

Enrolled
House Bill 2364

Sponsored by Representative WILSON; Representative ESQUIVEL (Pre-session filed.)

CHAPTER

AN ACT

Relating to mediation of agricultural disputes; amending ORS 36.280; and declaring an emergency.

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

SECTION 1. ORS 36.280 is amended to read:

36.280. (1) If a person that is engaged in a farming practice, as defined in ORS 30.930, has a reasonable belief that the planting, growing or harvesting of an agricultural or horticultural commodity on nearby land might interfere with or is interfering with the farming practice, and the person responsible for the planting, growing or harvesting disputes that it might interfere with or is interfering with the farming practice, the State Department of Agriculture shall, if requested by either party to the dispute:

(a) Provide mediation program services under ORS [36.270] **36.252** to assist the parties in attempting to reach a voluntary resolution of the dispute; or

(b) Refer the parties to the United States Department of Agriculture for the purpose of participating in a certified state agricultural mediation program.

(2) A person that is requested to participate in a mediation proceeding under this section may elect to have the proceeding conducted through the use of mediation program services described in subsection (1)(a) of this section or under a mediation program described in subsection (1)(b) of this section. However, if the State Department of Agriculture has referred the parties under subsection (1)(b) of this section, a person electing to instead use mediation services described in subsection (1)(a) of this section must pay any additional costs and fees resulting from that election.

(3) If the State Department of Agriculture provides mediation program services under subsection (1)(a) of this section, the total amount that the department may require of the parties as costs and fees for services provided in connection with the mediation of the dispute may not exceed \$2,500. The party requesting the mediation services is responsible for paying the costs and fees unless both parties agree to divide the costs and fees. Unless the parties agree to a shorter time, the department shall conduct at least four hours of mediation proceedings to attempt to reach resolution of the dispute.

(4) If a party is offered dispute mediation under subsection (1) of this section and is unwilling to participate in a mediation proceeding, a court may consider that unwillingness when determining whether to grant or deny a preliminary injunction.

(5) If a court action arises out of an alleged interference with the use of land for a farming practice due to the planting, growing or harvesting of an agricultural or horticultural commodity on nearby land, and the parties to the action have not previously attempted to have the dispute mediated, the parties must participate in a mediation proceeding under a program described under subsection (1) of this section beginning no later than 270 days after the action is filed. This sub-

section does not require participation in a mediation proceeding if the action settles or is otherwise resolved within 270 days after filing or if all parties to the action agree to waive mediation. A court may impose sanctions against a party that is unwilling to participate for at least four hours, or for a shorter time that was agreed to by the parties, in a mediation proceeding required under this subsection.

(6) This section does not create any new cause of action or supersede any requirement, condition or prohibition otherwise established by law regarding the bringing of an action.

SECTION 2. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

Passed by House March 7, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 8, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State