

COUNCIL OF THE COUNTY OF MAUI

# ECONOMIC DEVELOPMENT, AGRICULTURE, AND RECREATION COMMITTEE

September 18, 2009

**Committee**  
**Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Economic Development, Agriculture, and Recreation Committee, having met on June 25, 2009, June 29, 2009, and August 20, 2009, makes reference to County Communication No. 09-100, from Councilmember Bill Kauakea Medeiros, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 20, MAUI COUNTY CODE, TO PROHIBIT GENETICALLY ENGINEERED AND RECOMBINANT DNA TARO (KALO)".

The purpose of the proposed bill is to prohibit any person from testing, propagating, cultivating, raising, planting, growing, introducing, or releasing genetically engineered or recombinant DNA taro (kalo).

Your Committee notes that the 2009 State Legislature attempted to address this issue through House Bill No. 1663, HD1, SD2, relating to taro security; however, the bill failed to pass in that legislative session. House Bill No. 1663, HD1, SD2, may be considered by the 2010 State Legislature.

Your Committee received testimony from individuals in support of protecting and maintaining the genetic identity of taro species unique to Hawaii. They expressed concerns that genetically-engineered kalo will compromise the existing varieties of Hawaiian kalo and their cultural practices.

Your Committee also received testimony from individuals who expressed concern that a prohibition on genetically-engineered kalo will prevent a valuable tool from being used to combat new pests, diseases, and the effects of global warming.

Harold Keyser, Administrator for the University of Hawaii College of Tropical Agriculture and Human Resources, stated that the University has no plans to genetically engineer Hawaiian kalo, but opposes the bill "to reserve the ability to use the best science to address imminent agricultural issues in our communities and use that knowledge to assist taro farmers in Hawaii and around the world".

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Your Committee expressed support for preserving the integrity of Hawaiian kalo, but was concerned about not having an effective tool available to help farmers address future challenges.

The Director of Environmental Management informed your Committee that the Administration does not have the expertise or the staff to enforce the prohibition of genetically-engineered kalo. The Department of the Prosecuting Attorney expressed concerns regarding the bill's broad terminology and the resources that would be required to investigate and prosecute offenders. The Mayor requested that your Committee defer consideration of the bill until its limitations can be addressed and the Administration is able to work with farmers and State and Federal agricultural agencies to protect kalo.

Your Committee noted that enacting the proposed bill would discourage individuals from promoting genetically-engineered kalo and would, therefore, serve as a preventative measure.

Your Committee received a revised proposed bill from Councilmember Medeiros. The revised proposed bill revises proposed Section 20.38.030, Maui County Code, (MCC) to add to the list of prohibited acts, the transport of genetically engineered or recombinant DNA kalo. The revised proposed bill also revises proposed Section 20.38.050, MCC, to authorize the Director of Environmental Management to adopt administrative rules to implement Chapter 20.28 pursuant to Chapter 91, Hawaii Revised Statutes.

Your Committee received a further revised proposed bill from Councilmember Medeiros, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 20, MAUI COUNTY CODE, TO PROHIBIT GENETICALLY ENGINEERED KALO (TARO)". The purpose of the revised proposed bill is to make it unlawful for any person to test, propagate, cultivate, raise, plant, grow, introduce, transport, or release genetically engineered kalo.

The revised proposed bill deletes references to recombinant DNA taro from the title of the bill, the title of the proposed Chapter 20.38, and Section 20.38.030, to be consistent with the definition of "Genetically engineered kalo" in the proposed bill. The revised proposed bill also revises the definition of "Genetic engineering" to mean "altering a life form or its living progeny at the nucleic acid level through the use of techniques collectively referred to as recombinant DNA technology". The revised

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definition is consistent with the definition of “Genetically engineered” in House Bill No. 1663, HD1, SD2, pending in the State Legislature.

After considering the significant amount of testimony received and the arguments for and against the proposed bill, your Committee could not reach a decision.

Your Committee voted 5-0 to report that it is unable to arrive at a recommendation on the revised proposed bill, and to recommend filing of the communication. Committee Chair Johnson, Vice-Chair Kaho‘ohalahala, and members Baisa, Molina and Pontanilla voted “aye”.

Your Economic Development, Agriculture, and Recreation Committee REPORTS that it is unable to arrive at a recommendation on the revised proposed bill, attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING TITLE 20, MAUI COUNTY CODE, TO PROHIBIT GENETICALLY ENGINEERED KALO (TARO)”.

Your Economic Development, Agriculture, and Recreation Committee RECOMMENDS that County Communication No. 09-100 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.

  
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JO ANNE JOHNSON, Chair

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2009)

A BILL FOR AN ORDINANCE AMENDING TITLE 20, MAUI COUNTY CODE, TO PROHIBIT GENETICALLY ENGINEERED KALO (TARO)

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Title 20, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

**"Chapter 20.38**

**PROHIBITION OF GENETICALLY ENGINEERED KALO (TARO)**

Sections:

20.38.010	Definitions
20.38.020	Findings
20.38.030	Prohibition
20.38.040	Penalty
20.38.050	Administrative rules
20.38.060	Administrative enforcement

**20.38.010 Definitions.** For purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used in this chapter are defined as follows:

"Genetic engineering" means altering a life form or its living progeny at the nucleic acid level through the use of techniques collectively referred to as recombinant DNA technology.

"Genetically engineered kalo" means kalo that has been created or modified through genetic engineering. It does not include non-living or non-reproducing kalo or products.

"Kalo" means those species within the genus *Colocasia*.

"Recombinant DNA" means the transfer of genes, regulatory sequences, or nucleic acid between hosts by the use of vectors or laboratory manipulations and includes the insertion, excision, duplication, inactivation, or relocation of specific genes, regulatory sequences, or sections of nucleic acid. This term does not apply to a material or an organism developed

exclusively through traditional methods of breeding, hybridization, or nondirected mutagenesis.

"Release" means a discharge, emission, or liberation of any genetically engineered kalo, or the product of a genetically engineered organism, into the open environment.

**20.38.020 Findings.** A. Kalo has cultural significance to the indigenous people of Hawaii and this cultural identification with kalo will suffer irreparable harm if non-genetically engineered kalo is contaminated by genetically engineered organisms.

B. Adequate safeguards do not exist to prevent contamination of non-genetically engineered kalo with genetically engineered organisms.

C. There is no legal recourse for kalo farmers who cultivate non-genetically engineered kalo if their kalo is contaminated by genetically engineered organisms.

D. There is no legal requirement to label genetically engineered kalo, thus limiting the choices of a kalo farmer.

**20.38.030 Prohibition.** It is unlawful for any person to test, propagate, cultivate, raise, plant, grow, introduce, transport, or release genetically engineered kalo.

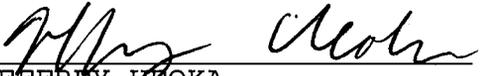
**20.38.040 Penalty.** Any person who violates any provision of this chapter shall, upon conviction, be guilty of a petty misdemeanor subject to a fine up to \$1,000 or imprisonment for not more than thirty days, or both.

**20.38.050 Administrative rules.** The director of environmental management may adopt administrative rules to implement this chapter, pursuant to chapter 91, Hawaii Revised Statutes.

**20.38.060 Administrative enforcement.** In lieu of or in addition to, enforcement by criminal prosecution, the director of environmental management may enforce this chapter pursuant to section 19.530.030 of this code, relating to administrative enforcement."

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

  
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JEFFREY WEOKA  
Deputy Corporation Counsel  
County of Maui

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