
MEMORANDUM

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To: Natural Resources Subcommittee

From: Paul Siebert, Legislative Fiscal Office
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Date: May 18, 2015

Subject: SB 256-A
Work Session Recommendations

SB 256-A relates to businesses dealing in plants. The bill raises the caps on license fees for both Christmas tree growers and nurseries. The bill also updates nursery inspection laws to incorporate national model law guidance developed by the National Plant Board. Nursery fees were raised in 2013-15 generating \$436,206 in additional revenue per biennium.

The measure, the original staff measure summary, preliminary Joint Committee on Ways and Means staff measure summary, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS). The measure history is also available on OLIS.

The Department reports that a similar increase might be needed in 2015-17. The Department of Agriculture originally anticipated not having to raise fees during the 2015-17 biennium, but more current revenue forecasts have indicated that discussions with stakeholders will need to occur sooner than later during the 2015-2017 biennium.

Measure to Full

LFO recommends the measure be moved to the full Joint Committee on Ways and Means.

Motion #1: Move SB 256-A to the full committee with a “do pass” recommendation.

Assignment of Carriers

Full: _____
2nd Chamber: _____

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 256 - A

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Tim Walker
Reviewed by: Paul Siebert
Date: 05/12/2015

Measure Description:

Allows State Department of Agriculture to adopt certification standards for persons dealing in nursery stock.

Government Unit(s) Affected:

Department of Agriculture

Summary of Expenditure Impact:

See Analysis.

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis: This bill allows the Oregon Department of Agriculture (ODA) to adopt standards for certifying nursery stock, increases the statutory maximum license fees for growers or dealers of nursery stock from \$20,000 to \$40,000, maximum millage rate from 5 mills to 10 mills, and increases the maximum license fees for Christmas tree growers from \$75 to \$110 and the basic per acre assessment charge from \$3 to \$4.50.

ODA currently licenses approximately 3,300 Growers and Dealers, and 530 Christmas tree growers and 30,000 acres of Christmas trees. Nursery fees were raised in 2013-15 generating \$436,206 in additional revenue per biennium. The Department reports that a similar increase might be needed in 2015-17. The Department of Agriculture originally anticipated not having to raise fees during the 2015-17 biennium, but more current revenue forecasts have indicated that discussions with stakeholders will need to occur sooner than later during the 2015-2017 biennium. ODA would need to return to the Legislative Assembly for final approval of any fee increases.

PRELIMINARY STAFF MEASURE SUMMARY

Joint Committee On Ways and Means

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date:

Action:

Meeting Dates:

Prepared By: Paul Siebert, Budget Analyst

WHAT THE MEASURE DOES:

Authorizes Oregon Department of Agriculture (ODA) to adopt certification standards for persons dealing in nursery stock. Requires ODA to consider certification standards adopted by federal government, another state or national association for nurseries when establishing certification standards. Authorizes ODA to establish expedited permitting process for people affected by wildflower and nursery stock statutes that participate and meet standards of ODA certification program. Increases maximum license fee for growers from \$20,000 to \$40,000 and maximum millage rate from no more than five to 10 mills. Authorizes ODA Director to suspend or revoke shipping permit issued if nursery has stock that does not meet interstate shipment cleanliness standards. Increases maximum amount of annual license fee for growers of Christmas trees from \$75 to \$110 for basic charge, from \$3 to \$4.50 per acre. Increases total license fee for growers of Christmas trees from \$5,000 to \$7,000.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

The Oregon Department of Agriculture's (ODA) Nursery and Christmas Tree Program protects Oregon's nursery and Christmas tree industries from the introduction and spread of plant pests, disease and noxious weeds. The program provides services to licensed Oregon nurseries and Christmas tree growers that assist in the production, marketing and protection of Oregon nursery stock and Christmas trees.

Senate Bill 256A authorizes ODA to adopt a certification standard for people dealing in nursery stock. The Act also increases the maximum license fee and millage rate for nursery stock licensees and the base charge, acreage assessment and maximum license fee for Christmas tree growers. Nursery license fees were last adjusted in 2008.

A-Engrossed
Senate Bill 256

Ordered by the Senate March 23
Including Senate Amendments dated March 23

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)

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.

Allows State Department of Agriculture to adopt certification standards for persons dealing in nursery stock. **Allows expedited permitting process for nursery participating in certification program.** Deletes references to certificates, permits and licenses for engaging in prohibited trade. Increases maximum license fee and millage rate for nursery stock licensees. Increases base charge, acreage assessment and maximum license fee for growers of Christmas trees.

A BILL FOR AN ACT

1
2 Relating to businesses dealing in plants; creating new provisions; and amending ORS 571.015,
3 571.057, 571.135 and 571.530.

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

5 **SECTION 1.** ORS 571.015 is amended to read:

6 571.015. (1) The Legislative Assembly finds and declares that the propagation and raising of
7 nursery stock is an agricultural pursuit that should be regulated and assisted by the State Depart-
8 ment of Agriculture. A nursery service shall be maintained within the department for the purpose
9 of carrying out and enforcing the provisions of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991.

10 (2) The department [*is authorized to*] **may:**

11 (a) Inspect the nursery stock of growers, dealers and other persons and places of business pro-
12 vided for under ORS 564.040, 564.991, 571.005 to 571.230 and 571.991.

13 (b) **Establish certification standards**, issue certificates and permits and check the license and
14 licensing of persons affected by ORS 564.040, 564.991, 571.005 to 571.230 and 571.991. **In establishing**
15 **certification standards under this paragraph, the department shall give consideration to any**
16 **certification standards adopted by the federal government, another state or a national asso-**
17 **ciation for nurseries.**

18 (c) **Establish an expedited permitting process for persons affected by ORS 564.040, 564.991,**
19 **571.005 to 571.230 and 571.991 that participate in a department certification program and meet**
20 **department certification standards.**

21 [(c)] (d) Investigate violations of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991.

22 [(d)] (e) Disseminate information among growers relative to treatment of nursery stock for both
23 prevention and elimination of attacks by plant pests and diseases.

24 [(e)] (f) Carry out any other duties or responsibilities [*which*] **that** are of service to the nursery
25 industry or [*which*] **that** may be necessary for the protection [*thereof*] **of the nursery industry.**

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.** ORS 571.057 is amended to read:

2 571.057. (1) Each person required to be licensed by ORS 571.055 shall [*make application for*
3 *such*] **apply for a** license, or for renewal [*thereof*] **of a license**, on a form furnished by the State
4 Department of Agriculture, [*which shall contain*] **that contains**:

5 (a) The name and address of the applicant, the number of locations to be operated by the ap-
6 plicant and the addresses [*thereof*] **of those locations**, and the assumed business name of the appli-
7 cant;

8 (b) If other than an individual, a statement whether [*such person*] **the applicant** is a partnership,
9 corporation or other organization;

10 (c) The gross dollar volume of sales or purchases of nursery stock by the applicant within
11 Oregon during the prior calendar year or, if the applicant maintains sales records on a fiscal basis,
12 the prior fiscal year; and

13 (d) The type of business to be operated and, if applicant is an agent, the principals the applicant
14 represents.

15 (2) Each application for a license [*shall*] **must** be accompanied by a license fee as provided for
16 by this section and any amounts required by ORS 571.075 (3). [*Such*] **An** application [*shall not be*]
17 **is not** a public record but [*shall be*] **is** subject to audit and review by the department. An applicant
18 for an original license or for a renewal license, without a full calendar year of prior nursery stock
19 sales or purchase experience upon which to base the fees, shall base [*such*] **the** fees on an estimated
20 annual gross dollar volume of sales or purchases of nursery stock by the applicant. Notwithstanding
21 the provisions of ORS 571.075, upon application by [*such*] **the** person for a renewal of license for a
22 subsequent year, the fees for the previous license year shall be adjusted to reflect the actual annual
23 gross dollar volume of sales or purchases of nursery stock by [*such*] **the** applicant. Any additional
24 fees found to be due [*shall*] **must** be paid to the department at the time of application for renewal
25 of license. [*or*] The department shall refund any overpayment found to be due the applicant.

26 (3)(a) **The department shall establish the** license fees for growers and dealers [*shall be estab-*
27 *lished by the department*] after consulting with the State Nursery Research and Regulatory Com-
28 mittee and after public hearing in accordance with ORS chapter 183. [*Such fees shall be*
29 *established*] **The department shall establish the fees** on the basis of annual gross dollar volume
30 of sales or purchases of nursery stock within Oregon for the calendar year immediately preceding
31 the license period.

32 (b) The license fees [*shall*] **may** not be less than \$65 [*nor*] **or** more than [*\$20,000*] **\$40,000**. The
33 millage rate [*shall be not*] **may not be** less than one-tenth mill [*nor*] **or** more than [*5*] **10** mills. The
34 [*fees shall be established in such amount as shall be*] **department shall establish the fees in an**
35 **amount** sufficient to allow the department to administer and enforce the provisions of ORS 564.040,
36 564.991, 571.005 to 571.230 and 571.991.

37 (c) In addition to and at the time of payment of the annual license fee, growers and dealers shall
38 pay assessments for the expenses of carrying out the provisions of ORS 571.230 (2) and (3). Dealers
39 shall pay 0.0002 times the gross dollar purchases in the previous license year. Growers shall pay
40 0.0002 times the gross dollar sales in the previous license year. [*In no event shall*] The assessment
41 **may not** be less than \$10.

42 (4) For florists and landscape contracting businesses, dealer and agent fees [*will*] **must** be
43 computed on the basis of gross purchases of plants. For greenhouse operators and growers, including
44 persons collecting native plants, fees [*will*] **must** be computed on the basis of gross sales of plants
45 or sales value of plants produced in Oregon.

1 (5) Each grower or dealer *[shall be]* **is** entitled to one sales location under the license of the
2 grower or dealer. Each additional sales location, yard, branch store, stall or peddling vehicle main-
3 tained by *[such person shall require]* **the grower or dealer requires** the payment of the full license
4 fee for each of *[such]* **the** additional sales outlets. A grower who is also a dealer shall be licensed
5 only as a grower.

6 **SECTION 3.** ORS 571.135 is amended to read:

7 571.135. (1) The State Department of Agriculture may issue a shipping permit number to any
8 licensee who requests or requires one. The shipping permit number shall be the same as the license
9 number and so designated on the license.

10 (2) When authorized or required by the department, the shipping permit number shall accompany
11 all shipments and deliveries of nursery stock.

12 **(3) The Director of Agriculture may suspend or revoke a shipping permit issued to a**
13 **nursery if the nursery has nursery stock that in whole or in part does not meet interstate**
14 **shipment cleanliness standards adopted by the department by rule.**

15 *[(3)]* **(4)** A shipping invoice or bill of lading shall accompany a commercial shipment or delivery
16 of nursery stock to be offered for sale. If a shipping invoice accompanies the shipment or delivery,
17 the shipping invoice shall include the following:

18 (a) The name and address of the owner of the nursery stock.

19 (b) The nursery license number of the owner of the nursery stock.

20 (c) The point of origin of the nursery stock.

21 (d) The specific destination to which the nursery stock is being shipped or delivered.

22 (e) A description or inventory of the nursery stock in sufficient detail to allow identification of
23 the nursery stock being shipped or delivered. The description or inventory shall include, at a mini-
24 mum, the numbers, sizes and varieties of plants included in the shipment or delivery.

25 (f) The signature of the nursery stock carrier or the carrier's agent.

26 *[(4)]* **(5)** The department, by rule, may develop a standard form for shipping invoices described
27 in subsection *[(3)]* **(4)** of this section and may make the form available at cost to licensees upon re-
28 quest.

29 *[(5)]* **(6)** Each of the following persons shall retain a copy of the signed shipping invoice or the
30 bill of lading for a commercial shipment or delivery of nursery stock to be offered for sale:

31 (a) The owner of the nursery stock.

32 (b) The carrier or carrier's agent transporting the nursery stock.

33 (c) The person taking delivery of the nursery stock at the shipment or delivery destination.

34 *[(6)]* **(7)** Subsections *[(3) and (5)]* **(4) and (6)** of this section do not apply to:

35 (a) A commercial shipment or delivery between two points owned, rented or leased by the owner
36 of the nursery stock; or

37 (b) A commercial shipment or delivery of nursery stock in the possession of a business licensed
38 by the State Landscape Contractors Board.

39 **SECTION 4.** ORS 571.530 is amended to read:

40 571.530. (1) Each person required to be licensed by ORS 571.525 shall *[make application for*
41 *such]* **apply for a** license or for renewal *[thereof]* **of a license** on a form furnished by the State
42 Department of Agriculture *[which shall contain]* **that contains:**

43 (a) The name and address of the applicant, the number of locations to be operated by the ap-
44 plicant and the addresses *[thereof]* **of those locations**, and the assumed business name of the appli-
45 cant;

1 (b) If other than an individual, a statement whether *[such person]* **the applicant** is a partnership,
2 corporation or other organization;

3 (c) The total number of acres of Christmas trees grown by the applicant; and

4 (d) The type of business to be operated and, if the applicant is an agent, the principals the ap-
5 plicant represents.

6 (2) Each application for a license *[shall]* **must** be accompanied by a license fee as provided for
7 by this section. *[Such]* **An** application *[shall not be]* **is not** a public record but *[shall be]* **is** subject
8 to audit and review by the department.

9 (3)(a) The **department shall establish** license fees for growers *[shall be established]* on the basis
10 of the total number of acres of Christmas trees being grown in this state by the applicant. For the
11 purpose of calculating the license fee, four acres of Christmas trees growing in a natural timber
12 stand *[shall be]* **is** considered the equivalent of one acre of planted Christmas trees.

13 (b) The **department shall establish an** annual license fee schedule *[shall be established by the*
14 *department]* after consultation with the State Christmas Tree Advisory Committee and after a public
15 hearing in accordance with ORS chapter 183. The annual license fee *[shall]* **may** not exceed *[\$75]*
16 **\$110** as a basic charge and *[\$3]* **\$4.50** per acre as an acreage assessment. The total license fee es-
17 tablished pursuant to this paragraph *[shall]* **may** not exceed *[\$5,000]* **\$7,000**.

18 **SECTION 5. The amendments to ORS 571.057 and 571.530 by sections 2 and 4 of this 2015**
19 **Act apply to licenses issued for licensing periods beginning on or after the effective date of**
20 **this 2015 Act.**

21