

HB 4059 -1, -4, -7, -8, -9, -10 STAFF MEASURE SUMMARY

House Committee On Agriculture, Land Use, Natural Resources, and Water

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Meeting Dates: 2/13, 2/15

WHAT THE MEASURE DOES:

The measure requires the Oregon Department of Agriculture to conduct a study on issues related to brassica production in the Willamette Valley Protected District and report its findings to an appropriate interim committee of the legislature by September 15, 2025.

Detailed Summary

Requires the Oregon Department of Agriculture to conduct a study on issues related to brassica production in the Willamette Valley Protected District and report its findings to an appropriate interim committee of the legislature by September 15, 2025. Sunsets January 2, 2026.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 The amendment removes the study requirement. The amendment also continues existing canola laws in the Willamette Valley Protected District (WVPD) and eliminates their sunset: It requires a person to receive approval from the Oregon Department of Agriculture (ODA) prior to growing canola in the WVPD. The amendment further permits ODA to authorize a person to grow canola in the WVPD only in a manner compatible with the growing of other crops, and to authorize a maximum of 500 acres of canola production in the WVPD per year. The amendment declares an emergency and becomes effective on July 1, 2024.

I. Definitions

- Defines **Canola** as a plant of the species *Brassica napus* that have high or low erucic acid content and contain economically viable seeds with a high oil content.
- Defines '**Willamette Valley Protected District**' (WVPD) as a rectangular area cornered by one defined location in each Tillamook County and Multnomah County, and two defined locations in Lane County.

II. ODA – authorizations and requirements

- Permits ODA to authorize a person to grow canola in the WVPD only in a manner determined to be compatible with the growing of other crops, and to authorize a **maximum of 500 acres** of canola production in the WVPD per year
- Permits ODA to assess a **civil penalty, not to exceed \$25,000**, against a person who grows canola in the WVPD without a license or in violation of the terms of their license.

III. Canola producers - authorizations and requirements

- **Requires a person** to receive approval from the Oregon Department of Agriculture (ODA) prior to growing Canola in the WVPD.

IV. Operative date

- Applies retroactively to July 1, 2024. Declares emergency, effective July 1, 2024.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

-4 The amendment removes the study requirement and extends the sunset on existing canola laws in the Willamette Valley Protected District to January 2, 2026 (see -1 amendment for description of program). It declares an emergency and becomes effective on passage.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

-7 The amendment removes the study requirement, repeals current canola laws in the Willamette Valley Protected District (WVPD) and creates new provisions for brassica production in the WVPD depending on whether the production occurs before or after March 31st, 2025.

Detailed Summary

Removes the study requirement. Repeals current provisions regulating Canola growth in the Willamette Valley Protected District. Defines '**Willamette Valley Protected District**' (WVPD) as a rectangular area cornered by one defined location in each Tillamook County and Multnomah County, and two defined locations in Lane County. Creates new provisions for brassica production in the WVPD depending on whether the production occurs before or after March 31st, 2025.

Brassica Production through March 31st, 2025

I. Definitions

- Defines **Canola** as a plant of the species *Brassica napus* that have high or low erucic acid content and contain economically viable seeds with a high oil content.

II. ODA – authorizations and requirements

- Permits ODA to authorize a person to grow canola in the WVPD only in a manner determined to be compatible with the growing of other crops, and to authorize a maximum of 2500 acres of canola production in the WVPD per year, of which a maximum of 500 acres can be genetically engineered.
- Permits ODA to assess a civil penalty, not to exceed \$25,000, against a person who grows canola in the WVPD without a license or in violation of the terms of their license.

III. Brassica Seed producers - authorizations and requirements

- Requires a Brassica seed producer to obtain a license from the Oregon Department of Agriculture (ODA) prior to growing Canola in the WVPD

Sunsets March 31st, 2025.

Brassica Production after March 31st, 2025

I. Definitions

- Defines **Brassica seed crop** as a seed crop of *Brassica carinata*, *Brassica juncea*, *Brassica napus*, *Brassica nigra*, *Brassica oleracea*, or *Brassica rapa*.
- Defines **Brassica seed producer** as someone who grows brassica seed crop in the WVPD.
- Defines **Genetically engineered brassica seed crop** based on the designation by the U.S. Department of Agriculture Animal and Plant Health Inspection Service.
- Defines **Isolation Distance** to mean three miles between the edges of fields producing non-genetically engineered brassica seed, and six miles between the edges of brassica seed crop producing fields if one of the fields produces genetically engineered brassica seed crop.

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- Defines **Isolation distance exception agreement** as a written and signed agreement between brassica seed producers to plant brassica seed crops in fields that are closer together than the isolation distance.

II. ODA – authorizations and requirements

- Requires ODA to, via rulemaking, implement measures that limit growth of genetically engineered brassica seed crops in the WVPD to 500 acres per calendar year and permits ODA to prohibit a brassica seed producer from growing a brassica seed crop, or a genetically engineered brassica seed crop to ensure compliance.
- Permits ODA to adopt rules that determine, through a method not based on chance, which brassica seed producer may grow brassica seed crops during the applicable calendar year in cases where an isolation distance exception agreement is required but not reached through good faith efforts between the involved brassica seed producers.
- Prohibits ODA to permit a brassica seed producer to grow brassica seed in cases where an isolation distance exception agreement is required, but no good faith effort was made to reach such agreement.
- Authorizes ODA to require brassica seed producers to identify field locations of brassica seed crops, keep and supply records of brassica seed stock analyses, and demonstrate that brassica seed crops are certified as free of blackleg.
- Authorizes ODA to establish compliance deadlines and contract for services to facilitate compliance, including for developing and maintaining a field identification mapping service or a pinning map.
- Requires ODA to deposit all moneys received through the implementation of the measure to be deposited in the Department of Agriculture Service Fund.
- Authorizes ODA to take any action before the operative date necessary to carry out duties, functions, and powers conferred to the department. Becomes operative April 1st, 2025.

III. Public records disclosure

- Exempts records from public disclosure requirements if they have been submitted to ODA in relation to ODA's implementation of the 500 acre growth limitation of genetically engineered brassica seed crops in the WVPD, in relation to a brassica seed producer's requirement to maintain isolation distances, or in relation to the creation, or failed creation, of a isolation distance exception agreement.
- Authorizes ODA to disclose exempt records in an aggregated manner that protects unique identifying information.

IV. Brassica Seed producers - authorizations and requirements

- Requires a brassica seed producer to register with ODA prior to growing brassica seed in the WVPD, comply with all applicable laws and rules, maintain relevant isolation distances in the WVPD, and keep records demonstrating compliance for the previous three calendar years.
- Specifies that relevant isolation distances between fields must not be kept if both fields are owned or managed by the same producer or, or the producer obtained an isolation distance exception agreement.
- Permits a brassica seed producer to ask ODA to determine, via a chance-based method, which one of the brassica seed producers may grow brassica seed crops in the applicable calendar year in cases where an isolation distance exception agreement is required but not reached through good faith efforts between the involved brassica seed producers.
- Permits a brassica seed producer to ask ODA to memorialize the determination of an isolation distance exception agreement.
- Requires a brassica seed producer to pay all applicable fees related to ODA's involvement in reaching, solving, or memorializing an isolation distance exception agreement.

V. Penalties

- Authorizes ODA to assess a civil penalty of no more than \$25,000 against a person and prohibit the person from growing brassica seed crops in the WVPD for up to three years if the violation was not grossly negligent.

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- Authorizes ODA to assess a civil penalty of no more than \$50,000 against a person and prohibit the person from growing brassica seed crops in the WVPD for up to five years if the violation was grossly negligent.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

-8 The amendment removes the study requirement, repeals current canola laws in the Willamette Valley Protected District (WVPD) and creates new provisions for brassica production in the WVPD depending on whether the production occurs before or after March 31st, 2025.

Detailed Summary

Removes the study requirement. Repeals current provisions regulating Canola growth in the Willamette Valley Protected District. Defines '**Willamette Valley Protected District**' (WVPD) as a rectangular area cornered by one defined location in each Tillamook County and Multnomah County, and two defined locations in Lane County. Creates new provisions for brassica production in the WVPD depending on whether the production occurs before or after March 31st, 2025.

Brassica Production through March 31st, 2025

I. Definitions

- Defines Canola as a plant of the species *Brassica napus* and *Brassica rapa*.

II. ODA – authorizations and requirements

- Permits ODA to authorize a person to grow canola in the WVPD only in a manner that maintains three miles distance between the edges of canola fields.
- Permits ODA to authorize a maximum of 2,500 acres of Canola production in the WVPD.
- Permits ODA to assess a civil penalty, not to exceed \$25,000, against a person who grows canola in the WVPD without a license or in violation of the terms of their license.

III. Brassica seed producers - authorizations and requirements

- Requires a person to obtain a license from the Oregon Department of Agriculture (ODA) prior to growing Canola in the WVPD

Sunsets March 31st, 2025.

Brassica Production after March 31st, 2025

I. Definitions

- Defines **Brassica seed crop** as a seed crop of *Brassica carinata*, *Brassica juncea*, *Brassica napus*, *Brassica nigra*, *Brassica oleracea*, or *Brassica rapa*.
- Defines **Brassica seed producer** as someone who grows brassica seed crop in the WVPD.
- Defines **Isolation distance** to mean three miles between the edges of fields producing brassica seed.
- Defines **Isolation distance exception agreement** as a written and signed risk acceptance agreement between brassica seed producers to plant brassica seed crops in fields that are closer together than the isolation distance.

II. ODA – authorizations and requirements

- Permits ODA to, via rulemaking, establish a system for registering brassica seed crops which may require a brassica seed producer to provide records of the brassica seed crop stock and compliance with relevant requirements.
- Authorizes ODA to establish relevant deadlines and contract for services to facilitate compliance, including for developing and maintaining a field identification mapping service or a pinning map.

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- Prohibits ODA to permit a brassica seed producer to grow brassica seed in cases where an isolation distance exception agreement is required, but no good faith effort was made to reach such agreement.
- Requires ODA to deposit all moneys received through the implementation of the measure to be deposited in the Department of Agriculture Service Fund.
- Authorizes ODA to take any action before the operative date necessary to carry out duties, functions, and powers conferred to the department. Becomes operative April 1st, 2025.

III. Public records disclosure

- Exempts records from public disclosure requirements if they have been submitted to ODA in relation to registering brassica seed crops, a brassica seed producer's requirement to maintain isolation distances, or in relation to the creation, or failed creation, of a isolation distance exception agreement.
- Authorizes ODA to disclose exempt records in an aggregated manner that protects unique identifying information.

IV. Brassica seed producers - authorizations and requirements

- Requires a brassica seed producer to register with ODA prior to growing brassica seed in the WVPD, comply with all applicable laws and rules, maintain relevant isolation distances in the WVPD, and keep records demonstrating compliance on and after the measure's effective date, and, after April 1st, 2028, for the previous three years.
- Specifies that relevant isolation distances between fields must not be kept if both fields are owned or managed by the same producer or, or the brassica seed producer enters an isolation distance exception agreement.
- Prohibits a brassica seed producer from growing brassica seed crop in the WVPD in a manner that does not maintain an isolation distance unless the brassica seed producer has entered into an isolation distance exception agreement.
- Permits a brassica seed producer to ask ODA to determine, via a chance-based method, which one of the brassica seed producers may grow brassica seed crops in the applicable calendar year in cases where an isolation distance exception agreement is required but not reached through good faith efforts between the involved brassica seed producers.
- Requires a brassica seed producer to pay all applicable fees related to ODA's determination regarding the isolation distance exception agreement.

V. Penalties

- Authorizes ODA to assess a civil penalty of no more than \$25,000 against a person and prohibit the person from growing brassica seed crops in the WVPD for up to three years if the violation was not grossly negligent.
- Authorizes ODA to assess a civil penalty of no more than \$50,000 against a person and prohibit the person from growing brassica seed crops in the WVPD for up to five years if the violation was grossly negligent.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

-9 HB 4059 -9 SMS draft

The -9 amendment removes the study requirement. It **modifies the definition of Canola** in relation to canola laws in the Willamette Valley Protected District (WVPD), changes the licensing requirement to grow canola in the WVPD to a **permitting** requirement, and changes '**industry-recommended isolation distance**' to '**customary isolation distances in the WVPD**'. The amendment also **extends the sunset** on the modified canola laws in the Willamette Valley Protected District to **January 2, 2028**.

It declares an emergency and becomes effective on passage.

Detailed Summary

This Summary has not been adopted or officially endorsed by action of the committee.

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- **Modifies the definition of Canola** in relation to canola laws in the Willamette Valley Protected District (WVPD) to refer to plants of the species *Brassica napus* and *Brassica rapa*.
- Changes the licensing requirement to grow canola in the WVPD to a **permitting requirement**.
- Changes the requirement to, in the WVPD, to maintain **industry-recommended** isolation distances between canola and other crops to a requirement to maintain **customary isolation distances in the WVPD** between canola and other crops.
- **Extends the sunset** on the modified canola laws in the WVPD **to January 2, 2028**.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

-10 The amendment mirrors the -7 amendment without requiring ODA to cap the production of genetically engineered brassica seed crop in the WVPD to 500 acres per year after March 31, 2025.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

BACKGROUND:

Brassica is a genus of plants in the cabbage and mustard family and, among others, includes agricultural crops like broccoli, cabbage, turnips, and canola. In 2013, the Legislative Assembly passed House Bill 2427 directing the College of Agricultural Sciences at Oregon State University to study canola and report the results to an interim committee of the Legislative Assembly by November 1, 2017. The measure also prohibited the growing of canola in the Willamette Valley with an exception for the 500 acres necessary to conduct the study. In 2015, House Bill 3382 amended that law allowing the Oregon Department of Agriculture (ODA) to authorize up to 500 acres for the commercial production of canola in the Willamette Valley Protected District (District) with certain restrictions and required ODA to develop coexistence recommendations for a 2018 legislative report. The measure also extended the sunset prohibiting the growing of canola in the District to January 2, 2020. In 2019, Senate Bill 885 extended the 500-acre authorization to June 30, 2023.