

# Enrolled Senate Bill 256

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 businesses dealing in plants; creating new provisions; and amending ORS 571.015, 571.057, 571.135 and 571.530.

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

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

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

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

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

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

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

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

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

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

**SECTION 2.** ORS 571.057 is amended to read:

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

(a) The name and address of the applicant, the number of locations to be operated by the applicant and the addresses *[thereof]* **of those locations**, and the assumed business name of the applicant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The name and address of the owner of the nursery stock.
- (b) The nursery license number of the owner of the nursery stock.
- (c) The point of origin of the nursery stock.
- (d) The specific destination to which the nursery stock is being shipped or delivered.
- (e) A description or inventory of the nursery stock in sufficient detail to allow identification of the nursery stock being shipped or delivered. The description or inventory shall include, at a minimum, the numbers, sizes and varieties of plants included in the shipment or delivery.
- (f) The signature of the nursery stock carrier or the carrier's agent.

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

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

- (a) The owner of the nursery stock.
- (b) The carrier or carrier's agent transporting the nursery stock.
- (c) The person taking delivery of the nursery stock at the shipment or delivery destination.

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

- (a) A commercial shipment or delivery between two points owned, rented or leased by the owner of the nursery stock; or
- (b) A commercial shipment or delivery of nursery stock in the possession of a business licensed by the State Landscape Contractors Board.

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

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

(a) The name and address of the applicant, the number of locations to be operated by the applicant and the addresses *[thereof]* **of those locations**, and the assumed business name of the applicant;

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

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

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

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

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

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

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

**Passed by Senate June 2, 2015**

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House June 11, 2015**

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Tina Kotek, Speaker of House

**Received by Governor:**

.....M,....., 2015

**Approved:**

.....M,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State