



**OREGON**  
**FARM**  
**BUREAU**

*Locally Grown*  
and  
**GROWING STRONG**

June 22, 2020

**Joint Interim Committee On The First Special Session of 2020  
Oregon's Farms and Ranches Need Liability Protection**

Co-Chair Courtney, Co-Chair Kotek, members of the Committee,

Thank you for the opportunity to provide testimony on an issue of immense importance to our industry—temporary and targeted liability protections for Oregon's family farms and ranches.

In the last three months, Oregon's farms and ranches have been put in an impossible situation—agriculture is critical infrastructure, necessary to keeping Oregon's food supply stable during the pandemic. As the science around COVID-19 has developed, so have best practices and requirements for maintaining a healthy workplace. However, like the pandemic, these standards are still evolving, often in unpredictable, infeasible, and contradictory ways. This has required Oregon's farmers and ranchers to operate in a time of immense uncertainty.

This uncertainty has left Oregon's farmers and ranchers at risk for opportunistic lawsuits. Even if a farmer or rancher is doing their best to follow all state and federal health guidelines and new OR-OSHA rules, an employee or customer can still contract COVID-19 off-site. Farmers and ranchers are very concerned about lawsuits seeking damages from the operation for circumstances outside of their control.

The state's coronavirus reporting protocols also put our sector at risk. Currently, the Oregon Health Authority (OHA) generates a list of "outbreaks" specific to entities with five or more positive coronavirus tests. What the state fails to do is differentiate between those cases that are reported due to pre-screening (before workers enter the operation) or through voluntary employer-provided testing, and those who test positive after the negligent or wrongful actions of an employer. The list that is generated also does not include any follow-up based on contact tracing activities within the county, so there is no way for the public to be made aware of possible instances related to community spread.

This lack of transparency in the testing process has left many agricultural businesses, who have gone above and beyond to work proactively with OHA, OSHA, local health departments, and nonprofit organizations, exposed to immense public scrutiny and liability due to OHA reporting of "outbreaks."

Oregon's farmers and ranchers need to know that if they implement guidance and temporary rules from state and federal public health officials, they will be protected from unfair lawsuits that will drain their cash reserves. COVID-19 related market disruptions have hit farmers and ranchers particularly hard. Prior to COVID-19, producers were already under tremendous pressure—net income on farms is half of what it was five years ago, trade disruptions have forced new and established markets to collapse, and long-time processor, NORPAC, recently closed. Market prices are at record lows across many commodities, and farmers are grappling with significant and recent regulatory costs from OR-OSHA's new rules.

At the same time, farming is seasonal in nature, and no one was prepared to respond to changing market pressures overnight. Immediate impacts from COVID-19 include failure of markets for those who sell directly to restaurants, cancellation of festivals and direct marketing opportunities, closure to international markets to shipments due to the virus, and enormous pressure on the food system to shift processing and distribution from restaurant and food service to retail.

Farms are at a breaking point. One lawsuit or demand letter could devastate a family farm, despite the steps and investment the farm took to protect employee health during this time. If we want Oregon's family farms to survive this pandemic, they should not be at risk of crippling lawsuits.

Our request is narrow. Farmers and ranchers in Oregon need the following language to ensure they are protected from excessive lawsuits during this pandemic:

***“A person or entity acting in good faith shall not be subject to civil damages resulting from acts or omissions that complied with an executive order or regulation or were in accordance with guidance regarding COVID-19, unless the damages result from the person or entity's gross negligence or from the person or entity's reckless, wanton or intentional misconduct. This section applies to all causes of action that accrue during the complete duration of the COVID-19 emergency declaration, EO 20-03 issued March 9, 2020.”***

With this in mind, we urge the Committee to grant temporary and targeted liability protections to protect Oregon's farm and ranch businesses during the COVID-19 crisis.

Thank you for the opportunity to comment,

A handwritten signature in black ink, appearing to be 'JD' followed by a long horizontal stroke.

Jenny Dresler  
Lobbyist  
Oregon Farm Bureau Federation