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## CIVIL DAMAGES FOR CROP DESTRUCTION

House Bill 5136 as passed by the House  
Second Analysis (2-28-02)

Sponsor: Rep. Tom Meyer  
Committee: Agriculture and Resource  
Management

### ***THE APPARENT PROBLEM:***

In recent years, agricultural crop research (or biotechnology) has played an increasingly vital role in improving the quality of agricultural commodities. Agricultural biotechnology seeks to create, improve, and modify plants, animals, and microorganisms. The main purposes of agricultural biotechnology are to combat human diseases, promote human health, combat animal diseases, fight hunger by developing plants resistant to certain diseases and increasing crop yields, and improve the environment by reducing the amount of pesticide use. Agricultural biotechnology has sought to develop a variety of agricultural commodities ranging from frost-resistant strawberries to pest-resistant corn. The growing emergence of crop research facilities has led some groups to question the safety of the agricultural products that these facilities produce.

In recent years many research facilities at colleges and universities and at private facilities have been the subject of "eco-terrorism". These eco-terrorist activities are generally arson, burglary, death threats, or the malicious destruction of property. Research facilities have seen research crops, and the years of research associated with them, be destroyed. In late 1999, research facilities at Michigan State University's Agriculture Hall were destroyed with damage in excess of \$400,000. Recently, a greenhouse at the University of Minnesota was damaged, which resulted in the loss of important research on disease resistance in oats. In August of 1999 corn research at the University of Maine was destroyed. In addition, the San Diego, Davis, and Berkeley campuses of the University of California have also been the target of these eco-terrorist activities. In many of these incidents, years of valuable research have been lost.

In an effort to deter these acts and help recover some of the financial damages, legislation has been proposed to provide civil damages when research crops are destroyed.

### ***THE CONTENT OF THE BILL:***

House Bill 5136 would amend the Revised Judicature Act to state that any person who intentionally damages or destroys all or part of a field crop belonging to another person produced for crop research or testing would be liable in a civil action for any damages incurred. In addition to awarding the prevailing plaintiff the reasonable costs of expert witnesses, and the reasonable cost of studies, analyses, engineering reports, tests, or projects necessary for the preparation of the case, the court would also award damages for twice the market value of the field crop damaged or destroyed and the value of the crop research, if applicable.

"Field crop" would be defined to mean plants that include, but are not limited to, those considered to be and grown as production crops, ornamentals, vegetables, turf, horticultural crops, industrial crops, plants grown for the production of pharmaceuticals or similar use, seed production crops, and live stock and animal feed crops.

### ***BACKGROUND INFORMATION:***

In order to combat ecological terrorism, several states have recently passed or introduced legislation. According to committee testimony, there are 21 states that passed or considered legislation providing for damages for the destruction of crops.

Arizona. Arizona legislators introduced House Bill 2481 in 2001. Under the bill, any person who knowingly destroyed a legal crop or crop product for commercial or research purposes would be liable for twice the market value, twice the actual costs of damage, and any litigation costs.

California. In response to recent attacks on three University of California campuses, in 2000, the legislature enacted into law increased penalties for people who willfully destroy agricultural research crops. Under the law, a person who intentionally

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destroys a research crop is liable for twice the value of the damaged crop. Damages can include the costs for research and development.

Florida. During the 2001 legislative session, the Florida legislature passed two bills related to the destruction of research crops. Under the bills, an agricultural producer may recover damages, costs, and attorneys' fees as a result of the willful destruction of a crop. In addition, the bills established penalties for double the amount of the value of the damaged product. The court may also award any punitive and compensatory damages, as well as court costs and attorneys' fees.

Kansas. During the 2001 session, the Kansas legislature passed legislation to make it a crime to knowingly destroy a research test plot. The crime is either a misdemeanor or felony, depending on the amount of damage incurred. Under the law, an owner can recover civil damages equal to three times the value of the destroyed crop. Damages are based on the market value of the crop, and on the research and development costs.

Mississippi. The Mississippi legislature passed legislation during the 2001 session to direct the courts to consider the market value of the crops and the costs associated with the production, testing, research, and replacement of the crops. Under the law, damages are limited to twice the market value of the crops plus actual damage.

Missouri. During the 2001 session, Missouri legislators introduced Senate Bill 302. Under the bill, any person who willfully and knowingly destroys a crop (grown for personal, commercial, or research purposes) would be liable for twice the amount of damages. The court would consider the market value of the crop, and the actual damages incurred.

New York. During the 2001 session, the New York legislature is considering two bills that would make it a felony for a person who willfully and knowingly destroys or damages any farm product grown for personal, commercial, testing, or research purposes.

Ohio. The Ohio Senate recently passed Senate Bill 147. Under the bill, a person without privilege to do so, would be prohibited from destroying or damaging any field crop, field crop product, timber, timber product, or livestock that is produced for personal, commercial, or research and testing purposes. Any person doing so would be guilty of a first-degree misdemeanor and would be liable to pay twice the

value of the field crop, field crop product, timber, timber product, or livestock. When determining the value, the court would consider the market value, and any costs associated with the production, research, testing, replacement, and development of the field crop, timber, or livestock. Restitution would be limited to twice the market value and twice the actual damages.

Pennsylvania. Under House Bill 1492, introduced in 2001, a person would be guilty of a second-degree felony for knowingly destroying a crop grown for scientific, commercial, or research purposes. Restitution would be based on the value of the damaged crop, the costs for disposal of the damaged crop, the clean up of the property, and any lost revenue for the owner of the damaged crop. Under a civil action arising from the destruction of a crop, damages could be awarded for market value of the crop; the costs related to the research, production, testing, replacement and development; as well as any damage to any records, data, and data gathering equipment.

Wisconsin. In the fiscal year 2001-03 budget, language was added to address crop vandalism. A plaintiff is entitled to any attorneys' fees as well as the market value of the plant and the costs of production, research, testing, replacement, and development related to the damaged or destroyed crop.

### ***FISCAL IMPLICATIONS:***

Fiscal information is not available.

### ***ARGUMENTS:***

#### ***For:***

The bill would protect agricultural research conducted by universities and private organizations. These research projects seek to improve the quality of food and other agricultural commodities. The potential benefits that result from agricultural biotechnology are valuable and should be compensable. The value of years of research that maybe lost because of ecological terrorist attacks in virtually uncountable. Allowing civil damages to be collected when research plots are destroyed would serve as a necessary deterrent to punish those who carry out ecological terrorism.

#### ***For:***

The House-passed version of the bill deleted language pertaining to the damage of crops produced

for personal purposes or commercial purposes. According to committee testimony, the main intent of the bill would be to provide protection for research crops. During the committee hearing several individuals expressed concern that the bill, as introduced, was too broad. By providing damages for crops grown for personal or commercial purposes, the bill would apply to minor incidents of crop damage (such as smashing pumpkins). While such events are indeed serious and should be afforded protection, the current common law provisions allowing a person to recover damages for the destruction of his or her property adequately protects these situations. Often, the production of crops grown for research or testing purposes cannot be repeated. Years of research may be lost when these crops are destroyed. For these reasons, added protection should be provided to crops grown for research or testing purposes.

***Against:***

This bill places unnecessary restrictions on judges when determining the costs to be recovered when property is destroyed. Under the bill, the court is required to award damages for twice the market value of the property, in addition to any costs attributed to the crop research, as well as any costs and fees related to the civil action. The bill does not allow for judicial discretion when deciding whether to award damages, or how much.

***POSITIONS:***

The Michigan Farm Bureau supports the bill. (2-28-02)

The Michigan Agri-Business Association supports the bill. (2-28-02)

The Department of Agriculture supports the bill. (2-27-02)

Analyst: M. Wolf

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.