

JAN 20 2017

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

15           The greatest potential harm of genetically modified crops  
16 is that the use of genetically modified seeds and plants by a  
17 farmer could unintentionally alter the crops being produced by a



1 neighboring farmer or alter other plants or animals, including  
2 insects and microorganisms that interact with domestic crops, as  
3 well as plants and animals within the natural environment.

4 No practical way of safeguarding against this risk is  
5 available, other than abstaining from use of genetically  
6 modified material. The effect on the United States economy is  
7 significant. China recently rejected 908,800 tons over a five-  
8 month period of imported United States corn found to contain an  
9 unapproved genetically modified strain, according to a March 25,  
10 2014, Reuters article.

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



1 invalidated by a federal judge due to preemption by state law.  
2 In November 2016, the United States Court of Appeals for the  
3 Ninth Circuit upheld the lower federal court decisions. As  
4 such, currently there is no ban or partial ban of genetically  
5 modified organisms in effect in the State of Hawaii.

6 In light of the great uncertainty surrounding the safety of  
7 emerging biotechnologies and their effects upon human health,  
8 government must respond in a rational and compassionate way.  
9 The "precautionary principle", while not a new concept, has  
10 gained acceptance in Europe and within the scientific community.  
11 Perhaps the best known formulation of this principle within the  
12 scientific community is the Wingspread Statement, which states  
13 in pertinent part: "Therefore, it is necessary to implement the  
14 Precautionary Principle: When an activity raises threats of  
15 harm to human health or the environment, precautionary measures  
16 should be taken even if some cause and effect relationships are  
17 not fully established scientifically." In this context the  
18 proponent of an activity, rather than the public, should bear  
19 the burden of proof. When government faces a decision regarding  
20 the introduction of technologies where the health and safety  
21 consequences to the public are unknown, the precautionary



1 principle provides that precautionary measures should be taken,  
2 even if the risk to the public is uncertain, to mitigate  
3 possible negative consequences.

4 The purpose of this Act is to require the department of  
5 agriculture to adopt the precautionary principle in order to  
6 anticipate, prevent, or minimize the adverse effects of  
7 biotechnology and genetic engineering.

8 SECTION 2. Chapter 141, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11 "§141- Precautionary principle; genetic engineering.

12 The department of agriculture shall take precautionary measures  
13 to anticipate, prevent, or minimize the adverse effects of  
14 biotechnology and genetic engineering. Where there are threats  
15 of serious or irreversible damage, lack of full scientific  
16 certainty should not be used as a reason for postponing the  
17 application of precautionary measures, taking into account that  
18 policies and measures should be at the lowest reasonable cost.  
19 To achieve this, policies and measures should take into account  
20 different socioeconomic contexts, be comprehensive, cover all  
21 relevant sources, and comprise all agricultural sectors."



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. 552

**Report Title:**

Genetic Engineering; Precautionary Principle

**Description:**

Mandates the department of agriculture to take precautionary measures to anticipate, prevent, or minimize the adverse effects of biotechnology and genetic engineering.

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