

Chapter 582

Oregon Dairy Products Commission; Dairy Products Commission Account Tax

GENERAL PROVISIONS

- 582.010 Definitions
582.020 Period for which chapter effective

OREGON DAIRY PRODUCTS COMMISSION

- 582.110 Dairy products commission created; members; qualifications; ex officio members
582.120 Appointment, term and removal of members
582.130 Majority of commission required for order or act
582.140 Compensation of members; expenses allowed
582.150 Powers of commission
582.160 Advertising and research campaign by commission
582.170 Bonds of employees

- 582.180 Nonliability of state and individual commission members; payment of commission expenses

DAIRY PRODUCTS COMMISSION ACCOUNT TAX

- 582.210 Imposition and computation of tax
582.220 Collection and payment of tax
582.230 Disposition of moneys collected; Oregon Dairy Products Commission Account
582.240 Producer-distributor considered a first handler; payment of tax
582.250 Records required to be kept
582.260 Commission may require filing of return
582.270 Payment of tax before shipment; advertising stamps

PENALTIES

- 582.990 Penalties

CROSS REFERENCES

Administrative orders of state agencies, Ch. 183
State agencies generally, Ch. 182

582.020

Continuance of Oregon Dairy Products Commission as a commission created under ORS chapter 576, 576.135

582.120

Term and removal of appointive officers, 236.140

582.140

Subsistence and mileage allowance for travel, reimbursement, 292.210 to 292.260

582.150

Civil service for state employees, Ch. 240
Legal proceedings to which state is a party, supervision by Department of Justice, 180.220
Office space, leasing or renting, approval by Department of Finance and Administration, 276.426, 276.428

Purchasing and contracting under control of Department of Finance and Administration, 291.004

582.230

Expenditures without allotment prohibited in certain cases, 291.238

GENERAL PROVISIONS

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

(1) "Commission" means the Oregon Dairy Products Commission.

(2) "Dealer" means and includes any person who ships, buys or sells dairy products, or who acts as sales or purchasing agent, broker or factor of dairy products.

(3) "Handler" means and includes any person who purchases milk or cream for processing, manufacturing, sale or distribution, whether as owner, agent or any other capacity.

(4) "Person" means and includes individuals, partnerships, cooperative associations, corporations, trusts and any and all other business units.

(5) "Processor" or "processing plant" means and includes every person and every place to whom or to which milk or cream is delivered for the purpose of canning, drying, manufacturing or preparing for market, or for use in producing or manufacturing a product of milk or cream.

(6) "Producer" includes every person who produces milk and thereafter sells the same, or the cream or butterfat taken therefrom, for human consumption or animal food, industrial or medicinal uses.

(7) "Producer-distributor" means any producer who maintains his own herd, prepares for human consumption the milk or cream, or both, produced from his herd and distributes and sells, either partially or exclusively, his own product to consumers or to others for sale to consumers.

(8) "Shipment" or "shipped" is deemed to have taken place, within the meaning of this chapter, when milk or cream has been delivered, or consigned for transportation or delivery, to any person dealing in processing, distributing or manufacturing dairy products for sale at retail or wholesale for human consumption, industrial or medicinal uses.

582.020 Period for which chapter effective. This chapter shall remain in force and effect, unless sooner repealed, until June 9, 1955.

582.030 to 582.100 [Reserved for expansion]

OREGON DAIRY PRODUCTS COMMISSION

582.110 Dairy products commission created; members; qualifications; ex officio members. (1) There hereby is created a commission to be known as Oregon Dairy Products Commission, composed of five members.

(2) Four members of the commission shall be producers or producer-distributors and one thereof shall be appointed from each congressional district of the state; but not more than one producer-distributor shall be appointed as a member of the commission and not more than two members shall be appointed from any congressional district and if a member of the commission moves from the congressional district from which he was appointed, his office shall automatically become vacant, whereupon the commission shall forthwith notify the Governor of the vacancy, and the Governor shall thereupon fill the vacancy by appointment. One member of the commission shall be appointed from the state at large, who shall be a processor or an officer of a processor. Such members shall be appointed by the Governor.

(3) The Director of the State Department of Agriculture and the head of the dairy department of Oregon State College shall be ex officio members of the commission, but without power to vote.

582.120 Appointment, term and removal of members. The Governor shall appoint five persons, possessing the qualification stated in ORS 582.110 to be members of the commission. The terms of the members first appointed shall be fixed by the Governor so that the term of not more than two members will expire in any one year. Any vacancy occurring in the commission shall be filled by appointment by the Governor for the unexpired term. The Governor may remove any member of the commission, for cause deemed sufficient by him, and upon any such removal there shall be a vacancy which shall be filled for the unexpired term by appointment by the Governor.

582.130 Majority of commission required for order or act. A majority of the appointed members of the commission constitutes a quorum for the transaction of all business. Any resolution, order or act of the commission requires the approval of a majority of the appointed members before taking effect.

582.140 Compensation of members; expenses allowed. The appointed members of the commission shall receive \$5 for each day spent in actual attendance on the meetings or on the business of the commission, together with reasonable subsistence and travel expenses to be allowed and approved by the commission.

582.150 Powers of commission. The commission has power to:

- (1) Sue and be sued.
- (2) Contract and be contracted with.
- (3) Elect a chairman and secretary and to appoint or employ such other officers, agents and employees, including advertising counsel and agents, as it deems advisable, prescribe their duties and fix their compensation.
- (4) Adopt, rescind, modify and amend all necessary and proper orders, rules and regulations for the exercise of its powers and the performance of its duties, which shall have the force and effect of law when not inconsistent with existing law.
- (5) Administer and enforce the provisions of this chapter and to do and perform all acts and exercise all powers reasonably necessary to effectuate the purposes of this chapter.
- (6) Establish and maintain offices and to incur all necessary expenses in the exercise of its powers and performance of its duties under this chapter.
- (7) Investigate all matters affecting the administration of this chapter and to prosecute in the name of the State of Oregon all violations of this chapter.
- (8) Conduct research for the purpose of developing and diffusing information concerning the health, food, therapeutic, dietetic and industrial and mechanical uses of milk or its derivatives.
- (9) Make use of such advertising means and methods as it deems advisable and to enter into contracts and agreements for research and advertising within or outside of this state.
- (10) Cooperate with any other local, state or national commission, organization or agency whether voluntary or created by state or national law, and engaged in work or activities similar to the work and activities of the commission created by this chapter, and to enter into contracts and agreements with such organizations or agencies, for carrying on a joint campaign of research, education and advertising.

(11) Prosecute in its own name any suit or action for the collection of the tax or assessment provided for in this chapter.

(12) Maintain and prosecute in its own name any suit to enjoin any violation of this chapter by anyone subject to the provisions of this chapter.

(13) Maintain and prosecute any other civil action or suit relating to the violation of this chapter or the enforcement of the provisions of this chapter.

(14) Keep accurate books, records and accounts of all its transactions, dealings, contracts, agreements, funds and expenditures, which shall be at all times open to inspection and audit by the Secretary of State.

582.160 Advertising and research campaign by commission. The commission shall conduct a campaign of advertising, publicity, research and education designed to accomplish these purposes, among others:

(1) Increase the consumption of dairy products.

(2) Gather, publicize and diffuse reliable information showing the importance of the use of milk, cream and other dairy products in relation to the public health, economy in diet, the proper nutrition of children and adults.

(3) Study means and methods employed in production, processing and marketing of dairy products in order to comply with the sanitary and other regulations imposed by municipalities, state and nation.

(4) Gather and diffuse information regarding:

(a) The high standards observed and imposed to insure pure and wholesome dairy products.

(b) The harmful effect on the public health resulting from any breakdown or instability of the dairy industry.

(c) The relation between a reasonable return to the dairyman for his labor and investment and the problem of assuring and furnishing to the consumer at all times an adequate supply of pure and wholesome dairy products at reasonable prices.

(d) The factors and conditions peculiar to the dairy industry which tend to cause an unbalanced production.

(e) The price of milk, cream and other dairy products in relation to the cost of other items of food in a balanced diet, and the factors which tend to promote increased consumption of dairy products, stabilize the

industry and foster a better understanding and more efficient cooperation between producers, the consuming public and all others engaged in the handling, processing and marketing of dairy products.

582.170 Bonds of employees. The commission may require any employe or agent of the commission to give a bond payable to the State of Oregon in the amount, with the surety, and containing the terms and conditions the commission prescribes. The cost of the bond shall be paid by the commission.

582.180 Nonliability of state and individual commission members; payment of commission expenses. (1) The State of Oregon is not liable for the acts or omissions of the commission or any member thereof, or any officer, agent or employe thereof, or upon any contract entered into by the commission.

(2) No member of the commission and no officer, agent or employe of the commission is personally liable on any contract or agreement of the commission.

(3) All salaries, expenses, costs, obligations and liabilities incurred by the commission shall be payable only from funds collected under the provisions of this chapter.

582.190 to 582.200 [Reserved for expansion]

DAIRY PRODUCTS COMMISSION ACCOUNT TAX

582.210 Imposition and computation of tax. (1) There hereby is levied and imposed a tax of one cent per pound or fraction thereof upon all butterfat processed, marketed, sold, shipped or produced in Oregon during the months of May and June of each year; but the provisions of this section do not apply to butterfat in milk and cream consumed upon the farm where produced.

(2) For the purpose of computing the tax in markets where butterfat tests are not available or not established by tests, and weight records are not kept and available, milk shall be deemed to weigh eight and six-tenths pounds per gallon and have a butterfat content of four percent, and cream shall be deemed to weigh eight pounds per gallon and have a butterfat content of 30 percent.

582.220 Collection and payment of tax. All taxes levied and imposed under ORS

582.210 shall be collected by the first handler, processor, manufacturer, dealer, distributor or shipper of dairy products, as the case may be. The money so collected shall be deducted from the amount due and payable to the producer of the butterfat. The first handler, processor, manufacturer, dealer, distributor or shipper, as the case may be, shall collect the tax and pay it over to the commission, on or before July 15 in each year. The obligation of such handler, processor, manufacturer, dealer, distributor or shipper, as the case may be, shall be to pay over to the commission the full amount collected, or which should have been collected, and the commission may recover from the first handler, processor, manufacturer, dealer, distributor or shipper, as the case may be, by action, prosecuted in its own name, the amount so collected, or which should have been collected.

582.230 Disposition of moneys collected; Oregon Dairy Products Commission Account. All moneys paid over to the commission pursuant to ORS 582.220 shall be deposited forthwith with the State Treasurer and by him placed to the credit of an account to be known as Oregon Dairy Products Commission Account. All the moneys so deposited, together with moneys deposited in such account under the provisions of section 5, chapter 106, Oregon Laws 1943, as amended, hereby are set apart and appropriated for the payment of the expenses incurred by the commission under the provisions of this chapter, and no part thereof shall be appropriated, used or diverted to any other purpose.

582.240 Producer-distributor considered a first handler; payment of tax. For the purpose of this chapter, the producer-distributor is deemed a first handler and shall pay direct to the commission the tax levied and assessed on all butterfat, as provided in ORS 582.210 to 582.230, upon the butterfat content of all milk and cream produced by such producer-distributor, and not consumed on the farm where produced.

582.250 Records required to be kept. Every first handler, processor, manufacturer, dealer, distributor or shipper of dairy products, including producer-distributors, shall keep a complete and accurate record of all butterfat in milk or cream bottled, handled, processed, manufactured, sold or distributed by it or him during the months of May and June of each year. Such record

shall be in such form and contain such information as the commission by order or regulation prescribes, and shall be preserved for a period of two years and shall be open to inspection at any time upon request of the commission or its duly authorized agent or employee.

582.260 Commission may require filing of return. The commission may, by rule, order or regulation, require every first handler, processor, manufacturer, dealer, distributor or shipper of dairy products, including producer-distributors, to file with the commission a return on forms to be prescribed and furnished by the commission, stating the quantity of milk, cream or other dairy products handled, processed, manufactured, distributed, sold or shipped and the butterfat content thereof.

582.270 Payment of tax before shipment; advertising stamps. All assessments levied and imposed by this chapter shall be due and payable before any milk or cream is shipped out of the state. No milk or cream shall be carried, transferred or shipped by any person or by any carrier, private or common, until such assessment has been paid

to the commission and an official receipt issued. The commission shall by rule or regulation prescribe the method of collection and, for that purpose, may require stamps, to be known as dairy products advertising stamps, to be purchased from the commission and affixed or attached to the containers, invoices, or shipping documents on all shipments of milk or cream shipped out of this state. Any such stamps shall immediately be canceled by the dealer upon being so fastened or affixed and the date of cancelation shall be placed on such stamps.

582.280 to 582.980 [Reserved for expansion]

PENALTIES

582.990 Penalties. Violation or aiding or abetting in the violation of any of the provisions of this chapter is punishable, upon conviction, by a fine of not less than \$25 nor more than \$500, or by imprisonment in the county jail for not less than 30 days nor more than 90 days, or both. Justice and district courts have concurrent jurisdiction with the circuit courts of all criminal prosecutions under this chapter.