
HOUSE BILL 3358

State of Washington

60th Legislature

2008 Regular Session

By Representative Chase

Read first time 02/07/08. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to transgenic organisms; and adding a new chapter
2 to Title 15 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Department" means the department of agriculture.

7 (2) "Farmer" means the person responsible for planting a crop,
8 managing the crop, and harvesting the crop from land on which a breach
9 of contract or patent infringement is alleged to have occurred.

10 (3) "Director" means the director of the department.

11 (4) "Transgenic organism" means an organism including, but not
12 limited to, animal, plant, bacterium, cyanobacterium, fungus, protist,
13 or virus altered or produced through genetic modification from a donor,
14 vector, or recipient organism using modern molecular techniques such as
15 recombinant deoxyribonucleic acid methodology, and any living organisms
16 derived therefrom.

17 NEW SECTION. **Sec. 2.** (1) Before a person or his or her agent
18 holding a patent on a transgenic organism may enter upon any land owned

1 by a farmer for the purpose of obtaining crop samples to determine
2 whether breach of contract or patent infringement has occurred, the
3 person holding the patent or his or her agent shall do both of the
4 following:

5 (a) Notify the farmer in writing of the allegation that breach of
6 contract or patent infringement has occurred and request permission to
7 enter upon the farmer's land; and

8 (b) Obtain the written permission of the farmer.

9 (2)(a) The farmer shall grant or deny access in writing within ten
10 days of receipt of a request to enter the land pursuant to subsection
11 (1) of this section.

12 (b) If the farmer withholds permission under subsection (1) of this
13 section, the person holding a patent may petition the superior court in
14 the county in which the alleged breach of contract or patent
15 infringement has occurred for an order granting permission to enter
16 upon the farmer's land.

17 NEW SECTION. **Sec. 3.** (1) Either party may request the director to
18 provide for the collection of samples under section 2 of this act, or
19 to participate in or conduct any other aspect of the sampling or
20 analysis process. If so requested, the director shall designate an
21 employee of the department, or enter into an agreement with a person or
22 entity, to implement the specified activity as provided in rules
23 adopted pursuant to section 6 of this act.

24 (2) The person or entity designated under this section may be, but
25 is not required to be, an employee or department of the state.

26 (3) The farmer or the farmer's agent and the person holding the
27 patent may be present at any collection of samples conducted under this
28 section, and each shall be notified of the time and location of the
29 sampling in a timely manner.

30 NEW SECTION. **Sec. 4.** If the person holding a patent believes that
31 the crop from which samples are to be taken under section 2 or 3 of
32 this act may be subject to intentional damage or destruction, the
33 person may seek a protective order from the superior court. The
34 protective order shall be crafted to minimize interruption or
35 interference with normal farming practices, including harvest and
36 tillage.

1 NEW SECTION. **Sec. 5.** Samples for analysis under section 2 or 3 of
2 this act may be taken from a standing crop, from representative
3 standing plants in the field, or from crop residue remaining in the
4 field after harvest.

5 NEW SECTION. **Sec. 6.** The department may adopt rules to determine
6 sampling protocols, which may specify all of the following:

7 (1) Who is authorized to collect samples or conduct related
8 activity;

9 (2) Methods of sample storage; and

10 (3) Standards for sampling, inspecting, analyzing, and testing
11 seeds consistent with this chapter.

12 NEW SECTION. **Sec. 7.** The results of any testing conducted
13 pursuant to this chapter shall be sent by registered letter by the
14 testing party to all other parties within thirty days after the results
15 are reported from the testing laboratory.

16 NEW SECTION. **Sec. 8.** A farmer is not liable for the breach of a
17 seed contract or for patent infringement if a product, in which the
18 seed labeler, patent holder, or licensee has rights, is possessed by
19 the farmer or found on real property owned or occupied by the farmer
20 and the presence of the product is de minimis or not intended by the
21 farmer.

22 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute
23 a new chapter in Title 15 RCW.

--- END ---