

JAN 19 2018

A BILL FOR AN ACT

RELATING TO GENETICALLY MODIFIED MATERIAL.

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 has
7 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 United States Congress about the wisdom of
13 growing genetically modified agricultural products.

14 The greatest potential harm of genetically modified crops
15 is that the use of genetically modified 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 modified material. The effect on the United States economy is
6 significant. According to a March 25, 2014, Reuters article,
7 China rejected 908,800 tons of imported United States corn found
8 to contain an unapproved genetically modified strain.

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



1 Currently there is no ban or partial ban of genetically modified
2 organisms in effect in the State of Hawaii.

3 The purpose of this Act is to require a biotechnology
4 company that sells genetically modified material to provide to a
5 purchaser a written disclosure of the possible risks from the
6 use of such material.

7 SECTION 2. Chapter 147, Hawaii Revised Statutes, is
8 amended by adding a new part to be appropriately designated and
9 to read as follows:

10 "PART . GENETICALLY MODIFIED MATERIAL

11 §147- Definitions. As used in this part, unless the
12 context requires otherwise:

13 "Biotechnology company" means a person, partnership,
14 corporation, or other entity engaged in the business of
15 genetically modifying an organism, or obtaining the patent
16 rights to such an organism for the purposes of commercial use of
17 that organism.

18 "Chairperson" means the chairperson of the board of
19 agriculture.

20 "Department" means the department of agriculture.



1 "Genetically modified animal" means an animal that contains
2 a genetically modified material or was produced with a
3 genetically modified material. An animal shall be considered to
4 contain a genetically modified material or to have been produced
5 with a genetically modified material if the animal has been
6 injected or otherwise treated with a genetically modified
7 material, or is the offspring of an animal that has been so
8 injected or treated.

9 "Genetically modified material" means material that has
10 been altered at the molecular or cellular level by means that
11 are not possible under natural conditions or processes
12 (including recombinant DNA or RNA techniques, cell fusion,
13 microencapsulation, gene deletion and doubling, introducing a
14 foreign gene, and changing the positions of genes), other than a
15 means consisting exclusively of breeding, conjugation,
16 fermentation, hybridization, in vitro fertilization, tissue
17 culture, or mutagenesis.

18 "Genetically modified plant" means a plant that contains a
19 genetically modified material or was produced with a genetically
20 modified material. A plant shall be considered to contain a
21 genetically modified material if the plant has been injected or



1 otherwise treated with a genetically modified material, except
2 that the use of manure as a fertilizer for the plant shall not
3 be construed to mean that the plant is produced with a
4 genetically modified material.

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

15 **§147- Disclosure.** (a) A biotechnology company that
16 sells any genetically modified animal, genetically modified
17 plant, or genetically modified seed that the biotechnology
18 company knows or has reason to believe will be used to produce
19 an agricultural commodity shall provide written notice to the
20 purchaser that fully and clearly discloses the possible legal
21 and environmental risks that the use of the genetically modified



1 animal, genetically modified plant, or genetically modified seed
2 may pose to the purchaser.

3 (b) The written notice under subsection (a) shall not
4 relieve the biotechnology company from any liability that may
5 result from the release of genetically modified material into
6 the environment. The receipt of the written notice by the
7 purchaser shall not be construed to waive any liability under
8 this section.

9 (c) The chairperson may bring an action to recover a civil
10 penalty against any person who violates this section or who has
11 knowingly violated a rule or order made pursuant to this
12 section. A civil penalty of no more than \$100,000 may be
13 assessed for each violation. Any penalty assessed under this
14 section is in addition to any civil or criminal actions
15 otherwise available against the same 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. This Act shall take effect upon its approval.

20
INTRODUCED BY:

Frank Bish
Heckman



S.B. NO. 2689

MacArthur



S.B. NO. 2689

Report Title:

Genetically Modified Material; Written Disclosure

Description:

Requires a biotechnology company that sells a genetically modified animal, plant, or seed that the company knows or has reason to believe will be used to produce an agricultural commodity to provide written disclosure of possible risks from the use of such an organism; written notice does not waive any liability a biotechnology company may have toward a purchaser.

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

