

House Bill 2739

Sponsored by Representative BARNHART (at the request of Sandra Bishop)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows cause of action against patent holder for genetically engineered organism present on land without permission of owner or lawful occupant. Allows court to award prevailing plaintiff costs, attorney fees and treble economic damages.

A BILL FOR AN ACT

1
2 Relating to patent holder liability for genetically engineered organisms.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a)(A) **“Genetically engineered” means produced from one or more organisms in which**
6 **the genetic material has been changed through the application of:**

7 (i) **Vector-based recombinant deoxyribonucleic acid or ribonucleic acid techniques, direct**
8 **introduction of deoxyribonucleic acid or ribonucleic acid into cells or organelles or other in**
9 **vitro nucleic acid techniques; or**

10 (ii) **Methods of fusing cells or protoplasts beyond the taxonomic family that overcome**
11 **natural physiological, reproductive or recombination barriers.**

12 (B) **“Genetically engineered” does not mean resulting from conjugation, transduction,**
13 **hybridization or other techniques used in traditional breeding and selection.**

14 (b) **“In vitro nucleic acid techniques” means processes in which deoxyribonucleic acid or**
15 **ribonucleic acid are prepared outside of organisms and the resulting material is then intro-**
16 **duced into recipient cells or organisms in a manner that changes the genetic material of the**
17 **recipient.**

18 (c) **“Patent holder” means a person having the legal right to license the production of a**
19 **genetically engineered agricultural commodity.**

20 (d) **“Public body” has the meaning given that term in ORS 174.109.**

21 (2) **If a genetically engineered organism is present on land, and no owner or lawful oc-**
22 **cupant of the land has at any time given permission for the presence of the genetically en-**
23 **gineered organism on the land, an aggrieved person holding a beneficial interest in the land**
24 **may bring an action against the patent holder. The person may seek, and a court may award,**
25 **a sum of money equal to treble the economic damages to the beneficial interest resulting**
26 **from the presence of the genetically engineered organism on the land. In addition to eco-**
27 **nomical damages, a court shall award a plaintiff prevailing in an action under this section**
28 **reasonable costs and attorney fees.**

29 (3) **If the genetically engineered organism is present on land owned or occupied by a**
30 **public body, and the governing officials for the public body decline to bring an action under**
31 **this section for a resulting injury to the land, any individual residing within the jurisdiction**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 of the public body may bring the action against the patent holder on behalf of the public in-
2 terest. If an individual prevails in an action under this section, the court shall award the
3 individual reasonable costs and attorney fees and may award the individual a portion of the
4 damages awarded to the public body.

5 (4) It is an affirmative defense against an action brought under this section that:

6 (a) The genetically engineered organism is present on the land due to a deliberate act by
7 a person or other entity; and

8 (b) The person or entity did not have permission from the patent holder, an agent of the
9 patent holder or a licensee authorized to produce the genetically engineered organism for
10 performing the act.

11 (5) Any contractual provision that attempts to transfer potential liability of a patent
12 holder under this section to a party other than the patent holder is void as contrary to public
13 policy.

14 (6) The remedy provided under this section is in addition to, and not in lieu of, any other
15 relief available to an owner or lawful occupant of land where a genetically engineered
16 organism is present without permission.

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