

Enrolled
House Bill 2451

Sponsored by Representative FINDLEY; Representatives NEARMAN, RESCHKE (Presession filed.)

CHAPTER

AN ACT

Relating to onions; amending ORS 475B.529, 632.211, 632.495, 632.990 and 632.995; and repealing ORS 632.206, 632.216, 632.221, 632.226, 632.231, 632.236, 632.246, 632.251 and 632.260.

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

SECTION 1. ORS 632.206, 632.216, 632.221, 632.226, 632.231, 632.236, 632.246, 632.251 and 632.260 are repealed.

SECTION 2. ORS 475B.529 is amended to read:

475B.529. (1) Notwithstanding the authority granted to the State Department of Agriculture under ORS chapters 571, 618 and 633 and ORS [632.206 to 632.260,] 632.275 to 632.290, 632.450 to 632.490, 632.516 to 632.625, 632.705 to 632.815, 632.835 to 632.850 and 632.900 to 632.985, the department may not exercise authority over marijuana items or a licensee, except that ORS 618.121 to 618.161, 618.991, 618.995, 633.311 to 633.479, 633.992 and 633.994 apply to marijuana items or to a licensee.

(2) In exercising its authority under ORS chapter 616, the department may not:

(a) Establish standards for marijuana as a food additive, as defined in ORS 616.205;

(b) Consider marijuana to be an adulterant, unless the concentration of a cannabinoid in a cannabinoid product, cannabinoid concentrate or cannabinoid extract exceeds acceptable levels established by the Oregon Health Authority by rule; or

(c) Apply ORS 616.256, 616.265, 616.270 or 616.275 to cannabinoid edibles or enforce ORS 616.256, 616.265, 616.270 or 616.275 with respect to cannabinoid edibles.

SECTION 3. ORS 632.211 is amended to read:

632.211. (1) The State Department of Agriculture shall, in accordance with the applicable provisions of ORS 632.900 to 632.935, establish grades and standards for onions which shall conform, in so far as practicable, to the official grades and standards prescribed by the United States Department of Agriculture.

[(2) The grades and standards adopted by the State Department of Agriculture under ORS 632.205, 632.210, 632.215, 632.220, 632.225, 632.230, 632.235, 632.240, 632.245 and 632.250 (1953 Replacement Part) shall continue in force and effect and be applicable until superseded, changed or repealed by standards and grades adopted by the department under subsection (1) of this section.]

[(3)] (2) The department may fix and collect a fee for grading and inspecting of onions in accordance with ORS 632.940.

SECTION 4. ORS 632.495 is amended to read:

632.495. (1) As used in this section:

(a) "Commodity":

(A) Means a distinctive class, type, variety or utilization of a product in a natural or unprocessed state.

(B) Does not mean canned, bottled, frozen, dried, candied or brined products.

(b) "Commodity pack" means a packaged or wrapped unit of horticultural commodity transported inside a shipping container.

(c) "Shipping container" means a closed receptacle used for bulk transport of horticultural commodities or commodity packages.

(d) "United States" means a state, territory or insular possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

(2) A horticultural commodity or commodity pack is exempt from labeling requirements imposed under ORS [632.206 to 632.260,] 632.450 to 632.490, 632.516 to 632.625 or 632.900 to 632.940 or ORS chapter 616 if:

(a) The commodity is being exported from the United States; and

(b) The commodity or commodity pack is transported in a shipping container that bears a label stating the commodity is for export only and bears any other labeling, information or markings the State Department of Agriculture determines by rule to be necessary for avoiding confusion, misrepresentation or deception regarding the commodity.

(3) A horticultural commodity or commodity pack that temporarily leaves the United States while in transit to a destination in the United States does not qualify for a labeling exemption under this section.

(4) If the exportation of a horticultural commodity is canceled, the commodity owner shall:

(a) Ensure that the commodity or commodity pack is relabeled in accordance with any applicable provisions of ORS [632.206 to 632.260,] 632.450 to 632.490, 632.516 to 632.625 or 632.900 to 632.940 or ORS chapter 616; or

(b) Dispose of the commodity or commodity pack in a manner approved by the department.

SECTION 5. ORS 632.990 is amended to read:

632.990. [(1) *Violation of ORS 632.216 or 632.226 is a Class C misdemeanor.*]

[(2)] (1) Violation of any provision of ORS 632.275 to 632.290 or of any rule adopted under ORS 632.275 to 632.290 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense.

[(3)] (2) Violation of any provision of ORS 632.450 to 632.490 or of any rule adopted under ORS 632.450 to 632.490 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense.

[(4)] (3) Violation of ORS 632.625 is a Class C misdemeanor.

[(5)] (4) Violation of any provision of ORS 632.705 to 632.815 is a Class D violation for a first offense, and a Class B violation for a second or subsequent offense.

[(6)] (5) Violation of any provision of ORS 632.900 to 632.985 or of any rule adopted under ORS 632.900 to 632.985 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense.

SECTION 6. ORS 632.995 is amended to read:

632.995. (1) In addition to any penalty available under ORS 561.190 or 632.990, the State Department of Agriculture may impose a civil penalty for a violation of ORS [632.216, 632.226,] 632.275 to 632.290, 632.450 to 632.490, 632.625, 632.705 to 632.815 or 632.900 to 632.985 or of rules adopted under ORS [632.216, 632.226,] 632.275 to 632.290, 632.450 to 632.490, 632.625, 632.705 to 632.815 or 632.900 to 632.985. For the purposes of this section, each day a violation continues after the period of time established for compliance shall be considered a separate violation unless the department finds that a different period of time is more appropriate to describe a specific violation event.

(2) The department may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed \$10,000 for each violation.

(3) When the department imposes a civil penalty under subsection (1) of this section, the department shall impose the penalty in the manner provided by ORS 183.745, except that the written

application for a hearing must be received by the department no later than 10 days after the date of mailing or personal service of the notice of civil penalty.

(4) Moneys received by the department from civil penalties imposed under this section shall be deposited in the General Fund to the credit of the Department of Agriculture Account.

Passed by House March 5, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate April 30, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State