unless the
11 context requires otherwise:

12 "Biotechnology company" means a person, partnership,
13 corporation, or other entity engaged in the business of
14 genetically modifying an organism, or obtaining the patent
15 rights to such an organism for the purposes of commercial use of
16 that organism.

17 "Chairperson" means the chairperson of the board of
18 agriculture.

19 "Department" means the department of agriculture.

20 "Genetically modified animal" means an animal that contains
21 a genetically modified material or was produced with a



1 genetically modified material. An animal shall be considered to
2 contain a genetically modified material or to have been produced
3 with a genetically modified material if the animal has been
4 injected or otherwise treated with a genetically modified
5 material, or is the offspring of an animal that has been so
6 injected or treated.

7 "Genetically modified material" means material that has
8 been altered at the molecular or cellular level by means that
9 are not possible under natural conditions or processes
10 (including recombinant DNA or RNA techniques, cell fusion,
11 microencapsulation, gene deletion and doubling, introducing a
12 foreign gene, and changing the positions of genes), other than a
13 means consisting exclusively of breeding, conjugation,
14 fermentation, hybridization, in vitro fertilization, tissue
15 culture, or mutagenesis.

16 "Genetically modified plant" means a plant that contains a
17 genetically modified material or was produced with a genetically
18 modified material. A plant shall be considered to contain a
19 genetically modified material if the plant has been injected or
20 otherwise treated with a genetically modified material, except
21 that the use of manure as a fertilizer for the plant shall not



1 be construed to mean that the plant is produced with a
2 genetically modified material.

3 "Genetically modified seed" means a seed that contains a
4 genetically modified material or was produced with a genetically
5 modified material. A seed shall be considered to contain a
6 genetically modified material or to have been produced with a
7 genetically modified material if the seed, or the plant from
8 which the seed is derived, has been injected or otherwise
9 treated with a genetically modified material, except that the
10 use of manure as a fertilizer for the plant may not be construed
11 to mean that any resulting seeds are produced with a genetically
12 modified material.

13 **§147- Disclosure.** (a) A biotech company that sells any
14 genetically modified animal, genetically modified plant, or
15 genetically modified seed that the biotechnology company knows,
16 or has reason to believe, will be used to produce an
17 agricultural commodity shall provide written notice to the
18 purchaser that fully and clearly discloses the possible legal
19 and environmental risks that the use of the genetically modified
20 animal, genetically modified plant, or genetically modified seed
21 may pose to the purchaser.



1 (b) The provision of written notice under subsection (a)
 2 shall not relieve the biotechnology company from any liability
 3 that may result from the release of genetically modified
 4 material into the environment. The receipt of the written
 5 notice by the purchaser shall not be construed to waive any
 6 liability under this section.

7 (c) The chairperson may bring an action to recover a civil
 8 penalty against any person who violates this section or who has
 9 knowingly violated a rule or order made pursuant to this
 10 section. A civil penalty of not more than \$100,000 may be
 11 assessed for each violation. Any penalty assessed under this
 12 section is in addition to any civil or criminal actions
 13 otherwise available against the same conduct."

14 SECTION 3. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, and proceedings that were
 16 begun before its effective date.

17 SECTION 4. This Act shall take effect upon its approval.
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INTRODUCED BY:

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S.B. NO. 546

Report Title:

Genetically Modified Material; Disclosure

Description:

Requires a biotechnology company that sells a genetically modified animal, plant, or seed that the company knows or has reason to believe will be used to produce an agricultural commodity to provide written disclosure of possible risks from the use of such an organism; written notice does not waive any liability a biotechnology company may have toward a purchaser.

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