

May 5, 2021



Oregon Progressive Party Independent Party of Oregon

Position on Bills at 2021 Session of Oregon Legislature:

Dear Committee: **HB 2031A: Drafting Problem = Ineffective**

The Independent Party of Oregon and Oregon Progressive Party support this bill but note that it is drafted in a way that will likely defeat its main purpose in the near future.

The intent of the bill is to allow the Oregon Department of Agriculture (ODOA) to revoke or refuse to issue or renew any license, if it determines that the applicant or licensee has violated any provision of ORS 634 or ODOA rule or any federal law or regulation applicable to use of pesticides. Unfortunately, HB 2031A will not accomplish that purpose for long, because it allows ODOA to base its action only upon:

- (a) A provision of this chapter;
- (b) A rule adopted by the department for the administration or enforcement of this chapter;
- (c) A provision of federal law set forth in 7 U.S.C. 136 to 136y, as amended and in effect on July 1, 2019; or
- (d) A federal regulation set forth in 40 C.F.R. 152.1 to 180.2020, as amended and in effect on July 1, 2019.

What if Congress later amends the the "federal law set forth in 7 U.S.C. 136 to 136y" in any way? Then it will not be the "federal law set forth in 7 U.S.C. 136 to 136y, as amended and in effect on July 1, 2019." And its violation will no longer be a lawful basis for action by ODOA to revoke or refuse to issue a license.

What if the federal government later amends "A federal regulation set forth in 40 C.F.R. 152.1 to 180.2020" in any way? Then it will not be "A federal regulation set forth in 40 C.F.R. 152.1 to 180.2020, as amended and in effect on July 1, 2019." And its violation will no longer be a lawful basis for action by ODOA to revoke or refuse to issue a license.

HB 2031A needs to be amended so that the provision reads:

- (a) A provision of this chapter;
- (b) A rule adopted by the department for the administration or enforcement of this chapter;
- (c) A provision of federal law set forth in 7 U.S.C. 136 to 136y, as amended and in effect on July 1, 2019 **or later**; or
- (d) A federal regulation set forth in 40 C.F.R. 152.1 to 180.2020, as amended and in effect on July 1, 2019 **or later**.

Oregon Progressive Party

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