From the Desk of Rep. Breese Iverson Rep Breese Iverson

FAQ for HB 4153 – The Farm Store Bill

1. **Why do we need a "Farm Store" permit if we already have "Farm Stand" permits?**

The primary reason we need a "Farm Store" permit is that Oregon's current farm stand laws were written for a different era. They were designed for an era when traditional farming was the overwhelming norm, and farmers could make a living working the farm without need for supplemental income. The occasional farm stand was a seasonal stand that primarily sold raw produce and hosted the occasional event. But farm economics have drastically changed. Our current law is not designed for the vibrant, year-round community hubs that many modern farm stands have become, and that the public loves.

2. **Is having dual permit options too confusing or harmful?**

No — it's a common-sense solution that replaces a "one-size-fits-all" model with choice. It ensures that no farmer is forced into regulations that don't fit their specific business. The system is straightforward:

- Farm Stand Permit: For farmers with smaller production who want to sell homemade goods or host the occasional class to supplement their income.
- Farm Store Permit: For farmers ready to "level up" with a store and regular events, provided they meet the eligibility requirements.

3. **Does the farm store permit affect existing farm stand permits or take away any rights?**

No. HB 4153 does not shut down existing farm stands or remove any existing rights. One of the most important features of the amended bill is that it preserves existing rights, allows new small farms the option of choosing a farm stand permit under existing law, and adds a new opportunity for more modern farm businesses.

4. **Does the farm store permit open up farmland to unchecked commercial development?**

No. HB 4153 includes several important safeguards to ensure farmland and neighboring farms are protected:

- **Size Limits:** For the first time, it sets a 10,000-square-foot cap on farm store buildings. This is consistent with the size of commercial buildings already allowed on farmland (see ORS 215.255 small-scale processing facilities). Current law has no cap on the size of farm stand buildings.

- **No "Paper Farms":** The bill outlines a minimum number of acres that must be used for farming based on the size of the property. This means that on land zoned for "exclusive farm use" you can't just have a store; you must have a working farm. Current law has no production requirement for farm stands.
- **No Hospitality Creep:** It strictly bans the farm store from operating as a house, hotel, cafe, or fast-food drive-thru restaurant.
- **Retail Restrictions:** Only 25% of the store's indoor floor space can be used for retail items and merchandise (like aprons or mugs). No retail item sales may occur outside, preventing farm stores from inadvertently becoming outdoor farmer's markets.
- **Impact Control:** Counties have the power to regulate noise, traffic, store hours, sanitation, and public health and safety to protect the public and neighboring farms.

This approach provides a meaningful path for opportunity, while closing any loopholes that would otherwise allow standalone event venues or lodging to take over protected farmland.

5. Is HB 4153 intended to be a loophole to allow private commercial event venues on farmland?

No. The bill uses a very narrow definition for "agritourism" that prevents farm stores from being used for private commercial event venues. Under this bill, an agritourism activity must meet three strict requirements:

1. It has to be run by the farm itself, not a third-party company.
2. It must promote the farm operation.
3. Its main goal must be to get people to visit the farm store and buy farm store products.

The bill lists specific examples of what this looks like, such as farm tours, pickling or milking classes, corn mazes, hayrides, and seasonal pumpkin patches or Christmas tree events. It also covers things like play structures for kids and farm-to-table meals. With this definition, a private event this is removed from the sale of farm store products will not be allowed.

6. Is a 10,000 sq foot operating space appropriate for the EFU zone?

Yes. It is important to remember that this bill applies to EFU zoned property – which is a commercial business zone. This bill does not apply to rural-residential areas, which are designed for pastoral living and preserving scenic values. This is a zone designed for farm-businesses and commercial buildings.

The 10,000-square-foot cap wasn't picked out of a hat; it's the exact same building size the Legislature has already approved for small-scale processing facilities on

farmland. See ORS 215.255. The state has determined that this size of commercial enterprise can exist in the farm zone without interfering with neighbors or creating an adverse impact on the land. By using this specific limit, HB 4153 simply takes a standard that the Legislature already trusts and applies it to farm stores so farmers can connect with their customers.

7. Are the minimum acreage requirements in the bill sufficient to protect farmland?

Yes. The bill uses the same model to protect farmland as the winery, cidery, and brewery permits. A farmer must have a certain amount of land in production before they are eligible for a permit that allows them to host agritourism events or sell retail items. For example, wineries or cideries with low volume sales must have 15 acres of vineyard or orchard, while wineries or cideries with larger volume sales must have 40 acres of vineyard or orchard. Farm breweries must have only 15 acres of hops to be eligible. Under HB 4153, an 80-acre farm must have at least 45-acres in farm use to be eligible for a farm store permit.

8. If only a portion of land has to be in production, how does the bill prevent the rest of the land from going fallow or being used for non-farm uses?

Oregon's land-use and property-tax rules already prevent that. In exchange for keeping land in Exclusive Farm Use (EFU) zoning actually farmed, the state gives farmers a "special assessment," which means they pay much lower property taxes in exchange for keeping their land in farm use. However, to obtain or keep that tax break, the land must actually be used for farming. The moment any acre becomes a commercial use (an event space, tasting room, banquet hall, or play structure) the owner loses that tax break, the tax assessed value jumps to full commercial taxes, and the owner often owes back taxes. That financial penalty keeps farms from converting areas to non-farm uses and has successfully done so since 1961.

9. The bill says that a County may regulate based on siting standards, but they "may not apply siting standards in a manner that prohibits the siting and operation of a farm store" – what does this mean?

Regulating based on siting standards is not new. For example, siting standards are how counties regulate impacts from wineries, cideries, breweries, and on-farm processing facilities. Siting standards are local rules that determine where and how a particular use or building can be located, and they are fully enforceable when adopted through a county's land-use or zoning code.

Siting standards are legally binding once adopted. Counties can:

- Approve, condition, or deny a proposed use based on whether it meets those standards.
- Require compliance through inspections, permits, and enforcement actions, including fines and liens.

- Defend their standards in appeals before the Land Use Board of Appeals (LUBA) or the courts.

The language in Section 7(b) is similar to the language that exists in ORS 215.255 – the statute that permits farm product processing facilities on farmland. It simply means that if the Legislature determines that farm stores should be allowed to go on farmland, a county cannot circumvent the will of the Legislature by directly or indirectly banning them through their local siting standards. Section 7(b) uses the same long-standing approach to ensure that if the Legislature decides farm stores are allowed on farmland, counties cannot override that decision through local siting rules. The language has worked for 29 years without challenge, and counties involved in drafting this bill support it.

10. Does HB 4153 provide any new opportunity for small farms?

Yes. For farms under 20 acres, they must as at least 10 acres in production. However, for small farms that cannot meet the 10-acre production minimum, the bill offers a pathway to obtain a Farm Store permit based on sales rather than just footprint. These small farms can qualify for a farm store permit by demonstrating that they farm operation has earned at least $10,000 in gross farm income *cumulatively* over the preceding two years. Meaning a farmer would only have to earn $5,000 a year to be eligible for a farm store permit. This ensures that a productive small farm can still access the same "level-up" opportunities as a larger farm.