

House Bill 2674

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 State Department of Agriculture to establish control areas for growing commodities that are genetically engineered agricultural or horticultural plant products. Makes genetically engineered commodity grown outside authorized control area subject to eradication.

Requires department to establish program for regulating growing of genetically engineered commodities not approved for unregulated use.

Requires department to establish program to provide financial assistance to persons claiming damages from improper growing of genetically engineered commodities. Establishes fund and appropriates fund moneys to department for payment of financial assistance. Imposes fee on purchaser of proprietary genetically engineered commodity propagants and directs fee moneys to fund.

Requires department to report to interim committee of Legislative Assembly regarding implementation and administration of control area, genetically engineered crop regulation and financial assistance programs.

Declares emergency, effective July 1, 2015.

A BILL FOR AN ACT

Relating to genetically engineered commodities; and declaring an emergency.

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

SECTION 1. Sections 2 to 8 of this 2015 Act are added to and made a part of ORS 561.510 to 561.590.

SECTION 2. As used in sections 2 to 8 of this 2015 Act:

(1) "Commodity":

(a) Means a distinctive type of commercially grown agricultural or horticultural plant product in a natural or unprocessed state.

(b) Does not mean timber or timber products.

(2) "Genetically engineered" means genetically modified using a recombinant DNA process.

(3) "Recombinant DNA process" means a process in which segments of deoxyribonucleic acid from different organisms are joined together to create recombinant DNA molecules that have the capacity to replicate in some host cell, either autonomously or as an integrated part of the host genome.

SECTION 3. (1) The State Department of Agriculture shall establish control areas within this state for genetically engineered commodities and impose any conditions within the control area that the department deems necessary to prevent conflicts between the production of a specific genetically engineered commodity and the growing of other commodities, including but not limited to the registration of genetically engineered commodity production, the tracking of spreading or migration of genetically engineered commodities and the establishment of minimum separation distances or isolation areas.

(2) The department shall specify the boundaries of each control area and specify the character and kinds of genetically engineered commodities that are allowed within the con-

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 trol area.

2 (3) Except as provided in this subsection, any genetically engineered commodity grown
 3 outside of a control area established by the department for the growing of that commodity
 4 is an infestation subject to eradication. This subsection does not apply to a genetically engi-
 5 neered commodity crop that is already planted or growing at the time that the department
 6 first establishes control areas for the commodity.

7 **SECTION 4.** Section 3 of this 2015 Act does not apply to the growing of canola grown in
 8 the Willamette Valley Protected District under authority of the College of Agricultural Sci-
 9 ences of Oregon State University as described in sections 1 to 5, chapter 724, Oregon Laws
 10 2013.

11 **SECTION 5.** The State Department of Agriculture shall establish a program for the reg-
 12 ulation of genetically engineered commodities that have not been approved by the United
 13 States Department of Agriculture for unregulated use. The State Department of Agriculture
 14 shall impose any conditions on the growing of commodities described in this section that the
 15 department deems necessary to prevent the release of the genetically engineered commodity
 16 into the environment. Prior to imposing conditions on a commodity under this section, the
 17 department shall solicit comments from the public and from the New Crops Development
 18 Board. This section does not apply to biopharmaceutical crops described in ORS 561.738 and
 19 561.740.

20 **SECTION 6.** The Genetically Engineered Commodity Fund is established in the State
 21 Treasury, separate and distinct from the General Fund. Interest earned by the Genetically
 22 Engineered Commodity Fund shall be credited to the fund. Moneys in the fund are contin-
 23 uously appropriated to the State Department of Agriculture for the payment of financial
 24 assistance under section 8 of this 2015 Act approved by the department.

25 **SECTION 7.** (1) As used in this section:

26 (a) "Proprietary" means available for lawful use only under a royalty agreement.

27 (b) "Royalty agreement" means a document recognizing the patent, trademark or other
 28 lawfully established right of a manufacturer to receive payment for the use of manufactured
 29 plant seed or stock or of the products or propagation of that manufactured plant seed or
 30 stock.

31 (2) In addition to any other tax, fee or charge, the State Department of Agriculture may
 32 assess to a purchaser signing a royalty agreement:

33 (a) A fee, not to exceed \$____ per pound, on seed described in a royalty agreement sold
 34 for the growing of genetically engineered agricultural and horticultural commodities.

35 (b) A fee, not to exceed \$____ each, on propagants described in a royalty agreement, sold
 36 as plant stock for genetically engineered agricultural and horticultural commodities, includ-
 37 ing but not limited to bulbs, cuttings, pits, plants tubers and vines.

38 (3) A retailer or wholesaler shall provide the department with copies of any royalty
 39 agreements signed by purchasers for the use of proprietary genetically engineered
 40 propagants for agricultural or horticultural commodities. The retailer or wholesaler selling
 41 to a purchaser signing a royalty agreement shall collect the applicable fee described in sub-
 42 section (2) of this section from the purchaser and, after deducting any collection costs au-
 43 thorized by the department, forward the collected fee moneys to the department.

44 (4) Moneys received by the department from fees imposed under this section shall be
 45 deposited in the State Treasury to the credit of the Genetically Engineered Commodity Fund.

1 **SECTION 8.** (1) The State Department of Agriculture shall establish a program to provide
2 financial assistance to commodity growers that suffer damages due to contamination of land
3 or commodities that results from the growing of a genetically engineered commodity outside
4 of a control area established for that commodity under section 3 of this 2015 Act. The pro-
5 gram shall include, but need not be limited to, procedures for assessing the source, nature
6 and extent of contamination, procedures for filing claims for financial assistance and any
7 conditions on the receipt of financial assistance that the department considers reasonable
8 to ensure that the contamination is remedied or minimized.

9 (2) If the department pays financial assistance to a person under this section, the de-
10 partment shall have a lien for the amount of the financial assistance against any payment
11 the person receives under a court order, arbitration award or settlement agreement for the
12 same contamination.

13 (3) Financial assistance that the department pays under this section shall be paid from
14 the Genetically Engineered Commodity Fund.

15 **SECTION 9.** The State Department of Agriculture shall begin establishing control areas
16 under section 3 of this 2015 Act no later than January 1, 2016.

17 **SECTION 10.** Section 7 of this 2015 Act applies to sales made on or after January 1, 2016.

18 **SECTION 11.** The State Department of Agriculture shall make financial assistance under
19 section 8 of this 2015 Act available to pay claims for damages incurred on or after January
20 1, 2017.

21 **SECTION 12.** The State Department of Agriculture shall report on the implementation
22 and administration of sections 2 to 8 of this 2015 Act to an interim committee of the Legis-
23 lative Assembly dealing with agriculture. The department shall make a first report no later
24 than September 15, 2016. The department shall make a second report no later than Septem-
25 ber 15, 2017. The department shall make a final report no later than September 15, 2018.

26 **SECTION 13.** This 2015 Act being necessary for the immediate preservation of the public
27 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
28 July 1, 2015.