

2009 AGRICULTURAL LAW SECTION LEGISLATIVE REPORT

2009 Transportation Funding Package - HB 2001

Increases the state gas tax by six cents in 2011, raises vehicle fees by \$16 and title fees by \$22. Increases F-Plate registration by about 50% and the weight/mile tax paid by commercial haulers. Projects specifically named are primarily aimed at addressing freight mobility, congestion, safety, and economic development.

Food Stamp Program - HB 2124

Changes the name of the Food Stamp Program to the Supplemental Nutrition Assistance Program in accordance with federal statutory changes. Ensures the availability of the program at farm stands and farmers markets.

Low Carbon Fuel Standard - HB 2186

Law mandates DEQ to conduct a study of potential requirements on the maintenance or retrofitting of medium and heavy-duty trucks to reduce aerodynamic drag and greenhouse gas emissions; authorizes the adoption of a Low Carbon Fuel Standard; and provides that rules may include: schedule to phase-in implementation to reduce greenhouse gas emissions from transportation fuels by 10% below 2010 levels by year 2020.

Fertilizer - HB 2211

Revises language in statutes regulating the manufacture, distribution, and registration of fertilizer products; clarifies Dept. of Agriculture (ODA) inspection authority and product label requirements; and authorizes ODA to withhold licenses or product registrations if there are unpaid civil penalties.

Access & Habitat Program - HB 2218

Extends the program that funds partnerships to increase hunter access or improve wildlife habitats until 2019, and increases the surcharge for hunting licenses from \$2 to \$4.

Landowner Preference - HB 2219

Recognition of Oregon farmers' and ranchers' contribution to wildlife habitat will continue with the extension of the Landowner Preference (LOP) Tag Program.

Transfer of Development Rights - HB 2228

Establishes Oregon Transfer of Development Rights (TDR) Pilot Program in Dept. of Land Conservation and Development (DLCD). Authorizes Land Conservation and Development Commission to adopt rules establishing process for selecting three pilot projects.

The Big Look - HB 2229

Provides process for corrective remapping of rural lands by counties to ensure sustainable development of rezoned lands, and updates natural resource protections. Gives existing regional problem-solving process parameters, deadlines, and criteria to identify participants. Will not substantially change any current process or right under Oregon's land use planning system.

Well Drilling Start Card Fee Increase - HB 2231

- This bill increases the well drilling start card fee from \$125 to \$225.

Geotechnical Hole Report and Fee - HB 2232

This bill establishes a geotechnical hole report requirement, together with a reporting fee.

- Well drillers must develop well logs and submit a report to OWRD for any geotechnical hole that meets one of the following criteria:
 - Greater than 18 feet deep;
 - Within 50 feet of a water supply or monitoring well;
 - Used to determine water quality and open less than 72 hours; or
 - Drilled in an area known or reasonably suspected to be contaminated.
- The Oregon Water Resources Commission may develop an administrative rule or a form prescribing the contents of the geotechnical hole report.
- Any required report must be submitted together with a \$25 fee. If more than one hole is drilled within seven days at the same project site, the fee for each additional report is \$10.

Hands-Free Device Use in Motor Vehicles - HB 2377

Beginning Jan. 1, 2010, drivers in Oregon will not be allowed to send text messages, and cell phone use will be limited to adult motorists using hands-free attachments. But bill does not apply to persons using a mobile communication device for agricultural operations. And does not apply when operating a motor vehicle as a necessary part of a person's job.

Animal Care - HB 2470

Prohibits possessing, controlling, or otherwise having charge of more than 50 dogs aged two years or older for primary purpose of reproduction.

Tractor Safety - HB 2554

The provides greater protections for agricultural-related vehicles on Oregon roadways. Expands the definition of "vulnerable user of public way" to include any farm tractor or implement of husbandry. Under the new law, careless motorists will face increased penalties for reckless driving around tractors.

Preference for Oregon-Produced Products - HB 2763

Allows contracting state agencies to pay up to 10% more than lowest bidder for agricultural products produced and transported entirely within Oregon.

Farm equipment tax & soil remediation - HB 2904

Earlier this year the state Dept. of Revenue proposed new rulemaking that would have assessed nurseries for the value of hoop houses, which are metal frames enclosed in plastic film.

Pesticide Use Reporting (PURS) - HB 2999

Extends the sunset on PURS to 2019 and reduces size of identifying hydrologic unit to be used when reporting pesticide use from water basin to watershed. Prohibits the refunding of the program until June 30, 2011. The groups involved agreed not to amend the program again until 2019.

EFU Changes - HB 3099

HB 3099 modifies EFU exceptions in Oregon's land-use regulation. Among other things it removes outright exceptions for schools and greyhound kennels and alters the exception for model aircraft. Restricts the conditional exception for golf courses by prohibiting their placement on high-value farmland, and no longer permits the exception for disposal of solid waste from an EFU.

Utility Siting - HB 3153

ORS 215.275 permits a utility facility to site on land designated as exclusive farm use (EFU) under specific conditions. For a utility facility to be sited on EFU land, it must be necessary for public service and must demonstrate that no other options are feasible. HB 3153-C requires that the utility provider must consult with owners of high-value farmland prior to installing a transmission line in order to minimize the impact to the operation.

Ballot Measure 49 - HB 3225

Authorizes the Oregon Dept. of Land Conservation and Development (DLCD) to prioritize processing of up to 100 Measure 49 supplemental reviews of Measure 37 claims, where the claimants present a demonstrated hardship. The intent is to aid claimants who may face property consequences if their claim is not expedited.

Water Storage Funding Legislation - HB 3369

The bill creates a framework for a new loan and grant program for the construction of "water development projects." The bill ended up funding a specific project in the Umatilla Basin, but established significant new loan and grant program criteria that could one day apply across the state. The highlights of the bill include:

- "Water development projects" include not only above and below ground storage projects, but also drainage projects, irrigation projects, municipal supply projects, fish protection projects, and watershed/habitat enhancement projects (including the purchase of instream water rights).
- Creates new public interest review criteria for water development projects funded with state money that include the analysis of net environmental, social, and cultural public benefits; the protection of peak and ecological flows; conservation measures; and measurement plans, among other requirements.

- Requires grant applicants for most surface water projects to submit as part of their application:
 - An analysis of by-pass, peak, flushing, and other ecological flows and the impact of the project on those flows;
 - An independent comparative analysis of alternative means of supplying the project water;
 - An evaluation of the need and feasibility of using project-derived water to augment instream flows; and
 - An agricultural water management plan if the applicant is an agricultural water supplier.
- Requires grant and loan applicants to obtain a storage and/or use permit or a limited license from OWRD before submitting an application for state funding.
- Directs OWRD (in consultation with the Oregon Department of Environmental Quality and the Oregon Department of Fish and Wildlife) to develop an integrated water resources strategy that accounts for future statewide water needs as it pertains to water quantity, water quality, and ecological health.

Corporate Tax - HB 3405 & Personal Tax - HB 2649

The two tax measures were passed by lawmakers in June, largely on a party-line vote. The proposed business tax increase has two major elements: a corporate minimum tax increase and a corporate income tax rate increase.

Livestock Brands - HB 3417

Limits ODA's Brand Program to cattle and horses to reduce some administration costs. Authorizes ODA to adopt rules establishing a fee for collection of stray livestock.

Animal Care - SB 398

Modifies the crime of animal abandonment to include abandonment of horses. As originally drafted, this bill would have considered horses turned out to pasture or on the range as abandoned.

Blackberry Bargaining Association - SB 409

Allows for the creation of an Oregon Blackberry Bargaining Association through ODA. Authorizes participation in price negotiations similar to Oregon's Grass Seed Bargaining Associations.

The Employer Gag Rule - SB 519

Prohibits an employer from having mandatory meetings with employees regarding any issue that would be considered religious or political in nature, including conversations about unionization.

Field Burning - SB 528

Bans open field burning, propane flaming, and stack pile burning of grass seed crop residues or cereal grain crop residues in majority of the Willamette Valley. Does allow some burning in the Silverton Hills area and on fine fescue, along with limited issuance

of permits and fees for emergency burning of up to 2,000 acres if there is extreme hardship due to disease outbreak or insect infestation.

Metal Theft - SB 570

Monitors metal transactions and imposes new fines and penalties on metal thieves. Gives additional tools to law enforcement to combat metal theft, a crime that is costing businesses and taxpayers millions of dollars.

Geese - SB 622

The bill creates the Task Force on Geese Control to study issues raised by increasing number of geese and to make recommendations on how to control geese populations and impact. Requires the Task Force to report to Legislature no later than November 1, 2010.

Pesticides - SB 637

Instead of creating no-spray buffers around school property as was attempted in 2007, this legislation requires a school governing body to adopt an integrated pest management plan (IPM) and a list of low-impact pesticides for use with IPM plan to be developed. OSU Extension will develop an IPM template for schools to use.

OWRD Service Fees – SB 788

This is an Oregon Water Resources Department (“Department”) fee increase bill, which boosts the Department’s fees to a level designed to achieve a 50 percent cost recovery. The list of new fees is too extensive to summarize here. For a complete list and an online fee estimator, visit the Department’s website at www.wrd.state.or.us/OWRD/pubs/forms.shtml#fees.

- Raises fees on almost all Department activities.
- Establishes a new \$300 exempt well recording fee for all exempt wells drilled after July 1, 2009.
- Requires owners of new exempt-use wells to submit a map of the well location (showing the location of the well by tax lot).

“Tax Amnesty” - SB 880

The program allows taxpayers to enter into an installment agreement for the payment of out-of-compliance tax payments and interest. Unintentional mistakes are treated the same as willful violations. Eligible taxpayers that do not participate in the amnesty program and taxpayers that file returns under the program with an understatement of tax are subject to an additional 25% penalty.

Aerial Spraying of Pesticide - SB 902

Required property owners located within one-quarter mile of a school to provide the school with a written notice before engaging in an aerial spraying of pesticides. Violators were subject to a civil penalty.