

JAN 17 2020

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# 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 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,  
7 which uses genetic engineering to produce agricultural products,  
8 has been swift and pervasive throughout the nation. However,  
9 the quick acceptance of the new technology by American farmers  
10 may pose serious consequences for conventional agriculture –  
11 consequences that scientists do not yet fully understand. Those  
12 consequences have created doubt within the farming community and  
13 Congress about the wisdom of growing genetically modified  
14 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 or alter other plants or animals, including  
2 insects and microorganisms that interact with domestic crops or  
3 plants and animals within the natural environment.

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

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



1 Appeals for the Ninth Circuit upheld the lower federal courts'  
2 decisions. As a result, there is no ban or partial ban of  
3 genetically modified organisms in effect in Hawai'i.

4 In light of the great uncertainty surrounding the safety of  
5 emerging biotechnologies and their effects upon human health,  
6 government must respond in a rational and compassionate way.  
7 The "precautionary principle", while not a new concept, has  
8 gained acceptance in Europe and within the scientific community.  
9 Perhaps the best known formulation of this principle within the  
10 scientific community is the Wingspread Statement, which states  
11 in pertinent part: "Therefore, it is necessary to implement the  
12 Precautionary Principle: When an activity raises threats of  
13 harm to human health or the environment, precautionary measures  
14 should be taken even if some cause and effect relationships are  
15 not fully established scientifically." In this context the  
16 proponent of an activity, rather than the public, should bear  
17 the burden of proof. When government faces a decision regarding  
18 the introduction of technologies where the health and safety  
19 consequences to the public are unknown, the precautionary  
20 principle provides that precautionary measures should be taken,



1 even if the risk to the public is uncertain, to mitigate  
2 possible negative consequences.

3 The purpose of this Act is to require the department of  
4 agriculture to adopt the precautionary principle in order to  
5 anticipate, prevent, or minimize the adverse effects of  
6 biotechnology and genetic engineering.

7 SECTION 2. Chapter 141, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10 "§141- Precautionary principle; precautionary measures;  
11 biotechnology and genetic engineering. The department of  
12 agriculture shall take precautionary measures to anticipate,  
13 prevent, or minimize the adverse effects of biotechnology and  
14 genetic engineering. Where there are threats of serious or  
15 irreversible damage, lack of full scientific certainty shall not  
16 be used as a reason for postponing the application of  
17 precautionary measures, taking into account that policies and  
18 measures taken by the department of agriculture shall be at the  
19 lowest reasonable cost. To achieve this, the department shall  
20 consider policies and measures that take into account different



1 socioeconomic contexts, are comprehensive, cover all relevant  
2 sources, and comprise all agricultural sectors."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

*J. Kelvin R. ...*  
*...*



# S.B. NO. 2364

**Report Title:**

Genetic Engineering; Precautionary Principle; Precautionary Measures

**Description:**

Mandates the Department of Agriculture to take precautionary measures to anticipate, prevent, or minimize the adverse effects of biotechnology and genetic engineering.

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