

House Bill 2120

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor John A. Kitzhaber 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**.

Requires manufacturer of dog or cat food product to register product with State Department of Agriculture and pay annual registration fee. Prohibits sale, offer or delivery of unregistered product. Makes violation of requirement or associated rules subject to maximum penalty of one year's imprisonment, \$6,250 fine, or both. Makes violation of requirement or associated rules, orders or license or registration terms subject to civil penalty in amount not to exceed \$2,500. Appropriates registration fee moneys to department for carrying out programs relating to animal disease control.

Increases maximum permissible annual registration fee for animal remedies and veterinary biologics or pharmaceuticals.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the registration of animal products with the State Department of Agriculture; creating
3 new provisions; amending ORS 561.144, 596.095, 596.100, 596.990 and 596.995; appropriating
4 money; and declaring an emergency.

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

6 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 596.**

7 **SECTION 2. (1) A person may not sell, offer or expose for sale, or deliver to a user, a**
8 **dog or cat food product that the manufacturer has not registered with the State Department**
9 **of Agriculture.**

10 **(2) A manufacturer of dog or cat food products sold within this state shall annually reg-**
11 **ister the products with the department. A manufacturer that sells more than one dog or cat**
12 **food product in this state may register all of the products using a single application. The**
13 **application must be in a form approved by the department and be accompanied by a regis-**
14 **tration fee for each dog or cat food product being registered. The department shall establish**
15 **the registration fee by rule in an amount not to exceed \$150.**

16 **(3) A manufacturer must submit an annual application for dog or cat food product reg-**
17 **istration on or before January 1 of the registration year. The application must be accompa-**
18 **nied by a list of the dog or cat food products that the manufacturer expects to market within**
19 **this state during the ensuing year.**

20 **(4) Moneys from dog or cat food product registration fees paid to the department shall**
21 **be deposited in the Department of Agriculture Service Fund. Moneys deposited in the fund**
22 **under this section are continuously appropriated to the department for the purpose of ad-**
23 **ministering and enforcing this chapter.**

24 **SECTION 3. ORS 596.095 is amended to read:**

25 596.095. As used in ORS 596.100, 596.105 and 596.995 **and section 2 of this 2011 Act:**

26 (1) "Animal remedy" means any product used to prevent, inhibit or cure or enhance or protect
27 the health or well-being of animals, but does not include food.

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.

(2) “Department” means the State Department of Agriculture.

(3) **“Dog or cat food product” means commercially produced edible materials in packaged or bulk form that:**

(a) **Are designed for consumption by dogs or cats; and**

(b) **Contribute energy sources or nutrients to the diet of the dog or cat.**

[(3)] (4) “Pharmaceutical” means any product prescribed for the treatment or prevention of disease for veterinary purposes, including vaccines, synthetic and natural hormones, anesthetics, stimulants or depressants.

[(4)] (5) “Veterinary biologic” means any biologic product used for veterinary purposes, including antibiotics, antiparasitics, growth promotants or bioculture products.

SECTION 4. ORS 596.100 is amended to read:

596.100. (1) [No person shall] **Except as provided in this subsection, a person may not** sell, offer or expose for sale, or deliver to a user, an animal remedy, veterinary biologic or pharmaceutical, in package or in bulk, [which] **that the manufacturer** has not [been] registered with the State Department of Agriculture. Products regulated under the Federal Insecticide, Fungicide, and Rodenticide Act [which] **that** are registered with the department under ORS chapter 634 are not required to be registered under this section. Except as otherwise provided by law, the manufacturer of each brand of animal remedy, veterinary biologic and pharmaceutical to be sold in the state, whether in package or in bulk, shall **annually** register those products with the department [annually]. Manufacturers who sell more than one animal remedy, veterinary biologic or pharmaceutical in the state may register all such products on one application.

(2) The application for registration of an animal remedy, veterinary biologic or pharmaceutical shall be made on forms provided by the department and shall be accompanied by an annual registration fee for each product [in an amount not to exceed \$75 as the department, by rule, shall determine]. **The department shall establish the registration fee by rule in an amount not to exceed \$250.** The application for registration shall be made by July 1 of each year and shall be accompanied by a list of the animal remedies, veterinary biologics and pharmaceuticals the applicant for registration expects to market during the ensuing year.

(3) The department shall deposit all fees received in the Department of Agriculture Service Fund, and such fees are continuously appropriated to the department for the purpose of administering and enforcing ORS chapters 596 and 599.

SECTION 5. ORS 596.990 is amended to read:

596.990. (1) Violation of any of the provisions of ORS 596.075, 596.321, 596.331 (1) or (3), 596.351, 596.388, 596.392 (1) to (3) or (6), 596.404 to 596.416 or 596.460, or of any lawful order of the State Department of Agriculture issued pursuant to this chapter, is a Class A violation.

(2) Violation of any of the quarantine provisions of ORS 596.331 (2), 596.355, 596.392 (4) or (5) or 596.394 to 596.402 is punishable, upon conviction, by a fine of not less than \$500 nor more than \$5,000.

(3) Violation of any of the provisions of ORS 596.100 or 596.105 **or section 2 of this 2011 Act** or rules adopted [thereunder] **under ORS 596.100 or 596.105 or section 2 of this 2011 Act** is a misdemeanor.

SECTION 6. ORS 596.995 is amended to read:

596.995. (1) Any manufacturer of an animal remedy, veterinary biologic, [or] pharmaceutical [who] **or dog or cat food product that** violates any provision of ORS 596.100 or 596.105 **or section 2 of this 2011 Act** applicable to manufacturers, [or] any rule adopted [pursuant thereto] **under ORS**

1 **596.100 or 596.105 or section 2 of this 2011 Act** or the terms or conditions of any license, regis-
 2 tration or order issued by the State Department of Agriculture under ORS 596.100 or 596.105 [*shall*
 3 *be*] **or section 2 of this 2011 Act is** subject to a civil penalty not to exceed \$2,500 per violation.
 4 Civil penalties under this section are in addition to any other penalty provided by law.

5 (2) Each violation may be a separate and distinct offense.[, *and*,] In the case of a continuing
 6 violation, each day's continuance [*thereof*] **of the violation** may be deemed a separate and distinct
 7 offense.

8 (3) The department shall adopt a schedule or schedules establishing the amount of civil penalty
 9 that may be imposed for a particular violation.

10 (4) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745.

11 **SECTION 7.** ORS 561.144 is amended to read:

12 561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund, which
 13 shall be a trust fund separate and distinct from the General Fund. The State Department of Agri-
 14 culture shall deposit all license and service fees paid to it under the provisions of the statutes
 15 identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State
 16 Treasurer is the custodian of this trust fund, which shall be deposited by the treasurer in such de-
 17 positories as are authorized to receive deposits of the General Fund, and which may be invested by
 18 the treasurer in the same manner as authorized by ORS 293.701 to 293.820.

19 (2) Interest received on deposits credited to the Department of Agriculture Service Fund shall
 20 accrue to and become a part of the Department of Agriculture Service Fund.

21 (3) The license and service fees subject to this section are those described in ORS 561.400,
 22 561.740, 570.710, 571.057, 571.063, 571.145, 571.305, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050,
 23 586.270, 586.580, 586.650, 596.030, 596.100, 596.311, 599.235, 599.269, 599.406, 599.610, 601.040, 602.090,
 24 603.025, 603.075, 616.706, 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730,
 25 622.080, 625.180, 628.240, 632.211, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015,
 26 633.029, 633.318, 633.362, 633.461, 633.471, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126,
 27 634.132, 634.136, 634.212 and 635.030 **and section 2 of this 2011 Act.**

28 **SECTION 8. Section 2 (2) and (3) of this 2011 Act applies for registration years beginning**
 29 **on or after January 1, 2012.**

30 **SECTION 9. Section 2 (1) of this 2011 Act and the amendments to ORS 596.990 and 596.995**
 31 **by sections 5 and 6 of this 2011 Act become operative January 1, 2012.**

32 **SECTION 10. This 2011 Act being necessary for the immediate preservation of the public**
 33 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 34 **on its passage.**