

Senate Bill 434

Sponsored by Senators FREDERICK, MANNING JR; Senator DEMBROW (Presession filed.)

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 or licensed manufacturer 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 liability for contamination by 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) **“Licensed manufacturer”:**

19 (A) **Means an entity licensed by a patent holder to manufacture and sell a genetically**
20 **engineered organism.**

21 (B) **Does not mean an end user that grows or raises a genetically engineered organism.**

22 (d) **“Patent holder” means a person having the legal right to license the production of a**
23 **genetically engineered agricultural commodity.**

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

25 (2) **If a genetically engineered organism is present on land, and no owner or lawful oc-**
26 **cupant of the land has at any time given permission for the presence of the genetically en-**
27 **gineered organism on the land, a person that owns, rents, is leasing or otherwise holds an**
28 **interest in or lawfully occupies the land may bring an action against the patent holder or a**
29 **licensed manufacturer of the genetically engineered organism. The person may seek, and a**
30 **court may award, a sum of money equal to treble the economic damages suffered by the**
31 **person as a result of the presence of the genetically engineered organism on the land. In**

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 addition to economic damages, a court shall award a plaintiff prevailing in an action under
2 this section reasonable costs and attorney fees.

3 (3) If the genetically engineered organism is present on land owned or occupied by a
4 public body, and the governing officials of the public body decline to bring an action under
5 this section for a resulting injury to the land, any individual residing within the jurisdiction
6 of the public body may bring the action against the patent holder or a licensed manufacturer
7 on behalf of the public body. If an individual prevails in an action under this section, the
8 court may award a sum of money equal to treble the economic damages suffered by the
9 public body as a result of the presence of the genetically engineered organism on the land
10 and shall award individual costs and reasonable attorney fees.

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

12 (a) The genetically engineered organism is present on the land due to an intentional act
13 by a person or other entity;

14 (b) The person or entity did not have permission from the patent holder, a licensed
15 manufacturer or an agent of the patent holder or licensed manufacturer to perform the act;
16 and

17 (c) The person or entity was not an agent of the patent holder or a licensed manufacturer
18 and was not an end user authorized to grow the genetically engineered organism.

19 (5) Any contractual provision that attempts to transfer potential liability of a patent
20 holder or licensed manufacturer under this section to an end user growing or raising the
21 genetically engineered organism is void as contrary to public policy.

22 (6) The remedy provided under this section is in addition to, and not in lieu of, any other
23 relief available to a person that owns, rents, is leasing or otherwise holds an interest in or
24 lawfully occupies the land on which a genetically engineered organism is present without
25 permission.
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