

March 17, 2011

Statement of Support by The Biotechnology Industry Organization in Support of SB218:

"An Act establishing procedures for sampling plants protected by patent or other intellectual property laws; requiring mediation of claims involving protected plants; providing an exception; providing rulemaking authority; and providing an immediate effective date."

Dear Chairman Kerns and Members of the House Agriculture Committee:

As the representative of BIO, I would like to submit the following statement in support of SB218. The Biotechnology Industry Organization (BIO) is the national biotechnology organization, providing advocacy, business development and communications services for more than 1,100 members worldwide. BIO members are involved in the research and development of innovative healthcare, agricultural, industrial and environmental biotechnology products. Corporate members range from entrepreneurial companies developing a first product to Fortune 500 multinationals. We also represent state and regional biotech associations, service providers to the industry, and academic centers. The mission of BIO is to be the champion of biotechnology and the advocate for its member organizations - both large and small.

We submit the following statement in support of reasonable sampling procedures in Montana, as identified in SB21, and to reassure growers across the state about the benefits of agricultural biotechnology:

- Since 1996, agricultural biotechnology has allowed growers to produce more food, feed and fiber on less land, often with significant environmental benefits. Biotechnology can help crops thrive in drought-prone areas, can improve the nutrition content of foods and can improve the lives of farmers and rural communities around the globe.
- The world's population, currently just over 6.5 Billion, is estimated by the US Census Bureau to reach 9 Billion people within another 3- 4 decades. During that same time, the US population will increase to over 420 Million people. America's agriculture will be under increased pressures to produce more food for domestic and global demand, however, with the same if not less arable land.
- Biotechnology in agriculture is an essential tool for growers to be able to meet such drastic increases in demand within the next few decades. Because we strongly believe in the future of Montana agriculture and the increased needs for critical tools, BIO supports any reasonable policy that addresses concerns raised by some growers while at the same time allowing access to biotech tools by many more. We urge the committee to not do anything that could harm biotechnology applications on Montana's farms and ranches.
- Last year, the harvested biotech crop acreage in the US was just under 150 Million acres. 80 percent of overall US corn acreage was biotech, as was 92 percent of US soybean acreage, and 95 percent of US sugar beet acreage.

- The Organic Trade Association stated in January 2011, in a letter to the USDA Secretary of Agriculture, that the organic industry has experienced “double digit growth – often over 20 percent every year – for over a decade.” The same letter stated additionally that the organic industry last year was valued at \$26.6 Billion dollars. If anything, the growth in biotech crops and acreage has been helpful rather than a threat to the much touted double-digit growth of the organic industry.
- As we look at the bill before you, consider that industry has done all it can to try and work with other ag stakeholders to ensure reasonable ways to address concerns. Biotech manufacturers see growers as valued buyers of their tools. Concerns regarding actual patent infringements are fairly uncommon, and subsequent investigation are rare when one considers the large and increasing acreage for biotech crops, and the 14 Million growers globally who purchase and use biotech seed. Within the US tens of thousands of growers have adopted biotechnology on their farms without raising concerns from the seed manufacturers.
- BIO supports existing law to protect the intellectual property of ag biotech providers. These companies must invest hundreds of millions of dollars over the course of 10-15 years to be able to commercially sell a biotech product. They then have a limited period of time to recoup the R&D investment plus profit. The innovations and tools that the manufacturers provide for Montana agriculture continue to prove themselves in helping our future competitiveness in the global economy.
- BIO supports the bill as it does not circumvent Federal law. Federal patent law provides that any unauthorized use of a patented invention would constitute infringement. 35 U.S.C. § 217(a). Under Federal law, States cannot limit these intellectual property rights, such as the right of patent or copyright holders to protect their work against infringement. The U.S. Supreme Court has stated that the balancing of public and private rights Congress undertook in crafting federal intellectual property law “is not a judgment the States may second-guess.” *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*, 489 U.S. 141, 152 (1989).

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