

Requested by Representative BARKER

**PROPOSED AMENDMENTS TO
HOUSE BILL 2739**

1 On page 1 of the printed bill, delete lines 4 through 31 and delete page
2 2 and insert:

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

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

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

11 **“(ii) Methods of fusing cells or protoplasts beyond the taxonomic**
12 **family that overcome natural physiological, reproductive or recombina-**
13 **tion barriers.**

14 **“(B) ‘Genetically engineered’ does not mean resulting from conju-**
15 **gation, transduction, hybridization or other techniques used in tradi-**
16 **tional breeding and selection.**

17 **“(b) ‘In vitro nucleic acid techniques’ means processes in which**
18 **deoxyribonucleic acid or ribonucleic acid are prepared outside of**
19 **organisms and the resulting material is then introduced into recipient**
20 **cells or organisms in a manner that changes the genetic material of**
21 **the recipient.**

1 “(c) ‘Patent holder’ means a person having the legal right to license
2 the growing of a genetically engineered agricultural commodity.

3 “(d) ‘Public body’ has the meaning given that term in ORS 174.109.

4 “(2)(a) An owner or lawful occupant of land may bring an action
5 against a patent holder if:

6 “(A) A genetically engineered organism is present on the land;

7 “(B) The genetically engineered agricultural commodity licensed by
8 the patent holder is the source of the genetically engineered organism;
9 and

10 “(C) No owner or lawful occupant of the land has at any time given
11 permission for the presence of the genetically engineered organism on
12 the land.

13 “(b) The owner or lawful occupant may seek, and a court may
14 award, a sum of money equal to three times the economic damages
15 suffered by the owner or lawful occupant as a result of the presence
16 of the genetically engineered organism on the land. In addition to any
17 economic damages awarded, the court shall award a plaintiff owner
18 or lawful occupant prevailing in an action under this subsection rea-
19 sonable costs and attorney fees.

20 “(3) If a public body is the owner or lawful occupant of land de-
21 scribed in subsection (2) of this section, any individual residing within
22 the jurisdiction of the public body may request that the governing of-
23 ficials for the public body bring an action under subsection (2) of this
24 section. If the governing officials for the public body do not, on or
25 before 60 days after receipt of the request, agree to bring the action,
26 any individual residing within the jurisdiction may bring the action for
27 the purpose of enforcing the public body’s rights. If the individual
28 prevails in the action, the court may award the public body economic
29 damages as provided in subsection (2) of this section, but notwith-
30 standing subsection (2) of this section, shall award the reasonable

1 costs and attorney fees to the individual.

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

4 “(a) A person or other entity intentionally caused the genetically
5 engineered organism to be present on the land;

6 “(b) The person or other entity was not the patent holder, an agent
7 of the patent holder or a licensee grower of the genetically engineered
8 agricultural commodity; and

9 “(c) The person or other entity did not have permission from the
10 patent holder, an agent of the patent holder or a licensee grower of
11 the genetically engineered agricultural commodity to cause the ge-
12 netically engineered organism to be present on the land.

13 “(5) Any contractual provision that attempts to transfer potential
14 liability of a patent holder under this section to a licensee grower of
15 the genetically engineered agricultural commodity is void as contrary
16 to public policy.

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

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