

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2509

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 9

1 On page 1 of the printed A-engrossed bill, delete lines 4 through 20 and delete page 2 and insert:

2 **“SECTION 1. (1) If a person that is engaged in a farming practice, as defined in ORS**  
3 **30.930, has a reasonable belief that the planting, growing or harvesting of an agricultural or**  
4 **horticultural commodity on nearby land might interfere with or is interfering with the**  
5 **farming practice, and the person responsible for the planting, growing or harvesting disputes**  
6 **that it might interfere with or is interfering with the farming practice, the State Department**  
7 **of Agriculture shall, if requested by either party to the dispute:**

8 **“(a) Provide mediation program services under ORS 36.270 to assist the parties in at-**  
9 **tempting to reach a voluntary resolution of the dispute; or**

10 **“(b) Refer the parties to the United States Department of Agriculture for the purpose**  
11 **of participating in a certified state agricultural mediation program.**

12 **“(2) A person that is requested to participate in a mediation proceeding under this sec-**  
13 **tion may elect to have the proceeding conducted through the use of mediation program ser-**  
14 **vices described in subsection (1)(a) of this section or under a mediation program described**  
15 **in subsection (1)(b) of this section. However, if the State Department of Agriculture has**  
16 **referred the parties under subsection (1)(b) of this section, a person electing to instead use**  
17 **mediation services described in subsection (1)(a) of this section must pay any additional costs**  
18 **and fees resulting from that election.**

19 **“(3) If the State Department of Agriculture provides mediation program services under**  
20 **subsection (1)(a) of this section, the total amount that the department may require of the**  
21 **parties as costs and fees for services provided in connection with the mediation of the dis-**  
22 **pute may not exceed \$2,500. The party requesting the mediation services is responsible for**  
23 **paying the costs and fees unless both parties agree to divide the costs and fees. Unless the**  
24 **parties agree to a shorter time, the department shall conduct at least four hours of medi-**  
25 **ation proceedings to attempt to reach resolution of the dispute.**

26 **“(4) If a party is offered dispute mediation under subsection (1) of this section and is**  
27 **unwilling to participate in a mediation proceeding, a court may consider that unwillingness**  
28 **when determining whether to grant or deny a preliminary injunction.**

29 **“(5) If a court action arises out of an alleged interference with the use of land for a**  
30 **farming practice due to the planting, growing or harvesting of an agricultural or**  
31 **horticultural commodity on nearby land, and the parties to the action have not previously**  
32 **attempted to have the dispute mediated, the parties must participate in a mediation pro-**  
33 **ceeding under a program described under subsection (1) of this section beginning no later**  
34 **than 270 days after the action is filed. This subsection does not require participation in a**  
35 **mediation proceeding if the action settles or is otherwise resolved within 270 days after filing**

1 or if all parties to the action agree to waive mediation. A court may impose sanctions against  
2 a party that is unwilling to participate for at least four hours, or for a shorter time that  
3 was agreed to by the parties, in a mediation proceeding required under this subsection.

4 “(6) This section does not create any new cause of action or supersede any requirement,  
5 condition or prohibition otherwise established by law regarding the bringing of an action.

6 “SECTION 2. (1) A mediation described in section 1 (1) of this 2015 Act is subject to ORS  
7 36.220.

8 “(2) Except as provided under ORS 36.220 to 36.238, if the parties to a mediation described  
9 in section 1 of this 2015 Act have agreed in writing that all or part of the mediation com-  
10 munications or all or part of the terms of a mediation agreement are confidential, a cause  
11 of action exists against a party that discloses the confidential communications or terms for  
12 damages resulting from the disclosure.

13 “(3) Section 1 of this 2015 Act does not require a party to a mediation proceeding to dis-  
14 close confidential business information or to disclose other confidential information that may  
15 be adverse to the legal interests of the party.

16 “SECTION 3. Section 1 of this 2015 Act does not apply to any dispute regarding the  
17 planting, growing or harvesting of a genetically engineered agricultural or horticultural  
18 commodity in a county that has in effect a valid ordinance lawfully adopted on or before the  
19 effective date of this 2015 Act that regulates the planting, growing or harvesting of genet-  
20 ically engineered agricultural or horticultural commodities.

21 “SECTION 4. Upon request by a farmer or by the holder of a patent granted for a seed,  
22 crop or trait under the Patent Act (35 U.S.C. 101 et seq.) or under the Plant Variety Pro-  
23 tection Act (7 U.S.C. 2321 et seq.), the Director of Agriculture shall appoint a representative  
24 of the State Department of Agriculture to accompany the farmer, the patent holder or a crop  
25 testing service at the time a sample is taken. The department may charge the requester a  
26 fee for the services. This section does not create any new right of entry or affect any exist-  
27 ing right of entry onto a property.”.

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