

**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) If a person that is engaged in a farming practice,**  
4 **as defined in ORS 30.930, has a reasonable belief that the planting,**  
5 **growing or harvesting of an agricultural or horticultural commodity**  
6 **on nearby land might interfere with or is interfering with the farming**  
7 **practice, and the person responsible for the planting, growing or har-**  
8 **vesting disputes that it might interfere with or is interfering with the**  
9 **farming practice, the State Department of Agriculture shall, if re-**  
10 **quested by either party to the dispute:**

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

14 **“(b) Refer the parties to the United States Department of Agricul-**  
15 **ture for the purpose of participating in a certified state agricultural**  
16 **mediation program.**

17 **“(2) A person that is requested to participate in a mediation pro-**  
18 **ceeding under this section may elect to have the proceeding conducted**  
19 **through the use of mediation program services described in subsection**  
20 **(1)(a) of this section or under a mediation program described in sub-**  
21 **section (1)(b) of this section. However, if the State Department of**  
22 **Agriculture has referred the parties under subsection (1)(b) of this**

1 section, a person electing to instead use mediation services described  
2 in subsection (1)(a) of this section must pay any additional costs and  
3 fees resulting from that election.

4 “(3) If the State Department of Agriculture provides mediation  
5 program services under subsection (1)(a) of this section, the total  
6 amount that the department may require of the parties as costs and  
7 fees for services provided in connection with the mediation of the  
8 dispute may not exceed \$2,500. The party requesting the mediation  
9 services is responsible for paying the costs and fees unless both parties  
10 agree to divide the costs and fees. Unless the parties agree to a shorter  
11 time, the department shall conduct at least four hours of mediation  
12 proceedings to attempt to reach resolution of the dispute.

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

17 “(5) If a court action arises out of an alleged interference with the  
18 use of land for a farming practice due to the planting, growing or  
19 harvesting of an agricultural or horticultural commodity on nearby  
20 land, and the parties to the action have not previously attempted to  
21 have the dispute mediated, the parties must participate in a mediation  
22 proceeding under a program described under subsection (1) of this  
23 section beginning no later than 270 days after the action is filed. This  
24 subsection does not require participation in a mediation proceeding if  
25 the action settles or is otherwise resolved within 270 days after filing  
26 or if all parties to the action agree to waive mediation. A court may  
27 impose sanctions against a party that is unwilling to participate for  
28 at least four hours, or for a shorter time that was agreed to by the  
29 parties, in a mediation proceeding required under this subsection.

30 “(6) This section does not create any new cause of action or super-

1 **sede any requirement, condition or prohibition otherwise established**  
2 **by law regarding the bringing of an action.**

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

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

11 **“(3) Section 1 of this 2015 Act does not require a party to a medi-**  
12 **ation proceeding to disclose confidential business information or to**  
13 **disclose other confidential information that may be adverse to the le-**  
14 **gal interests of the party.**

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

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

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