

House Bill 3554

Sponsored by COMMITTEE ON RULES

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**.

States that State Department of Agriculture authority to establish control areas includes establishment for purpose of eradicating or excluding genetically engineered commodity plants.

Authorizes department to establish, upon petition or for cause, market production districts and to administer districts to provide for coexistence in manner that reduces or eliminates existing or potential conflicts between activities related to commercial production of commodity plants that are genetically engineered and activities related to commercial production of commodity plants that are not genetically engineered. Requires department to annually report to Legislative Assembly regarding market production district formation efforts.

Requires retailer or wholesaler of genetically engineered agricultural seed or vegetable seed to annually report certain sales information to department.

A BILL FOR AN ACT

1
2 Relating to agricultural commodities.

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

4 **SECTION 1. (1) As used in this section:**

5 (a) **“Commodity plants” means plants that are used for fiber or for food for humans or**
6 **animals, plants that are used for other agricultural commodities and the produce of those**
7 **plants.**

8 (b) **“Genetically engineered” means resulting or derived from genetic modification by**
9 **recombinant DNA techniques.**

10 (c) **“Plant” means plants, plant parts or seeds.**

11 (2) **The authority of the State Department of Agriculture to establish a control area un-**
12 **der ORS 570.405 includes, but is not limited to, the authority to establish a control area for**
13 **the eradication or exclusion of commodity plants that are genetically engineered:**

14 (a) **For the general protection of the horticultural, agricultural or forestry industries of**
15 **this state against the transfer of genetic traits from commodity plants that are genetically**
16 **engineered; or**

17 (b) **To prevent or control the transfer of genetic traits from commodity plants that are**
18 **genetically engineered to wild or feral plants.**

19 **SECTION 2. As used in sections 2 to 9 of this 2015 Act:**

20 (1) **“Coexistence” means the concurrent carrying out of commercial activities, including**
21 **but not limited to cultivation.**

22 (2) **“Commodity plants” means plants that are used for fiber or for food for humans or**
23 **animals, plants that are used for other agricultural commodities and the produce of those**
24 **plants.**

25 (3) **“Genetically engineered” means resulting or derived from genetic modification by**
26 **recombinant DNA techniques.**

27 (4) **“Grower” means a person engaged in the commercial agricultural practices that uti-**

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 lize plants.

2 (5) "Market production district" means an area designated by the State Department of
3 Agriculture by rule under section 6 of this 2015 Act.

4 (6) "Plant" means plants, plant parts or seeds.

5 **SECTION 3.** (1) A grower of a commodity plant may file a petition with the State De-
6 partment of Agriculture to establish a market production district in the area used by the
7 grower for activities related to the commercial production of commodity plants. If the de-
8 partment approves the petition, the department may establish a market production district
9 as provided under this section to provide for coexistence in a manner that prevents conflicts
10 between activities related to the commercial production of commodity plants that are ge-
11 netically engineered and activities related to the commercial production of commodity plants
12 that are not genetically engineered.

13 (2) A petition for the formation of a market production district must be in writing and
14 in a form acceptable to the department. The petition must be accompanied by a petition re-
15 view fee of \$2,500. The petition must include, but need not be limited to:

- 16 (a) A statement of the purpose that would be served by the market production district;
- 17 (b) The identification of a county line as the proposed boundary of the market production
18 district;

- 19 (c) A description of any existing or potential conflict between activities related to the
20 commercial production of commodity plants that are genetically engineered and activities
21 related to the commercial production of commodity plants that are not genetically engi-
22 neered;

- 23 (d) Credible materials documenting that commodity market access is at risk due to ex-
24 isting or potential conflicts described in the petition;

- 25 (e) A description of the process used to determine that coexistence is not feasible in the
26 absence of a market production district, including but not limited to previous efforts to re-
27 solve the existing or potential conflicts by other means; and

- 28 (f) A proposed plan for mitigation strategies designed to create a reasonable probability
29 that the formation of a market production district will result in coexistence in a manner that
30 prevents existing or potential conflicts between commercial activities related to the pro-
31 duction of commodity plants that are genetically engineered and commercial activities re-
32 lated to the production of commodity plants that are not genetically engineered.

33 **SECTION 4.** (1) If a petition is filed under section 3 of this 2015 Act, the State Depart-
34 ment of Agriculture shall issue a written decision approving or denying the market pro-
35 duction district formation requested in the petition within a reasonable time, not to exceed
36 180 days. The decision shall state the reasons for approving or denying the formation of the
37 district.

38 (2) Except as provided in subsection (3) of this section, the department shall approve
39 formation of the district if the department determines there is a reasonable probability that
40 the formation of the district will result in coexistence in a manner that prevents existing
41 or potential conflicts between activities related to the commercial production of commodity
42 plants that are genetically engineered and activities related to the commercial production
43 of commodity plants that are not genetically engineered.

44 (3) The department may deny formation of the district if the department determines that
45 the grower filing the petition refused to make reasonable efforts to resolve an existing or

1 potential conflict prior to filing the petition. As used in this subsection, “reasonable
2 efforts” may include, but is not limited to, participation in mediation conducted by or on
3 behalf of the department.

4 (4) If the department denies formation of the district, the written decision issued by the
5 department must include proposals for alternative voluntary actions that can be taken to
6 resolve the existing or potential conflicts identified in the petition.

7 (5) The department shall make a copy of the decision available on a website maintained
8 by the department and accessible to the public without charge.

9 (6) The department shall annually report to the Legislative Assembly as provided under
10 ORS 192.245 regarding petitions filed under section 3 of this 2015 Act. The report shall in-
11 clude, but need not be limited to, a summary of the petitions filed, the decisions rendered
12 on those petitions and the rationale for each decision. The report shall also identify any
13 market production districts established by the department under section 5 of this 2015 Act.

14 **SECTION 5.** Notwithstanding sections 3 and 4 of this 2015 Act, the State Department of
15 Agriculture may on its own initiative identify an area as being appropriate for the estab-
16 lishment of a market production district and may issue a determination to establish a pro-
17 posed district if the department reasonably believes, based on a detailed assessment of the
18 area, that the establishment of a district is necessary to prevent an existing or potential
19 conflict arising from the spreading of genetically engineered plants from an area.

20 **SECTION 6.** (1) If the State Department of Agriculture approves formation of a market
21 production district under section 4 of this 2015 Act, or makes a determination under section
22 5 of this 2015 Act that a market production district should be formed, the department shall
23 adopt rules to establish a market production district.

24 (2) Notwithstanding ORS 183.335 (5), in addition to any other proceedings required under
25 ORS chapter 183, prior to adopting the rules the department shall hold a public hearing re-
26 garding the proposed market production district to be held within the proposed district
27 boundaries identified in the petition or in the department determination. The hearing must
28 include an opportunity for public comment.

29 (3) Rules adopted under this section to establish a market production district must in-
30 clude, but need not be limited to, mitigation strategies and mandatory best practices de-
31 signed to reduce or eliminate existing or potential conflicts between, and provide for
32 coexistence of, activities related to the commercial production of commodity plants that are
33 genetically engineered and activities related to the commercial production of commodity
34 plants that are not genetically engineered. Mitigation strategies must be designed to promote
35 coexistence by preventing or controlling cross-pollination or other means of transfer of ge-
36 netic traits between commodity plants that are genetically engineered and commodity plants
37 that are not genetically engineered. Mitigation strategies may include, but need not be lim-
38 ited to, the establishment of isolation distances, the use of crop registration and the use of
39 pinning systems.

40 (4) Notwithstanding the limitations for a proposed boundary in a petition filed under
41 section 3 of this 2015 Act, the department shall determine the appropriate boundaries for a
42 market production district. In establishing the boundaries for a district, the department shall
43 give consideration to the boundaries proposed in the petition for formation of the district,
44 the advice of any advisory committee appointed by the department regarding the proposed
45 district and any public comment pertinent to the boundaries for the proposed district.

1 (5) The department may adopt, modify or repeal rules for an existing market production
2 district as provided under ORS chapter 183.

3 **SECTION 7.** The State Department of Agriculture may, during reasonable hours, enter
4 agricultural lands and facilities that are subject to market production district rules for the
5 purpose of verifying compliance with the rules. The department may inspect records and
6 collect samples as part of the compliance verification.

7 **SECTION 8.** The State Department of Agriculture may charge growers that are subject
8 to market production district rules reasonable fees to cover the cost of administering and
9 enforcing the district rules.

10 **SECTION 9.** The establishment of a market production district under section 6 of this
11 2015 Act does not affect the ability of the State Department of Agriculture to establish a
12 control area under ORS 570.405 for a purpose described in section 1 of this 2015 Act in the
13 same or an overlapping area. However, if the terms of a control area established under ORS
14 570.405 and a market production district established by department rule under section 6 of
15 this 2015 Act conflict, the terms of the control area shall supersede the provisions for the
16 market production district.

17 **SECTION 10.** A person that violates a market production district rule adopted under
18 section 6 of this 2015 Act is subject to the assessment of a civil penalty by the State De-
19 partment of Agriculture, not to exceed \$10,000 per violation.

20 **SECTION 11.** Section 12 of this 2015 Act is added to and made a part of ORS 633.511 to
21 633.750.

22 **SECTION 12.** (1) As used in this section, “genetically engineered” means resulting or
23 derived from genetic modification by recombinant DNA techniques.

24 (2) In addition to any other labeling requirements, packages containing more than one
25 pound of genetically engineered agricultural seed or vegetable seed must be labeled in a clear
26 and conspicuous manner as required by State Department of Agriculture rule stating:

27 (a) The types of genetically engineered seed contained in the package; and

28 (b) The traits for which the seed has been genetically engineered.

29 (3) A retailer or wholesaler of packages containing more than one pound of genetically
30 engineered agricultural seed or vegetable seed shall keep a record of package sales made for
31 delivery in this state, including but not limited to a record of the package weight, the types
32 of seed in the packages and the traits for which the packaged seeds have been genetically
33 engineered. The retailer or wholesaler shall report the sales information annually to the de-
34 partment. The department shall post the reported weight, type and trait information, ag-
35 gregated by area, on a department website accessible by the public without charge.

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