1	H. B. 2179
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3	(By Delegate Manypenny)
4	[Introduced January 12, 2011; referred to the
5	Committee on Agriculture then Finance.]
6	FISCAL
7	NOTE
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10	A BILL to amend the Code of West Virginia, 1931, as amended, by
11	adding thereto a new article, designated §19-2H-1, §19-2H-2
12	and 19-2H-3, all relating to creating the "Genetically
13	Engineered Organism Liability Act"; making legislative
14	findings; creating liability for injuries arising from the
15	release of genetically engineered organisms into the
16	environment; liability is nonwaivable; and defines a term.
17	Be it enacted by the Legislature of West Virginia:
18	That the Code of West Virginia, 1931, as amended, be amended
19	by adding thereto a new article, designated $19-2H-1$, $19-2H-2$ and
20	§19-2H-3, all to read as follows:
21	ARTICLE 2H. GENETICALLY ENGINEERED ORGANISM LIABILITY ACT.
22	<u>19-2H-1. Short title.</u>

23 This article may be cited as the "Genetically Engineered

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1 Organism Liability Act."

2 19-2H-2. Legislative findings.

3 The Legislature finds the following:

4 <u>(1) The negative consequences of genetically engineered crops</u> 5 <u>may impact farmers who grow these crops, neighbor farmers who do</u> 6 not grow these crops and consumers;

7 (2) Biotech companies are selling a technology that is being
8 commercialized ahead of the new and unknown science of genetic
9 engineering;

10 (3) Farmers may suffer from crop failures, neighbor and nearby 11 farmers may suffer from cross pollination, increased insect 12 resistance, and unwanted volunteer genetically engineered plants 13 and consumers may suffer from health and environmental impacts; and 14 (4) Biotech companies should be found liable for the failures 15 of genetically engineered crops when they arise.

16 **<u>19-2H-3</u>**. Liability.

17 <u>(a) Cause of action. -- A biotech company is liable to any</u> 18 party injured by the release of a genetically engineered organism 19 into the environment if that injury results from that genetic 20 engineering. The prevailing plaintiff in an action under this 21 subsection may also recover reasonable attorney's fees and other 22 litigation expenses.

23 (b) Nonwaivable. -- The liability created by subsection (a)
24 may not be waived or otherwise avoided by contract.

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<u>(c) Definition. -- As used in this section, the term "biotech</u> <u>company" means a person:</u> <u>(1) Engaged in the business of genetically engineering an</u> <u>organism; or</u> <u>(2) Obtained the patent rights to such an organism for the</u> <u>purposes of commercial exploitation of that organism.</u>

NOTE: The purpose of this bill is to create the "Genetically Engineered Organism Liability Act." The bill makes legislative findings. The bill establishes liability for injuries arising from the release of genetically engineered organisms into the environment and that liability is nonwaivable. The bill also defines a term.

This article is new; therefore, it has been completely underscored.