

JAN 22 2021

---

---

# 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 that the successful  
4 interconnection between those two components depends, in major  
5 part, on the esteemed reputation of Hawai'i farmers and their  
6 agricultural products.

7           Growth in genetically modified agricultural production has  
8 been swift and pervasive throughout the nation. However, the  
9 quick acceptance of the new technology by American farmers may  
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



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

5 No practical way of safeguarding against this risk is  
6 available, other than abstaining from the use of genetically  
7 modified material. The effects on the national or state economy  
8 could be devastating. In June 2014, Reuters reported that over  
9 a seven-month period, China had rejected 1,450,000 metric tons  
10 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.

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



# S.B. NO. 708

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

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 section to part VIII to be appropriately  
9 designated and to read as follows:

10 "§147- Genetically modified material; disclosure. (a)  
11 A biotechnology company that sells any genetically modified  
12 animal, genetically modified plant, or genetically modified seed  
13 that the biotechnology company knows or has reason to believe  
14 will be used to produce an agricultural commodity shall provide  
15 written notice to the purchaser that fully and clearly discloses  
16 the possible legal and environmental risks that the use of the  
17 genetically modified animal, genetically modified plant, or  
18 genetically modified seed may pose to the purchaser.

19 (b) The written notice under subsection (a) shall not  
20 relieve the biotechnology company from any liability that may  
21 result from the release of genetically modified material into



1 the environment. The receipt of the written notice by the  
2 purchaser shall not be construed to waive any liability under  
3 this section.

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

12 (d) For purposes of this section:

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 "Genetically modified animal", "genetically modified  
19 plant", or "genetically modified seed" means an animal, plant,  
20 or seed that contains a genetically modified material or was  
21 produced with a genetically modified material. An animal,



1 plant, or seed shall be considered to contain a genetically  
2 modified material or to have been produced with a genetically  
3 modified material if it or the animal or plant from which it is  
4 derived, has been injected or otherwise treated with a  
5 genetically modified material, except that the use of manure as  
6 a fertilizer for the plant shall not be construed to mean that  
7 the plant or resulting seed is produced with a genetically  
8 modified material.

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 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



# S.B. NO. 708

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

2

INTRODUCED BY: A. Colaneri



# S.B. NO. 708

**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.

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

