2009 Regular Legislative Session FISCAL ANALYSIS OF PROPOSED LEGISLATION Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3226 **STATUS:** Original **SUBJECT:** Nuisance vineyards, civil proceedings, and court costs.

GOVERNMENT UNIT AFFECTED: Department of Agriculture and Judicial Department

PREPARED BY: Dawn Farr/John Terpening

REVIEWED BY: Susie Jordan

DATE: March 26, 2009

	<u>2009-2011</u>		2011-2013	
EXPENDITURES:				
Personal Services (General Fund)	\$	113,575	\$ 151,433	
Services and Supplies (General Fund)	\$	76,095	\$ 101,460	
Services and Supplies – One Time (General Fund)	\$	40,500	\$ 0	
	\$	230,170	\$ 252,893	
POSITIONS / FTE:				
Natural Resource Specialist 4		1/0.75	1/1.0	

EFFECTIVE DATE: January 1, 2010

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: The measure defines the terms "infected", "infested", "pest", and "nuisance vineyard". The measure allows for a person to institute a civil proceeding abating an alleged nuisance vineyard. Prior to the civil proceeding, the person must give at least 60 days' notice to the Director of Agriculture. The proceeding may not be commenced if the Director of Agriculture is engaged in actions or proceedings to abate the nuisance. The measure allows the Director of Agriculture to intervene or be joined as a party in civil proceedings. The measure outlines actions to be taken by the court finding in favor of the plaintiff in the civil action, including issuing an order to abate the nuisance and issuing a writ of assistance to the county sheriff. Additionally the measure allows for the prevailing plaintiff to recover attorney fees and costs as well as obtain a lien for abatement expenses incurred by the plaintiff.

The Department of Agriculture (DOA) estimates that they may receive as few as 10 and as many as 100 notifications per year. The agency believes that failure to respond to notification would subject them to risk of legal action. While there is no history to support potential workload, ODA estimates that they will need a full-time Natural Resource Specialist position, including related standard services and supplies, and an additional fleet vehicle, in order to respond to notifications provided to the Director of Agriculture regarding nuisance vineyards. The position would perform field investigations, collect test samples, and work with the Attorney General to obtain court orders to abate the nuisance vineyards. The Department also anticipates indeterminate legal expenditures associated with implementation of the measure. Total General Fund expenditures are \$230,170 in the 2009-2011 biennium, which is slightly lower than the 2011-2013 biennium due to the January 1 effective date.

Oregon Judicial Department states that the fiscal impact is indeterminate. The Department is unable to determine if the measure would result in a significant number of civil filings and subsequent judicial reviews.