S.B. NO. 2362

JAN 172020

A BILL FOR AN ACT

RELATING TO GENETICALLY MODIFIED MATERIAL.

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

SECTION 1. The legislature finds that the economic health
 of the State's agricultural sector is critical to the overall
 health of the State's economy, and that the successful
 interdependence between those two components depends, in major
 part, on the high reputation of Hawai'i farmers and their
 agricultural products.

7 Growth in genetically modified agricultural production has 8 been swift and pervasive throughout the nation. However, the quick acceptance of the new technology by American farmers may 9 10 pose serious consequences for conventional agriculture -11 consequences that scientists do not yet fully understand. Some 12 members of the farming community and of the United States 13 Congress have expressed doubts about growing genetically 14 modified agricultural products.

15 The greatest potential harm of genetically modified crops 16 is that the use of genetically modified seeds and plants by a 17 farmer could unintentionally alter the crops being produced by a



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neighboring farmer. Such modified seeds could also alter other
 plants or animals, including insects and microorganisms that
 interact with domestic crops or plants and animals within the
 natural environment.

5 No practical way of safequarding against this risk is 6 available, other than abstaining from the use of genetically modified material. The effects on the national or State economy 7 8 could be devastating. In June 2014, Reuters reported that that 9 over a seven-month period, China had rejected 1,450,000 metric 10 tons of United States corn that was found to contain a banned 11 genetically modified strain. China's rejection of that corn 12 reportedly cost the United States agriculture industry up to 13 \$2,900,000,000.

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



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1 Currently there is no ban or partial ban of genetically modified 2 organisms in effect in the State of Hawai'i. 3 The purpose of this Act is to require a biotechnology company that sells genetically modified material to provide to a 4 5 purchaser a written disclosure of the possible risks from the 6 use of such material. SECTION 2. Chapter 147, Hawaii Revised Statutes, is 7 8 amended by adding a new part to be appropriately designated and 9 to read as follows: 10 "PART . GENETICALLY MODIFIED MATERIAL 11 Definitions. As used in this part, unless the §147-12 context requires otherwise: "Biotechnology company" means a person, partnership, 13 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.



I "Genetically modified animal" means an animal that contains a genetically modified material or was produced with a genetically modified material. An animal shall be considered to contain a genetically modified material or to have been produced with a genetically modified material if the animal has been

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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



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otherwise treated with a genetically modified material, except
 that the use of manure as a fertilizer for the plant shall not
 be construed to mean that the plant is produced with a
 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 qenetically modified material if the seed, or the plant from 9 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



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

3 The written notice under subsection (a) shall not (b) relieve the biotechnology company from any liability that may 4 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 not 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. 4. Calani Eglisk Judkan 20

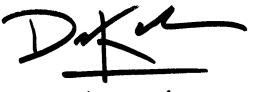
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Report Title:

Genetically Modified Material; Biotechnology Companies; 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. Specifies that written notice does not waive any liability a biotechnology company may have toward a purchaser.

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