FRIENDS OF FAMILY FARMERS

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Co-Chairs Helm and Owens, Vice-Chair Finger McDonald, and members of the House Agriculture, Land Use, Natural Resources and Water Committee:

Friends of Family Farmers (FoFF) is a nonprofit organization serving more than 1,600 small and midsize, highly diversified, local market farmers. Many of our members run farm stands. They are basing their entire farming model on connecting with their community, they want to welcome the public to their farm, and they are in favor of many of the things in this bill. But because of a fundamental change in farm stand/store permit eligibility in this proposal I have to oppose this bill.

FoFF has been part of this conversation in the 2025 legislative working group and the DLCD rulemaking advisory committee, and we have a clear picture of what our farmers want. First of all, FoFF is excited about many things in this bill including:

- The inclusion of educational tours, workshops, and classes as an allowable fee-based event is wonderful.
- Clarification that processed farm products such as those processed according to the farm direct producer processed exemption are agricultural products, not incidental is a much needed security for our farmers.
- My farmers are also in favor of the inclusion of farm to table dinners in fee-based promotional events. This is something they have been requesting for a long time.

Changes to permit eligibility

The biggest reason that we are in opposition today is that HB 4153 also changes the litmus test of the legitimacy of a farm stand from what type of commerce is conducted there, to the scale of the farm operating it. The current law does not have any requirements of the size of a farm that is allowed to have a farmstand, any farm can have one as long as they meet the 75% agricultural product- 25% fee-based and incidental item sales revenue restrictions. **This bill introduces requirements for the first time that a farm must have a certain amount of acres in production or a certain amount of sales over a two year period to be eligible for a permit.**

Based on the breakdown in section 2, there are differing static acreage requirements based on parcel size. This means that for the largest category of farm (80+ acres), the area in production could be 56% if the property is only 80 acres, but the same static acreage number is applied to all properties above this threshold, it could be as little as 1% if a landowner with thousands of acres chose to take advantage of this. For properties 40-79.99 acres the percentage in farm use varies from 31%-62%. For properties 39.99-20 acres the 37%-75% in farm use and for all properties under 20 acres the percentage of farm usage starts at just over 50% and could be

more than the total land they have. Making it very, very challenging for a property under 10 acres to ever qualify for a farmstand. Not only are these acreage requirements arbitrary and place a higher burden on smaller properties, it leaves the door open for someone who happens to own a lot of land to do nominal farm production and unlimited agri-tourism activity, which is not in the spirit of this law.

This system also favors pastured livestock producers over diversified vegetable production. Most of the farmstands in the Western half of the state are affiliated with small, diversified vegetable and fruit operations. While a 50 acre pastured livestock operation might be considered small, one of the largest CSA (Community Supported Agriculture) farms in the state, Stoneboat Farm in Hillsboro, produces food for 500 families a week on just 15 acres. **Acreage in production is a poor indicator of the true use of a farm property because of the diversity of agricultural approaches in Oregon.** The drafting of this bill and the acreage requirements listed display a lack of understanding of the plurality of farms in the Willamette Valley, Southern Oregon, and the Coast who participate in farm stand sales.

We understand that this bill does not prevent smaller operations from selling their farm product on their own land. This is an outright allowed use of EFU zoned land and HB 4153-2 does not change that. We also know that existing farmstands will not be shut down by this bill, as their existing county farm stand permits will be converted to a “non-conforming use” permit. **HB 4153-2 is still not as good as the status quo for small farms, for the following reasons:**

1. This bill replaces the only definition of farm stand in ORS 215.213 and ORS 215.283. This is the only place a farm stand is defined. **There are many ways to sell farm product on farm land, but the one that comes with permanent structures that historically bring scrutiny from the county is farm stands.** Many members, especially those selling meat and eggs requiring refrigeration opt for small permanent structures (pre-fab sheds, or three walled wooden buildings) to accommodate the need for food safety equipment like refrigerators and freezers. By removing all existing definitions of farm stand from ORS, depending on the county’s interpretation of the law, some farm stand operators will have to advocate for themselves and some may be intimidated out of having their farm stand because of a lack of legal background. **We do not believe that the existing inclusion of the sale of farm product as an allowed use of EFU zone land is enough to protect these simple farm stands.**
2. Right now, under current law, all farms in Oregon have the opportunity to apply for a farm stand permit that includes the ability to generate 25% of its income from promotional fee-based activity (ticketed events) and sale of incidental items. **This bill would take the option to have any event revenue away from future farm stand operators who can’t meet the acreage/income requirement. <u>Why should a small farm who got their farm stand permit a year ago have fewer revenue options than an identical farm trying to get a permit a year from now?</u>**
3. Existing operations with a non-conforming use permit cannot expand or significantly change their farm stand without adhering to these eligibility requirements. **Although no operations would be shut down by this bill, it prevents existing small farm stands from growing.**

While this bill was written to help large, established farms diversify, farm stands are also often an entry level sales outlet in our community. This is often the first step to get your product out there and start building a customer base as people work to improve neglected or unconventional farmland, while also working other jobs. Farm stands are not just a way for existing farms to diversify, it is a way for new farmers to control their market in their first foray into commercial production. Farmers markets are fantastic beginning farmer venues but they are not always the logical first step. Farmers markets require infrastructure for post-harvest handling and transport, many have application processes and seniority in decisions related to booth spots and advertising. Not to mention the time commitment. If your property has good road frontage and you have the ability to have a farmstand to bring in income for your farm product without incurring childcare and travel expenses as well. **This was not written with FoFF's member farms in mind, because it was not written with their input.**

Elimination of Event Revenue Limits

This also comes with the elimination of the cap on event revenue (75/25 rule discussed above) and other loosening of requirements to tie the promotional and educational events to farm production by listing "promoting visitors to the farm store" as a justification for events. **FoFF members do not have a problem with the 25% cap, they just wanted more flexibility in the types of events allowed and clarity and consistency on the current law.** This changes the test from whether an event is promotional of the farm products and would allow events that were simply designed to bring people to them. **Bringing people to the farm stand as an end result is not a farm use, selling farm products is.** We want to make sure that events are drawing people based on their interest in the farm product and operation, not for another entertainment reason that happens to be on a farm.

This is a big change to land use law in regards to EFU zone land. **This allows unlimited events as a sub 1 use of EFU and Farm and Forest zoned land.** This means that the usage in this section cannot be further limited or denied by county or local authorities. Agri-tourism permits (which cover all types of events including concerts, bed and breakfasts and more) are considered "sub 2" uses. This means that a county government can impose additional restrictions and even prohibit these uses if they do not feel that it is a good fit for their community. Local control is a hallmark of land use policy and prevents forcing one size fits all solutions onto communities. Our laws have already identified that entertainment activity on farmland is not a good fit for all communities and zonings of land. HB 4153 would allow If farmland owners are able to host events without a direct tie to the farm through their farm store then there is a possibility that people could abuse this new law to have a hay field or a few cows and run a business where 99% of sales come from ticketed event revenue.

This is not an ethical use of our farmland. The farmers we work with in our Oregon Farm Link program tell us that access to affordable and appropriate land is the number 1 barrier to the success of their farm businesses. **With farmland values in Oregon climbing at more than 3**

times the national average (23% between 2017-2022 here, 7% nationwide), and farmland near UGB's being rezoned for industrial, housing, or other commercial uses, competition is higher than ever. By adding more uses to farmland that are not strictly linked to farm production or scaled based on farm revenue, we are increasing competition for land, especially close to urban centers for our small growers. This hits FoFF's farmers hardest because the strongest direct to consumer markets (farmers markets. Farm stands, CSAs, and more) are within reach of population centers. We have a wonderful opportunity in Oregon for our productive farmland to be near the people who rely on it for food, for people to understand the value of food and ag production, and for them to have meaningful on-farm experiences. This bill risks increasing demand for this prime farmland from people who are more interested in the events allowed to take place than the production of farm products for sale.

This is not an acceptable trade off for our members. More events for some while opportunities are taken away from small growers is not in the spirit of Oregon agriculture and it is bad for small and beginning farmers. We understand the need for diversified income but it shouldn't come at the expense of small operations or increase competition from non-farm buyers of farmland. We are continuing to come to the table and are open to creative solutions to preserve the spirit of the farm stand for Oregon but still open additional event types and revenue streams for farmers.

Confusion Created by HB 4153-2

This bill with the -2 amendment creates several opportunities for confusion and misunderstanding for our farmers.

Redefining Agri-tourism

First, the bill renames what in current law is referred to as "promotional activities" to "agri-tourism activities." This is problematic because t**here is already a widely used and understood definition of agri-tourism in 215.213 (2).** By changing the wording here, it will imply to farmers and planners that there is a link between these two definitions. Why use an established term for something more restrictive than its current legal definition? We are concerned that **this will at best encourage farmers to make plans based on the sub 2 definition of agri-tourism and result in wasted time, denied permits, and confused constituents; and at worst it will result in inappropriate activities being permitted on EFU land in association with a farm store because of the common term.** We are building on the statute that currently allows promotional activity; the common term should be used if we are not expanding to encompass the full definition of agri-tourism activity.

Will this trigger Measure 56?

In 1998, Oregonians passed a ballot measure that requires the DLCD to send notices to every affected land owner when the legislature passes a law which may limit the uses of their land.

Imposing a requirement for acres in production or farm revenue is a new restriction on who is eligible to conduct promotional fee-based activity and therefore could constitute a loss of revenue potential. Because the acreage in farm use and income requirements mean that not every EFU or farm forest zoned parcel in the state is eligible for a farm stand permit, it is possible this could trigger this measure and require DLCD to notify everyone who is impacted. According to the DLCD website:

> "When state planning laws or rules are changed that might cause a property to be rezoned or restrict its use, a two-step notification is required. The state, through DLCD, must first notify every local government about the change. The local government must then mail a copy of DLCD's notice to every landowner whose property might be "rezoned." Each local government is required to make a decision about whether to mail the notice to any of the landowners in its jurisdiction, and if so, which ones. "Rezoning" occurs when the governing body of a county or city: *"Changes base zoning classifications of the property; OR adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone."*
>
> DLCD is required to reimburse local governments for all usual and reasonable costs of providing notice prompted by state action. Additionally, the law specifies the content of the written individual notice to landowners."

In a year when we are facing budget cuts on a massive scale, this is a misuse of agency funds to give some land owners more privileges. It is not clear to us if this change would or would not trigger Measure 56 and a comprehensive review should be conducted to determine what future revenue farm property owners are losing in this bill.

Another Solution: FoFF's requested Amendment

FoFF has requested an amendment that would be a better path forward for Oregon's farms at all scales. This topic is very important to our members and FoFF knows a lot of people want to see this conversation benefit all farms in Oregon. It is our obligation to put forward an alternative in this important discussion, not simply say no. We would like the committee and the legislature as a whole to consider our amendment proposed in conjunction with Senator Neron Misslin's office.

The short session is moving incredibly quickly and we are waiting for the text to move through the legislative counsel. Our first goal is to retain the expanded fee-based event promotional activities, ability to sell prepared foods and alcohol as incidental items, and ensure that our farmer's farm direct producer processed exemption products are considered agricultural product, not incidental. Our second goal is to preserve the spirit of the farm stand law through reintroducing some protections and local controls that are present in current law, and providing an explicit protection for the simplest form of farm stand which we all agree does not require a permit.

There is a better path forward, we do not need to settle for HB 4153-2.