

Judge: Kauai GMO Law Invalid

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HONOLULU (AP) — A Kauai County law requiring companies to disclose their use of pesticides and genetically modified crops is invalid, a federal judge ruled Monday.

U.S. Magistrate Judge Barry Kurren ruled in favor of four seed companies seeking to stop Kauai's new law from going into effect in October.

Syngenta Seeds, DuPont Pioneer, Agrigenetics Inc., doing business as Dow AgroSciences, and BASF Plant Sciences sued for a permanent injunction, arguing the ordinance unfairly targets their industry.

Kurren's ruling agrees that the ordinance is pre-empted by state law. The judge's ruling stops the county from enforcing the ordinance.

"I'm disappointed but that's the judge's option," said Paul Achitoff, an Earthjustice attorney who helped defend the law on behalf of intervening community groups. "I think the consequences for the people of Kauai, in particular, and throughout the state are very unfortunate."

He said he'll discuss options to appeal with his clients.

Margery Bronster, an attorney representing two of the companies, said the judge's ruling makes it clear that counties don't have the authority to regulate agriculture as called for in the ordinance.

"I'm very pleased because this is what we told the county when they were discussing it initially," she said. "I think they wasted time, effort and money trying to fight for a law they had no right to pass in the first place."

The Kauai County Council passed the ordinance over the veto of Mayor Bernard Carvalho, who called the measure flawed.

"We're very thankful that the court has ruled in a timely manner and we're happy to have a verified, legal analysis Ordinance 960, Carvalho told reporters in Honolulu Monday. He said Kauai County's special counsel would be reviewing the ruling.

Carvalho said he has always agreed with the law's intent, but had issues with its legality.

Councilman Gary Hooser, who co-authored the bill, said he hopes the county will appeal.

"These companies have fought compliance for over a year now. They have much more money than the county ... they're billion-dollar corporations determined not to

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follow the rules of Kauai County," he said. "This is a long way from over."

The law also required companies using large amounts of restricted-use pesticides to establish buffer zones around sensitive areas, including schools and hospitals. The size of the buffer zone would vary depending on the property. For example, there would be 500 feet between a school and crops.

"People are concerned about their health, they're concerned about the environment," Hooser said. "This is just disclosure and buffer zones, nothing more. If they were good neighbors they would just comply."

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