

# The Vermont Farmer Protection Act

## Section 1 – Findings and Purpose

This section outlines why the legislature is passing the bill. It says that Vermont's farmers are vitally important to sustaining the economy and maintaining the traditional values of our state, and that we need all types of farming to keep agriculture a healthy part of life in Vermont. It also states that farmers need to retain the greatest possible flexibility in farming practices, and that they need protection from liability that might otherwise be unfairly imposed upon them. Finally, it notes that farmers should have protection under the Uniform Commercial Code, as consumers.

## Section 2 – Intent

This section outlines what the Vermont legislature intends to do with this bill:

1. Codify farmers' ability to recover economic losses caused by the wrongful actions of others
2. Confirm farmers' status as consumers with all the protections that status provides.
3. Provide Vermont farmers with a Vermont forum and choice of law when legal disputes arise
4. Provide remedies enhancing the ability of those who wish to be free of genetically engineered seeds and plant parts to achieve that goal and to define the rights and duties of manufacturers and distributors of genetically engineered seeds and plant parts, thereby advancing the likelihood that those who wish to use these products will have the opportunity to do so.

## Section 3 – Liability Resulting from the Use of Genetically Engineered Seeds and Plant Parts

*This section uses Nuisance Theory to put the liability for any economic damages that occur because of the release of genetically engineered seeds into Vermont on the manufacturers of those seeds. Nuisance has two criteria that need to be met in order to assign liability – unreasonableness and substantiality.*

*Unreasonableness – the bill states that if someone doesn't want genetically engineered traits and those traits are found in their lands, then that is unreasonable, and thus, the first criterion for nuisance is met.*

*Substantiality – In order to meet this criterion, a person would have to prove that they lost at least \$3500 as a result of contamination from genetically engineered seeds. If the person can prove this, then both criteria have been met, and the manufacturer shall be liable for the damages.*

*Nuisance also allows for certain defenses. The bill states that the manufacturer can use whatever defenses are available to them, except for a few:*

1. *The manufacturer cannot claim that genetically engineered seeds are in "common use". So, it is not a defense that genetically engineered seeds have been around for awhile or that everyone else in an area is using them. The bill also specifically states that buffer zones do not need to be established to try to avoid contamination.*
2. *The manufacturer cannot blame the farmer who planted genetically engineered seeds. The bill specifically states that the farmer cannot be blamed simply for not following the directions. However, if the manufacturer can prove that someone's actions were "willful and premeditated," then that person might be liable.*
3. *The manufacturer cannot use the "Right to Farm" law to defend itself. The Right to Farm law is designed to protect farmers from nuisance lawsuits. Farmers will still be completely protected under the Right to Farm law; this bill simply states that manufacturers cannot claim to be doing "agricultural activity" to use this defense.*

*This section also states that the liability assigned to the manufacturer cannot be waived by contract or any other way, except by purchasing insurance. It also states if a person can find another cause of action to recover their damages, they may use it, but they can only recover their damages once.*

## Section 4 – Farmers and Agricultural Goods Liability Actions

This section does a few things:

1. Outlines what kinds of damages can be recovered – namely, loss of price premiums or differentials, reasonable additional expenses because of contamination, and any judgment, charge, or penalty, such as loss of organic certification.
2. Clarifies that Vermont Farmers are considered consumers, and agricultural goods are consumer goods, so that Vermont Farmers are protected under consumer protection laws.
3. Mandates that disputes over agricultural goods contracts will be heard in Vermont, under Vermont law.

### **Section 5 – Seed Labeling**

This section of the bill clarifies the seed labeling law, specifically mandating that the labeling on genetically engineered seeds must “state that the seed contains genetically engineered material.”

### **Section 6 – Providing Best Management Practices to Farmers**

This section states that manufacturers must provide farmers with a “written detailed description of the best practices to follow in order to prevent a release that may cause the unintended presence of genetically engineered seeds or plant parts” The manufacturer must also file these best practices with the Secretary of Agriculture, and these documents will be public.

### **Section 7 – Severability**

This section states that if any section is struck down in court, the other provisions will stand as law.