

Submitter: Dane Kapande

On Behalf Of:

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

Measure, Appointment or Topic: HB4153

TO: Chair and Members of the Committee

RE: Testimony on HB 4153 – Opposed unless amended to close the "Developer Loophole"

?Position:

HB 4153 attempts to protect farmland but creates a dangerous economic loop. By prioritizing "acreage" over "proven agricultural income," this bill creates a roadmap for wealthy developers to gentrify Oregon's farmland, driving prices up and pricing actual farmers out of existence.

?1. The "Real Estate Trap": How this Bill Incentivizes "Fake Farms"

This bill inadvertently creates a loophole that will drive up land prices and kill the next generation of family farms.

?The Loophole: A wealthy investor buys 80+ acres. They pay a contractor to cut hay on 45 acres once a year (satisfying the "production" requirement). This minimal effort unlocks the "Farm Store" permit.

?The Consequence: Because they have unlocked a commercial retail permit, they can build a high-traffic store selling imported goods, gifts, and events. The land is no longer valued as a farm; it is valued as a commercial retail site.

?The Death Spiral: Land prices will rise to reflect this "retail potential." A young farmer trying to buy land to actually grow food cannot compete with developer prices. The crops we grow will never increase in value enough to pay for land priced as a shopping destination. You are creating a class of "Landowner-Retailers" while making it mathematically impossible for "Producer-Farmers" to buy land.

?2. The "Efficiency Penalty" (Punishing the Real Farmers)

While the bill rewards the passive 80-acre hay owner, it punishes the high-efficiency farmers who create jobs.

?The Job Creator: A 5-acre intensive market garden on a 100-acre tract can employ 5+ people full-time.

?The Humane Farmer: A commercial poultry flock of 3,000 birds (a state-licensed business) requires only 7.5 acres.

?The Ban: Under HB 4153, both of these hardworking operations are banned from having a store because they don't meet the "45 acres" threshold.

?The Absurdity: The state is saying that 45 acres of silent hay (employing zero people) is more "legitimate" than a thriving business employing 5 local families.

?3. The "Beginning Farmer" Barrier

For small parcels, requiring \$10k–\$40k in past sales before allowing a stand creates a "Chicken and Egg" paradox. We cannot get the sales without the stand. This legislates the startup phase out of existence.

?THE SOLUTION: Fix the Incentive Structure

?To stop the land speculation and save the real farmers, you must shift the metric from "How much land do you own?" to "What are you actually selling?"

?Amendment 1: The "Active Producer" Income Requirement (The Anti-Loophole Clause)

To stop the land speculation and "Gift Shop Farms."

?Proposed Text: "A farm operation on EFU land shall be exempt from all acreage-in-production minimums if the operator demonstrates that at least 60% of the store's gross income is derived from farm products produced on that specific farm tract."

?Why this saves the land:

?Stops the Developer: The wealthy investor cutting hay cannot pass this test. They cannot generate 60% of their retail revenue from hay. This removes the incentive to buy farmland just for the retail permit, keeping land prices stable for real farmers.

?Saves the Farmer: The 5-acre market garden can pass this test easily. This ensures permits go to people actually selling food, not people speculating on real estate.

?Amendment 2: "Beginning Farmer" Provisional Status

To fix the Startup Barrier.

?Proposed Text: "New farm operations may be granted a 5-year Provisional Permit. During this period, sales history requirements are waived. The permit becomes permanent only if the farm meets the income or production metrics by Year 5."

?Justification: The USDA Farm Service Agency (FSA) defines a "Beginning Farmer" as someone with 10 years or less of experience. A 5-year window aligns with federal reality and allows time for a farm to stabilize.