
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 on Environment and Development, as well as the 2000 Montreal
10 Summit's Cartagena Protocol on Biosafety.

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



1 untested technologies, and if it is, whether technological
2 innovators should be held liable for the their products'
3 negative 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 a new technology
7 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 new technologies to prove that a
13 particular technology is harmful. Objectors should be required
14 to present evidence that stands up to scrutiny; however, they
15 should not have to prove that serious dangers are inevitable.
16 The burden of proof should be on the innovators. It is up to
17 those who want to introduce something new to prove, beyond
18 reasonable 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 of



1 introducing new technologies in favor of safety, especially when
2 damages may be very serious or irredeemable.

3 The purpose of this Act is to require the department of
4 agriculture to apply the precautionary principle when evaluating
5 new technologies, techniques, and products for importation,
6 cultivation, or processing.

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

9 "(c) The department shall:

- 10 (1) Promote the conservation, development, and utilization
11 of agricultural resources in the State;
- 12 (2) Assist the farmers of the State and any others engaged
13 in agriculture by research projects, dissemination of
14 information, crop and livestock reporting service,
15 market news service, and any other means of improving
16 the well-being of those engaged in agriculture and
17 increasing the productivity of the lands;
- 18 (3) Administer the programs of the State relating to
19 animal husbandry, entomology, farm credit, development
20 and promotion of agricultural products and markets,
21 and the establishment and enforcement of the rules on



- 1 the grading and labeling of agricultural products;
- 2 [and]
- 3 (4) Administer the aquaculture program under section
- 4 141-2.5[-]; and
- 5 (5) Apply the precautionary principle in evaluating all
- 6 permit applications. "Apply the precautionary
- 7 principle" as used in this paragraph means evaluating
- 8 whether it would be prudent to deny a permit,
- 9 certification, or other form of approval to avert
- 10 potential serious or irreversible environmental damage
- 11 before scientific certainty about the likelihood,
- 12 magnitude, or causation of the harm exists."

13 SECTION 3. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

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

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Report Title:

DOA Permits; Environmental Protection; Precautionary Principle

Description:

Requires department of agriculture to apply the precautionary principle in making a decision on all permit or certification applications.

