

# House Bill 2289

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Department of Agriculture)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows State Department of Agriculture to adopt rules establishing maximum permissible amounts of viable noxious weed seeds in wild bird feed.

## A BILL FOR AN ACT

1  
2 Relating to animal feeds; amending ORS 633.006, 633.015, 633.026 and 633.045.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 633.006 is amended to read:

5 633.006. As used in ORS 633.006 to 633.089, unless the context requires otherwise:

6 (1) "Animal feed manufacturing plant" means:

7 (a) Any business, establishment, building, plant or place where commercial feed for animals is  
8 manufactured, mixed, processed or packed.

9 (b) Vehicles used in transporting commercial feed or components or ingredients thereof, ma-  
10 chinery, equipment, utensils, implements, or other items, articles or materials used in the business  
11 or operation.

12 (c) The ground upon which the operation or business is carried out and other ground not adja-  
13 cent thereto that is a part of the business or operation under the same entity or ownership.

14 (2) "Brand" means any word, name, symbol or device or any combination thereof identifying and  
15 distinguishing the commercial feed of a distributor from the feed of other distributors.

16 (3) "Bulk" is the sale, offering or exposing for sale or delivery of commercial feeds, in:

17 (a) Open containers, closed or open tote boxes, closed or open tanks, closed or open trailers, all  
18 of which may be further described or defined by the State Department of Agriculture; or

19 (b) Other types of containers, vehicles or conveyances defined or recognized by the department.

20 (4) "Commercial feed" means any material that is distributed for use as feed, or as a feed in-  
21 gredient for mixing in feed for animals, or any feed additive concentrate, feed additive supplement,  
22 feed additive premix, or premix, except:

23 (a) Unmixed seeds, whole or processed, **that are** made directly from the entire seed **and are**  
24 **not used to manufacture wild bird feed.**

25 (b) Hay, straw, stover, cobs, husks, screenings and hulls, when unground or unmixed with other  
26 materials.

27 (c) Feed for dogs, cats, birds or fish maintained as household pets.

28 (d) Silage, or materials containing at least 60 percent water.

29 (e) Individual chemical compounds not mixed with other materials. This exemption, however,  
30 does not cover or extend to phosphate, urea or ammonium compounds that are recommended for  
31 animal feeding purposes.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (5) "Contract feeder" means an independent contractor or other person who feeds commercial  
 2 feed to another person's animals pursuant to an oral or written agreement whereby the commercial  
 3 feed is distributed to the contractor or other person by any distributor and whereby the contractor  
 4 or other person's remuneration is determined all or in part by feed consumption, mortality, profits  
 5 or amount or quality of animals produced. "Contract feeder" does not include a bona fide employee  
 6 of a manufacturer or distributor of commercial feed.

7 (6) "Custom mixed feed" means any mixture of materials, substances or ingredients described  
 8 or set forth under the definition of commercial feed, each lot of which is mixed according to the  
 9 specific instructions of, or prescribed for the specific use of, the final consumer.

10 (7) "Department" means the State Department of Agriculture.

11 (8) "Distribute" means to offer for sale, sell or barter commercial feed or to supply, furnish or  
 12 otherwise provide commercial feed to a contract feeder.

13 (9) "Distributor" means a person who distributes commercial feed.

14 (10) "Drug" means any substance:

15 (a) Intended or represented for the cure, mitigation, treatment or prevention of disease of ani-  
 16 mals;

17 (b) Intended to affect the structure of any function of the body of an animal; or

18 (c) So defined by rule of the department.

19 (11) "Feed ingredient" means each of the constituent materials making up a commercial feed.

20 (12) "Final consumer" means a person that feeds animals that are under the control or owner-  
 21 ship of that person.

22 (13) "Ground" means a condition resulting from crushing, rolling, chopping or grinding.

23 (14) "Label" means a display of written, printed or graphic matter placed on or affixed to the  
 24 container in which a commercial feed is distributed, or on the invoice or delivery slip with which  
 25 a commercial feed is distributed.

26 (15) "Manufacture" means to grind, chop, crush, roll, cube, flake, extrude, cook, pelletize, mix  
 27 or otherwise process feed ingredients.

28 (16) "Mineral feed" means a substance or mixture of substances designed or intended to supply  
 29 primarily mineral elements or inorganic nutrients.

30 (17) "Official sample" means any sample of feed taken by the department and designated as  
 31 "official" by the department.

32 (18) "Percent" or "percentage" means percentage by weight.

33 (19) "Sell" or "sale" includes exchange.

34 (20) **"Wild bird feed" means a commercial feed marketed for noncaptive undomesticated**  
 35 **avians.**

36 **SECTION 2.** ORS 633.015 is amended to read:

37 633.015. (1) A person may not distribute a nonregistered commercial feed. **Except as provided**  
 38 **in subsections (2), (5) and (6) of this section,** every brand, and each formula or formulation  
 39 thereof, of commercial feeds manufactured, compounded, delivered or distributed in this state must  
 40 be registered with the State Department of Agriculture. The distributor must submit an application  
 41 for registration on forms furnished by the department. If the department so requests, the distributor  
 42 must submit the label or a facsimile of the label and other printed matter describing the product.  
 43 Upon approval by the department, a certificate of registration shall be furnished to the distributor.  
 44 All registrations expire on December 31 of each year. The application must include the information  
 45 required by ORS 633.026 (1)(a) to (f) and such other information as the department may require.

1 (2) A distributor is not required to register any brand of commercial feed that has been regis-  
 2 tered under ORS 633.006 to 633.089 and 633.992 by another person.

3 (3) Changes in the guarantee of either chemical or ingredient composition of a registered com-  
 4 mercial feed may be permitted, if there is satisfactory evidence that such changes would not result  
 5 in a lowering of the feeding value of the product for the purpose for which designed.

6 (4) The department may refuse registration of any commercial feed if the application is not in  
 7 compliance with the provisions of ORS 633.006 to 633.089 and 633.992. The department may cancel  
 8 any registration subsequently found not to be in compliance with any provision of ORS 633.006 to  
 9 633.089 and 633.992. The department shall give the registrant reasonable opportunity to be heard  
 10 before the department and to amend the application in order to comply with the requirements of  
 11 ORS 633.006 to 633.089 and 633.992.

12 (5) Custom mixed feeds are exempt from registration.

13 **(6) Wild bird feed consisting of unmixed seeds is exempt from registration.**

14 [(6)] (7) Each application for registration must be accompanied by a fee to be established by the  
 15 department not to exceed \$20 for each formula or formulation of commercial feed under each brand.

16 **SECTION 3.** ORS 633.026 is amended to read:

17 633.026. (1) **Except as provided in subsection (3) of this section**, commercial feed[, *other than*  
 18 *custom mixed feed,*] must have a label bearing the following information:

19 (a) The product name and the brand name, if any, under which the feed is distributed.

20 (b) The guaranteed analysis stated in such terms as the State Department of Agriculture, by  
 21 rule, determines are required to advise the user of the composition of the feed or to support claims  
 22 made in the labeling. The substances or elements of the feed must be determinable by laboratory  
 23 methods approved by department rule. In approving laboratory methods, the department may con-  
 24 sider methods listed in publications of AOAC International, formerly the Association of Official  
 25 Analytical Chemists.

26 (c) The common or usual name of each ingredient used in the manufacture of the feed. The de-  
 27 partment, by rule, may permit the use of a collective term for a group of ingredients that perform  
 28 a similar function. The department, by rule, may exempt a commercial feed or any group of feeds  
 29 from the ingredient statement requirement if the department determines that a statement is not re-  
 30 quired to protect the interests of consumers.

31 (d) Adequate directions for use if the feed contains drugs or if the department, by rule, deter-  
 32 mines that directions are necessary for safe and effective use.

33 (e) Precautionary statements that the department, by rule, determines to be necessary for safe  
 34 and effective use of the feed.

35 (f) The name and principal mailing address of the manufacturer or the distributor.

36 (g) A quantity statement.

37 (2) A person that distributes commercial feed in bags or other containers shall ensure that the  
 38 label required by this section is placed on or affixed to the container. If the feed is distributed in  
 39 bulk, the distributor shall ensure that the label accompanies the delivery and is furnished to the  
 40 purchaser upon delivery. [*A commercial feed is exempt from the labeling requirement of this section*  
 41 *if the feed*]

42 **(3) Subsections (1) and (2) of this section do not apply to:**

43 **(a) Custom mixed feed.**

44 **(b) Wild bird feed consisting of unmixed seeds.**

45 **(c) A commercial feed that** does not contain a drug and is distributed by filling, in the pres-

1 ence of the purchaser, from retail bins or other retail bulk display containers that are labeled as  
 2 required under this section.

3 **SECTION 4.** ORS 633.045 is amended to read:

4 633.045. *[No person shall]* **A person may not** distribute an adulterated commercial feed. A  
 5 commercial feed *[shall be deemed to be]* **is** adulterated:

6 (1) If any poisonous, deleterious or nonnutritive ingredient is *[therein]* present **in the feed** in  
 7 sufficient amount to render *[it]* **the feed** injurious to health when fed in accordance with directions  
 8 for use shown on the label.

9 (2) If any valuable constituent has been in whole or in part omitted or abstracted *[therefrom]*  
 10 **from the feed** or any less valuable substance substituted *[therefor]* **for a valuable constituent.**

11 (3) If *[its]* **the** composition or quality **of the feed** falls below or differs from *[that which by its*  
 12 *labeling it is purported or represented to possess]* **the composition or quality purported or re-**  
 13 **presented on the feed labeling.**

14 (4) If *[it]* **the feed** contains added hulls, screenings, refuse screenings, straw, cobs or other high  
 15 fiber material, unless the name of each material is stated on the label.

16 (5) If *[it]* **the feed** contains pesticide residues or other chemicals in excess of amounts *[which,*  
 17 *by regulation]* **that, by rule,** the State Department of Agriculture declares safe for feeding purposes.  
 18 In adopting *[such regulations]* **rules under this subsection** the department may take into consid-  
 19 eration the commonly permitted amounts of chemicals authorized by:

20 (a) The United States and other states.

21 (b) Other recognized agencies or organizations experienced in the chemical field.

22 (6) If *[it]* **the feed** contains a drug other than those permitted by *[regulations promulgated]* **rules**  
 23 **adopted** by the department. In *[promulgating such regulations]* **adopting rules under this sub-**  
 24 **section,** the department shall consider the current good manufacturing practice regulations for  
 25 medicated feed premixes and for medicated feeds established under authority of the Federal Food,  
 26 Drug and Cosmetic Act.

27 **(7) If the feed is wild bird feed and contains viable noxious weed seeds in excess of**  
 28 **amounts established by the department by rule.**

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