

Senate Bill 194

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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**.

Repeals statutes regulating produce dealers.
Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to produce dealers; creating new provisions; amending ORS 561.144 and 616.683; repealing
3 ORS 585.010, 585.020, 585.030, 585.040, 585.045, 585.047, 585.050, 585.060, 585.070, 585.080, 585.090,
4 585.100, 585.105, 585.110, 585.120, 585.130, 585.140, 585.150, 585.160, 585.170, 585.175, 585.180,
5 585.190, 585.200, 585.210, 585.213, 585.215, 585.220 and 585.990; and declaring an emergency.

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

7 **SECTION 1. ORS 585.010, 585.020, 585.030, 585.040, 585.045, 585.047, 585.050, 585.060, 585.070,**
8 **585.080, 585.090, 585.100, 585.105, 585.110, 585.120, 585.130, 585.140, 585.150, 585.160, 585.170,**
9 **585.175, 585.180, 585.190, 585.200, 585.210, 585.213, 585.215, 585.220 and 585.990 are repealed.**

10 **SECTION 2.** ORS 561.144 is amended to read:

11 561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund, which
12 shall be a trust fund separate and distinct from the General Fund. The State Department of Agri-
13 culture shall deposit all license and service fees paid to it under the provisions of the statutes
14 identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State
15 Treasurer is the custodian of this trust fund, which shall be deposited by the treasurer in such de-
16 positories as are authorized to receive deposits of the General Fund, and which may be invested by
17 the treasurer in the same manner as authorized by ORS 293.701 to 293.820.

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

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

27 **SECTION 3.** ORS 616.683 is amended to read:

28 616.683. (1)(a) Except as provided in subsection (7) of this section, the sale, or exposure or of-
29 fering for sale, of agricultural products described in subsections (2) and (3) of this section by a farm
30 direct marketer does not make the space used by the farm direct marketer subject to ORS [585.010

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 to 585.220 or] 616.695 to 616.755.

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

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

10 (a) Fresh fruit, vegetables and herbs.

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

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

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

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

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

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

21 (A) Producer-processed products;

22 (B) Acidic foods;

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

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

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 cooked
32 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 of pur-
35 chase by the agricultural producer after purchase and not sold for immediate consumption.

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

37 (3) Subsection (1) of this section applies to consignment sales of the following types of agricul-
38 tural products:

39 (a) Fresh fruits, vegetables and herbs.

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

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

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

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

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

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

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

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

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

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

21 **SECTION 4. The repeal of ORS 585.010, 585.020, 585.030, 585.040, 585.045, 585.047, 585.050,**
 22 **585.060, 585.070, 585.080, 585.090, 585.100, 585.105, 585.110, 585.120, 585.130, 585.140, 585.150,**
 23 **585.160, 585.170, 585.175, 585.180, 585.190, 585.200, 585.210, 585.213, 585.215, 585.220 and 585.990**
 24 **by section 1 of this 2013 Act does not prevent the levying of a fine under ORS 585.990, or**
 25 **terminate any cause of action under ORS 585.213 or 585.215, for violations of ORS 585.010 to**
 26 **585.220 occurring prior to the effective date of this 2013 Act.**

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

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