

1 SENATE BILL 384

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Stephen H. Fischmann

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10 AN ACT

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

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

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

18 A. As used in this section:

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

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

25 (3) "manufacturer" means a person that

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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

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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.

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