

Senate Bill 788

Sponsored by Senator ATKINSON

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 qualifying association to obtain accreditation as bargaining association for purpose of negotiating price to be paid by seed dealer of perennial ryegrass seed, annual ryegrass seed or tall fescue seed produced by association members or sold by association.

Requires that seed dealer seeking to buy seed from accredited association or members engage in good faith price negotiation with association. Makes violation unfair trade practice.

A BILL FOR AN ACT

1
2 Relating to accredited seed associations; creating new provisions; and amending ORS 62.848 and
3 646.535.

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

5 **SECTION 1. (1) A seed association that qualifies under the Capper-Volstead Act (7 U.S.C.**
6 **291, 292) and has a membership composed of perennial ryegrass seed, annual ryegrass seed**
7 **or tall fescue seed producers may file a request with the Director of Agriculture to be ac-**
8 **credited as a bargaining association for the purpose of negotiating with seed dealers the price**
9 **to be paid for perennial ryegrass seed, annual ryegrass seed or tall fescue seed sold by the**
10 **association or by members of the association. The request must include:**

11 (a) **The names and addresses of the producers that are members of the association;**

12 (b) **The geographical area represented by association members;**

13 (c) **The types and quantities of seed produced by members and the types and quantities**
14 **of seed produced by nonmembers sold by the association;**

15 (d) **Information identifying each dealer purchasing perennial ryegrass seed, annual**
16 **ryegrass seed or tall fescue seed from a member of the association during the two years**
17 **preceding the request date; and**

18 (e) **Any other information required by the director.**

19 (2) **The director may charge a processing fee for a request filed under this section. Upon**
20 **receiving a request under this section and any required processing fee, the director shall**
21 **determine whether to accredit the association as a bargaining association. If the director**
22 **determines that the association meets the qualifications described in this section and that**
23 **the quantities of seed produced by members of the association or sold by the association are**
24 **sufficient to allow the association to negotiate effectively with seed dealers, the director shall**
25 **grant the request and accredit the association as a bargaining association. If the director**
26 **denies the request, the determination by the director is subject to ORS chapter 183.**

27 (3) **The director may adopt rules establishing the term of the accreditation and estab-**
28 **lishing the terms for renewal of an accreditation. The director may suspend, revoke or refuse**
29 **to renew an accreditation if the director determines that the association no longer meets the**
30 **qualifications described in this section or that the quantities of seed produced by members**

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 **of the association or sold by the association are no longer sufficient to allow the association**
 2 **to negotiate effectively with seed dealers.**

3 **SECTION 2.** ORS 62.848 is amended to read:

4 62.848. (1) As used in this section:

5 (a) "Parties" or "party" means seed producers, seed associations, seed cooperatives or seed
 6 dealers that participate in a state regulatory program described in subsection (2) of this section.

7 (b) "Regulatory program" means a state regulatory program described in subsection (2) of this
 8 section that is actively supervised by the Director of Agriculture and that authorizes parties to en-
 9 gage in certain collective bargaining and negotiations to establish the price of perennial ryegrass
 10 seed to be produced and sold to perennial ryegrass seed dealers in the future, annual ryegrass seed
 11 to be produced and sold to annual ryegrass seed dealers in the future or tall fescue seed to be
 12 produced and sold to tall fescue seed dealers in the future.

13 (2)(a) It is the intent of this section and ORS 646.535 (2) and 646.740 (10) to displace competition
 14 with regulatory programs in the perennial ryegrass seed, annual ryegrass seed and tall fescue seed
 15 industries to a limited degree. The regulatory programs are intended to grant immunity from federal
 16 and state antitrust laws to perennial ryegrass seed, annual ryegrass seed and tall fescue seed pro-
 17 ducers and perennial ryegrass seed, annual ryegrass seed and tall fescue seed dealers for the limited
 18 purpose of allowing the producers and the dealers to bargain collectively and to arrive at a nego-
 19 tiated price for the sale of seed by the producers to the dealers. The activities of any party that
 20 comply with the provisions of this section may not be considered to be in restraint of trade, a con-
 21 spiracy or combination or any other unlawful activity in violation of any provision of ORS 646.705
 22 to 646.826 or federal antitrust laws.

23 (b) A seed cooperative or seed association for perennial ryegrass seed, annual ryegrass seed or
 24 tall fescue seed may negotiate with one or more dealers, as defined in ORS 646.515, of perennial
 25 ryegrass seed, annual ryegrass seed or tall fescue seed to establish the price at which members of
 26 the cooperative or association will sell perennial ryegrass seed, annual ryegrass seed or tall fescue
 27 seed to be produced by its members or under the control of its members. The seed dealers may ne-
 28 gotiate the price of the seed through a committee that sets forth the views of the dealers and votes
 29 on any issues being negotiated as authorized by this section, including the price of the seed.

30 (c) The Director of Agriculture is authorized to actively supervise the conduct of perennial
 31 ryegrass seed, annual ryegrass seed and tall fescue seed agricultural cooperatives organized under
 32 this chapter, representative committees of perennial ryegrass seed, annual ryegrass seed or tall
 33 fescue seed dealers and any perennial ryegrass seed, annual ryegrass seed or tall fescue seed asso-
 34 ciations in establishing the price of perennial ryegrass seed, annual ryegrass seed or tall fescue seed
 35 to be produced and sold to seed dealers at a future date. The director is authorized to supervise the
 36 negotiations between the parties, review the prices established by the negotiations and approve the
 37 prices proposed by the parties before the prices take effect. The director must approve the proposed
 38 prices and any adjustments to previously approved prices before the prices may be implemented.

39 (d) The director may compel the parties to take whatever action the director considers neces-
 40 sary to:

41 (A) Ensure that the parties are engaging in conduct that is authorized under this section;

42 (B) Ensure that the policies of this state are being fulfilled under the regulatory programs;

43 [*and*]

44 (C) **Ensure that seed dealers seeking to buy seed from a seed association accredited as**
 45 **a bargaining association under section 1 of this 2011 Act or from members of the association**

1 **engage in good faith price negotiations with the association; and**

2 [(C)] (D) Enjoin conduct by any of the parties that is not authorized by the director or conduct
3 that the director finds does not advance the interests of this state in carrying out the regulatory
4 programs.

5 (e) The Director of Agriculture may adopt rules to carry out the director's authority under this
6 section.

7 (f) The director may designate persons as the director deems necessary to carry out the re-
8 sponsibility of actively supervising the conduct of the parties, including serving as intermediaries
9 between prospective parties. Persons designated by the director must be employees of the State
10 Department of Agriculture.

11 (g) The director by rule shall set and collect fees from the parties who are participants in reg-
12 ulatory programs. The fees shall be deposited in the Department of Agriculture Account established
13 under ORS 561.150.

14 (h) The director shall supervise the labeling of perennial ryegrass seeds, annual ryegrass seeds
15 and tall fescue seeds to ensure compliance with ORS 633.520, 633.531 and 633.541.

16 **SECTION 3.** ORS 646.535 is amended to read:

17 646.535. (1) A dealer may not knowingly engage in the following unfair trade practices:

18 (a) Interfere with, restrain, coerce or boycott a producer in the exercise of the rights guaranteed
19 pursuant to ORS 646.525;

20 (b) Discriminate against a producer with respect to price or other terms of purchase of raw
21 agricultural commodities or Oregon seafood commodities, by reason of the producer's membership
22 in or contract with cooperative bargaining associations; or

23 (c) Pay or loan money, or give any other thing of value to a producer as an inducement or re-
24 ward for refusing to or ceasing to belong to a cooperative bargaining association.

25 (2) A blackberry dealer, perennial ryegrass seed, annual ryegrass seed or tall fescue seed dealer
26 or Oregon seafood commodity dealer who participates in negotiating committee activities described
27 in ORS 62.847, 62.848 or 62.849 does not violate subsection (1) of this section.

28 **(3) A perennial ryegrass seed, annual ryegrass seed or tall fescue seed dealer that seeks**
29 **to buy seed from a seed association accredited as a bargaining association under section 1**
30 **of this 2011 Act, or from members of the association, may not engage in the unfair trade**
31 **practice of refusing to engage in good faith price negotiation with the association.**

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