

# Senate Bill 18

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 Kate Brown 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 **as introduced**.

Designates State Department of Agriculture as primary state agency for administration and enforcement of state duties, functions and powers under federal FDA Food Safety Modernization Act, related federal guidelines or interstate food safety systems authorized by federal Act. Authorizes department to adopt rules for administration and enforcement of federal Act, federal guidelines or food safety systems, including, but not limited to, rules adopting by reference federal statutes, regulations, guidelines or other provisions or standards, practices or requirements.

Authorizes department to adopt rules for administration and enforcement of department duties, functions and powers under food safety laws to incorporate by reference federal or multistate statutes, regulations, guidelines or other provisions or standards, practices or requirements.

Modifies definition of "commercial feed" for purposes of statutes regulating commercial animal feed. Authorizes department to adopt rules creating conditional exemptions from one or more provisions of statutes regulating commercial animal feed.

## A BILL FOR AN ACT

1  
2 Relating to State Department of Agriculture regulation of the food supply chain; creating new pro-  
3 visions; and amending ORS 633.006.

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

5 **SECTION 1. (1) The State Department of Agriculture may administer and enforce any**  
6 **duties, functions and powers imposed on or granted to state agencies under the federal FDA**  
7 **Food Safety Modernization Act (P.L. 111-353). The department may enter into, administer**  
8 **and carry out interagency agreements, contracts, memoranda of understanding or other**  
9 **forms of agreement for interstate food safety systems authorized under the federal Act. In**  
10 **addition to any authority granted to the department under ORS 616.010 (1), the department**  
11 **is designated as the state agency having primary responsibility for administering and en-**  
12 **forcing state agency duties, functions and powers under the federal Act. Consistent with the**  
13 **terms of the federal Act or interstate food safety systems authorized under the federal Act,**  
14 **the department may administer and enforce duties, functions and powers that include, but**  
15 **are not limited to:**

16 (a) **Conducting inspections to ensure that a farm or a food facility has identified, analyzed**  
17 **and evaluated hazards that could affect food grown, harvested, manufactured, processed,**  
18 **packaged or held at the farm or facility and has instituted preventive controls or taken other**  
19 **appropriate action to minimize those hazards;**

20 (b) **Providing food facilities with documentation of licenses, inspection reports or other**  
21 **evidence of state oversight that federal guidelines developed under or in relation to the fed-**  
22 **eral Act require as assurance that a food facility is in compliance with state, local or other**  
23 **nonfederal food safety laws;**

24 (c) **Facilitating partnerships of state agencies with federal, local and private sector enti-**

**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 ties to help coordinate and enhance the protection of agriculture and food systems;

2 (d) Providing for the regular and timely exchange of information relating to the security  
3 of agriculture and food systems, including but not limited to information for food tracing;

4 (e) Assisting in the development and adoption of science-based minimum standards for  
5 the safe production and harvesting of agricultural products;

6 (f) Coordinating with federal, local and private sector entities to develop and employ best  
7 practices for preparedness and response plans for agriculture and food defense;

8 (g) Protecting the economy and public health from the effects of:

9 (A) Animal or plant disease outbreaks;

10 (B) Food contamination; and

11 (C) Natural disasters affecting agriculture and food;

12 (h) Imposing reasonable fees for services; and

13 (i) Assessing civil penalties or other sanctions to the extent authorized under the federal  
14 Act or an interstate food safety system.

15 (2) The department may adopt rules for the purpose of carrying out any department du-  
16 ties, functions and powers authorized under this section. The rules may include, but need  
17 not be limited to, the adoption by reference, in modified or unmodified form, of any statutes,  
18 regulations, guidelines or other provisions, or of any standards, practices or requirements,  
19 used by the federal government with regard to the federal Act or by the federal government  
20 or other parties with regard to interstate food safety systems authorized under the federal  
21 Act.

22 (3) The authority granted to the department under this section is in addition to, and not  
23 in lieu of, any other lawful authority granted to the department under state or federal law  
24 to administer and enforce standards, practices or requirements related to food safety.

25 **SECTION 2.** Section 3 of this 2017 Act is added to and made a part of ORS 633.006 to  
26 633.089.

27 **SECTION 3.** In addition to any authority granted under ORS 633.067, the State Depart-  
28 ment of Agriculture may adopt rules to exempt materials, combinations of materials, sub-  
29 stances or chemical compounds, or to exempt classes of materials, combinations of  
30 materials, substances or chemical compounds, from one or more provisions of ORS 633.006  
31 to 633.089.

32 **SECTION 4.** ORS 633.006 is amended to read:

33 633.006. As used in ORS 633.006 to 633.089, unless the context requires otherwise:

34 (1) "Animal feed manufacturing plant" means:

35 (a) Any business, establishment, building, plant or place where commercial feed for animals is  
36 manufactured, mixed, processed or packed.

37 (b) Vehicles used in transporting commercial feed or [*components or ingredients thereof*] **feed**  
38 **ingredients**, machinery, equipment, utensils, implements[,] or other items, articles or materials used  
39 in the business or operation.

40 (c) The ground upon which the operation or business is carried out and other ground not adja-  
41 cent thereto that is a part of the business or operation under the same entity or ownership.

42 (2) "Brand" means any word, name, symbol or device or any combination thereof identifying and  
43 distinguishing the commercial feed of a distributor from the feed of other distributors.

44 (3) "Bulk" is the sale, offering or exposing for sale or delivery of commercial feeds, in:

45 (a) Open containers, closed or open tote boxes, closed or open tanks, closed or open trailers, all

1 of which may be further described or defined by the State Department of Agriculture; or

2 (b) Other types of containers, vehicles or conveyances defined or recognized by the department.

3 [(4) “Commercial feed” means any material that is distributed for use as feed, or as a feed ingre-  
4 dient for mixing in feed for animals, or any feed additive concentrate, feed additive supplement, feed  
5 additive premix, or premix, except:]

6 [(a) Unmixed seeds, whole or processed, that are made directly from the entire seed and are not  
7 used to manufacture wild bird feed.]

8 [(b) Hay, straw, stover, cobs, husks, screenings and hulls, when unground or unmixed with other  
9 materials.]

10 [(c) Feed for dogs, cats, birds or fish maintained as household pets.]

11 [(d) Silage, or materials containing at least 60 percent water.]

12 [(e) Individual chemical compounds not mixed with other materials. This exemption, however, does  
13 not cover or extend to phosphate, urea or ammonium compounds that are recommended for animal  
14 feeding purposes.]

15 (4) “Commercial feed”:

16 (a) Means materials or combinations of materials that are distributed or intended to be  
17 distributed for use as feed for animals, or for mixing into feed for animals.

18 (b) Does not mean:

19 (A) Materials, combinations of materials, substances or chemical compounds, or classes  
20 of materials, combinations of materials, substances or chemical compounds, that are specif-  
21 ically exempted by rule as described in section 3 of this 2017 Act; or

22 (B) Unmixed whole seeds or physically altered entire seeds if the whole seeds or phys-  
23 ically altered entire seeds have not been chemically changed and are not adulterated as de-  
24 scribed in ORS 633.045.

25 (5) “Contract feeder” means an independent contractor or other person who feeds commercial  
26 feed to another person’s animals pursuant to an oral or written agreement whereby the commercial  
27 feed is distributed to the contractor or other person by any distributor and whereby the contractor  
28 or other person’s remuneration is determined all or in part by feed consumption, mortality, profits  
29 or amount or quality of animals produced. “Contract feeder” does not include a bona fide employee  
30 of a manufacturer or distributor of commercial feed.

31 (6) “Custom mixed feed” means any [mixture of materials, substances or ingredients described or  
32 set forth under the definition of commercial feed] **combination of materials**, each lot of which is  
33 mixed according to the specific instructions of, or prescribed for the specific use of, the final con-  
34 sumer.

35 (7) “Department” means the State Department of Agriculture.

36 (8) “Distribute” means to offer for sale, sell or barter commercial feed or to supply, furnish or  
37 otherwise provide commercial feed to a contract feeder.

38 (9) “Distributor” means a person who distributes commercial feed.

39 (10) “Drug” means any substance:

40 (a) Intended or represented for the cure, mitigation, treatment or prevention of disease of ani-  
41 mals;

42 (b) Intended to affect the structure of any function of the body of an animal; or

43 (c) So defined by rule of the department.

44 (11) “Feed ingredient” means each of the constituent materials making up a commercial feed.

45 (12) “Final consumer” means a person that feeds animals that are under the control or owner-

1 ship of that person.

2 (13) "Ground" means a condition resulting from crushing, rolling, chopping or grinding.

3 (14) "Label" means a display of written, printed or graphic matter placed on or affixed to the  
4 container in which a commercial feed is distributed, or on the invoice or delivery slip with which  
5 a commercial feed is distributed.

6 (15) "Manufacture" means to grind, chop, crush, roll, cube, flake, extrude, cook, pelletize, mix  
7 or otherwise process feed ingredients.

8 (16) "Mineral feed" means a substance or mixture of substances designed or intended to supply  
9 primarily mineral elements or inorganic nutrients.

10 (17) "Official sample" means any sample of feed taken by the department and designated as  
11 "official" by the department.

12 (18) "Percent" or "percentage" means percentage by weight.

13 (19) "Sell" or "sale" includes exchange.

14 (20) "Wild bird feed" means a commercial feed marketed for noncaptive undomesticated avians.

15 **SECTION 5. Section 6 of this 2017 Act is added to and made a part of ORS chapter 616.**

16 **SECTION 6. The State Department of Agriculture may adopt rules for the purpose of**  
17 **carrying out any department duties, functions and powers authorized under ORS 616.010 (1),**  
18 **including but not limited to ensuring and verifying that food establishments are in a clean,**  
19 **healthful and sanitary condition. The rules may include, but need not be limited to, the**  
20 **adoption by reference, in modified or unmodified form, of any statutes, regulations, guide-**  
21 **lines or other provisions, or any standards, practices or requirements, used in federal law**  
22 **or multistate programs or agreements.**

23