

JAN 23 2015

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 good reputation of Hawaii's farmers and their
5 agricultural products.

6 Growth in genetically engineered agricultural production
7 has 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
10 agriculture -- consequences that scientists do not yet fully
11 understand. Those consequences have created doubt within the
12 farming community and Congress about the wisdom of growing
13 genetically engineered 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 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 engineered material. The effect on the United States economy is
6 significant. China recently rejected 545,000 tons of imported
7 U.S. corn found to contain an unapproved genetically modified
8 strain, according to a December 20, 2013, Associated Press
9 article. In Hawaii, the counties of Hawaii, Kauai, and Maui
10 recently adopted ordinances to restrict the growing of
11 genetically modified organisms. However, the Hawaii and Kauai
12 ordinances were later deemed invalid by a federal judge, who
13 found that state law preempts the regulation of pesticide use
14 and genetically modified organisms proposed in the ordinance.

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

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

20 "§145- Genetically engineered seeds and plant parts;
21 environmental risks. (a) No person shall plant in an open



1 field in this State a genetically engineered seed or plant part,
2 the genetically engineered properties of which are capable of
3 release to an offspring. The chairperson of the board of
4 agriculture may grant an exception to this requirement upon the
5 demonstration that use of such a genetically engineered seed or
6 plant part would be within a controlled environment such that no
7 other plant could inadvertently be affected.

8 (b) For purposes of this section:

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

17 "Genetically engineered seed" means a seed that contains a
18 genetically modified organism or was produced with a genetically
19 modified organism. A seed shall be considered to contain a
20 genetically modified organism or to have been produced with a
21 genetically modified organism if the seed or the plant from



1 which the seed is derived has been injected or otherwise treated
2 with a genetically modified organism, except that the use of
3 manure as a fertilizer for the plant shall not be construed to
4 mean that any resulting seeds are produced with a genetically
5 modified organism.

6 "Open field" means a field that is not located within a
7 building.

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

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

19 SECTION 4. New statutory material is underscored.
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1 SECTION 5. This Act shall take effect upon its approval.

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S.B. NO. 874

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.

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