

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1266

H.P. 952

House of Representatives, February 28, 2001

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**An Act to Protect Against Contamination of Crops and Wild Plant  
Populations by Genetically Engineered Plants.**

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Reference to the Committee on Agriculture, Conservation and Forestry suggested and  
ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative McKEE of Wayne.  
Cosponsored by Representative VOLENIK of Brooklin,  
Senator NUTTING of Androscoggin and  
Representatives: BAGLEY of Machias, CHICK of Lebanon, COWGER of Hallowell,  
HAWES of Standish, JONES of Greenville, LUNDEEN of Mars Hill, PINEAU of Jay,  
TWOMEY of Biddeford.

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 7 MRSA c. 103, sub-c. XI-A is enacted to read:

6 SUBCHAPTER XI-A

8 GENETICALLY ENGINEERED PLANTS AND SEEDS

10 §1051. Definitions

12 1. Genetically engineered. "Genetically engineered" means  
14 altered by human manipulation at the molecular or cellular level  
16 by processes, including recombinant deoxyribonucleic acid and  
18 ribonucleic acid techniques, cell fusion, microencapsulation,  
20 macroencapsulation and introduction of foreign genes, that are  
22 not possible under natural conditions. "Genetically engineered"  
24 does not include products altered exclusively by breeding,  
conjugation, fermentation, hybridization, in vitro fertilization  
or tissue culture.

26 2. Cross-contamination. "Cross-contamination" means the  
28 transfer and incorporation of genetic material from a genetically  
30 engineered crop, by cross-pollination or other means, into a  
32 nongenetically engineered crop or to wild plant populations.

34 §1052. Responsibilities of manufacturer

36 A manufacturer of genetically engineered plants, planting  
38 stock or seeds that present a risk of cross-contamination and  
40 are sold or distributed in this State is subject to the  
42 provisions of this chapter.

44 1. Instructions. The manufacturer of the genetically  
46 engineered plants, plant parts or seeds shall provide written  
48 instructions to all growers on how to plant the plant parts,  
50 seeds or plants and how to grow and harvest the crop to avoid  
cross-contamination. These instructions must include, but are  
not limited to, the establishment of adequate buffer zones  
between genetically engineered plants and wild or cultivated  
plants subject to the risk of cross-contamination.

2. Contracts with growers. An agreement to follow the  
instructions required under subsection 1 must be incorporated  
into a written contract between a manufacturer of genetically  
engineered seeds, plants or plant parts and a grower of the same  
in the State. The manufacturer shall file a copy of each  
executed contract between that manufacturer and a grower in the  
State with the commissioner no later than 20 days following the  
sale of genetically engineered seeds, plants or plant parts.

2 3. Liability. A manufacturer that fails to comply with the  
3 requirements of subsection 1 or 2 is strictly liable to any  
4 agricultural grower for any damages due to cross-contamination of  
5 nongenetically engineered plants by genetically engineered  
6 plants, including but not limited to:

7 A. Loss of any price premium that would have accrued to a  
8 grower of nongenetically engineered products by contract or  
9 other marketing arrangement, or that would have been  
10 otherwise reasonably available to the farmer through  
11 ordinary commercial channels;

12 B. Additional transportation, testing, storage, handling,  
13 or related charges or costs incurred by the farmer that  
14 would not have been incurred in the absence of  
15 cross-contamination; and

16 C. A judgment, charge or penalty for which the farmer of  
17 nongenetically engineered products is liable due to breach  
18 of contract, including loss of organic certification, for  
19 failure to deliver a crop free of genetically engineered  
20 material or for delivering a crop exceeding any  
21 contractually agreed tolerances for the presence of  
22 genetically engineered material.

23 A manufacturer that fails to comply with the requirements of  
24 subsection 1 or 2 is also strictly liable to the State for  
25 damages for harm to natural resources, including but not limited  
26 to costs of restoration of resources damaged by  
27 cross-contamination.

28 Nothing in this subsection may be interpreted as limiting the  
29 liability of a manufacturer or a grower for damages caused by  
30 genetically engineered plants. The provisions of this subsection  
31 are not subject to waiver, by agreement or otherwise.

### 32 SUMMARY

33 This bill requires a manufacturer of genetically engineered  
34 plants, planting stock or seeds to provide growers with  
35 instructions on how to plant, cultivate and harvest the  
36 genetically engineered material to avoid contamination of plants  
37 of nongenetically engineered origin. It requires the  
38 manufacturer to enter into written contracts with growers and  
39 file the contracts with the Department of Agriculture, Food and  
40 Rural Resources. It enacts provisions for manufacturer  
41 liability when contamination of nongenetically engineered plants  
42 by genetically engineered plants occurs.