

House Bill 2291

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Department of Agriculture, Office of Regulatory Streamlining of Department of Consumer and Business Services)

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**.

Decreases minimum license fee for nursery stock dealers, growers and producers. Changes commencement and ending dates for licensing period. Allows State Department of Agriculture to exempt low-volume licensees from experimental research assessment and from license surcharge. Resolves ambiguity regarding sales location licensing.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to plant nurseries; creating new provisions; amending ORS 571.057, 571.059, 571.075, 571.095
3 and 571.230; and declaring an emergency.

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

5 **SECTION 1.** ORS 571.057 is amended to read:

6 571.057. (1) Each person required to be licensed by ORS 571.055 shall make application for such
7 license or for renewal thereof, on a form furnished by the State Department of Agriculture which
8 shall contain:

9 (a) The name and address of the applicant; the number of locations to be operated by the ap-
10 plicant and the addresses thereof; and the assumed business name of the applicant;

11 (b) If other than an individual, a statement whether such person is a partnership, corporation
12 or other organization;

13 (c) The gross dollar volume of sales or purchases of nursery stock by the applicant within
14 Oregon during the prior calendar year, or if the applicant maintains sales records on a fiscal basis,
15 the prior fiscal year; and

16 (d) The type of business to be operated and, if applicant is an agent, the principals the applicant
17 represents.

18 (2) Each application for license shall be accompanied by a license fee as provided for by this
19 section and any amounts required by ORS 571.075 (3). Such application shall not be a public record
20 but shall be subject to audit and review by the department. An applicant for an original license or
21 for a renewal license, without a full calendar year of prior nursery stock sales or purchase experi-
22 ence upon which to base the fees, shall base such fees on an estimated annual gross dollar volume
23 of sales or purchases of nursery stock by the applicant. Notwithstanding the provisions of ORS
24 571.075, upon application by such person for a renewal of license for a subsequent year, the fees for
25 the previous license year shall be adjusted to reflect the actual annual gross dollar volume of sales
26 or purchases of nursery stock by such applicant. Any additional fees found to be due shall be paid
27 to the department at the time of application for renewal of license, or the department shall refund
28 any overpayment found to be due the applicant.

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 (3)(a) *[For license years beginning on and after July 1, 1995,]* The license fees for growers and
2 dealers shall be established by the department after consulting with the State Nursery Research and
3 Regulatory Committee and after public hearing in accordance with ORS chapter 183. Such fees shall
4 be established on the basis of annual gross dollar volume of sales or purchases of nursery stock
5 within Oregon for the calendar year immediately preceding the license period.

6 (b) The license fees shall not be less than ~~[\$65]~~ **\$30** nor more than \$20,000. The millage rate shall
7 be not less than one-tenth mill nor more than 5 mills. The fees shall be established in such amount
8 as shall be sufficient to allow the department to administer and enforce the provisions of ORS
9 564.040, 564.991, 571.005 to 571.230 and 571.991.

10 (c) *[For license years beginning July 1, 1994, and thereafter,]* In addition to and at the time of
11 payment of the annual license fee, growers and dealers shall pay assessments for the expenses of
12 carrying out the provisions of ORS 571.230 (2) and (3). Dealers shall pay **\$10 or** 0.0002 times the
13 gross dollar purchases in the previous license year, **whichever is greater**. Growers shall pay **\$10**
14 **or** 0.0002 times the gross dollar sales in the previous license year, **whichever is greater**. *[In no*
15 *event shall the assessment be less than \$10.]* **However, the department, by rule, may exempt from**
16 **the assessment those licensees who grow or deal in plants in low volume as defined by the**
17 **department.**

18 (4) For florists and landscape contractors, dealer and agent fees will be computed on the basis
19 of gross purchases of plants. For greenhouse operators and growers, including persons collecting
20 native plants, fees will be computed on the basis of gross sales of plants or sales value of plants
21 produced in Oregon.

22 (5) Each grower or dealer shall be entitled to one sales location under the license of the grower
23 or dealer. Each additional sales location, yard, branch store, stall or peddling vehicle maintained
24 by such person shall require the payment of the full license fee for each of such additional sales
25 outlets. A grower who is also a dealer shall be licensed only as a grower.

26 **SECTION 2.** ORS 571.059 is amended to read:

27 571.059. *[(1) As used in this section, "dealer" and "grower" have the meanings given those terms*
28 *in ORS 571.005.]*

29 *[(2)]* (1) The State Department of Agriculture shall make a yearly determination of the additional
30 amount, if any, required to achieve a principal balance of \$250,000 in the Plant Pest and Disease
31 Emergency Response Fund. If the department determines that an additional amount is required to
32 achieve a principal balance of \$250,000, the department shall determine an assessment rate based
33 on the additional amount required to achieve the \$250,000 fund balance and the total in the previous
34 license year of gross dollar purchases by dealers, gross dollar sales by growers and sales value of
35 plants produced in Oregon by licensees under ORS 571.057 other than dealers or growers. **In de-**
36 **termining the assessment rate, the department shall disregard gross dollar purchases, gross**
37 **dollar sales and the sales value of plants produced by any licensees exempted from paying**
38 **the surcharge by department rule.**

39 *[(3)]* (2) The department may impose a surcharge on license fees established pursuant to ORS
40 571.057. The surcharge for a licensee shall be calculated based on the assessment rate determined
41 under subsection *[(2)]* (1) of this section and the purchase, sales or sales value volume that is the
42 basis for the license fee assessed to the licensee under ORS 571.057. **The department, by rule,**
43 **may exempt from the surcharge those licensees purchasing, selling or growing plants in low**
44 **volume as defined by the department.** Surcharges imposed under this subsection shall be depos-
45 ited to the fund.

1 [(4)] (3) The department shall apply for any federal funding available and may seek gifts, grants
 2 and donations for the purpose of increasing or replenishing the fund balance or avoiding expen-
 3 ditures from the fund.

4 **SECTION 3.** ORS 571.075 is amended to read:

5 571.075. (1) The fees for the renewal of the annual licenses and the fees for inspections required
 6 by ORS 571.005 to 571.230 [*and 571.991*] shall be paid with the application for license renewal and
 7 before [*July 1*] **January 1** of each year.

8 (2) Failure to pay the fees when due forfeits the right to operate as a grower, dealer or agent.

9 (3) Any person who has been previously licensed to grow or sell nursery stock and whose right
 10 to grow or sell has been forfeited shall not be issued a renewal license except upon written appli-
 11 cation to the State Department of Agriculture accompanied by a sum of money equal to the regular
 12 license fee, as provided in ORS 571.057.

13 **SECTION 4.** ORS 571.095 is amended to read:

14 571.095. All licenses issued under ORS 571.005 to 571.230 [*and 571.991*] shall:

15 (1) Include the date of issue.

16 (2) Expire on [*June 30*] **December 31**, next following the date of issue, unless sooner revoked
 17 by the State Department of Agriculture.

18 (3) Be in the form of a certificate.

19 (4) Be numbered serially under the direction of the department.

20 (5) Be posted in a conspicuous place on the premises of the licensee. [*and a copy at each location*
 21 *where the licensee is doing business, where they can be easily seen by the general public. A duplicate*
 22 *copy of the license shall be issued by the department for each sales location of the licensee.*]

23 **SECTION 5.** ORS 571.230 is amended to read:

24 571.230. (1) Except for fees paid under ORS 571.057, **571.059**, 571.063 and 571.145 (3), the State
 25 Department of Agriculture shall deposit all fees paid to it under ORS 571.005 to 571.230 and 571.991
 26 in the General Fund in the State Treasury to the credit of the Department of Agriculture Account.
 27 Such fees are continuously appropriated to the department for the purpose of administering and
 28 enforcing ORS 564.040, 564.991, 571.005 to 571.230 and 571.991. The fees paid to the department un-
 29 der ORS 571.057, 571.063 and 571.145 (3) shall be deposited by the State Treasurer in the Department
 30 of Agriculture Service Fund, and such funds are continuously appropriated to the department for the
 31 purposes of administering and enforcing ORS 571.005 to 571.230 and 571.991. **The fees paid to the**
 32 **department under ORS 571.059 shall be deposited and credited as provided under ORS 571.038.**

33 (2) The amount of revenue generated for nursery research pursuant to ORS 571.057 (3)(c) shall
 34 be used by the department only for the purposes set forth in subsection (3) of this section. With the
 35 advice of the State Nursery Research and Regulatory Committee, the Director **of Agriculture** shall
 36 identify research needs of the Oregon nursery industry and shall obtain services of researchers for
 37 the purposes set forth in subsection (3) of this section.

38 (3) The amounts provided for in ORS 571.057 (3)(c) shall be used in carrying on experimental and
 39 research projects and investigations directed toward the prevention and elimination of plant dis-
 40 eases, insect pests and the development and improvement of cultural methods that are beneficial to
 41 the nursery industry.

42 **SECTION 6.** ORS 571.038 and 571.059 are added to and made a part of ORS 571.005 to
 43 571.230.

44 **SECTION 7.** The amendments to ORS 571.057, 571.075 and 571.095 by sections 1, 3 and 4
 45 of this 2007 Act apply to licenses issued for the licensing period commencing on or after

1 **January 1, 2008. The amendments to ORS 571.075 by section 3 of this 2007 Act do not inval-**
2 **idate any license issued for a license period ending on June 30, 2008. Notwithstanding ORS**
3 **571.057, 571.075 and 571.095, when issuing a license for the period ending December 31, 2008,**
4 **to a person that has a valid license for the period ending June 30, 2008, the State Department**
5 **of Agriculture may make appropriate licensing period or fee adjustments, as determined by**
6 **the department, to avoid charging the person a redundant fee.**

7 **SECTION 8. This 2007 Act being necessary for the immediate preservation of the public**
8 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
9 **on its passage.**

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