

**HB 4059 A -A14, -A16, -A17, -A18, -A19, -A21 STAFF MEASURE
SUMMARY**

Senate Committee On Natural Resources and Wildfire

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Meeting Dates: 2/27, 2/29

WHAT THE MEASURE DOES:

The measure modifies the definition of canola, changes the licensing requirement to grow canola in the Willamette Valley Protected District (WVPD) to a permitting requirement, and changes "industry-recommended isolation distance" to "customary isolation distances in the WVPD." The measure extends the sunset on the modified canola laws for the WVPD from July 1, 2024 to January 2, 2028, and declares an emergency, effective on passage.

FISCAL: Has minimal fiscal impact

REVENUE: No revenue impact

HOUSE VOTE: Ayes, 32; Nays, 25

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-A14 The amendment creates new provisions for brassica production in the WVPD that depend on whether the production occurs before or after March 31, 2025.

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

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

Detailed Summary:

Repeals current provisions regulating canola in the WVPD. Defines the WVPD as a rectangular area cornered by one defined location in each of Tillamook and Multnomah Counties, and two defined locations in Lane County. Creates new provisions for brassica production in the WVPD that depend on whether the production occurs before or after March 31, 2025. Declares an emergency, effective on passage.

Brassica Production through March 31, 2025 (Sections 1 - 3)

I. Definitions

- Defines "canola" as plants of the species *Brassica napus* and *Brassica rapa*.

II. ODA - authorizations and requirements

- Permits the Oregon Department of Agriculture (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 ODA prior to growing canola in the WVPD.

Sunsets March 31, 2025.

Brassica Production after March 31, 2025 (Sections 4 - 12)

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" as a variety of brassica seed crop designated for regulation by the U.S. Animal and Plant Health Inspection Service under 7 C.F.R. part 340.
- Defines "isolation distance" to mean three miles between the edges of fields producing brassica seed crops that are not genetically engineered, and four miles between genetically engineered brassica seed crops and non-genetically engineered brassica seed crops.
- 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, via rulemaking, to 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.
- Prohibits ODA from permitting a brassica seed producer to grow brassica seed crops 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 in the Department of Agriculture Service Fund.
- Authorizes ODA to take any action before the April 1, 2025 operative date necessary to carry out duties, functions, and powers conferred to the department.

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 an 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 a brassica seed crop 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 1, 2028, for the previous three years.
- Specifies that isolation distances between fields need not be maintained if both fields are owned or managed by the same producer, or the brassica seed producer enters an isolation distance exception agreement.
- Permits a brassica seed producer to ask ODA to determine, via a neutral 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.

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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.

-A16 The amendment changes the sunset on the modified canola laws for the WVPD from January 2, 2028 to January 2, 2026.

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

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

-A17 The -A17 amendment is identical to the -A14 amendment except that it creates new provisions for brassica production in the WVPD that depend on whether the production occurs before or after January 31, 2025, rather than March 31, 2025.

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

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

-A18 The amendment restores the definition of "canola" that references its oil and erucic acid content, rather than as plants of the species *Brassica napus* and *Brassica rapa*. It permits ODA to authorize a maximum of 2,500 acres rather than 500 acres of canola production in the WVPD, and it changes the sunset on the modified canola laws for the WVPD from January 2, 2028 to January 2, 2026.

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

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

-A19 The amendment continues existing canola laws in the WVPD, including restoring the definition of "canola" that references its oil and erucic acid content rather than as plants of the species *Brassica napus* and *Brassica rapa*, licenses rather than permits, and "industry-recommended isolation distance" rather than "customary isolation distances in the WVPD." It retains permitting ODA to authorize a maximum of 500 acres of canola production in the WVPD per year and retains the civil penalty provisions. The amendment changes the sunset on the modified canola laws for the WVPD from January 2, 2028 to January 2, 2026.

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

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

-A21 The amendment continues existing canola laws in the WVPD, including restoring the definition of "canola" that references its oil and erucic acid content rather than as plants of the species *Brassica napus* and *Brassica rapa*, licenses rather than permits, and "industry-recommended isolation distance" rather than "customary isolation distances in the WVPD." It retains permitting ODA to authorize a maximum of 500 acres of canola production in the WVPD per year, retains the civil penalty provisions, and retains the January 2, 2028 sunset date.

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 and allowed the Oregon Department of Agriculture (ODA) to authorize up to 500 acres for the commercial production of canola in the Willamette Valley Protected District (WVPD) 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 WVPD to January 2, 2020. In 2019, Senate Bill 885 extended the 500-acre authorization to June 30, 2023, and in 2023, Senate Bill 789 extended the 500-acre authorization to July 1, 2024.

PRELIMINARY