AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
ENACTING THE FARMER PROTECTION ACT; PROVIDING PROTECTION FROM
LIABILITY; PROHIBITING INSPECTIONS WITHOUT PERMISSION;
ESTABLISHING JURISDICTION AND VENUE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Farmer Protection Act".

Section 2. DEFINITIONS.--As used in the Farmer Protection Act:
   A. "farmer" means a person who plants a crop, manages a crop or harvests a crop;
   B. "genetically engineered plant" means a plant or any plant part or material, including seeds and pollen, in which the genetic material has been changed through modern
biotechnology in a way that does not occur naturally by multiplication or natural recombination;

C. "seed" means agricultural seed or vegetable seed used to grow a commercial agricultural or a commercial vegetable crop;

D. "seed contract" means a written contract between a seed supplier and a farmer that a farmer must sign to obtain the seed or the right to plant the seed; and

E. "seed supplier" means a person engaged in commercial production, manufacture or supply of seed or technology genetically engineered into seed, including holding a patent on a genetically engineered plant.

Section 3. PROTECTION FROM LIABILITY.--

A. A person owning or occupying property shall not have a duty to establish buffer zones or segregation protocols or otherwise initiate measures to protect specifically against the potential release of genetically engineered plants onto that person's property.

B. A person who is not in breach of a seed contract regarding the purchase or use of a genetically engineered plant and who unknowingly comes into possession of a genetically engineered plant or who uses a genetically engineered plant as a result of natural reproduction, cross-pollination, seed mixing or other commingling or unintended presence or other contamination shall not be liable for any damages, attorney
fees or costs caused by the possession or use of that
genetically engineered plant.

Section 4. INSPECTIONS.--A seed supplier of genetically
gineered plant seed may only enter upon real property farmed
by another person for the purpose of obtaining crop samples if:

   A. both of the following conditions are met:

       (1) the seed supplier notifies the farmer of

       the seed supplier's desire to enter onto the real property and
       of the purpose for the requested entry and requests written
       permission from the farmer or the farmer's agent to enter upon
       the farmer's real property; and

       (2) the seed supplier obtains the written

       permission of the farmer to enter upon the real property of the
       farmer; or

   B. there is a contractual obligation allowing

       access.

Section 5. CHOICE OF LAW--JURISDICTION--VENUE.--

   A. New Mexico law shall govern any dispute relating
to or arising out of the use of a genetically engineered plant
in New Mexico.

   B. A seed contract authorizing the use of a

   genetically engineered plant in New Mexico is governed by the
law of New Mexico. Any provision in a seed contract purporting
to waive or preclude the application of New Mexico law or to
choose the laws of another jurisdiction to govern that
contract, or to choose a forum for adjudication of disputes arising out of that contract that would not otherwise have jurisdiction over the parties to the contract, is void and unenforceable.

C. The proper venue for an action relating to or arising out of the use of a genetically engineered plant in New Mexico is the district court in the county in which the damage occurred. Any contractual provision purporting to waive or preclude New Mexico as the proper venue for that action is void and unenforceable.

D. Any provision in a seed contract purporting to waive or preclude the application of New Mexico law and to choose the laws of another jurisdiction to govern that contract, or to choose a forum for adjudication of disputes arising out of the use of a genetically engineered plant in New Mexico that would not otherwise have jurisdiction over the parties to the contract, is void and unenforceable.

Section 6. SEVERABILITY.--If any part or application of the Farmer Protection Act is held invalid, the remainder or its application to other situations or persons shall not be affected.