

Senate Bill 928

Sponsored by Senator PROZANSKI, Representatives MARSH, HOLVEY; Representative LIVELY

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**.

Requires labeling of pesticide products containing neonicotinoids. Requires labeling of agricultural seed, flower seed, mixed seed or vegetable seed containing or coated with neonicotinoid.

Requires labeling of raw and agricultural or horticultural commodities treated with pesticide product containing neonicotinoid while grown or after harvest. Declares commodity misbranded if not labeled as required.

A BILL FOR AN ACT

1
2 Relating to product disclosures; creating new provisions; and amending ORS 616.250 and 633.545.

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

4 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 634.**

5 **SECTION 2. (1) As used in this section, "neonicotinoid" means:**

6 (a) **Acetamiprid;**

7 (b) **Clothianidin;**

8 (c) **Dinotefuran;**

9 (d) **Imidacloprid;**

10 (e) **Nithiazine;**

11 (f) **Thiacloprid;**

12 (g) **Thiamethoxam; or**

13 (h) **Any other chemical the State Department of Agriculture determines by rule to belong**
14 **to the neonicotinoid class of chemical compounds.**

15 (2) **A pesticide product that contains a neonicotinoid must disclose on its face in a clear**
16 **and conspicuous manner that the product contains a neonicotinoid. The department shall**
17 **adopt rules specifying the size, placement and other requirements for making the disclosure.**

18 **SECTION 3. Section 4 of this 2017 Act is added to and made a part of ORS 633.511 to**
19 **633.750.**

20 **SECTION 4. (1) As used in this section, "neonicotinoid" has the meaning given that term**
21 **in section 2 of this 2017 Act.**

22 (2) **A container of agricultural seed, flower seed, mixed seed or vegetable seed containing,**
23 **or coated with, a neonicotinoid must disclose on its face in a clear and conspicuous manner**
24 **that the seed contains a neonicotinoid.**

25 **SECTION 5. ORS 633.545 is amended to read:**

26 633.545. All bins and other bulk displays of agricultural, flower or vegetable seed, and mixtures
27 of agricultural, flower or vegetable seed, or both, shall be labeled with the data required to be
28 present on containers of agricultural, flower or vegetable seed prescribed in ORS 633.520, 633.531
29 and 633.541 **and section 4 of this 2017 Act.**

30 **SECTION 6. ORS 616.250 is amended to read:**

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.

1 616.250. A food shall be deemed to be misbranded:

2 (1) If its labeling is false or misleading in any particular, or fails to conform to ORS 616.325.

3 (2) If it is offered for sale under the name of another food.

4 (3) If it is an imitation of another food, unless its label bears in type of uniform size and prom-
5 inence the word "imitation" and, immediately thereafter, the name of the food imitated.

6 (4) If its container is so made, formed or filled as to be misleading.

7 (5) If in package form:

8 (a) Unless it bears a label containing:

9 (A) The name and place of business of the manufacturer, packer or distributor; and

10 (B) An accurate statement of the net quantity of the contents in terms of weight, measure, vol-
11 ume or numerical count. The statement shall be separately and accurately stated upon the principal
12 display panel of the label.

13 (b) The same reasonable variations allowed in ORS chapter 618 shall be permitted.

14 (c) Exemptions as to small packages shall be established by rules promulgated by the State De-
15 partment of Agriculture.

16 (6) If any word, statement or other information required by or under authority of ORS 616.205
17 to 616.295 to appear on the label or labeling is not prominently placed thereon with such
18 conspicuousness, as compared with other words, statements, designs or devices, in the labeling, and
19 in such terms as to render it likely to be read and understood by the ordinary individual under
20 customary conditions of purchase and use.

21 (7) If it purports to be or is represented as a food for which a definition and standard of identity
22 has been prescribed by rule as provided by ORS 616.230, unless it conforms to such definition and
23 standard and its label bears the name of the food specified in the definition and standard, and, in
24 so far as may be required by such rule, the common names of optional ingredients, other than spices,
25 flavoring and coloring present in such food.

26 (8) If it purports to be or is represented as a food for which a standard of quality has been
27 prescribed by rule as provided by ORS 616.230 and its quality falls below the standards such rule
28 specifies, a statement that it falls below such standard.

29 (9) If it is a food for which a standard or standards of fill of container have been prescribed by
30 rule as provided by ORS 616.230, and it falls below the standard of fill of container applicable
31 thereto, unless its label bears, in such manner and form as such rule specifies, a statement that it
32 falls below such standard.

33 (10) If it is not subject to the provisions of subsection (7) of this section, unless its label bears:

34 (a) The common or usual name of the food, if any there be; and

35 (b) In case it is fabricated from two or more ingredients, the common or usual name of each such
36 ingredient.

37
38 However, spices, flavorings and colorings, other than those sold as such, may be designated as
39 spices, flavorings and colorings, without naming them. To the extent that compliance with the re-
40 quirements of paragraph (b) of this subsection is impractical or results in deception or unfair com-
41 petition, exemptions shall be established by rule promulgated by the department.

42 (11) If it purports to be or is represented for special dietary uses, unless its label bears such
43 information concerning its vitamin, mineral and other dietary properties as the department deter-
44 mines to be, and by rule prescribed as, necessary in order to fully inform purchasers as to its value
45 for such uses.

1 (12) If it bears or contains any artificial flavoring, artificial coloring or chemical preservative,
 2 unless it bears labeling stating that fact. To the extent that compliance with the requirements of this
 3 subsection is impracticable, exemptions shall be established by rule promulgated by the department.
 4 This subsection and subsections (7) and (10) of this section with respect to artificial coloring do not
 5 prohibit the use of harmless coloring matter in butter, cheese or ice cream. The provisions of this
 6 subsection with respect to chemical preservatives do not apply to a pesticide chemical when used
 7 in or on a raw agricultural commodity which is the product of the soil.

8 (13) If it is a raw agricultural commodity *[which]* **not described in subsection (14) of this**
 9 **section that** is the product of the soil, bearing or containing a pesticide chemical applied after
 10 harvest, unless the shipping container of such commodity bears labeling *[which]* **that** declares the
 11 presence of such chemical in or on such commodity and the common or usual name and the function
 12 of such chemical. However, no such declaration is required while *[such]* **the** commodity, having been
 13 removed from the shipping container, is being held or displayed for sale at retail out of *[such]* **the**
 14 container in accordance with the custom of the trade.

15 **(14) If it is a raw agricultural or horticultural commodity that is a product of the soil**
 16 **and that, while being grown or after harvest, was treated with pesticide products containing**
 17 **one or more neonicotinoids as defined in section 2 of this 2017 Act, unless the shipping con-**
 18 **tainer for the commodity, or, if displayed for retail sale, the commodity display, declares that**
 19 **a neonicotinoid was used to produce the commodity.**

20 *[(14)]* (15) If following the labeled directions or instructions on the product in using it as a food
 21 ingredient will result in the final food being adulterated or misbranded.

22 *[(15)]* (16) If it is a color additive, unless its packaging and labeling are in conformity with the
 23 packaging and labeling requirements applicable to such color additive prescribed under the pro-
 24 visions of the federal Act.

25 *[(16)]* (17) If it has been salvaged, unless it bears labeling or notification stating that fact. For
 26 the purposes of this subsection, “salvaged” means the reconditioning, repacking, relabeling, cleaning
 27 or culling of foods that have been damaged or adulterated as a result of fire, storm, flood, water,
 28 smoke, chemicals, radiation or commercial transit accident.

29 **SECTION 7. Section 2 of this 2017 Act applies to pesticide products sold on or after the**
 30 **effective date of this 2017 Act.**

31 **SECTION 8. Section 4 of this 2017 Act and the amendments to ORS 633.545 by section 5**
 32 **of this 2017 Act apply to seeds sold on or after the effective date of this 2017 Act.**

33 **SECTION 9. The amendments to ORS 616.250 by section 6 of this 2017 Act apply to raw**
 34 **agricultural and horticultural commodities sold on or after the effective date of this 2017**
 35 **Act.**