

**HB 4059 A STAFF MEASURE SUMMARY**

**Carrier:** Rep. Scharf

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

**Minority Report**

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**Action Date:** 02/15/24

**Action:** Do pass with different amendments to the bill. (Printed A-Eng.) Minority

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Report Signers:** Rep. Scharf, Rep. Owens

**Prepared By:** Anna Glueder, LPRO Analyst

**Meeting Dates:** 2/13, 2/15

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**WHAT THE MEASURE DOES:**

The measure creates new provisions for brassica production in the Willamette Valley Protected District (WVPD) depending on whether the production occurs before or after March 31st, 2025.

Detailed Summary

Repeals current provisions regulating canola growth 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 depending on whether the production occurs before or after March 31st, 2025. Declares an emergency, effective on passage.

**Brassica Production through March 31st, 2025**

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 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 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

## HB 4059 A STAFF MEASURE SUMMARY

- 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.
- 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.
- 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.

### **ISSUES DISCUSSED:**

- Results of the canola study by Oregon State University ("Canola Final Report," 2017)
- Intention and outcome of the workgroup initiated through Senate Bill 789 (2023)
- Definition of "isolation distance" in the amendment
- Isolation distances adopted in other states
- Loss of farmland in Oregon since 2017
- Next steps and intention to introduce future legislation
- Role of canola in agricultural industry in the WVPD
- Role of genetically engineered (GE) crops in the context of the measure
- Proposed acreage caps on GE brassica crops
- Reasoning for choosing the 500-acre limit on canola in the "Canola Final Report" (2017)
- Procedural timelines and deadlines for the 2024 legislative session

## **HB 4059 A STAFF MEASURE SUMMARY**

### **EFFECT OF AMENDMENT:**

Replaces the measure.

### **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.