

House Bill 3319

Sponsored by Representatives LEVY B, SCHARF

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**.

Requires State Department of Agriculture to hire as employee of department person that is familiar with parties and markets related to grass seed associations and cooperatives and designate employee to carry out department's active supervision of association's or cooperative's collective bargaining to arrive at minimum price for grass seed.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to state action antitrust immunization for negotiations over grass seed pricing; creating
3 new provisions; amending ORS 646.738; and declaring an emergency.

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

5 **SECTION 1.** ORS 646.738 is amended to read:

6 646.738. (1) As used in this section:

7 (a) "Parties" or "party" means seed producers, seed associations, seed cooperatives or seed
8 dealers that participate in a state regulatory program described in subsection (2) of this section.

9 (b) "Regulatory program" means a state regulatory program described in subsection (2) of this
10 section that [*is actively supervised by the Director of Agriculture*] **the State Department of Agri-**
11 **culture actively supervises** and that authorizes parties to engage in certain collective bargaining
12 and negotiations to establish the **minimum** price of perennial ryegrass seed to be produced and sold
13 to perennial ryegrass seed dealers in the future, annual ryegrass seed to be produced and sold to
14 annual ryegrass seed dealers in the future or tall fescue seed to be produced and sold to tall fescue
15 seed dealers in the future.

16 (2)(a) [*It is the intent of*] **The State of Oregon intends in** this section and ORS 646.535 (2) and
17 646.740 (10) to displace competition with regulatory programs in the perennial ryegrass seed, annual
18 ryegrass seed and tall fescue seed industries to a limited degree. The regulatory programs are in-
19 tended to grant immunity from federal and state antitrust laws to perennial ryegrass seed, annual
20 ryegrass seed and tall fescue seed producers and perennial ryegrass seed, annual ryegrass seed and
21 tall fescue seed dealers for the limited purpose of allowing the producers and the dealers to bargain
22 collectively and to arrive at a negotiated **minimum** price for the sale of seed by the producers to
23 the dealers. [*The*] Activities [*of any party*] that comply with the provisions of this section [*may not*
24 *be considered to be*] **are not** in restraint of trade, a conspiracy or combination or any other unlawful
25 activity in violation of any provision of ORS 646.705 to 646.826 or federal antitrust laws.

26 (b) A seed cooperative or seed association for perennial ryegrass seed, annual ryegrass seed or
27 tall fescue seed may negotiate with one or more dealers, as defined in ORS 646.515, of perennial
28 ryegrass seed, annual ryegrass seed or tall fescue seed to establish the **minimum** price at which
29 members of the cooperative or association will sell perennial ryegrass seed, annual ryegrass seed
30 or tall fescue seed to be produced by [*its*] **the cooperative's or the association's** members or under

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 the control of *[its]* **the cooperative's or the association's** members. The seed dealers may negotiate
 2 the price of the seed through a committee that sets forth the views of the dealers and votes on any
 3 issues being negotiated as authorized by this section, including the price of the seed.

4 (c) **In accordance with paragraph (f) of this subsection**, the *[Director of Agriculture is au-*
 5 *thorized to]* **State Department of Agriculture shall** actively supervise the conduct of perennial
 6 ryegrass seed, annual ryegrass seed and tall fescue seed agricultural cooperatives organized under
 7 ORS chapter 62, representative committees of perennial ryegrass seed, annual ryegrass seed or tall
 8 fescue seed dealers and any perennial ryegrass seed, annual ryegrass seed or tall fescue seed asso-
 9 ciations in establishing the **minimum** price of perennial ryegrass seed, annual ryegrass seed or tall
 10 fescue seed to be produced and sold to seed dealers at a future date. The *[director is authorized to]*
 11 **department shall** supervise the negotiations between the parties, review the prices established by
 12 the negotiations and approve the prices proposed by the parties before the prices take effect. The
 13 *[director]* **department** must approve the proposed prices and any adjustments to previously approved
 14 prices before the prices may be implemented.

15 (d) The *[director]* **department** may compel the parties to take whatever action the *[director]*
 16 **department** considers necessary to:

17 (A) Ensure that the parties are engaging in conduct that is authorized under this section;

18 (B) Ensure that the policies of this state are being fulfilled under the regulatory programs; and

19 (C) Enjoin conduct by any of the parties that is not authorized by the *[director]* **department** or
 20 conduct that the *[director]* **department** finds does not advance the interests of this state in carrying
 21 out the regulatory programs.

22 (e) The *[Director]* **State Department** of Agriculture may adopt rules to carry out the
 23 *[director's]* **department's** authority under this section.

24 (f) The *[director may]* **department shall hire as an employee of the department a person**
 25 **that is familiar with the parties and the market in which the parties operate and shall** des-
 26 ignate *[persons as the director deems necessary]* **the employee** to carry out *[the responsibility of ac-*
 27 *tively supervising the conduct of the parties]* **the department's responsibilities as set forth in this**
 28 **section**, including serving as *[intermediaries]* **an intermediary** between prospective parties. *[Persons*
 29 *designated by the director must be employees of the State Department of Agriculture.]*

30 (g) The *[director]* **department** by rule shall set and collect fees from the parties who are par-
 31 ticipants in regulatory programs. The fees **must be sufficient, when aggregated, to pay the**
 32 **department's costs of the supervision and** *[shall]* **must** be deposited in the Department of Agri-
 33 culture Account established under ORS 561.150.

34 (h) The *[director]* **department** shall supervise the labeling of perennial ryegrass seeds, annual
 35 ryegrass seeds and tall fescue seeds to ensure compliance with ORS 633.520, 633.531 and 633.541.

36 **SECTION 2. (1) The amendments to ORS 646.738 by section 1 of this 2023 Act become**
 37 **operative 91 days after the effective date of this 2023 Act.**

38 **(2) The State Department of Agriculture may adopt rules and may hire an employee to**
 39 **carry out the department's responsibilities under ORS 646.738 before the operative date**
 40 **specified in subsection (1) of this section in order to enable the department, on and after the**
 41 **operative date specified in subsection (1) of this section, to undertake and exercise all of the**
 42 **duties, functions and powers conferred on the department by the amendments to ORS 646.738**
 43 **by section 1 of this 2023 Act.**

44 **SECTION 3. This 2023 Act being necessary for the immediate preservation of the public**
 45 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**

1 **on its passage.**

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