

AMERICAN SEED TRADE ASSOCIATION



April 17, 2007

The Honorable Senator John M. Nutting, Chair
The Honorable Representative Wendy Pieh, Chair
Committee on Agriculture, Conservation and Forestry
100 State House Station
Augusta, ME 04333-0100

Re: OPPOSITION to LD 1650 "An Act to Amend the Laws Concerning Genetically Engineered Plants and Seeds"

Dear Senator Nutting and Representative Pieh,

The American Seed Trade Association (ASTA) is writing to express its strong opposition to LD 1650, which is currently pending before the Maine legislature. Founded in 1883, ASTA is one of the oldest trade organizations in the United States. The Association's more than 850 members are primarily U.S. companies involved in seed production and distribution, plant breeding and related industries, although ASTA does have members from 15 other countries as well. ASTA's membership consists of organic, conventional and biotech seed producers; these are producers of flower, vegetable, turf, row crop and all other seeds. The Association advocates strong, science-based policy and regulation structures that enhance the development and free movement of seed worldwide.

The proposed legislation primarily attempts to place strict liability on seed companies for any unintended presence of seeds or plant parts, developed through the use of modern biotechnology, in crops where the trait was not intended to be incorporated. Not only does this initiative defy the laws of nature, but it would also severely limit the flexibility of Maine's farmers to choose the best crop varieties available to them in order to stay competitive in today's increasingly aggressive agriculture marketplace.

Through the use of modern scientific practices and research, seeds that have been enhanced with biotechnology traits have been and are continuing to be adopted rapidly across the United States and around the world. In the U.S., the vast majority of soybeans, cotton, and corn acres are planted with seeds improved with modern biotechnology. Globally, in the past decade alone, over 1 billion acres of crops improved through modern biotechnology have been harvested. Today, over 10.3 million farmers in 22 countries grow these crops, and the adoption of these crops have resulted in economic, environmental and human health benefits. However, initiatives like LD 1650 interfere with the continued development, marketing and acceptance of these seeds and crops.

From a legal standpoint, the bill is unnecessary and contrary to public policy. There are currently legal remedies for individual farmers who allege injury from seed developed through modern biotechnology; common law provides several avenues of relief for farmers, including negligence and nuisance. In addition, seed sellers and buyers can set terms for the planting and stewardship of seed crops and assign liability through contract, thus negating the necessity

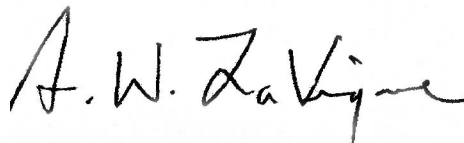
for a “technical use agreement,” as outlined in the bill. As technology has advanced throughout the past century, the standard common law remedies have been able to adapt to novel situations. The well-established common law remedies are sufficient, and there is no need for the legislature to fashion new remedies for any one type of technological advancement. To interfere with parties’ freedom to contract is contrary to the basic fundamentals of public policy. Moreover, to hold a seed company responsible for alleged damages, when the company has no control over a crop’s production, is unfair and unreasonable.

LD 1650 is also anticompetitive and potentially discriminatory among different agricultural sectors. Increasing exposure of companies producing seed through modern biotechnology to litigation – a likely effect of the proposed legislation – would also likely increase their cost of selling seed in Maine. The cost of the seed for farmers would increase and/or the availability of seed would decrease. Both of these outcomes would penalize unnecessarily the many Maine farmers producing high quality crops from such seed. It would also penalize all others in the seed supply chain, including small and large companies and dealers, and would reduce the size, offering and competitiveness of the Maine seed industry compared to other states. To the extent that increases in input and production costs are passed through the food chain, the bill would penalize others in the food chain as well as Maine consumers.

In summary, America’s seed producers are working diligently through sound scientific means to bring high-yielding, competitive varieties to U.S. farmers. The use of modern biotechnology to produce those seeds is one way in which we seek to meet that growing demand. Farmers’ use of these seeds in Maine is no exception to this pattern of use and growth. In the view of the American Seed Trade Association, LD 1650, as it is now drafted, establishes a new level of operation for seed producers in the State of Maine that would ultimately limit the choice of Maine’s agriculture producers. The proposed legislation is unnecessary from a legal standpoint and otherwise raises several serious practical concerns, ultimately adversely affecting seed companies and farmer dealers, both large and small, and thereby reducing the size, offerings and competitiveness of the seed industry in Maine.

Accordingly, ASTA opposes LD 1650. Please do not hesitate to contact us if you have any questions. Thank you for your consideration.

Cordially yours,



Andrew W. LaVigne
President and CEO
American Seed Trade Association