

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2509**

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

3 **“SECTION 1. (1) As used in this section, ‘farming practice’ means**
4 **a mode of operation on a farm that:**

5 **“(a) Is or may be used on a farm of a similar nature;**

6 **“(b) Is a generally accepted, reasonable and prudent method for the**
7 **operation of the farm to obtain a profit in money;**

8 **“(c) Is or may become a generally accepted, reasonable and prudent**
9 **method in conjunction with farm use;**

10 **“(d) Complies with applicable laws; and**

11 **“(e) Is done in a reasonable and prudent manner.**

12 **“(2) If a person that is engaged in a farming practice has a rea-**
13 **sonable belief that the planting, growing or harvesting of an agricul-**
14 **tural or horticultural commodity on nearby land might interfere with**
15 **or is interfering with the farming practice, and the person responsible**
16 **for the planting, growing or harvesting disputes that it might interfere**
17 **with or is interfering with the farming practice, the State Department**
18 **of Agriculture shall, if requested by either party to the dispute:**

19 **“(a) Provide mediation program services under ORS 36.270 to assist**
20 **the parties in attempting to reach a voluntary resolution of the dis-**
21 **pute; or**

22 **“(b) Refer the parties to the United States Department of Agricul-**

1 ture for the purpose of participating in a certified state agricultural
2 mediation program.

3 “(3) If the State Department of Agriculture provides mediation
4 program services under subsection (2)(a) of this section, the total
5 amount that the department may require of the parties as costs and
6 fees for services provided in connection with the mediation of the
7 dispute may not exceed \$2,500. The party requesting the mediation
8 services is responsible for paying the costs and fees unless both parties
9 agree to divide the costs and fees.

10 “(4) Except as provided in subsection (6) of this section, if a party
11 refuses an offer for dispute mediation under subsection (2) of this
12 section, and subsequently is the losing party in an arbitration or court
13 action regarding the dispute, the arbitrator or court may award the
14 prevailing party costs and reasonable attorney fees.

15 “(5) If a court action arises out of an alleged interference with the
16 use of land for a farming practice due to the planting, growing or
17 harvesting of an agricultural or horticultural commodity on nearby
18 land, and the parties to the action have not previously attempted to
19 have the dispute mediated, the parties must participate in a mediation
20 proceeding under a program described under subsection (2) of this
21 section beginning no later than 270 days after the action is filed. This
22 subsection does not require participation in a mediation proceeding if
23 the action settles or is otherwise resolved within 270 days after filing
24 or if all parties to the action agree to waive mediation. A court may
25 impose sanctions against a party that fails to participate in, or act in
26 good faith in, a mediation proceeding required under this subsection.

27 “(6) An award of costs or attorney fees under subsection (4) of this
28 section or the imposition of sanctions under subsection (5) of this
29 section may not be made against a party to a dispute if the party has
30 participated in any mediation process regarding the dispute and:

1 “(a) Completed the mediation process; or

2 “(b) Participated in the mediation process to the point that costs
3 and fees for mediation services reached \$2,500.

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

7 “SECTION 2. Upon request by a farmer or by the holder of a patent
8 granted for a seed, crop or trait under the Patent Act (35 U.S.C. 101
9 et seq.) or under the Plant Variety Protection Act (7 U.S.C. 2321 et
10 seq.), the Director of Agriculture shall appoint a representative of the
11 State Department of Agriculture to accompany the farmer, the patent
12 holder or a crop testing service at the time a sample is taken. The
13 department may charge the requester a fee for the services.”.

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