

House Bill 2336

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). 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 **as introduced**.

Exempts agricultural producers selling specified agricultural products directly to general public from state laws regulating produce dealers and food establishments. 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 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 or harvesting of agricultural products to a point at which the**
12 **products are ready for initial 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 **general public the agricultural products of another agricultural producer that is located in**
17 **the same Oregon county as the agricultural producer, or in any county adjoining an Oregon**
18 **county in which the agricultural producer is located, without representing that the products**
19 **were grown or raised by the seller.**

20 (5) **"Farm direct marketer" means an agricultural producer that sells directly to the**
21 **general public the agricultural products grown, raised or harvested by that producer.**

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

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

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

27 **SECTION 2. (1)(a) The sale, or exposure or offering for sale, of agricultural products**
28 **described in subsections (2) and (3) of this section by a farm direct marketer does not make**
29 **the space used by the farm direct marketer subject to ORS 585.010 to 585.220 or 616.695 to**
30 **616.755.**

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 **(b) The sale, or exposure or offering for sale, of agricultural products described in sub-**
2 **sections (2) and (3) of this section by a farm direct marketer does not make the farm direct**
3 **marketer or a consigning agricultural producer subject to ORS 585.010 to 585.220 or 616.695**
4 **to 616.755. The storage or preparation of agricultural products identified for sale by a farm**
5 **direct marketer does not make the farm direct marketer subject to ORS 585.010 to 585.220**
6 **or 616.695 to 616.755.**

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

9 **(a) Fresh fruit, vegetables and herbs.**

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

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

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

15 **(B) The product is labeled with a list of ingredients and the name and address of the**
16 **agricultural producer.**

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

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

20 **(A) Producer-processed products;**

21 **(B) Acidic foods;**

22 **(C) Labeled with a list of ingredients and the name and address of the agricultural pro-**
23 **ducer; and**

24 **(D) Bottled or canned by an agricultural producer that during the preceding calendar**
25 **year had annual sales of fruit-based syrups, preserves and jams, fruits and vegetables de-**
26 **scribed in subparagraphs (A) to (C) of this paragraph that in total did not exceed \$20,000 or**
27 **a higher limit established by State Department of Agriculture rule under section 3 of this**
28 **2011 Act.**

29 **(f) Shell eggs.**

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

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

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

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

37 **(k) Products identified by the department by rule.**

38 **(3) Subsection (1) of this section applies to consignment sales of the following types of**
39 **agricultural products:**

40 **(a) Fresh fruits, vegetables and herbs.**

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

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

45 **(d) Subject to ORS 632.715, shell eggs.**

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

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

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

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

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

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

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

19 (2) The department may adopt rules increasing the food sales limit described in section
20 2 (2)(e)(D) of this 2011 Act by an amount that reflects changes in the Portland-Salem, OR-WA
21 Consumer Price Index for All Urban Consumers for All Items as reported by the Bureau of
22 Labor Statistics of the United States Department of Labor. The State Department of Agri-
23 culture may not adopt rules to decrease the food sales limit described in section 2 (2)(e)(D)
24 of this 2011 Act or to decrease an acidified food sales limit previously established by the de-
25 partment by rule.

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