



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 777 (Substitute S-3 as reported)
Sponsor: Senator Gerald Van Woerkom
Committee: Agriculture, Forestry and Tourism

Date Completed: 3-28-06

RATIONALE

In California and in some New England states, local and county governments evidently have passed ordinances limiting the types of seeds that may be used locally. Most of the ordinances prohibit or limit the use of genetically modified seeds, to address concern about the safety of those products or to protect local organic crops from being cross-pollinated by neighboring crops containing genetically modified material. Organic crops must be certified by the United States Department of Agriculture (USDA), and may not contain any genetically modified material.

In Michigan, many farmers are concerned that local governments in this State could pass similar ordinances, requiring farmers to meet different regulations in each county or township. Since some farms cross county lines, a farmer could be faced with complying with varying regulations on different sections of his or her farm. Although it appears that no local government in Michigan has introduced an ordinance to limit seed use, some believe that the State should specifically preempt local seed regulation.

CONTENT

The bill would amend the Michigan Seed Law to preempt ordinances prohibiting or regulating certain activities with respect to seeds.

Specifically, the bill would prohibit a local unit of government from adopting, maintaining, or enforcing an ordinance that prohibited or regulated the labeling, sale, storage, transportation, distribution, use, or

planting of agricultural, vegetable, flower, turf grass, or forest tree seeds.

The prohibition would not apply to an ordinance that prohibited or regulated noxious or invasive plants or the use of certain plants for landscaping.

Section 15, which prescribes penalties for violations of the Seed Law, would not apply to a violation of the bill.

(Section 15 contains the following provisions:

- A person who violates the Seed Law is guilty of a misdemeanor punishable by a fine of between \$100 and \$2,000 for each offense, or by imprisonment for up to 90 days.
- The Director of the Department of Agriculture may issue and enforce a stop sale order to the owner or custodian of any lot of seed found to be in violation of the Law.
- Any lot of seed not in compliance with the Law is subject to seizure on a complaint of the Director, and if found to be in violation, must be denatured, destroyed, relabeled, or otherwise disposed of.
- The Director may apply for a temporary or permanent injunction restraining a person from violating the Law.)

The bill also would repeal Section 16, which repealed Public Act 314 of 1923.

MCL 286.701

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

If townships and counties began enacting differing seed ordinances, the result could be a patchwork of conflicting regulations across the State. Farmers could have difficulty meeting all the various restrictions imposed in individual local units of government. Some farmers have land in several counties, and it would be extremely difficult to keep track of the different regulations and to maintain records of the crops permitted in each area, let alone comply with diverse ordinances on separate parts of a farm.

Moreover, local governments would not be effective at regulating the use of seeds, because of their limited jurisdiction. If a farmer owned fields that were right on a county line, his or her neighbor could be operating under very different regulations, and a local ordinance would not be effective in protecting his or her crops. In addition, local officials do not have the time, resources, or expertise to determine which seeds are safe and appropriate for use. Several Federal agencies, including the Food and Drug Association (FDA), the USDA, and the Environmental Protection Agency, have oversight in determining whether genetically modified (GM) plants are safe for use or consumption. The scientists employed by these agencies are in a better position to determine the safety of GM crops.

To ensure a uniform and stable regulatory environment based on scientific evidence, the State should preempt local seed regulation. Reportedly, similar legislation has been passed in at least 14 other states, including Ohio, Pennsylvania, Indiana, and Kansas.

Response: The Federal agencies do not perform independent studies on the safety of GM crops before approving them, but rather rely on studies conducted by the company that developed a product. Industry-funded studies cannot be considered to be impartial or reliable, because the companies have a strong interest in seeing the crop approved for production. There have been reports of companies' withholding or distorting the

results of clinical trials when the results were negative or damaging to the case for approval. In other situations, the FDA apparently has overlooked or missed obvious errors or omissions in data submitted by companies, often relying on summaries of data rather than the detailed results of the studies. The FDA and other agencies have not provided adequate scrutiny of GM plants before approving them for consumption, creating potential risks to consumers and to farmers in the area surrounding the plants' use. Because of this lack of effective oversight at the Federal level, local governments should retain the ability to limit the use of certain seeds if necessary, in order to protect the local farming community from contamination from unwanted genetically modified strains.

Supporting Argument

The bill would prevent a local government from banning certain types of seeds, including new varieties developed through genetic engineering. These seeds can have tremendous benefits, environmentally, nutritionally, and economically. Through genetic engineering, disease-resistant crops have been developed, so fewer pesticides are needed to grow healthy crops. Other varieties are resistant to pests; Bt corn, for example, is resistant to the corn borer. This corn is hardy and can grow well without the application of pesticides, which can run off into rivers and streams, contaminating the State's surface and groundwater.

In addition, Roundup Ready corn, soybeans, and alfalfa are resistant to glyphosate, a common herbicide that is sold under the brand name Roundup, and is reportedly one of the safest, most common herbicides available. The Roundup Ready varieties may be sprayed with Roundup, eliminating weeds without harming the crop.

Compared with traditional crops, many GM crops are healthier and stronger, increasing the productivity of the farmland, and helping to feed the country and the world. It has been estimated that farms will need to double their productivity over the next 30 years to feed the world's growing population adequately. Genetically modified crops have been approved by the FDA and the EPA, are currently used in Michigan, and are considered safe. The bill would protect farmers against local government efforts to ban GM crops or any other types of seeds.

Response: The bill uses very broad language and does not specifically mention genetically modified crops; instead, it would ban the local regulation of all seeds. In addition, no local government in Michigan has attempted to regulate the use or planting of seeds in Michigan. The bill seeks to address a problem that does not exist.

Opposing Argument

The bill would take away the ability of local governments to regulate the seeds planted within their communities. Local seed regulation may be essential in some cases, where organic crops could be in danger of being contaminated by pollen from genetically modified crops. Food must be certified by the USDA in order to be sold as organic in the United States, and Federal regulations prohibit organic crops from containing any genetically modified material. If GM pollen drifted onto an organic farm from a neighbor's fields, the organic farmer could be driven out of business. The danger is especially acute with corn, which produces pollen that can be blown over long distances, contaminating not just adjacent fields but others in the surrounding areas. Michigan's vitality comes from the variety of local communities and different geographical areas. The bill would inhibit, rather than enhance, rural revitalization, and prevent local governments from acting to protect the diversity in the State.

In addition, the bill would stifle the ability of Michigan residents to participate in government at a local level, where they can have the most impact on their communities. Individual participation in democracy is the strength of the American system of government, which should work to encourage citizen involvement, rather than removing local control and imposing restrictions at a State level. The State is not in the best position to know what is in the best interest of each community, and a blanket provision restricting local ordinances would harm some communities, and favor some farmers over others.

Response: Many of the concerns over contamination of organic crops could be addressed by establishing buffer zones between fields, varying planting times so that crops would be pollinated at different times, and coordinating crop rotations with neighboring farmers. Such measures could protect the opportunity of all farmers to

grow the crops that they choose without harming or infringing on their neighbors.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Craig Thiel

A0506\s777a

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.