

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1       SECTION 1. The legislature finds that the State has  
2       established an exclusive, comprehensive, and statewide framework  
3       for the uniform regulation of agricultural pesticides and  
4       genetically modified crops that precludes local regulation by  
5       the counties. Accordingly, under Hawaii law, the State has sole  
6       authority to regulate pesticides and genetically modified  
7       organisms. However, a perceived uncertainty regarding county  
8       powers has made it necessary to clarify that the counties are  
9       preempted from regulating pesticides and genetically modified  
10      organisms.

11      The purpose of this Act is to:

- 12      (1) Affirm the legislature's intent to provide the State  
13           with exclusive authority to regulate pesticides and  
14           genetically modified organisms; and  
15      (2) Expressly preempt county regulation of pesticides and  
16           genetically modified organisms.



SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§46- State regulation of genetically modified organisms; preemption. (a) The State shall have the exclusive authority to regulate development, testing, planting, breeding, cultivation, harvesting, permitting, licensing, labeling, sale, and distribution of genetically modified organisms within the State. This section shall preempt the counties from regulating genetically modified organisms.

(b) No county shall enact, adopt, or enforce any ordinance or rule that regulates the development, testing, planting, breeding, cultivation, harvesting, permitting, licensing, labeling, sale, or distribution of a genetically modified organism.

(c) This section shall apply to any ordinance or rule enacted or adopted by a county effective on, before, or after its effective date.

(d) As used in this section, "genetically modified organism" means:



- (1) An organism that has been altered at the molecular or cellular level by means that are not possible under natural conditions or processes, including recombinant deoxyribonucleic acid and ribonucleic acid techniques, cell fusion, microencapsulation, macroencapsulation, gene deletion and doubling, introducing a foreign gene, and changing the positions of genes, and excluding means consisting exclusively of breeding, conjugation, fermentation, hybridization, in vitro fertilization, tissue culture, or mutagenesis; or
- (2) An organism made through sexual or asexual reproduction, or both, of an organism described in paragraph (1), if the reproduced organism possesses any of the altered molecular or cellular characteristics of the original organism or organisms."

SECTION 3. Chapter 149A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§149A- State regulation of pesticides; preemption. (a)

The State shall have exclusive authority to regulate



development, testing, application, dispersion, permitting,  
licensing, labeling, sale, and distribution of pesticides within  
the State. This section shall preempt the counties and  
political subdivisions from regulating pesticides.

(b) No county or other political subdivision of the State  
shall enact, adopt, or enforce any ordinance or rule that  
regulates the development, testing, application, dispersion,  
permitting, licensing, labeling, sale, or distribution of  
pesticides.

(c) This section shall apply to any ordinance or rule  
enacted or adopted by a county or other political subdivision of  
the State that is effective on, before, or after the effective  
date of this Act."

SECTION 4. New statutory material is underscored.

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

INTRODUCED BY:

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# S.B. NO. 610

**Report Title:**

Counties; Preemption; Pesticides; GMO

**Description:**

Expressly preempts counties from enacting, adopting, or enforcing ordinances or rules relating to GMOs. Expressly preempts counties or other political subdivisions from enacting, adopting, or enforcing ordinances or rules relating to pesticides.

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