

JAN 18 2019

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 the State's agricultural sector is critical to the overall
3 health of the State's economy and the successful interdependence
4 between those two components depends in major part on the high
5 reputation of Hawai'i farmers and their agricultural products.

6 Growth in genetically modified agricultural production has
7 been swift and pervasive throughout the nation. However, the
8 quick acceptance of the new technology by American farmers may
9 pose serious consequences for conventional agriculture -
10 consequences that scientists do not yet fully understand. Those
11 consequences have created doubt within the farming community and
12 United States Congress about the wisdom of growing genetically
13 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 or
2 plants and animals within the natural environment.

3 No practical way of safeguarding against this risk is
4 available, other than abstaining from the use of genetically
5 modified material. Furthermore, the effect on the United States
6 economy is significant. In June 2014, Reuters reported that
7 that over a seven-month period, China had rejected 1,450,000
8 metric tons of United States corn found to contain a banned
9 genetically modified strain, which cost the United States
10 agricultural industry up to an estimated \$2,900,000,000.

11 The counties of Kaua'i, Hawai'i, and Maui previously adopted
12 ordinances to restrict the growing of genetically modified
13 organisms. However, in August 2014, a federal district court
14 judge struck down the Kaua'i county ordinance, ruling that it was
15 preempted by state law. The Hawai'i county ordinance was struck
16 down in federal district court in November 2014 and the Maui
17 county ordinance declared unenforceable in June 2015; both
18 courts held that the ordinances were preempted by state and
19 federal law. Although all three cases were appealed, in
20 November 2016, the United States Court of Appeals for the Ninth
21 Circuit upheld the lower courts' decisions.



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
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.

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S.B. NO. 687

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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