

**A-Engrossed**  
**House Bill 2336**

Ordered by the House February 9  
Including House Amendments dated February 9

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture, Natural Resources and Rural Communities)

**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.

Exempts agricultural producers selling specified agricultural products directly to [*general public*] **retail purchasers** from state laws regulating produce dealers and food establishments. **Creates exception.** Allows in-state exempted producer to accept consignments. Exempts sites used by exempted producers from state laws regulating produce dealers and food establishments.

**A BILL FOR AN ACT**

1  
2 Relating to agricultural products.

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

4 **SECTION 1. As used in this section and sections 2 and 3 of this 2011 Act:**

5 (1) **"Acidic foods" means bottled, packaged or canned foods that:**

6 (a) **Have a natural pH level of 4.6 or less;**

7 (b) **Are lacto-fermented; or**

8 (c) **Have acidity and water activity levels that meet the acidity and water activity stan-**  
9 **dards of acidified foods as defined in 21 C.F.R. 114.3.**

10 (2) **"Agricultural producer" means a farmer, rancher or other person primarily respon-**  
11 **sible for the growing, raising and harvesting of agricultural products to a point at which the**  
12 **products are ready for direct sale.**

13 (3) **"Commingled" means that the agricultural products of more than one agricultural**  
14 **producer are mixed, pooled or otherwise combined prior to the sale of the products.**

15 (4) **"Consignment" means an agreement under which an agricultural producer sells to the**  
16 **retail purchaser the agricultural products of another agricultural producer that is located in**  
17 **the same county as the agricultural producer, or in any county adjoining a county in which**  
18 **the agricultural producer is located, without representing that the products were grown or**  
19 **raised by the seller.**

20 (5) **"Farm direct marketer" means an agricultural producer that sells directly to the re-**  
21 **tail purchaser the agricultural products grown, raised and harvested by that producer.**

22 (6) **"Producer-processed products" means foods:**

23 (a) **For which the principal ingredients are agricultural products grown, raised and har-**  
24 **vested by the same agricultural producer that bottles, packages or cans the food; and**

25 (b) **For which ingredients other than principal ingredients are limited to herbs, spices,**  
26 **salt, vinegar, pectin, lemon or lime juice, honey and sugar.**

**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       **SECTION 2.** (1)(a) Except as provided in subsection (7) of this section, the sale, or expo-  
2       sure or offering for sale, of agricultural products described in subsections (2) and (3) of this  
3       section by a farm direct marketer does not make the space used by the farm direct marketer  
4       subject to ORS 585.010 to 585.220 or 616.695 to 616.755.

5       (b) Except as provided in subsection (7) of this section, the sale, or exposure or offering  
6       for sale, of agricultural products described in subsections (2) and (3) of this section by a farm  
7       direct marketer does not make the farm direct marketer or a consigning agricultural pro-  
8       ducer subject to ORS 585.010 to 585.220 or 616.695 to 616.755. Except as provided in subsection  
9       (7) of this section, the storage or preparation of agricultural products identified for sale by  
10      a farm direct marketer does not make the farm direct marketer subject to ORS 585.010 to  
11      585.220 or 616.695 to 616.755.

12      (2) Subsection (1) of this section applies to farm direct marketer sales of the following  
13      types of agricultural products:

14      (a) Fresh fruit, vegetables and herbs.

15      (b) Fruit, vegetables and herbs, if those items are cured or dried by the agricultural  
16      producer as part of routine post-harvest handling.

17      (c) Dried fruits, vegetables and herbs for which drying is not part of routine post-harvest  
18      handling, if:

19      (A) The principal ingredients are grown by the agricultural producer; and

20      (B) The product is labeled with a list of ingredients and the name and address of the  
21      agricultural producer.

22      (d) Shelled nuts and unshelled nuts, if those items are cured or dried by the agricultural  
23      producer as part of routine post-harvest handling.

24      (e) Fruit-based syrups, preserves, jams, fruits and vegetables, if those items are:

25      (A) Producer-processed products;

26      (B) Acidic foods;

27      (C) Labeled with a list of ingredients and the name and address of the agricultural pro-  
28      ducer; and

29      (D) Bottled, packaged or canned by an agricultural producer that during the preceding  
30      calendar year had annual sales of fruit-based syrups, preserves and jams, fruits and vegeta-  
31      bles described in subparagraphs (A) to (C) of this paragraph that in total did not exceed  
32      \$20,000 or a higher limit established by State Department of Agriculture rule under section  
33      3 of this 2011 Act.

34      (f) Shell eggs.

35      (g) Honey, if not combined with other food ingredients.

36      (h) Whole, hulled, crushed or ground grains, legumes and seeds, if of a type customarily  
37      cooked before consumption.

38      (i) Parched or roasted grains, if of a type customarily cooked before consumption.

39      (j) Popcorn, nuts, peppers and corn on the cob, if those items are roasted at the place  
40      of purchase by the agricultural producer after purchase and not sold for immediate con-  
41      sumption.

42      (k) Products identified by the department by rule.

43      (3) Subsection (1) of this section applies to consignment sales of the following types of  
44      agricultural products:

45      (a) Fresh fruits, vegetables and herbs.

1 (b) Fruit, vegetables and herbs, if those items are cured or dried by the agricultural  
2 producer as part of routine post-harvest handling.

3 (c) Unshelled nuts that are cured or dried by the agricultural producer as part of routine  
4 post-harvest handling.

5 (d) Subject to ORS 632.715, shell eggs.

6 (e) Honey, if not combined with other food ingredients.

7 (f) Products identified by the department by rule.

8 (4) Subsection (1) of this section does not apply to foods that have been commingled.

9 (5) Title to agricultural products sold on consignment remains with the consigning agri-  
10 cultural producer until the products are sold to consumers. Agricultural products sold on  
11 consignment must be clearly and conspicuously labeled with the name and business address  
12 of the consigning agricultural producer.

13 (6)(a) In addition to any other required labeling, agricultural products described in sub-  
14 sections (2)(e) to (i) or (3)(d) or (e) of this section shall bear on the label a statement in-  
15 forming consumers that the product is not prepared in an inspected food establishment.  
16 Except as provided in paragraph (b) of this subsection, the required wording for the label  
17 statement is: "This product is homemade and is not prepared in an inspected food estab-  
18 lishment."

19 (b) The department may adopt rules specifying alternative wording for the label state-  
20 ment required under paragraph (a) of this subsection to the extent that the alternative  
21 wording is necessary in order to comply with federal requirements.

22 (7) The department may require that a farm direct marketer or the space used by the  
23 farm direct marketer be licensed under ORS 585.010 to 585.220 or 616.695 to 616.755, if the  
24 farm direct marketer or the person in control of the space used by the farm direct marketer  
25 refuses to comply with a department rule adopted under ORS 616.700 or section 3 of this 2011  
26 Act for keeping the space used by the farm direct marketer in a clean, healthful and sanitary  
27 condition or for ensuring the condition and safety of the food the farm direct marketer  
28 provides to retail purchasers.

29 **SECTION 3.** (1) The State Department of Agriculture may adopt rules for the adminis-  
30 tration and enforcement of section 2 of this 2011 Act.

31 (2) The department may adopt rules increasing the food sales limit described in section  
32 2 (2)(e)(D) of this 2011 Act by an amount that reflects changes in the Portland-Salem, OR-WA  
33 Consumer Price Index for All Urban Consumers for All Items as reported by the Bureau of  
34 Labor Statistics of the United States Department of Labor. The State Department of Agri-  
35 culture may not adopt rules to decrease the food sales limit described in section 2 (2)(e)(D)  
36 of this 2011 Act or to decrease an acidified food sales limit previously established by the de-  
37 partment by rule.

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