

The Farmer Protection Act

17 out of 30
Senators already
signed onto this bill!

Introduced by Senator Campbell of Windsor District, Senator Illuzzi of Essex-Orleans District, Senator Ayer of Addison District, Senator Bartlett of Lamoille District, Senator Cummings of Washington District, Senator Dunne of Windsor District, Senator Flanagan of Chittenden District, Senator Gander of Windham District, Senator Giard of Addison District, Senator Kittell of Franklin District, Senator Leddy of Chittenden District, Senator Lyons of Chittenden District, Senator MacDonald of Orange District, Senator Miller of Chittenden District, Senator Sears of Bennington District, Senator Starr of Essex-Orleans District and Senator White of Windham District

Referred to Committee on

Date:

Subject: Agriculture; genetically engineered seeds and plant parts; agricultural inputs; liability

Statement of purpose: This bill proposes to place on the manufacturer the liability for claims and damages resulting from the use, according to the label and directions for use, of genetically engineered seeds and plant parts.

AN ACT RELATING TO LIABILITY RESULTING FROM THE USE OF GENETICALLY ENGINEERED SEEDS AND PLANT PARTS

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. SHORT TITLE This act shall be known and may be cited as the Farmer Protection Act.

Sec. 2. FINDINGS; PURPOSE

The general assembly finds that agriculture is a central and vital component of our state's economy. Vermont has a unique, national reputation for producing high quality crops, and its agricultural heritage is dependent on maintaining this reputation. Vermont is a leading producer of organic crops. Vermont's economy is also dependent on tourism that results from maintaining the state's reputation as a state with a pure and preserved natural environment. Genetically engineered crops have been shown to be dispersed into the environment, including through pollen drift, seed mix-ups, inadvertent transfer of seeds by humans and animals, and extreme weather events. The liability for the effects of genetically engineered crops has unfairly fallen on farmers who do not plant genetically engineered crops as well as farmers who do plant genetically engineered crops, and it can be expected that the liabilities associated with the growing of genetically engineered crops in Vermont will be passed by the manufacturer to the grower of the crop and farmers who do not plant genetically engineered crops. Genetically engineered crops cannot be successfully segregated from crops that are not genetically engineered in current agronomic science, agricultural practices, and agricultural infrastructure. Therefore, it is the purpose of this act to ensure that farmers are not harmed by this technology and to place the liability for any harm on the manufacturer of the genetically engineered crops.

Sec. 3. 6 V.S.A. chapter 35, subchapter 3 is added to read:

Subchapter 3. Liability Resulting from the Use of Genetically Engineered Seeds and Plant Parts

§ 650. DEFINITIONS

As used in this subchapter:

(1) "Genetically engineered crop" means a crop grown from genetically engineered seed as defined in subdivision 641(9) of this title or genetically engineered plant part as defined in subdivision 641(10).

(2) "Injury" includes:

(A) loss of any price premium that would have accrued to a farmer by contract or other marketing arrangement or that would have been otherwise reasonably available to the farmer through ordinary commercial channels;

(B) any additional transportation, storage, handling, or related charges or costs incurred by the farmer that would not have been incurred in the absence of crop contamination;

(C) any judgment, charge, or penalty for which the farmer of nongenetically engineered products is liable because of breach of contract, including loss of organic certification for failure to deliver a crop or shipment free of genetically engineered material or for delivering a crop or shipment exceeding any contractually agreed tolerances for the presence of genetically engineered material;

(D) market price reductions incurred by farmers resulting from loss of crop exports, including foreign and domestic markets; and

(E) a farmer's loss of livelihood or reputation caused by genetically engineered crops.

(3) "Manufacturer" means a person producing and commercializing genetically engineered seeds or plant parts.

§ 651. LIABILITY FOR DAMAGES RESULTING FROM GENETICALLY ENGINEERED CROPS

(a) The manufacturer of a genetically engineered seed or plant part is liable to any person injured by the release into Vermont of a genetically engineered crop produced from such seed or plant part. The prevailing plaintiff in an action under this subsection may recover compensable damages, reasonable attorney's fees, and other litigation expenses as a part of the costs. The proper venue for an action under this subsection is in the county where the injury is alleged to have occurred.

(b) The liability created by this section may not be waived or otherwise avoided by contract or other means.

(c) A farmer who is not in breach of a contract for the purchase or use of genetically engineered seed or plant parts and unknowingly comes into possession or uses such seeds or plant parts as a result of natural reproduction, cross-pollination, or other contamination shall not be liable under this subchapter for any injuries, claims, losses, and expenses, including attorney's fees, caused by the use of a genetically engineered seed or plant part, including damages for patent infringement.

(d) A manufacturer shall have an affirmative defense to liability under this section if:

(1) the farmer or other third party acted in gross negligence to cause the release of the genetically engineered crop that resulted in contamination;

(2) the farmer had received and signed a contract with the manufacturer;

(3) the farmer had received a training manual from the manufacturer; and

(4) by following the manufacturer's contract and training manual, the farmer would not have caused injury through the use of the genetically engineered crop.

§ 652. SEED CONTRACTS GOVERNED BY VERMONT LAW

(a) A seed contract for the purchase of seeds or plant parts in Vermont is governed by the laws of Vermont. If a seed contract purports to choose the laws of a jurisdiction other than Vermont to govern the contract, such provisions of the contract are void and unenforceable.

(b) A provision of a seed contract to purchase seed or plant parts that purports to waive the provisions of this section, to choose the laws of a jurisdiction other than Vermont, or to choose a forum that would not otherwise have jurisdiction over the purchaser is void.

Sec. 4. SEVERABILITY

If any provision of this act or its application to any person or circumstance is held invalid or in violation of the constitution or laws of the United States, the invalidity or the violation shall not affect other provisions of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are severable.

Purpose section
says why VT
feels a need to
pass this law.

(2) Defines
"injury" to show
what
manufacturers
are liable for.

(a) Puts all liability
for consequences of
GE seed onto
manufacturers

(c) Protects the
non-GE grower
from paying
damages for
unintentional
use or posses-
sion of GE
material.

(d) Provides a way
for manufacturers to
prove it
"wasn't their fault,"
if the GE farmer
was negligent.

(a, b) Says GE
growers are
only subject to
the laws of
Vermont,
and can only
be sued in
Vermont.

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