

Enrolled
Senate Bill 194

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for State Department of Agriculture)

CHAPTER

AN ACT

Relating to produce dealers; creating new provisions; amending ORS 561.144 and 616.683; repealing ORS 585.010, 585.020, 585.030, 585.040, 585.045, 585.047, 585.050, 585.060, 585.070, 585.080, 585.090, 585.100, 585.105, 585.110, 585.120, 585.130, 585.140, 585.150, 585.160, 585.170, 585.175, 585.180, 585.190, 585.200, 585.210, 585.213, 585.215, 585.220 and 585.990; and declaring an emergency.

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

SECTION 1. ORS 585.010, 585.020, 585.030, 585.040, 585.045, 585.047, 585.050, 585.060, 585.070, 585.080, 585.090, 585.100, 585.105, 585.110, 585.120, 585.130, 585.140, 585.150, 585.160, 585.170, 585.175, 585.180, 585.190, 585.200, 585.210, 585.213, 585.215, 585.220 and 585.990 are repealed.

SECTION 2. ORS 561.144 is amended to read:

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

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

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

SECTION 3. ORS 616.683 is amended to read:

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

(b) Except as provided in subsection (7) of this section, the sale, or exposure or offering for sale, of agricultural products described in subsections (2) and (3) of this section by a farm direct marketer does not make the farm direct marketer or a consigning agricultural producer subject to ORS [585.010 to 585.220 or] 616.695 to 616.755. Except as provided in subsection (7) of this section, the storage or preparation of agricultural products identified for sale by a farm direct marketer does not make the farm direct marketer subject to ORS [585.010 to 585.220 or] 616.695 to 616.755.

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

(a) Fresh fruit, vegetables and herbs.

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

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

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

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

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

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

(A) Producer-processed products;

(B) Acidic foods;

(C) Labeled with a list of ingredients and the name and address of the agricultural producer; and

(D) Bottled, packaged or canned by an agricultural producer that during the preceding calendar year had annual sales of fruit-based syrups, preserves and jams, fruits and vegetables described in subparagraphs (A) to (C) of this paragraph that in total did not exceed \$20,000 or a higher limit established by State Department of Agriculture rule under ORS 616.686.

(f) Shell eggs.

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

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

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

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

(k) Products identified by the department by rule.

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

(a) Fresh fruits, vegetables and herbs.

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

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

(d) Subject to ORS 632.715, shell eggs.

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

(f) Products identified by the department by rule.

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

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

(6)(a) In addition to any other required labeling, agricultural products described in subsections (2)(e) to (i) or (3)(d) or (e) of this section shall bear on the label a statement informing consumers

that the product is not prepared in an inspected food establishment. Except as provided in paragraph (b) of this subsection, the required wording for the label statement is: "This product is homemade and is not prepared in an inspected food establishment."

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

(7) The department may require that a farm direct marketer or the space used by the farm direct marketer be licensed under ORS [585.010 to 585.220 or] 616.695 to 616.755, if the farm direct marketer or the person in control of the space used by the farm direct marketer refuses to comply with a department rule adopted under ORS 616.686 or 616.700 for keeping the space used by the farm direct marketer in a clean, healthful and sanitary condition or for ensuring the condition and safety of the food the farm direct marketer provides to retail purchasers.

SECTION 4. The repeal of ORS 585.010, 585.020, 585.030, 585.040, 585.045, 585.047, 585.050, 585.060, 585.070, 585.080, 585.090, 585.100, 585.105, 585.110, 585.120, 585.130, 585.140, 585.150, 585.160, 585.170, 585.175, 585.180, 585.190, 585.200, 585.210, 585.213, 585.215, 585.220 and 585.990 by section 1 of this 2013 Act does not prevent the levying of a fine under ORS 585.990, or terminate any cause of action under ORS 585.213 or 585.215, for violations of ORS 585.010 to 585.220 occurring prior to the effective date of this 2013 Act.

SECTION 5. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect July 1, 2013.

Passed by Senate February 14, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House April 29, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State