

House Bill 2675

Sponsored by Representative BUCKLEY (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires certain merchants to provide State Department of Agriculture with copies of royalty agreements signed by purchasers of propagants of proprietary genetically engineered crops. Requires purchaser that has signed royalty agreement to provide information regarding disposition of purchased propagants to department upon request.

Authorizes department to designate crop production areas for species of proprietary genetically engineered crops. Prohibits production of proprietary genetically engineered crop in violation of crop production area designation or other restrictions by department. Declares areas outside designated crop production areas of proprietary genetically engineered crop to be control areas for crop.

Allows department to establish reserve areas where all production of proprietary genetically engineered crops is prohibited.

Requires department to place crop production area, production limitation and reserve area information on website.

Makes failure to provide required information or violation of department order regarding crop production area, production limitation or reserve area subject to civil penalty, not to exceed \$10,000.

A BILL FOR AN ACT

1
2 Relating to proprietary genetically engineered crops; creating new provisions; and amending ORS
3 570.995.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 3 of this 2015 Act:**

6 **(1) "Agricultural, horticultural or forest crop" means plants produced from:**

7 **(a) Agricultural seed, flower seed or vegetable seed, as those terms are defined in ORS**
8 **633.511;**

9 **(b) Nursery stock, as defined in ORS 571.005, or propagants of nursery stock; or**

10 **(c) Forest tree seedlings.**

11 **(2) "Genetically engineered" means:**

12 **(a) Altered at the molecular or cellular level by means that are not possible under na-**
13 **tural conditions or processes, except means consisting exclusively of breeding, conjugation,**
14 **fermentation, hybridization, in vitro fertilization, tissue culture or mutagenesis; or**

15 **(b) Produced through the reproduction of a seed or plant that has been altered as de-**
16 **scribed in paragraph (a) of this subsection.**

17 **(3) "Proprietary" means available for lawful use only under a royalty agreement.**

18 **(4) "Royalty agreement" means a document recognizing the patent, trademark or other**
19 **lawfully established right of a manufacturer to receive payment for the use of manufactured**
20 **plant seed or stock or of the products or propagation of that manufactured plant seed or**
21 **stock.**

22 **(5) "Subject crop" means a species of proprietary genetically engineered agricultural,**
23 **horticultural or forest crop that is the subject of a State Department of Agriculture order**
24 **designating a control area for that species.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **SECTION 2.** (1) A retailer or wholesaler shall provide the State Department of Agriculture with copies of any royalty agreements signed by purchasers for the use of proprietary genetically engineered agricultural seed, flower seed or vegetable seed. As used in this subsection, “agricultural seed,” “flower seed,” “retailer,” “vegetable seed” and “wholesaler” have the meanings given those terms in ORS 633.511.

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6 (2) A dealer or person shall provide the department with copies of any royalty agreements signed by purchasers for the use of proprietary genetically engineered nursery stock or propagants of nursery stock. As used in this subsection, “dealer,” “nursery stock” and “person” have the meanings given those terms in ORS 571.005.

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10 (3) A seller of forest tree seedlings shall provide the department with copies of any royalty agreements signed by purchasers for the use of proprietary genetically engineered forest tree seedlings.

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13 (4) The department shall adopt rules establishing forms and reporting periods for providing information to the department under this section.

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15 **SECTION 3.** (1) Upon request of the State Department of Agriculture, a purchaser that has signed a royalty agreement described in section 2 of this 2015 Act shall provide the department with information regarding the purchaser’s use of the proprietary genetically engineered agricultural seed, flower seed, vegetable seed, nursery stock, propagants of nursery stock or forest tree seedlings, including but not limited to planting locations and times. The department may use the information provided, and may conduct field monitoring and research and use other sources of information, for the purpose of carrying out this section.

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22 (2) The department shall designate crop production areas within which one or more species of proprietary genetically engineered agricultural, horticultural or forest crops may be produced. Any person may petition the department to designate an area for the production of one or more species of proprietary genetically engineered agricultural, horticultural or forest crops. The department may modify or eliminate a designated crop production area. The department may limit the growing season for a subject crop or take other actions to limit the presence of a subject crop within a designated crop production area.

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28 (3)(a) A person may not produce a subject crop outside of a production area designated for the subject crop.

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31 (b) A person may not produce a subject crop in violation of any limitation on its growing season or other department action limiting the presence of the subject crop.

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33 (c) Any area that is outside the designated crop production areas for a subject crop is a control area for the subject crop. A control area described in this subsection is enforceable in the same manner as a control area established by a department order under ORS 570.405.

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36 (4) The department may identify and establish reserve areas within this state where no production of proprietary genetically engineered agricultural, horticultural or forest crops is allowed. Any reserve area established by the department under this subsection is a control area for all proprietary genetically engineered agricultural, horticultural or forest crops. A control area described in this subsection may be enforced in the same manner as a control area established by a department order under ORS 570.405.

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41 (5) The department shall design crop production areas, growing season limits, other actions and reserve areas to maintain appropriate distance and temporal isolation between a subject crop and those crops that are not genetically engineered or are nonproprietary or incompatible genetically engineered crops.

1 **(6) The department shall issue an order when designating or refusing designation of a**
 2 **crop production area, modifying or eliminating a crop production area, imposing growing**
 3 **season limits or taking other actions to limit the presence of a subject crop within a crop**
 4 **production area, or establishing a reserve area. An order described in this subsection is an**
 5 **order other than a contested case and is subject to review as provided in ORS 183.484.**

6 **(7) The department shall place information on a website regarding the designation of crop**
 7 **production areas, the limitations on growing seasons or other actions limiting the presence**
 8 **of a subject crop within a production area, and the establishment of reserve areas. The de-**
 9 **partment shall make the information readily accessible by the public without charge.**

10 **SECTION 4.** ORS 570.995 is amended to read:

11 570.995. (1) In addition to any applicable fine under ORS 570.990 or other penalty, a person is
 12 subject to imposition by the State Department of Agriculture of a civil penalty, not to exceed
 13 \$10,000, if the person:

14 (a) Violates a quarantine order issued under ORS 570.115;

15 (b) Violates ORS 570.410; [*or*]

16 **(c) Violates section 2 or 3 of this 2015 Act or an order issued under section 3 of this 2015**
 17 **Act; or**

18 [*c*] **(d) Fails to timely pay a fee required under ORS 570.710.**

19 (2) Each violation of a quarantine order issued under ORS 570.115, violation of ORS 570.410 **or**
 20 **section 2 or 3 of this 2015 Act, violation of an order issued under section 3 of this 2015 Act**
 21 or failure to timely pay a fee required under ORS 570.710 is a separate offense subject to a separate
 22 civil penalty.

23 (3) The department shall develop one or more schedules setting the amounts of civil penalties
 24 that may be imposed for particular types of violations.

25 (4) The imposition of a civil penalty under this section is subject to ORS 183.745.

26 (5) The State Treasurer shall deposit all moneys from penalties recovered under this section into
 27 the Department of Agriculture Account.

28 (6) Moneys from civil penalties recovered under this section for violation of a quarantine order
 29 issued under ORS 570.115 are continuously appropriated to the department for the administration
 30 and enforcement of quarantine laws under ORS 570.110 to 570.190.

31 (7) Moneys from civil penalties recovered under this section for a violation of ORS 570.410 **or**
 32 **section 2 or 3 of this 2015 Act or violation of an order issued under section 3 of this 2015 Act**
 33 are continuously appropriated to the department for the administration and enforcement of control
 34 area programs.

35 (8) Moneys from civil penalties recovered under this section for failure to timely pay a fee under
 36 ORS 570.710 are continuously appropriated to the department for the administration of the timber
 37 products health program described under ORS 570.705 and 570.710.

38 **SECTION 5.** **The duty to report information under section 2 of this 2015 Act applies to**
 39 **royalty agreements signed on or after the effective date of applicable report form and re-**
 40 **porting period rules adopted under section 2 of this 2015 Act. The State Department of Ag-**
 41 **riculture shall complete the adoption of initial rules for reporting information under section**
 42 **2 of this 2015 Act no later than one year after the effective date of this 2015 Act.**

43 **SECTION 6.** **Section 5 of this 2015 Act is repealed January 2, 2017.**