

HOUSE BILL No. 5136

October 3, 2001, Introduced by Reps. Meyer, Sanborn, Kowall, Vander Veen, Spade, Pappageorge and Van Woerkom and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding section 2972.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2972. (1) A PERSON WHO INTENTIONALLY DAMAGES OR
2 DESTROYS ALL OR PART OF A FIELD CROP BELONGING TO ANOTHER PERSON
3 PRODUCED FOR 1 OR MORE OF THE FOLLOWING PURPOSES IS LIABLE IN A
4 CIVIL ACTION FOR DAMAGES AS FURTHER DESCRIBED IN SUBSECTION (2):
5 (A) PERSONAL PURPOSES.
6 (B) COMMERCIAL PURPOSES.
7 (C) CROP RESEARCH OR TESTING PURPOSES.
8 (2) THE COURT SHALL AWARD DAMAGES AS WELL AS COSTS AND FEES
9 ASSOCIATED WITH AN ACTION BROUGHT UNDER SUBSECTION (1) TO THE
10 PREVAILING PARTY IN THE FOLLOWING AMOUNTS:

1 (A) TWICE THE MARKET VALUE OF THE FIELD CROP DAMAGED OR
2 DESTROYED.

3 (B) IF APPLICABLE, THE VALUE ATTRIBUTED TO THE CROP RESEARCH
4 OR TESTING.

5 (3) AS USED IN THIS SECTION:

6 (A) "COSTS AND FEES" MEANS THE NORMAL COSTS INCURRED IN
7 BEING A PARTY IN A CIVIL ACTION AFTER AN ACTION HAS BEEN FILED
8 WITH THE COURT, THOSE PROVIDED BY LAW OR COURT RULE, AND THE
9 FOLLOWING:

10 (i) THE REASONABLE AND NECESSARY EXPENSES OF EXPERT WIT-
11 NESSES AS DETERMINED BY THE COURT.

12 (ii) THE REASONABLE COST OF ANY STUDY, ANALYSIS, ENGINEERING
13 REPORT, TEST, OR PROJECT THAT IS DETERMINED BY THE COURT TO HAVE
14 BEEN NECESSARY FOR THE PREPARATION OF THE PARTY'S CASE.

15 (B) "CROP RESEARCH OR TESTING" MEANS A CROP PRODUCED IN CON-
16 JUNCTION WITH OR AS PART OF A PRIVATE RESEARCH OR TESTING PROGRAM
17 OR FACILITY OR A RESEARCH OR TESTING PROGRAM FUNDED BY A FEDERAL,
18 STATE, OR LOCAL GOVERNMENTAL AGENCY.

19 (C) "FIELD CROP" MEANS PLANTS THAT INCLUDE, BUT ARE NOT
20 LIMITED TO, THOSE CONSIDERED AND GROWN AS PRODUCTION CROPS, ORNA-
21 MENTALS, VEGETABLES, TURF, HORTICULTURAL CROPS, INDUSTRIAL CROPS,
22 PLANTS GROWN FOR THE PRODUCTION OF PHARMACEUTICALS OR SIMILAR
23 USE, SEED PRODUCTION CROPS, AND LIVESTOCK AND ANIMAL FEED CROPS.

24 (D) "PREVAILING PARTY" MEANS THE FOLLOWING:

25 (i) IN AN ACTION INVOLVING SEVERAL REMEDIES, ISSUES, OR
26 COUNTS THAT STATE DIFFERENT CAUSES OF ACTION OR DEFENSES, THE
27 PARTY PREVAILING AS TO EACH REMEDY, ISSUE, OR COUNT.

1 (ii) IN AN ACTION INVOLVING ONLY 1 ISSUE OR COUNT STATING
2 ONLY 1 CAUSE OF ACTION OR DEFENSE, THE PARTY PREVAILING ON THE
3 ENTIRE RECORD.