

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 46

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO AGRICULTURE; PROVIDING PROTECTION FOR FARMERS FROM
LIABILITY OVER POSSESSION OF GENETICALLY ENGINEERED PRODUCTS;
PROVIDING FOR COURT JURISDICTION FOR INFRINGEMENT CASES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1. GENETICALLY ENGINEERED PRODUCT--PROTECTION
FROM LIABILITY--COURT JURISDICTION.--**

A. As used in this section:

(1) "farmer" means a person who plants a crop,
manages a crop or harvests a crop;

(2) "genetically engineered product" means a
product created through means in which the genetic material has
been changed through modern biotechnology in a way that does
not occur naturally by multiplication or natural recombination;

(3) "manufacturer" means a person that

1 develops, manufactures or sells a patented genetically
2 engineered product;

3 (4) "modern biotechnology" means the
4 application of:

5 (a) in vitro nucleic acid techniques,
6 including recombinant deoxyribonucleic acid and direct
7 injection of nucleic acid into cells or organelles, that are
8 not techniques used in traditional breeding and selection; or

9 (b) the fusion of cells, beyond the
10 taxonomic family, that overcomes natural physiological
11 reproductive or recombination barriers and that is not a
12 technique used in traditional breeding and selection; and

13 (5) "technology use agreement" means an
14 agreement between a manufacturer and a farmer that controls the
15 right to plant a given genetically engineered seed, plant part
16 or plant on a specific area of land for a certain period of
17 time.

18 B. If a genetically engineered product in which a
19 manufacturer has patent rights is found in de minimus amounts
20 or found to be unintentionally on the property owned or
21 occupied by a farmer, the farmer is not liable to the
22 manufacturer.

23 C. Consistent with 28 U.S.C. Section 1400(b), an
24 infringement case brought against a farmer who does not have a
25 technology use agreement with a manufacturer shall be brought

1 in the federal judicial district court where the farmer resides
2 or in the federal judicial district court where the farmer is
3 alleged to have committed acts of infringement and has a
4 regular and established place of business.

5 - 3 -
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscoring material = new
~~[bracketed material] = delete~~