

HOUSE BILL NO. 387
INTRODUCED BY D. HEDGES

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE CROP RESEARCH FACILITIES PROTECTION ACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 5 4] may be cited as the "Crop Research Facilities Protection Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5 4], the following definitions apply:

- (1) "Consent" means agreement in fact, whether express or apparent.
- (2) "Crop" means a product grown, developed, or raised for purposes including but not limited to human or animal consumption, research, industrial use, commercial use, or pharmacological use.
- (3) "Deprive" means to:
 - (a) withhold a crop or other property from the owner permanently or for such a period of time that a major portion of the value or enjoyment of the crop or property is lost to the owner;
 - (b) restore the crop or other property only upon payment of reward or other compensation; or
 - (c) dispose of a crop or other property in a manner that makes recovery of the crop or property by the owner unlikely.
- (4) "Effective consent" means consent by the owner or by a person legally authorized to act for the owner. Consent is not effective if it is:
 - (a) induced by force or threat;
 - (b) given by a person who the person to whom it is given knows is not legally authorized to act for the owner; or
 - (c) given by a person who by reason of youth, mental disease or defect, or being under the influence of drugs or alcohol is known by the person to whom it is given to be unable to make reasonable decisions.
- (5) "Notice" means:
 - (a) oral or written communication by the owner or someone with apparent authority to act for the owner;

- (b) fencing or other enclosure obviously designed to exclude intruders or to contain crops; or
- (c) a sign or signs posted on the property or at the entrance to a building that are reasonably likely to come to the attention of intruders and that indicate that entry is forbidden.
- (6) "Owner" means a person who has:
 - (a) title to the property; or
 - (b) lawful possession of the property.
- (7) "Person" means an individual, state agency, corporation, association, nonprofit corporation, joint-stock company, firm, trust, or partnership; two or more persons having a joint or common interest; or some other legal entity.
- (8) "Possession" means actual care, custody, control, or management.
- (9) "Research facility" means a public or private place, laboratory, institution, medical care facility, elementary school, high school, college, or university at which a scientific test, experiment, or investigation involving the use of a crop is lawfully carried out, conducted, or attempted.

NEW SECTION. Section 3. Unlawful acts. (1) A person who does not have the effective consent of the owner may not acquire or otherwise exercise control over a crop research facility, a crop from a crop research facility, or other property from a crop research facility with the intent to deprive the owner of the facility, crop, or property or to damage the enterprise conducted at the crop research facility.

(2) A person who does not have the effective consent of the owner and who purposely or knowingly intends to damage the enterprise conducted at a crop research facility may not:

- (a) damage or destroy a crop research facility or a crop or property in or on the premises of a crop research facility;
- (b) enter a crop research facility that is at the time closed to the public with the intent to commit an act prohibited by [sections 1 through 5 4];
- (c) remain concealed in a crop research facility with the intent to commit an act prohibited by [sections 1 through 5 4];
- (d) enter a crop research facility and commit or attempt to commit an act prohibited by [sections 1 through 5 4];
- (e) enter a crop research facility to take pictures by photograph, video camera, or other means with the intent to commit ~~criminal defamation~~ AN UNLAWFUL ACT; or
- (f) enter or remain on the premises of a crop research facility if the person:

- (i) had notice that the entry was forbidden; or
- (ii) received notice to depart but failed to do so.

(3) The provisions of [sections 1 through 5 4] do not apply to lawful activities of a government agency or its employees who are carrying out their duties under law or to lawful activities of a financial institution or other secured party.

NEW SECTION. Section 4. Action for damage. (1) A person who has been damaged by reason of a violation of [section 3] may bring against the person who caused the damage an action in the district court to recover:

- ~~_____ (a) an amount equal to three times all actual and consequential damages; and~~
- ~~_____ (b) court costs and reasonable attorney fees.~~

(2) [Sections 1 through 5 4] may not be construed to affect any other rights of a person who has been damaged by reason of a violation of [sections 1 through 5 4]. The provisions of subsection (1) may not be construed to limit the exercise of any rights arising out of or relating to a violation of [section 3].

~~_____ NEW SECTION. Section 5. Penalty. (1) A person convicted of violating [section 3(2)(f)] shall be fined an amount not less than \$50 or more than \$500, be imprisoned in the county jail for a term not to exceed 3 months, or both.~~

~~_____ (2) A person convicted of an act that violates [section 3(1) and (2)(a) through (2)(e)] and that results in \$500 or less in damage or destruction shall be fined an amount not more than \$500, be imprisoned in the county jail for a term not to exceed 6 months, or both.~~

~~_____ (3) A person convicted of an act that violates [section 3(1) and (2)(a) through (2)(e)] and that results in more than \$500 in damage or destruction shall be fined an amount not more than \$50,000, be imprisoned in the state prison for a term not to exceed 10 years, or both.~~

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 5 4] are intended to be codified as an integral part of Title 80, and the provisions of Title 80 apply to [sections 1 through 5 4].

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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