

Enrolled House Bill 3461

Sponsored by Representative BOQUIST (at the request of Dave Nelson of Oregon Seed Council)

CHAPTER

AN ACT

Relating to agricultural commodities; amending ORS 62.848 and 646.535; and declaring an emergency.

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

SECTION 1. ORS 62.848 is amended to read:

62.848. (1) As used in this section:

[(a) "Parties" or "party" means perennial ryegrass seed producers, perennial ryegrass seed associations, perennial ryegrass seed cooperatives or perennial ryegrass seed dealers that are participants in the state regulatory program described in subsection (2) of this section.]

(a) "Parties" or "party" means seed producers, seed associations, seed cooperatives or seed dealers that participate in a state regulatory program described in subsection (2) of this section.

(b) "Regulatory program" means *[the]* a state regulatory program described in subsection (2) of this section that is actively supervised by the Director of Agriculture and that authorizes parties to engage in certain collective bargaining and negotiations to establish the price of perennial ryegrass seed to be produced and sold to perennial ryegrass seed dealers in the future, **annual ryegrass seed to be produced and sold to annual ryegrass seed dealers in the future or tall fescue seed to be produced and sold to tall fescue seed dealers in the future.**

(2)(a) It is the intent of this section and ORS 646.535 (2) and 646.740 (10) to displace competition with *[a regulatory program in the perennial ryegrass seed industry to a limited degree. The regulatory program is intended to grant immunity from federal and state antitrust laws to perennial ryegrass seed producers and perennial ryegrass seed]* **regulatory programs in the perennial ryegrass seed, annual ryegrass seed and tall fescue seed industries to a limited degree. The regulatory programs are intended to grant immunity from federal and state antitrust laws to perennial ryegrass seed, annual ryegrass seed and tall fescue seed producers and perennial ryegrass seed, annual ryegrass seed and tall fescue seed dealers for the limited purpose of allowing the producers and the dealers to bargain collectively and to arrive at a negotiated price for the sale of *[perennial ryegrass]* seed by the producers to the dealers. The activities of any party that comply with the provisions of this section may not be considered to be in restraint of trade, a conspiracy or combination or any other unlawful activity in violation of any provision of ORS 646.705 to 646.826 or federal antitrust laws.**

(b) *[A perennial ryegrass seed cooperative or marketing association may negotiate with one or more dealers, as defined in ORS 646.515, of perennial ryegrass seed to establish the price at which members of the cooperative or association will sell products]* **A seed cooperative or seed association for perennial ryegrass seed, annual ryegrass seed or tall fescue seed may negotiate with one or**

more dealers, as defined in ORS 646.515, of perennial ryegrass seed, annual ryegrass seed or tall fescue seed to establish the price at which members of the cooperative or association will sell perennial ryegrass seed, annual ryegrass seed or tall fescue seed to be produced by its members or under the control of its members. The [*perennial ryegrass*] seed dealers may negotiate the price of the [*perennial ryegrass seed products*] **seed** through a committee that sets forth the views of the dealers and votes on any issues being negotiated as authorized by this section, including the price of [*perennial ryegrass seed products*] **the seed**.

(c) The Director of Agriculture is authorized to actively supervise the conduct of [*a perennial ryegrass seed agricultural cooperative organized under this chapter, a representative committee of perennial ryegrass seed dealers and any perennial ryegrass seed association in establishing the price of perennial ryegrass seed*] **perennial ryegrass seed, annual ryegrass seed and tall fescue seed agricultural cooperatives organized under this chapter, representative committees of perennial ryegrass seed, annual ryegrass seed or tall fescue seed dealers and any perennial ryegrass seed, annual ryegrass seed or tall fescue seed associations in establishing the price of perennial ryegrass seed, annual ryegrass seed or tall fescue seed** to be produced and sold to seed dealers at a future date. The director is authorized to supervise the negotiations between the parties, review the prices established by the negotiations and approve the prices proposed by the parties before the prices take effect. The director must approve the proposed prices and any adjustments to previously approved prices before the prices may be implemented.

(d) The director may compel the parties to take whatever action the director considers necessary to:

(A) Ensure that the parties are engaging in conduct that is authorized under this section;

(B) Ensure that the policies of this state are being fulfilled under the regulatory [*program*] **programs**; and

(C) Enjoin conduct by any of the parties that is not authorized by the director or conduct that the director finds does not advance the interests of this state in carrying out the regulatory [*program*] **programs**.

(e) The Director of Agriculture may adopt rules to carry out the director's authority under this section.

(f) The director may designate persons as the director deems necessary to carry out the responsibility of actively supervising the conduct of the parties, including serving as intermediaries between prospective parties. Persons designated by the director must be employees of the State Department of Agriculture.

(g) The director by rule shall set and collect fees from the parties who are participants in [*a regulatory program*] **regulatory programs**. The fees shall be deposited in the Department of Agriculture Account established under ORS 561.150.

(h) The director shall supervise the labeling of perennial ryegrass seeds, **annual ryegrass seeds and tall fescue seeds** to ensure compliance with ORS 633.520, 633.531 and 633.541.

SECTION 2. ORS 646.535 is amended to read:

646.535. (1) A dealer may not knowingly engage in the following unfair trade practices:

(a) Interfere with, restrain, coerce or boycott a producer in the exercise of the rights guaranteed pursuant to ORS 646.525;

(b) Discriminate against a producer with respect to price or other terms of purchase of raw agricultural commodities or Oregon seafood commodities, by reason of the producer's membership in or contract with cooperative bargaining associations; or

(c) Pay or loan money, or give any other thing of value to a producer as an inducement or reward for refusing to or ceasing to belong to a cooperative bargaining association.

(2) A perennial ryegrass seed, **annual ryegrass seed or tall fescue seed** dealer or an Oregon seafood commodity dealer who participates in negotiating committee activities described in ORS 62.848 or 62.849 does not violate subsection (1) of this section.

SECTION 3. This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect on its passage.

Passed by House May 5, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 7, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State