

EXHIBIT 3  
DATE 02/06/07  
493

**AMERICAN SEED TRADE ASSOCIATION**



February 6, 2007

Chairman Ed Butcher and Members  
House Agriculture Committee  
Montana House of Representatives  
PO Box 200400  
Helena, MT 59620

Re: Montana HB 493 – A Bill for an Act entitled: *“an act requiring a manufacturer to print accepted practices for the handling of genetically engineered wheat on all genetically engineered wheat seed package labels; limiting the liability of a farmer that plants genetically engineered wheat; providing for a liability defense for manufacturers of genetically engineered wheat seed; defining in what instances a manufacturer is liable for injury suffered as the result of genetically engineered wheat; providing for the recovery of damages, attorney fees, and other reasonable costs; and providing an immediate effective date.”*

The American Seed Trade Association (ASTA) is writing this letter in opposition to HB 493, which is currently pending before the Montana legislature. The bill primarily attempts to hold the wheat seed company that patented a technology strictly liable for the unintended presence of seeds or plant parts developed through modern biotechnology regardless of the company’s role or responsibility in the production of the subject crop. The bill is unnecessary, and contrary to public policy. It also inappropriately distinguishes between different types of farmers and seed companies, creating competitive disincentives in Montana among different agricultural sectors and increasing the cost of doing business in the state.

Founded in 1883, ASTA is one of the oldest trade organizations in the United States. Its membership consists of about 850 companies involved in seed production and distribution, plant breeding and related industries. ASTA’s membership is comprised primarily of U.S. companies, although it does have members from 15 other countries. ASTA advocates science and policy issues of importance to the seed industry. Its mission is to enhance the development of free movement of seed worldwide.

ASTA is a diverse organization. It represents all types of seed companies and technologies – seed from alfalfa to zucchini, technologies from organic to biotechnology and companies from “mom and pop” to multinationals. Among others, it has a standing committee on organic seed and a standing committee on biotechnology. ASTA has members in 47 states. It works on behalf of all of its

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members at the state, national and international levels. In other words, ASTA represents every company that would be affected by the proposed legislation, and works in cooperation with the rest of agribusiness and consumers as well, whom the proposed legislation would also affect.

Seeds improved with modern biotechnology have been and are continuing to be adopted rapidly across the United States and around the world. In the United States, the vast majority of soybeans, cotton, and corn acres are planted with seeds improved with modern biotechnology. Globally, in the past decade, over 1 billion acres of crops improved through modern biotechnology have been harvested. Over 8 million farmers in 18 countries grow these crops. The adoption of these crops is the result of their economic, environmental and human health benefits. Initiatives like HB 492 interfere with the continued development, marketing and acceptance of these seeds and crops.

From a legal standpoint, the bill is unnecessary and contrary to public policy. Existing legal remedies for individual farmers who allege injury from seed developed through modern biotechnology or any other technology are well established and adequate. Common law provides several avenues of relief for farmers, including negligence and nuisance. In addition, seed sellers and buyers can set terms for the planting and stewardship of seed crops, and assign liability through contract. As technology has advanced throughout the past century, the standard common law remedies have been able to adapt to novel situations. The well-established common law remedies are sufficient, and there is no need for the legislature to fashion new remedies for any one type of technological advancement. To interfere with parties' freedom to contract is contrary to public policy. Moreover, to hold a seed company responsible for alleged damages when the company has no control over a crop's production is unfair and unreasonable.

HB 493 is also anticompetitive and potentially discriminatory among different agricultural sectors. Increasing exposure of wheat seed companies producing product through modern biotechnology to litigation – a likely effect of the proposed legislation – would also likely increase their cost of selling wheat seed in Montana. The cost of the wheat seed for farmers will increase and/or the availability of wheat seed will decrease. Both of these outcomes would penalize unnecessarily the many Montana farmers producing high quality crops from such seed. It will also penalize all others in the wheat seed supply chain including dealers as well as small and large companies; and will reduce the size, offering and competitiveness of the Montana wheat seed industry compared to other states. To the extent that increases in input and production costs are passed through the food chain, the bill would penalize others in the food chain as well as Montana consumers.

In summary, the use of wheat seeds improved through modern biotechnology continues to grow around the world as a result of their economic, environmental and

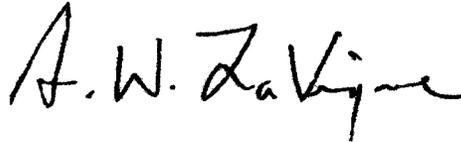
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human health benefits. Farmers' use of these seeds in Montana is no exception to this pattern of growth. In our view, HB 493 as it is now drafted is unnecessary from a legal standpoint and otherwise raises several serious practical concerns. Of significance, it would add unnecessarily to the cost of doing business in Montana and penalize Montana wheat farmers. Affecting seed companies large and small, including farmer dealers, HB 493 would also reduce the size, offerings and competitiveness of the wheat seed industry in Montana compared to other states.

Accordingly, ASTA opposes HB 493. Please do not hesitate to contact us if you have any questions. Thank you for your consideration.

Cordially yours,



Andrew W. LaVigne  
President and CEO  
American Seed Trade Association