

Chapter 580

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GENERAL PROVISIONS

580.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Commercial channels" means the sale of filberts for use as food, industrial or chemurgic use, when sold to any commercial buyer or to any person who resells filberts or any product derived therefrom.

(2) "Commission" means the Oregon Filbert Commission.

(3) "Dealer" means and includes any person who handles, ships, buys, or sells filberts, shelled or unshelled, or who acts as sales or purchasing agent, broker or factor of filberts.

(4) "First purchaser" means any person, partnership, association or corporation, whether such association or corporation is private or public, that buys filberts from the grower in the first instance.

(5) "Grower" means any landowner personally engaged in growing filberts; a tenant personally engaged in growing filberts; both the owner and the tenant jointly; and includes any person, partnership, association, corporation, cooperative, trust, sharecropper, and any and all other business units, devices or arrangements.

580.020 Purpose of chapter. The purpose of this chapter is to provide for scientific research relating to the use of filberts, and to further the development of the domestic filbert industry.

580.030 Expiration of chapter. This chapter, and all subsequent amendments thereto, shall expire and stand repealed on June 30, 1955.

580.040 to 580.100 [Reserved for expansion]

OREGON FILBERT COMMISSION

580.110 Filbert commission created; members. (1) There hereby is created the Oregon Filbert Commission. The commission shall be composed of three filbert growers and two filbert dealers, all of whom shall be appointed by the Governor for a term of three years, each to continue in office until his successor is appointed and qualified.

(2) The Director of the State Department of Agriculture, the dean of the school of agriculture of Oregon State College, and the head of the food technology department

of Oregon State College, or their respective official representatives, shall be ex officio members of the commission, without right to vote.

580.120 Qualifications of members. Each member of the commission shall have the following qualifications which must continue during his term of office:

(1) Each shall be a citizen of the United States.

(2) Each shall be a bona fide resident of this state.

(3) Each shall be over 25 years of age.

(4) Each grower member shall be and have been actively engaged in growing filberts in this state for a period of at least five years, and shall derive a substantial proportion of his income from the sale of filberts. The two dealer members shall be persons who, either individually or as executive officers of a corporation, firm partnership, association or cooperative organization, are and have been actively engaged as dealers in filberts within this state.

(5) Each shall have demonstrated through membership in a growers' organization, the public service, or otherwise, a profound interest in the development of Oregon's filbert industry.

580.130 Term of members. (1) The original members of the commission shall be appointed as follows:

(a) One grower member for a term ending June 30, 1952.

(b) One grower member for a term ending June 30, 1953.

(c) One grower member for a term ending June 30, 1954.

(d) One dealer member for a term ending June 30, 1953.

(e) One dealer member for a term ending June 30, 1954.

(2) Each subsequent member shall be appointed for a term ending three years from the date of the expiration of the term for which his predecessor was appointed, except in case of a vacancy when the appointee shall serve the unexpired part of the term of the member whom he replaced.

580.140 Removal of members. (1) The Governor shall immediately declare the office of any member of the commission vacant whenever notified by the commission that such member has ceased to be an active filbert grower or active filbert dealer in this state, has become a resident

of another state, or is unable to perform the duties of his office.

(2) The Governor may remove any member of the commission for inefficiency, neglect of duty or misconduct in office, after a public hearing thereon and after serving upon the member a copy of the charges against him, together with a notice of the time and place of the hearing. Service shall be made at least 10 days prior to the hearing. At the hearing the member shall be given an opportunity to be heard in person or by counsel and shall be permitted to present evidence to answer the charges and explain the facts alleged against him. In every case of removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges against the member, and his findings thereon, together with a record of the entire proceedings had in connection therewith.

580.150 Commission members not compensated; expenses allowed. Members of the commission shall receive no salary, but shall be paid their actual traveling expenses incurred while necessarily engaged in the transaction of official business of the commission.

580.160 Chairman and secretary-treasurer of commission. The commission shall elect a chairman and a secretary-treasurer from among its members.

580.170 Meetings of commission. The commission shall meet regularly once each six months, and at such other times as called by the chairman. The chairman may call special meetings at any time, and shall call a special meeting when requested by two or more members of the commission.

580.180 Powers and duties of commission. (1) The commission has the following duties, authorities and powers:

(a) To conduct scientific research to discover and develop the health, food, therapeutic and dietetic value of filberts and products thereof.

(b) To find and develop through research new and practical ways in which filberts may be used and processed so that filberts may be more easily used by manufacturers and consumers, thereby creating a larger and broader demand for Oregon filberts.

(c) To promulgate reliable information founded upon the research undertaken un-

der this chapter, showing the value of filberts and filbert products for any purpose for which they may be found useful and profitable.

(d) To study legislation, state and federal, with respect to tariffs, duties, reciprocal trade agreements, import quotas and other matters, concerning the effect on the filbert industry, and to represent and protect the interests of the filbert industry with respect to any legislation or proposed legislation or executive action which may affect that industry.

(e) To sue and be sued.

(f) To enter into such contracts as may be advisable in carrying out the purposes of this chapter.

(g) To borrow money, not in excess of the estimated revenue from the current year's crop, so that the crop which is responsible for accumulation of funds may receive the benefits of the efforts for which funds are used. Expenditures may be necessary for special efforts in the case of surplus or distressed production, prior to accumulation of funds.

(h) To make grants to research agencies for financing special or emergency studies or for the purchase or acquisition of facilities necessary to carry out the purposes of this chapter.

(i) To appoint officers and to prescribe their duties.

(j) To cooperate with any local, state or national organizations or agencies, whether created by law or voluntary, engaged in work or activities similar to that of the commission; and to enter into contracts with such organizations or agencies for carrying on joint programs.

(k) To act jointly and in cooperation with the Federal Government or any agency thereof in the administration of any program of the government or a governmental agency deemed by the commission to be beneficial to the filbert industry of this state, and to expend funds in connection therewith, provided that such program is compatible with the purposes of this chapter.

(L) To prosecute, in the name of the State of Oregon, any suit or action for the collection of the tax or assessment provided for in ORS 580.310.

(m) To adopt, rescind, modify or amend all proper regulations, orders and resolutions for the exercise of its powers and duties.

(n) To keep accurate books, records and

accounts of all its dealings, which books, records and accounts shall be open to inspection and audit by the state auditor.

(o) To adopt a general statement of policy for guidance.

(2) Nothing in this chapter shall be construed as giving the commission the power or authority to expend funds for filbert advertising or sales promotion and such expenditures of any moneys collected under this chapter hereby are expressly prohibited.

580.190 Commission accepting grants, donations and gifts. The commission may accept grants, donations or gifts, from any source for expenditures for any purposes consistent with the purposes of this chapter. All funds so received shall be handled as specified in this chapter for other moneys received by the commission.

580.200 Designation of executive secretary to collect and disburse funds. The commission shall designate the secretary-manager of the Filbert Control Board as its executive secretary for the collection and disbursement of funds under this chapter and shall pay the Filbert Control Board a nominal fee for such services. If the secretary-manager of the Filbert Control Board or the Filbert Control Board are unable to act, then the commission shall designate some other person or body to perform the duties of executive secretary. Such substitute person or body shall be paid a nominal fee for such services.

580.210 Bond of executive secretary. The secretary-manager of the Filbert Control Board, or such other duly designated executive secretary as provided in ORS 580.200, shall file with the commission a fidelity bond executed by a surety company authorized to do business in this state, in favor of the commission and the State of Oregon, jointly and severally, conditioned on the faithful performance of his duties and the strict accounting of all funds of the commission, in the penal sum of \$20,000.

580.220 Establishment of meeting place. The commission shall establish a meeting place anywhere within the State of Oregon it selects, but the selection of the location shall be guided by consideration for the convenience of the majority of those most likely to have business with the commission or to be affected by its acts.

580.230 State not liable for acts of commission or its agents. The State of Oregon is not liable for the acts or omissions of this commission or agents or officers thereof.

580.240 to 580.300 [Reserved for expansion]

FILBERT COMMISSION ACCOUNT TAX

580.310 Imposition of tax. All funds expended in the administration of this chapter and for the payment of claims growing out of the performance of duties or activities pursuant to this chapter, shall be paid by a tax of not more than \$2 per ton of 2,000 pounds dry weight on all filberts grown in this state and sold in commercial channels, and on all filberts wheresoever grown which are sold to first purchasers located in this state; but all sales of 250 pounds or less of filberts sold by grower direct to consumer are exempt. The tax assessment shall begin with the 1951 crop and shall be levied on each crop thereafter to and including the 1954 crop. The tax shall be levied and assessed to the grower at the time of sale and shall be deducted by the first purchaser from the price paid to the grower.

580.320 Payment of tax when first purchaser is in another state or is a governmental agency. (1) In all cases where a first purchaser lives in or has his office in another state and the grower resides in Oregon, the grower shall report all sales made to such first purchaser on forms provided by, and pay the tax directly to, the commission, unless such first purchaser voluntarily makes the proper deduction and remits the proceeds to the commission.

(2) Where the first purchaser is a federal or other governmental agency, the grower shall likewise report to, and pay the tax directly to the commission.

580.330 Purchaser to make reports to commission. The purchaser shall make reports to the commission on such forms as are prescribed by the commission. No purchaser shall fail to make any such report, or shall make any such report falsely.

580.340 Payment of tax by purchasers; disposition of receipts; continuing appropriation. (1) The commission shall fix dates upon which reports shall be made to the commission by all regular first purchasers. Upon such dates all tax moneys

collected by any purchaser shall be turned over to the commission which shall issue receipts therefor and make suitable records thereof.

(2) All moneys received by any person from the assessment levied under the authority of this chapter shall be paid to the authorized agent of the commission and shall be deposited in the General Fund in the State Treasury to the credit of an account to be known as the Filbert Commission Account. Such account hereby is appropriated for the payment of all expenses of the commission in carrying out the provisions of this chapter, payable on claims duly approved by the commission in the same manner as are other claims against the state.

580.350 First purchaser penalized for delay in transmittal of funds. In addition to any other penalties prescribed in this chapter, any first purchaser who delays transmittal of funds beyond the time set by the commission shall pay five percent of the amount due for the first month of delay and one percent of the amount due for each month of delay thereafter.

580.360 Disposition of funds upon termination or repeal of chapter. Upon the termination or repeal of this chapter, all funds remaining to the credit of the Oregon Filbert Commission, after settling all claims and allowing a six months' period for new claims, are appropriated to the food technology department of Oregon State College.

580.370 to 580.980 [Reserved for expansion]

PENALTIES

580.990 Penalties. Violation of any of the provisions of this chapter is punishable, upon conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than 90 days, or by both; except that any first purchaser who willfully refuses to turn over tax moneys collected under the provisions of this chapter shall pay an additional fine equal to twice the amount of the tax moneys so withheld. District and justices' courts have concurrent jurisdiction with circuit courts in all prosecutions under this chapter.

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[Reserved for expansion]