

Senate Bill 256

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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**.

Allows State Department of Agriculture to adopt certification standards for persons dealing in nursery stock. 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) Investigate violations of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991.

19 (d) Disseminate information among growers relative to treatment of nursery stock for both pre-
20 vention and elimination of attacks by plant pests and diseases.

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

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

24 571.057. (1) Each person required to be licensed by ORS 571.055 shall [*make application for*
25 *such*] **apply for a** license, or for renewal [*thereof*] **of a license**, on a form furnished by the State
26 Department of Agriculture, [*which shall contain*] **that contains**:

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

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

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

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

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

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

25 (b) The license fees *[shall]* **may** not be less than \$65 *[nor]* **or** more than *[\$20,000]* **\$25,000**. The
26 millage rate *[shall be not]* **may not be** less than one-tenth mill *[nor]* **or** more than *[5]* **seven** mills.
27 The *[fees shall be established in such amount as shall be]* **department shall establish the fees in**
28 **an amount** sufficient to allow the department to administer and enforce the provisions of ORS
29 564.040, 564.991, 571.005 to 571.230 and 571.991.

30 (c) In addition to and at the time of payment of the annual license fee, growers and dealers shall
31 pay assessments for the expenses of carrying out the provisions of ORS 571.230 (2) and (3). Dealers
32 shall pay 0.0002 times the gross dollar purchases in the previous license year. Growers shall pay
33 0.0002 times the gross dollar sales in the previous license year. *[In no event shall]* The assessment
34 **may not** be less than \$10.

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

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

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

45 571.135. (1) The State Department of Agriculture may issue a shipping permit number to any

1 licensee who requests or requires one. The shipping permit number shall be the same as the license
2 number and so designated on the license.

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

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

8 [(3)] (4) A shipping invoice or bill of lading shall accompany a commercial shipment or delivery
9 of nursery stock to be offered for sale. If a shipping invoice accompanies the shipment or delivery,
10 the shipping invoice shall include the following:

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

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

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

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

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

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

19 [(4)] (5) The department, by rule, may develop a standard form for shipping invoices described
20 in subsection [(3)] (4) of this section and may make the form available at cost to licensees upon re-
21 quest.

22 [(5)] (6) Each of the following persons shall retain a copy of the signed shipping invoice or the
23 bill of lading for a commercial shipment or delivery of nursery stock to be offered for sale:

24 (a) The owner of the nursery stock.

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

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

27 [(6)] (7) Subsections [(3) and (5)] (4) and (6) of this section do not apply to:

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

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

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

33 571.530. (1) Each person required to be licensed by ORS 571.525 shall [*make application for*
34 *such*] **apply for a** license or for renewal [*thereof*] **of a license** on a form furnished by the State
35 Department of Agriculture [*which shall contain*] **that contains:**

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

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

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

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

44 (2) Each application for a license [*shall*] **must** be accompanied by a license fee as provided for
45 by this section. [*Such*] **An** application [*shall not be*] **is not** a public record but [*shall be*] **is** subject

1 to audit and review by the department.

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

6 (b) The **department shall establish an** annual license fee schedule [*shall be established by the*
7 *department*] after consultation with the State Christmas Tree Advisory Committee and after a public
8 hearing in accordance with ORS chapter 183. The annual license fee [*shall*] **may** not exceed [*\$75*]
9 **\$110** as a basic charge and [*\$3*] **\$4.50** per acre as an acreage assessment. The total license fee es-
10 tablished pursuant to this paragraph [*shall*] **may** not exceed [*\$5,000*] **\$7,000**.

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

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