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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 the State's agricultural sector is critical to the overall  
3 health of the State's economy and the successful interdependence  
4 between these two components depends in major part on the good  
5 reputation of Hawai'i farmers and their agricultural products.

6           Growth in genetically engineered agricultural production  
7 has been swift and pervasive throughout the nation. However,  
8 the quick acceptance of the new technology by American farmers  
9 may pose serious consequences for conventional agriculture –  
10 consequences that scientists do not yet fully understand. Some  
11 members of the farming community and of the United States  
12 Congress have expressed doubts about growing genetically  
13 modified 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. Such modified seeds could also alter other



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

4 No practical way of safeguarding against this risk is  
5 available, other than abstaining from the use of genetically  
6 modified material. The effects on the national or state economy  
7 could be devastating. In June 2014, Reuters reported that over  
8 a seven-month period, China had rejected 1,450,000 metric tons  
9 of United States corn that was found to contain a banned  
10 genetically modified strain. China's rejection of that corn  
11 reportedly cost the United States agriculture industry up to  
12 \$2,900,000,000.

13 The counties of Kaua'i, Hawai'i, and Maui previously adopted  
14 ordinances to restrict the growing of genetically modified  
15 organisms. However, in August 2014 and 2015 the federal courts  
16 ruled that these ordinances were preempted by state and federal  
17 law. All three cases were appealed, but in November 2016, the  
18 United States Court of Appeals for the Ninth Circuit upheld all  
19 three of the lower courts' decisions.

20 The purpose of this Act is to prohibit the planting of  
21 genetically engineered seeds or plant parts in open fields.



1 SECTION 2. Chapter 145, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§145- Genetically engineered seeds and plant parts;  
5 environmental risks. (a) No person shall plant in an open  
6 field in this State a genetically engineered seed or plant part,  
7 the genetically engineered properties of which are capable of  
8 release to an offspring. The chairperson of the board of  
9 agriculture may grant an exception to this requirement upon the  
10 demonstration that use of that genetically engineered seed or  
11 plant part would be within a controlled environment such that no  
12 other plant could inadvertently be affected.

13 (b) The chairperson of the board of agriculture may bring  
14 an action to recover a civil penalty against any person who  
15 violates this section, or who has knowingly violated a rule or  
16 order made pursuant to this section. A civil penalty of not  
17 more than \$100,000 may be assessed for each violation. Any  
18 penalty assessed under this section shall be in addition to any  
19 civil or criminal actions otherwise available against the same  
20 conduct.

21 (c) For purposes of this section:



1       "Genetically engineered plant" means a plant that contains  
2 a genetically modified organism or was produced with a  
3 genetically modified organism. A plant shall be considered to  
4 contain a genetically modified organism if the plant has been  
5 injected or otherwise treated with a genetically modified  
6 organism, except that the use of manure as a fertilizer for the  
7 plant shall not be construed to mean that the plant is produced  
8 with a genetically modified organism.

9       "Genetically engineered seed" means a seed that contains a  
10 genetically modified organism or was produced with a genetically  
11 modified organism. A seed shall be considered to contain a  
12 genetically modified organism or to have been produced with a  
13 genetically modified organism if the seed or the plant from  
14 which the seed is derived has been injected or otherwise treated  
15 with a genetically modified organism, except that the use of  
16 manure as a fertilizer for the plant shall not be construed to  
17 mean that any resulting seeds are produced with a genetically  
18 modified organism.

19       "Open field" means a field that is not located within a  
20 building."



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

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

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# S.B. NO. 2363

**Report Title:**

Genetically Engineered Seeds and Plant Parts; Prohibition; Open Field

**Description:**

Prohibits the planting of a genetically engineered seed or plant part in an open field. Allows the chairperson of the board of agriculture to grant an exception where such planting is done in a controlled environment.

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

