

Chapter 586

Warehouses; Grain Inspection

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WAREHOUSES AND GRAIN STORAGE GENERALLY

586.010 Definitions. As used in ORS 586.020 to 586.100, unless the context requires otherwise:

(1) "Bailee" means any person, firm, or corporation keeping, controlling, managing, operating any warehouse, flourmill, gristmill or other place wherein grain of any kind belonging to any other person is received and kept in storage, whether for compensation or otherwise.

(2) "County court" includes board of county commissioners.

586.020 Compliance with ORS 586.010 to 586.100 required before engaging in grain storage business. It is unlawful for any bailee to solicit or receive any kind of grain in storage belonging to any other person or persons, whether for compensation or otherwise, until such bailee has complied with the provisions of ORS 586.010 to 586.100.

586.030 License required to engage in grain storage business. No bailee shall engage, or attempt to engage, in the business of storing grain belonging to any other person, whether for compensation or otherwise, without first having procured a license or certificate, as required by ORS 586.010 to 586.100.

586.040 Procuring and displaying license. Every bailee, before engaging in the business of storing grain belonging to any other person, whether for compensation or otherwise, shall procure from the county court of the county in which his place or places of business are located, a license or certificate authorizing such bailee to engage in such business. The license or certificate shall be conspicuously displayed in the office or offices, or other part of any building used as a warehouse where grain is kept on storage belonging to any other person, whether for compensation or otherwise.

586.050 Undertaking by licensees; duration of license. The county courts of this state, when any person makes application for a license or certificate, as provided in ORS 586.040, and each year thereafter, shall require from such person an undertaking in a sum fixed by the county court, not less than \$1,000 nor more than \$50,000, for the faithful performance of his duties as bailee. The license or certificate shall be issued by

the county court for a period of not less than one year.

586.060 Sureties; form of undertaking. The sureties to the undertaking required by ORS 586.050 may be either three or more residents of the county who have the qualifications of bail upon arrest, or any surety company designated by statute as competent bondsmen on any official bond required by the state or any county thereof. Before the license or certificate required by ORS 586.040 is issued, the county court shall require the applicant to execute and deposit with the clerk of the court an undertaking, in substantially the following words:

Whereas, — has applied to the county court of the County of —, State of Oregon, for license to engage in the business of storing grain for compensation, or otherwise, within such county, under the laws of the State of Oregon; and whereas the county court has fixed the undertaking of said — at the sum of \$—;

Therefore, know all men by these presents, that — (set forth the name of principal, and if corporation, where organized, and, if partnership, the names of partners), as principal, and —, as surety (or sureties), hereby undertake and agree, in consideration of the issuance of such license, that said —, herein above named as principal, will well and faithfully operate and conduct the business of storing grain for compensation, or otherwise, within — County in compliance with the statutes and laws of the State of Oregon; and, further, that the undersigned will pay to any person, firm or corporation aggrieved by violation of the terms and conditions of this undertaking, all damages, immediate or consequential, not exceeding the sum of \$—, which may be sustained by reason of such violation.

In witness whereof the parties have caused these presents to be signed and sealed this — day of —, 19—.

586.070 Approval and recording of undertaking; copy of record as evidence. The county court shall examine the undertaking provided for in ORS 586.050 and 586.060, and if the undertaking is satisfactory to the court, it shall approve the undertaking by an order and cause such order and the undertaking to be entered in the commissioners' journal. A copy of the undertaking, duly certified to by the county clerk of the county

keeping such records, shall be admitted in evidence in any court in this state with like force and effect as the original. If the undertaking is not satisfactory, the county court shall mark the undertaking "rejected," and enter a record thereof on the journal, and shall immediately give notice thereof to the person signed as principal thereon.

586.080 New undertaking when bond insufficient. If the surety on any bond required by ORS 586.050 becomes insufficient, at any time, the county court shall require the principal thereon to give a new undertaking within such time as the court directs. If the new undertaking is not given within the prescribed time, the license of the principal shall be revoked by the court, and the court shall order the sheriff of the county to take possession of the warehouse, and of the grain on storage therein belonging to any person, whether for compensation or otherwise, and hold the same until the business of the concern is settled up and adjusted.

586.090 Enforcement of undertaking. In the event of a breach of the conditions of such undertaking, legal proceedings thereon may be brought jointly or severally by the persons damaged by the parties, and for such remedies as are indicated in the undertaking.

586.100 Licensee to file annual statement. On June 15 of each year each person licensed to operate a grain storage business within the county shall file with the county clerk of the county within which the business may be conducted, a statement showing the quantity of grain in store, expressed in the language usual and customary in respect thereto, and also a statement of the quantity of grain represented by outstanding warehouse receipts. The statement shall be filed by the county clerk and safely kept for public inspection.

586.110 Mixing of different grades or qualities of commodities prohibited. No person operating any warehouse, commission house, forwarding house, mill, wharf, or other place where grain, flour, pork, beef, wool or other produce or commodity is stored shall mix any grain, flour, pork, beef, wool or other produce or commodity of different grades together, or mix different qualities of the same grade, or deliver one grade for another, or in any way tamper with the same while in his possession or

custody, with a view of securing any profit to himself or any other person, and in no case mix different grades together while in store.

586.120 Transfer of commodity without owner's consent prohibited. No person operating any warehouse, commission house, forwarding house, mill, wharf or other place of storage shall sell, encumber, ship, transfer, or in any manner remove or permit to be shipped, transferred or removed beyond his custody and control, any grain, flour, beef, pork, wool or other produce or commodity for which a receipt has been given by him as provided in ORS 74.010, whether received for storing, shipping, grinding or manufacturing, or other purposes, without the written assent of the holder of the receipt.

586.130 Civil liability for violation of ORS 586.110, 586.120 or 74.010. Any person aggrieved by a violation of ORS 586.110, 586.120 or 74.010 may maintain an action at law against the person or corporation violating any provision of ORS 586.110, 586.120 or 74.010 to recover all damages, immediate or consequential, which such person or corporation has sustained by reason of such violation, before any court of competent jurisdiction, whether or not such person has been convicted under subsection (2) of ORS 586.990.

586.140 to 586.200 [Reserved for expansion]

PUBLIC WAREHOUSES; LICENSING; GRAIN INSPECTION

586.210 Definitions. As used in ORS 586.210 to 586.730, unless the context requires otherwise:

(1) "Department" means the State Department of Agriculture.

(2) "Public terminal warehouse" means any elevator, mill or warehouse located in the cities in the state designated as inspection points by the department, in which grain is received from the public for storage and the grain of different owners mixed together or stored in special piles or bins, and for which receipts are issued covering the grain received.

(3) "Public warehouse" includes any elevator, mill, warehouse or structure in which grain or hay is received from the public for storage, shipment or handling, whenever

such grain or hay is carried or intended to be carried to or from such warehouse, elevator, mill or structure by a common carrier.

(4) "Warehouseman" includes any firm, person, company, corporation or association of persons owning, operating or controlling any public warehouse.

586.220 Classes of public terminal grain warehouses. Public terminal grain warehouses are of two classes, "Class A" grain warehouses and "Class B" grain warehouses. Class A grain warehouses include all warehouses the proprietors of which elect to take licenses under the provisions of ORS 586.210 to 586.730 relative to grain warehouses issuing registered grain warehouse receipts. All other public terminal warehouses are class B grain warehouses.

586.230 State Department of Agriculture to supervise warehouses and inspection and storage of grain and hay and other commodities. The department shall exercise general supervision over the handling, weighing, inspecting and storage of grain and hay, and the management of public and terminal warehouses. The department may authorize the weighing, inspection, grading and analyzing, upon request of any interested party, of commodities of commerce other than grain or hay, such as grain or hay products, rice, beans and other similar articles, nitrates and other fertilizers, sulphur, and other chemicals used in the arts, or in manufacturing, when same are received from or delivered to any rail, water or motor vehicle carrier in the state in commercial transportation, and may authorize the certification of the weights, grades and analysis thereof. Fees for such service, sufficient to cover the cost thereof, shall be fixed by the department. The department shall investigate all complaints of fraud or injustice in the grain and hay trade, fix the charges of public and terminal warehouses, and make all necessary rules and regulations for carrying out and enforcing the provisions of ORS 586.210 to 586.730 and of all laws of the state relating to this subject. The provisions of ORS 561.190 relating to the making of rules and regulations and the printing thereof shall apply to this section.

586.240 Making rules and regulations. The department may make any rules and regulations necessary for the enforcement of ORS 586.210 to 586.630 and 586.650 to 586.730. All such rules and regulations shall

be printed in pamphlet form as provided by ORS 561.190.

586.250 Improper acts of department officers or employees and of others improperly influencing them. (1) No officer, employe, inspector, sampler or weigher of the department shall:

(a) Be guilty of any neglect of duty.

(b) Knowingly or carelessly inspect, sample or weigh any grain, grain products, hay or other commodities improperly.

(c) Directly or indirectly accept any money or other consideration for any neglect of duty or any improper performance of duty as such officer, employe, inspector, sampler or weigher.

(2) No person shall improperly influence or attempt to improperly influence any officer, employe, inspector, sampler or weigher of the department in the performance of his duties as such officer, employe, inspector, sampler or weigher.

586.260 Removal of inspectors and other officers or employees. Upon written complaint filed with the Director of Agriculture charging any officer, employe, inspector, sampler or weigher with official misconduct, inefficiency, incompetency or neglect of duty, the director shall investigate the charge, and if it is found sustained, shall remove the officer, employe, inspector, sampler or weigher.

586.270 Warehouse licenses; federal licenses; bonds and fees. Every person operating any public or terminal warehouse in this state, except those municipally owned and operated, shall, on or before July 1 of each year, procure from the department a license for each such warehouse so operated for the ensuing year, before transacting business at such public warehouse; but the holder of a license to store grain or hay under the United States Warehouse Act shall furnish the department with a copy of such license and bond and, having furnished such copies, is not required to secure a state license or pay state warehouse inspection fees during the time he continues to operate under the federal license. No license shall be issued before the bond required is given and approved. The license shall name the commodities to be stored and shall be posted in a conspicuous place in the office of each warehouse. The fee for the license is \$10 for each public warehouse, and the department may,

in the manner provided in ORS 561.310 to 561.390, revoke any such license for cause.

586.280 Operating warehouse without license; issuing warehouse receipts prohibited; penalty; enjoining operations. No warehouseman operating a public warehouse within this state shall issue any warehouse receipt for grain or hay for storage purposes unless he is at the time licensed so to do, either by the department or by the United States Department of Agriculture. Any person operating any public or terminal warehouse in this state without a license shall forfeit to the state for each day's operation \$50 and such operation may be enjoined upon complaint of the department.

586.290 Posting of signs at warehouses.

(1) Every warehouseman operating a public warehouse licensed under ORS 586.210 to 586.730 shall post at or near the main entrance to the warehouse a sign to be furnished by the department of such design as the department directs, having thereon the words, "Oregon Bonded Grain Warehouse." It is unlawful to permit such sign or any sign of similar appearance or bearing the same words, or words of similar import, to remain during any time that the grain warehouse is not duly and regularly licensed or bonded under ORS 586.210 to 586.730.

(2) When any such license expires or is revoked and a new license from the department has not yet been issued, or if the full amount of the bond required has not been filed and approved, then the warehouseman immediately shall:

(a) Remove the sign.

(b) Discontinue operation of his business as a public warehouse.

(c) Place at the main entrance of the grain warehouse a sign of such dimensions and other specifications as prescribed by the department, having thereon the following words: "This Is Not a Bonded Warehouse."

586.300 Warehousemen's bonds; liability; warehousemen bonded under United States Warehouse Act exempt. (1) Each person, firm, corporation or association of persons, except municipalities, operating any public warehouse or warehouses subject to the provisions or ORS 586.210 to 586.730, shall, on or before July 1 of each year, give a bond in good and sufficient surety to the State of Oregon in such sum as the department requires, to be approved by the department and conditioned upon the faithful performance of

the acts and duties enjoined upon them by law; but the liability of the surety upon such bond is limited to the amount specified in the bond.

(2) If recoveries are had by two or more persons for violation of the conditions of the bond in excess of the amount of the bond, the recovery shall be prorated and the total amount against the surety shall not exceed the amount of the bond.

(3) If any warehouseman has applied for license to conduct two or more warehouses in this state, the assets applicable to all such warehouses are subject to the liabilities of each. Such warehouseman may give a single bond meeting the requirements of ORS 586.210 to 586.730, and such warehouses shall be deemed as one warehouse for the purpose of the bond required under such sections.

(4) If a bond has been filed with and approved by the Department of Agriculture of the United States, as required by section 6 of the United States Warehouse Act, then such bond filed with and approved by the Department of Agriculture of the United States shall be considered as in lieu of the bond required by this section if:

(a) Satisfactory proof of the filing and approval of the bond is filed with the department;

(b) The department is satisfied with the form of the bond;

(c) The bonding company has complied with the laws of this state relating to bonding companies; and

(d) The bond meets with the other requirements of ORS 586.210 to 586.730.

586.310 Filing bond; action on bond.

The bonds of all warehousemen shall be filed in the office of the Secretary of State. Any person injured by reason of neglect or failure of such warehouseman to comply with the provisions applying to warehousemen contained in ORS 586.210 to 586.730, or of the rules and regulations of the department, has a right of action upon such bond for the recovery of all damages suffered thereby.

586.320 Action by district attorney upon expiration or revocation of licenses.

Immediately after the expiration or revocation of any license under ORS 586.210 to 586.730, and if a new license on the same warehouse has not been issued, the department shall notify the district attorney of the county in which the warehouse is situated.

The district attorney shall enforce the penalties for violation of ORS 586.210 to 586.730, and he thereupon may institute a suit in equity in the name of the State of Oregon to enjoin further operations of the public warehouse.

586.330 Investigating and fixing warehouse charges. All charges made by any public warehouseman subject to the provisions of ORS 586.210 to 586.730, for the handling or storage of grain and hay shall be just, fair and reasonable; and the department, upon the complaint of any person interested or by inquiry upon its own motion, after a full hearing, may:

(1) Declare any existing charge for the handling or storage of grain or hay, or any regulation whatsoever affecting such charge, or the receipt, handling or storage, to be unreasonable or unjust; and

(2) Declare and order what is a just and reasonable charge or regulation to be imposed or enforced in place of that found to be unreasonable or unjust.

586.340 Posting rate schedules; increase or discrimination in rates prohibited. Every warehouseman shall annually, during the first week in July, publish by posting in a conspicuous place in his warehouse, a schedule of storage rates for the ensuing year. The schedule shall be kept posted in a conspicuous place in the warehouse. The rates shall not be increased during such year. No discrimination in rates shall be made by any warehouseman.

586.350 Overcharges, rebates and preferences prohibited. No public or terminal warehouseman subject to the provisions of ORS 586.210 to 586.730 shall:

(1) Directly or indirectly, by any special charge, rebate, drawback or other device, demand, collect or receive from any person a greater or lesser compensation for any service rendered or to be rendered in the handling or storage of grain or hay than he demands, collects or receives from any other person for doing for him a like and contemporaneous service in the handling or storage of grain or hay under substantially similar circumstances or conditions.

(2) Make or give any undue or unreasonable preference or advantage to any person in any respect whatsoever.

(3) Subject any particular person to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

586.360 Warehouseman required to receive grain for storage; load slips; warehouse receipts; special piles. (1) Every public warehouseman shall receive for storage and shipment, so far as the capacity of his warehouse will permit, all grain and hay in a warehouse licensed for such purpose, in suitable condition for storage, tendered him in the usual course of business, without discrimination of any kind.

(2) Every warehouseman receiving grain or hay shall issue and deliver to every person delivering the grain or hay a load slip which shall contain thereon the actual weight of each draft of the grain or hay and the tare, if any, immediately upon receipt of each load or parcel of grain or hay, or as he may demand. The warehouseman shall issue, upon demand, and deliver to the owner of the grain or hay, or his representative, upon presentation of the load slips, a warehouse receipt in form prescribed by law, except as provided in ORS 586.430 for class A grain warehouses, giving the kind and variety said to be, and if graded the true and correct grade and weight thereof. However, upon request of the owner, grain in sacks or hay may be put in a special pile without grading.

(3) If grain in sacks or hay has been wet or damaged it shall be received and piled in a special pile with a distinguishing mark, which shall be shown on the receipt for the same and given for the number of sacks or bales only. The issuance of a receipt is mandatory. Owners of receipts for special piles are entitled to the delivery of the entire amount of the special pile, including the sweepings therefrom. The cost of resacking, if necessary, of the sweepings shall be paid by the owner of the pile. When receipts are issued for parts of special piles, the receipts must bear the notation: "Part of a special pile."

586.370 Obtaining blank forms of receipts from department. (1) The department, on or before July 1 in each year and at such other times as may be necessary, shall cause to be printed, bound and delivered to each person operating a public warehouse for the handling, storage and shipment of grain or hay in this state, a sufficient number of blank forms of negotiable warehouse receipts, in the form prescribed by ORS 586.360, required to carry on the business of such public warehouse for the ensuing year, beginning July 1 of each year. All such receipts required by all such ware-

houses in the state shall bear a serial number.

(2) Every person intending to operate a public warehouse, or warehouses, for the handling, storage or shipment of grain or hay during the ensuing license year beginning July 1 shall, on or before June 1 of such year, file with the department for that purpose a requisition for such number of blank forms of negotiable warehouse receipts as may be required for the operation of such public warehouse during the ensuing license year, specifying:

(a) The name of the person, firm, association of persons or corporation intending to operate such public warehouse.

(b) The state number of the warehouse, or the respective numbers of the warehouses, intended to be operated.

(c) The respective quantities of blank forms of receipts required for each warehouse.

(d) The place where each warehouse, respectively, is located.

(e) The location of the principal place of business of the person, firm, association of persons or corporation operating such warehouse or warehouses.

(f) The rate of handling the storage charges at such warehouse, or each of such warehouses, respectively.

(g) Whether such blank form of receipts shall be printed and bound in duplicate, triplicate or quadruplicate.

(h) Such other information as may be required by the department, specified in the blank form of requisition.

(3) A United States postoffice money order, or certified bank check, payable to the department, for the amount of charges required for the filing of such requisition shall accompany such requisition. Every such warehouseman may file requisitions for additional blank warehouse receipts from time to time as he requires.

586.380 Only authorized receipts to be used; exception. (1) It is unlawful to issue warehouse receipts other than those furnished by the department and such receipts shall be issued consecutively as numbered and dated with the true and correct date on which each receipt is actually issued. It is unlawful to print or have in possession for the purpose of issuance under ORS 586.210 to 586.730, any warehouse receipt blanks intended for use under the provisions of those sections other than those authorized to be

printed or other than those furnished by the department.

(2) Nothing in ORS 586.210 to 586.730 shall be construed to prevent the issuance of nonnegotiable load slips or other nonnegotiable evidence of similar nature showing when and what quantities of grain were received or the condition thereof upon delivery.

(3) Municipally operated warehouses, or warehouses operated under the United States Warehouse Act, are exempted from the use of receipts furnished by the department.

586.390 Withdrawal or shipment; surrender of warehouse receipts; trust receipts and bills of lading. (1) The holder of warehouse receipts, at the time of the surrender thereof to the warehouseman for shipment of the grain or hay described therein, is entitled to demand and receive from such warehouseman a trust receipt therefor. The trust receipt shall contain:

(a) The name of the person to whom issued.

(b) A statement of the grade and quantity of the grain or hay specified in the warehouse receipts, and the serial numbers thereof.

(c) An acknowledgment by the warehouseman that he holds the warehouse receipts and the grain or hay therein described in trust for the holder of the trust receipt for the purpose of shipment or delivery as therein stated of such grain or hay.

(d) The amount of advances and for charges paid to the warehouseman at the time of the surrender of such warehouse receipts.

(e) A statement that the trust receipt is nonnegotiable and will be surrendered to the warehouseman by the holder thereof upon receipt by him of valid bills of lading covering the grain or hay of the quantity specified in the trust receipt, or upon receiving written evidence of the shipment or delivery by the warehouseman of the grain or hay in accordance with the shipping or delivery instructions specified in the trust receipt.

(2) It is the duty of the warehouseman, upon request, to issue such trust receipt to the holder of warehouse receipts at the time of the surrender thereof.

(3) When any warehouseman issues a trust receipt for warehouse receipts, as provided in this section, he shall plainly note upon the warehouse receipts for which the trust receipt was issued the fact of the is-

suance of the trust receipt therefor, the date thereof and the name of the person to whom issued.

(4) The warehouseman thereafter, when the trust receipt is surrendered to him, shall cancel and attach it to the warehouse receipt for which the trust receipt was issued, and in case the trust receipt covered more than one warehouse receipt, then the trust receipt shall be canceled and attached to one of the warehouse receipts and a notation of the number thereof made upon each of the other warehouse receipts for which the trust receipt was issued.

586.400 Delivery of property upon return of receipt to warehouseman; damages for failure to deliver; action to recover property. (1) Upon the return of the warehouse receipt to the proper warehouseman, properly indorsed, and upon payment or tender of all advances and legal charges, grain or hay of the grade and quantity named therein shall be delivered to the holder of such receipt within 48 hours after the facilities for receiving the same are provided.

(2) If such warehouseman fails to deliver it, he is liable to the owner in damages at the rate of one cent a bushel for each day's delay, unless he delivers the property to the several owners in the order of demand as rapidly as it can be done by ordinary diligence. If, upon such demand and tender, the warehouseman fails so to deliver such grain or hay, the person entitled thereto may recover the same by action; and such warehouseman or person or agent in charge thereof is subject to a penalty as provided in subsections (6) and (7) of ORS 586.990.

586.410 Loading and shipping instructions; liability of warehousemen. Owners of warehouse receipts surrendered for shipment shall furnish the warehouseman with written instructions regarding the capacity of cars to be ordered from the transportation company and as to the manner of loading and billing shipments made in such cars as are furnished by the transportation company. The warehouseman shall load and bill all such shipments in exact accordance with instructions given, and is liable to the owner of the warehouse receipt so surrendered for the amount of any excess freight paid, or for other damages suffered, by the owner of the warehouse receipt resulting from the failure of the warehouseman to follow exact-

ly the loading and billing instructions as given him.

586.420 Clerk as registrar of warehouse receipts. The chief clerk in the office of the grain inspector of the department at each terminal point is ex officio registrar of warehouse receipts at that point.

586.430 Receipting for grain received at class A warehouse; reports to registrar; registration of receipts; contract limitations on liability prohibited. (1) Every public terminal grain warehouseman conducting a class A grain warehouse, upon the receipt of any grain, shall issue or cause to be issued a receipt therefor, and shall, within 36 hours, file with the registrar of warehouse receipts, at the terminal point where the warehouse is situated, a report showing the amount of grain received, the name of the owner, the number of the receipts issued therefor and the number and initial of the car, or name of the vessel from which the grain was received, accompanied by the warehouse receipts for registration.

(2) No grain warehouseman shall limit or modify his responsibility as imposed by law, by any words inserted in any such receipt, or by any contract relative thereto.

(3) Upon the receipt of such report and warehouse receipts, the registrar of warehouse receipts shall register such receipts in a book to be kept for that purpose and stamp on each of such receipts the word "Registered," with the date of registration and affix his signature thereto, and return the receipt to the warehouseman for delivery to the owner.

586.440 Registration of receipts for cancellation on removal of grain or on division or consolidation of receipts. Whenever the owner or any indorsee of any registered warehouse receipt desires to remove the grain represented thereby, or any part thereof, from the warehouse, or desires to divide one receipt into two or more receipts, or to consolidate two or more receipts into one, he shall present the receipts to the registrar of warehouse receipts to be registered for cancellation. Upon presentation of any such receipt or receipts for registration for cancellation, the registrar of warehouse receipts shall stamp thereon the words "Registered for cancellation" with the date of presentation, and affix his signature thereto.

586.450 Return of receipt registered for cancellation required for delivery of grain from class A warehouse; report of receipts canceled. No warehouseman conducting a class A warehouse shall deliver from such warehouse any grain except upon the return of the registered receipt therefor stamped with the words "Registered for cancellation" and bearing the date of registration for cancellation and the signature of the registrar of warehouse receipts. The warehouseman or his duly authorized agent delivering any grain from a class A grain warehouse shall plainly stamp across the face of the receipt therefor the word "Canceled," sign and date the receipt and within 36 hours after the last of the grain has been delivered, file with the registrar of warehouse receipts a report giving the numbers of the receipts canceled. The registrar shall enter, upon the receipt of the report, the fact of the cancellation in the record in his office.

586.460 New receipts on division or consolidation of originals or on partial deliveries. (1) Whenever the owner of any grain warehouse receipt presents the receipt to the warehouseman stamped "Registered for cancellation" and demands two or more receipts for the grain represented by the one receipt, the warehouseman, or his duly authorized agent, shall stamp on the face of the receipt presented the word "Canceled," sign and date the receipt and issue new receipts. The new receipts shall express on their face the fact that they are parts of another receipt and give the number of the original receipt of which they are parts, and shall bear the same date as the original receipt.

(2) Whenever the holder of two or more receipts presents the receipts to a warehouseman stamped "Registered for cancellation" and demands a consolidated receipt for the aggregate amount of the receipts, the warehouseman, or his duly authorized agent, shall stamp on the face of the receipts presented the word "Canceled" and date and sign the receipts and issue a new receipt which shall express on its face the fact that it is a consolidation of other receipts, giving the number of the receipts so consolidated. The new receipt shall bear the average date of the receipts canceled, as near as may be.

(3) In case a warehouseman delivers only a part of the lot of grain for which a warehouse receipt has been issued, the receipt shall be taken up and a new warehouse

receipt issued for the balance, or the warehouseman may make indorsements of the amounts of grain or hay withdrawn on the original receipt, and notations shall be made on each receipt explaining the transaction. If only a portion of the grain represented by any receipt canceled is delivered out of a class A warehouse, the warehouseman shall issue a receipt for the balance remaining in the warehouse. The receipt shall bear the same date as the original and shall state on its face that it is the balance of the receipt of the original number. The warehouseman shall transmit the new receipt to the registrar of warehouse receipts for registration.

586.470 Furnishing registrar information regarding receipts and shipments. Every warehouseman conducting a class A grain warehouse shall, upon the demand of the registrar of warehouse receipts for the terminal point where the warehouse is situated, furnish the registrar in such form as he may require, such information regarding receipts issued or canceled, or shipments of grain received or delivered, as is necessary to enable the registrar to keep a full and correct record of all business transacted by such warehouse.

586.480 Class B warehouses; inspection and weighing of grain received; receipts. (1) No warehouseman conducting a class B grain warehouse shall receive any grain into his warehouse without having the grain inspected and weighed in by a state grain inspector.

(2) Every such warehouseman, upon request, shall issue or cause to be issued a receipt for each consignment of grain received, showing the weight, kind and grade of the grain, the name of the owner and the date when the grain was received. Such receipts are not entitled to registration, and grain shall be delivered from such warehouse without notice from the registrar of warehouse receipts.

586.490 Lost or destroyed receipts; duplicates; bonds on issuance. If any warehouse receipt issued by a public warehouse is lost or destroyed, the owner thereof is entitled to a duplicate receipt upon executing and delivering to the warehouseman issuing the receipt a sufficient bond with good and sufficient surety to indemnify the warehouseman against any loss sustained by reason of the issuance of the duplicate receipt. The duplicate receipt shall state that

it is issued in lieu of the former receipt, giving the number and date thereof.

586.500 Issuance of false receipts or delivering grain without canceling receipt prohibited. (1) No public grain warehouseman shall issue a receipt for grain except on the actual delivery of the grain into the warehouse, or issue a receipt for a greater amount of grain than that actually received.

(2) No person shall remove or deliver, or direct, assist or permit any person to remove or deliver any grain from any public warehouse for which a warehouse receipt has been issued and is outstanding without receiving and canceling the warehouse receipt issued therefor, or remove, or deliver, or direct, assist or permit any person to deliver or remove grain from any public grain warehouse whereby the amount of any grade, or class of grain in such warehouse is reduced below the amount for which warehouse receipts for the particular grade are outstanding.

(3) No grain inspector shall knowingly permit any grain to be delivered out of any class A grain warehouse without written notice, signed by the registrar of warehouse receipts that the receipts for such grain have been registered for cancelation.

586.510 Reports of warehousemen to department. On June 30 of each year every warehouseman shall make report under oath to the department on blanks or forms prepared by the department, showing the total number of sacks and weight of each kind of grain and bales and weight of hay received and shipped from each warehouse licensed under ORS 586.210 to 586.730. The report shall also show the amount of outstanding storage receipts on such date, and a statement of the amount of grain and hay on hand to cover such receipts. The department also may require special reports from such warehouseman at such times as the department deems expedient.

586.520 Inspection of warehouses. (1) Upon the request of any person or persons having an interest in grain stored in any licensed grain warehouse and upon payment of \$25 in advance, the department shall cause such grain warehouse to be inspected and shall cause to be checked the outstanding warehouse receipts with the grain on hand and shall report the amount of receipts outstanding and the amount of storage, if any. If the cost of the examination is

less than \$25 the excess shall be returned to the person making the payment, and if the cost of the examination is more than \$25 the person or persons having an interest in grain stored in any such grain warehouse, and requesting such examination, shall pay the additional cost to the department.

(2) The department may cause every such warehouse and business thereof and the mode of conducting the warehouse to be inspected by one or more of its officers, employes or inspectors whenever deemed proper. The property, books, records, accounts, papers and proceedings of every such warehouseman shall at all times during business hours be subject to such inspection.

586.530 Establishment of standard grades for hay and grain. (1) The department shall fix and establish standard grades to apply to all grain and hay bought or handled by public or terminal warehouses in this state. All such grades shall be known as Oregon grades.

(2) The department shall adopt as state grade standards all grades for grain and hay established by the United States Department of Agriculture. Standards for grain and hay not provided for by the United States Department of Agriculture shall be established or changed in accordance with the provisions of ORS 616.405 to 616.440. Grade standards or any alteration or modification of such standards which the department may establish shall not become effective within 30 days after publication, except in the case of grades established by the United States Department of Agriculture, which shall become effective 90 days after publication.

(3) All interested persons desiring to be heard shall be permitted to give testimony, and such other witnesses may be subpoenaed as the department deems necessary, which witnesses are entitled to the same fees and mileage as witnesses in civil actions. Such grain or hay standards shall not apply to grain or hay contracted for previous to their adoption.

586.540 Discounts on inferior grades and executory contracts fixing price on terminal weight or grade; rules and regulations regarding. The department shall, after the hearing referred to in ORS 586.530 make and issue reasonable rules and regulations governing the discounts which shall be made on inferior grades, and in all executory contracts thereafter entered into where the

price or amount to be paid therefor depends upon terminal weight or grade. Such rules and regulations shall control the discounts in so far as the same affects the price to be paid, and such rules and regulations shall become part of the contract of sale unless expressly agreed to the contrary in the executory contract.

586.550 Warehousemen to keep copy of regulations available for inspection. (1) It is the duty of the department, immediately after the establishment of grades under ORS 586.530, and the promulgation of rules and regulations fixing discounts under ORS 586.540, to supply all public and terminal warehousemen, which the records in the office of the department show are engaged in operating warehouses, with a copy of the grades, rules and regulations.

(2) Every public and terminal warehouseman shall keep:

(a) The copy of grades, rules and regulations on file in a convenient place in every such warehouse.

(b) If an office is maintained in connection with such warehouse, a copy of the grades, rules and regulations on file in the office.

(c) A placard notice posted in a conspicuous place in every such warehouse and such office, reading as follows: "A copy of Oregon grades, rules and regulations is on file here for information of interested parties."

(3) Every warehouseman shall exhibit the copy of grades, rules and regulations to any interested party applying therefor at the warehouse or office and shall permit the interested party to examine and consult the copy.

586.560 Contracts for sale of wheat; discounts and premiums. (1) In all contracts entered into for the sale of unscoured wheat, pertaining to the classes soft red winter, white, hard red winter, hard red spring and mixed wheat, under the official grain standards of the United States Department of Agriculture, and under rules adopted in Oregon by the department, where the price or amount to be paid depends upon the weight or grade, no discount or differential shall be made on account of test weight per bushel, if the grain delivered under the contract:

(a) Weighs not less than 58 pounds to the measured bushel; and

(b) Grades No. 2 or better under the standards described in ORS 586.530 to 586.550.

(2) For wheat weighing in excess of 58 pounds to the measured bushel and grading No. 2 or better, there shall be paid a premium over the price at country point for such grade at a rate of not less than eight-tenths of one percent for each pound test weight over the minimum of such grade when test weight is the determining factor. In case of delivery on contract of grain of lower grade on account of test weight per bushel the discount or differential shall be at a rate not to exceed eight-tenths of one percent of the price for such grade at country point for each pound test below the minimum test weight for the grade on which the contract is based, unless the test weight is below 55 and at a rate not to exceed one and six-tenths percent of the price at country point for each pound test below 55 down to and including wheat having a test weight of 51 pounds per measured bushel.

(3) The discount on mixed wheat may not exceed two percent below the purchase price paid at country point for the same grade of the class of wheat which predominates in the mixture.

(4) Such discounts, together with the rules and regulations provided in ORS 586.530 to 586.550, are a part of every contract of sale of wheat of the classes named in this section.

586.570 Department to control weighing and grading; certificates conclusive; appeal; keeping books and records. (1) The department, its officers, employes, inspectors and weighers, have at the places provided for state inspection under ORS 586.210 to 586.730, exclusive control of the weighing and grading of grain and hay which shall be inspected under the provisions of ORS 586.210 to 586.730. The action and certificate of such officers, employes, inspectors and weighers in the discharge of their duties, as to all commodities weighed or inspected by them, is conclusive upon all parties interested but appeal may be taken to the department in the manner provided in ORS 616.455.

(2) Suitable books and records shall be kept in which shall be entered a faithful and true record of every carload, motor vehicle load or cargo or part of cargo of grain, grain products, hay and other com-

modities inspected or weighed by them, showing the following:

(a) The number and initial or other designation of the car, motor vehicle or boat containing the load or cargo or part of cargo.

(b) Its weight.

(c) The kind of grain, grain products, hay or other commodity, and its grade.

(d) If of inferior grade, the amount of the discount, the amount of fees and forfeitures and disposition of same.

(3) For each car or cargo, or part of cargo of grain, grain products, hay or other commodity inspected the officers, employes, inspectors and weighers of the department shall, if requested so to do by consignor or consignee, give a certificate of inspection showing:

(a) The kind and grade of such product or commodity and the reason for all grades below No. 1.

(b) The amount to be allowed for discount, if any.

(c) The number of sacks, bales or other parcels thereof, with the grade or grades and weight of same. They also shall furnish the agent of the railroad company or other carrier over which such commodity was shipped or carried a certificate showing the weight thereof, if requested so to do.

(4) The department also shall keep a true record of all appeals, decisions and a complete record of every official act which books and records shall be open to inspection by any party in interest.

586.580 Fixing fees for inspecting, grading and weighing; fees as lien. The department shall fix the fees for inspection, grading, weighing and analysis of grain, hay, grain and hay products, potatoes, onions and other commodities included in the provisions of ORS 586.210 to 586.730, which fees shall be sufficient to cover the cost of such service. The fees for the inspection, weighing and analysis of grain and hay are a lien upon such grain and hay, and shall be paid by the carrier transporting it and treated by the carrier as advanced charges. The department shall so adjust the fees to be collected under ORS 586.210 to 586.730 as to meet the expenses necessary to carry out the provisions of ORS 586.210 to 586.730, and may prescribe a different scale of fees for different localities. The department also may prescribe a reasonable charge for services performed at places other than public

terminal warehouses, in addition to the regular fees, when necessary to avoid rendering the service at a loss to the state.

586.590 Review by department of decisions as to grades. If any owner, consignee or shipper of grain, grain products, hay or other commodity, or his agent or broker or any public terminal warehouseman, is aggrieved at the grading of such commodity, the aggrieved person may appeal to the department as provided in ORS 616.455. Notice of appeal to the department shall state that the party appeals from the decision of the inspector and shall specify the initials and numbers of cars or the name of the ship in which the commodity was contained when inspected and graded.

586.600 Designating inspection points; expenditure for inspection and weighing limited. Cities and towns where grain, grain products, hay or other commodities are received in carload lots or by watercraft, or motor vehicle, may be designated by the department as inspection points and be provided with state inspection and weighing. The expenditure for the inspection and weighing at the points designated by the department shall not exceed the receipts of fees at such points.

586.610 Inspection, weighing and grading of grain and hay at terminal warehouses.

(1) All grain and hay received at public terminal warehouses, except that received in truck lots of a maximum weight of 15 tons of grain or three tons of hay, shall be inspected, graded and weighed by an Oregon state inspector; but inspection, grading and weighing is not required where grain has been officially inspected, graded and weighed at point of origin unless it is so requested by the consignee. All grain delivered out of any class A grain warehouse shall be weighed by a state inspector and when exported shall, if requested, be reinspected and graded in like manner and a certificate of grade issued. A reasonable fee shall be charged for such reinspection and grading, the fee to be fixed by the department.

(2) All other grain and hay received in carload lots or in any other manner, in lots containing more than 15 tons of grain, or three tons of hay, at inspection points, not unloaded at a terminal warehouse, shall be weighed, inspected and graded, at a

reasonable fee to be fixed and charged therefor by the department.

586.620 Inspection on sale or delivery at place not provided with state inspection. If grain or hay is sold for delivery on Oregon grade to be shipped from places not provided with state inspection under ORS 586.210 to 586.730, the buyer, seller or persons making the delivery may have it inspected out by notifying the department. The department shall have the grain or hay inspected, and after it is inspected shall issue to the buyer, seller or person delivering it on request, a department certificate showing the grade of the grain or hay. The person calling for the inspection shall pay for the inspection a reasonable fee to be fixed by the department. Grain or hay that is shipped to points within the state where no inspection is maintained, may be inspected on request of either buyer or seller, and a certificate may be issued, showing grade of the grain or hay. The charge for service provided for under this section shall at least equal the entire cost of the service and shall be paid by the party calling for the service.

586.630 Examination of cars and seals on arrival for inspection; opening, unloading and resealing cars; authorized persons only to act. (1) Any officer, employe, inspector, sampler or weigher of the department before opening the doors of any car containing grain or hay upon arrival at any of the places designated in ORS 586.210 to 586.730 for inspection shall first ascertain the condition of such cars and determine whether any leakages have occurred while the cars were in transit, whether or not the doors were properly secured and sealed at point of shipment, and shall make a record of such facts in all cases, giving seal numbers.

(2) After such examinations are made and recorded, and the inspection of such grain or hay has been made, such officials shall securely close and reseal such doors as have been opened by them, using the special seal of the department for the purpose. Such officials shall make a record of all original seals broken by such officials, and the date when broken, and also a record of all state seals substituted therefor, and the date and number of such seals.

(3) The authorized officers, employes, deputies or samplers of the department shall break the seal, weigh and superintend the

unloading of all cars of grain or hay subject to inspection. No person other than the authorized officers, employes, deputies or samplers of the department, shall break the seal or weigh such cars of grain or hay.

586.640 Sidetracks for cars to be inspected; distribution of cars after inspection. Any railroad delivering grain or hay in cars at any of the places provided with state inspection under ORS 586.210 to 586.730 shall designate safe and convenient sidetracks on which all cars of grain or hay required to be inspected shall upon arrival be set and arranged convenient for inspection and there held until the inspection has been completed. Thereafter the railroad company shall promptly distribute all such cars of grain and hay.

586.650 Loading or unloading outside usual hours; additional fees for inspection and weighing; compensation of weighers and inspectors. (1) When occasions arise where it is deemed advisable to load or unload cars or cargoes of grain or hay outside of the usual working days or working hours, the department shall provide inspectors and weighers necessary to supervise the inspection and weighing of such commodities. The department shall, by rule, fix a reasonable sum per hour to be paid therefor by the party requesting such unusual service. Such fees are in addition to the regular inspection fees provided for weighing and inspection.

(2) All moneys collected under the provisions of this section shall be paid into the State Treasury and credited to the Department of Agriculture Account and an amount not exceeding such additional fees may be paid to the weighers and inspectors of the department by whom such additional service may be performed.

586.660 Samples of products shipped, inspected or weighed; furnishing samples to those handling or dealing in grain. Samples may be drawn from all grain shipped to terminal warehouses and from all grain, grain products and other commodities inspected or weighed. Such samples become the property of the state and are subject to disposition by the department under such rules and regulations as the department prescribes. The department shall transmit samples of grain showing the standards thereof adopted to such foreign chambers of commerce, boards of trade, exporters and

persons, firms, corporations or associations handling and dealing in grain, as the department deems desirable. Upon request the department shall furnish such samples to similar parties in this state or the United States under such reasonable rules and regulations as the department prescribes.

586.670 Examining grain and hay stored in warehouses. Every person having an interest in any grain or hay stored in any warehouse, and every state grain inspector, has the right to examine at all times during ordinary business hours any grain or hay so stored, and all parts of the warehouse. Every warehouseman, his agents and servants, shall furnish proper facilities for such examination.

586.680 When shipper's weight and grade final and conclusive. When grain or hay is shipped to points where inspection is provided and the grain or hay is unloaded without being inspected or weighed by a duly authorized grain inspector of the department under the provisions of ORS 586.210 to 586.730, the shipper's weight and grade is conclusive and final and is the weight and grade upon which settlement shall be made with the seller.

586.690 State weighers. (1) Owners or operators of public scales used for weighing grain, hay or other commodities, may be appointed by the Director of Agriculture as state weighers. Every scale owner or operator who is appointed as state weigher shall be required to give a bond to the State of Oregon in a sum not less than \$1,000 and to subscribe to the regular oath of office required of state officials. Such weighers may be authorized by the Director of Agriculture to issue certificates of weight for the commodities weighed by them. The fees for such service shall be fixed by the Director of Agriculture. The scale owner or operator shall report to the department monthly stating the quantity of all grain and other commodities weighed and the amount of fees collected therefor.

(2) The department may prescribe rules and regulations governing weighing of grain, grain products, hay or other commodities by owners or operators of public scales appointed as state weighers. Such rules and regulations shall be made and printed in pamphlet form as prescribed by ORS 561.190.

586.700 State weighers prohibited from having interest in grain. No owner or operator of public scales appointed as state weigher shall, during his term of office, be interested directly or indirectly in the handling, storing, shipping, purchasing or selling of grain, grain products or hay, or other commodities, included within the provisions of ORS 586.210 to 586.730.

586.710 Disposition of fees and moneys collected; continuing appropriation; public scale owners to retain fees collected. (1) All fees, licenses and charges collected by the department under ORS 586.210 to 586.730 shall be paid into the State Treasury on or before the tenth day of the month next succeeding the month during which such moneys were received. The State Treasurer shall place such moneys to the credit of the Department of Agriculture Account. Such moneys constitute a continuing appropriation for the purpose of carrying out the provisions of ORS 586.210 to 586.730. The department shall keep a record of all sums received pursuant to ORS 586.270 to 586.290 and other provisions of ORS 586.210 to 586.730 dealing with the administration of warehouse provisions. Such sums shall be used in the carrying out of the provisions of ORS 586.210 to 586.730, as those sections apply to warehouses.

(2) The fees provided in ORS 586.690 for the owners of public scales are excepted from the provisions of this section and are authorized to be retained by the owners of such scales as compensation for the services performed.

586.720 Exemption from other warehousing laws on compliance with ORS 586.210 to 586.730. Every warehouse and warehouseman complying with the provisions of ORS 586.210 to 586.730 is exempt from all the provisions of all other laws of this state regulating and licensing warehouses and warehousemen.

586.730 Violation of ORS 586.210 to 586.730 prohibited. (1) No warehouseman shall violate, or procure, aid, or abet any violation by any warehouseman, of any provision of ORS 586.210 to 586.630 and 586.650 to 586.730, or fail to comply with any order of the department, or procure, aid or abet any warehouseman in his failure to comply with any such order.

(2) No person, individually or acting as an official or agent of any corporation other

than a warehouseman, shall violate any provisions of ORS 586.210 to 586.630 and 586.650 to 586.730, or fail to comply with any order made by the department under those sections so long as the order remains in force, or procure, aid or abet any such corporation, in its violation of those sections, or in its failure to comply with any such order.

586.740 to 586.980 [Reserved for expansion]

PENALTIES

586.990 Penalties. (1) Violation of ORS 586.030 is punishable, upon conviction, by a fine of \$50 for each day the violation continues.

(2) Violation of ORS 586.110, 586.120 or 74.010 renders the violator liable to an indictment, and is punishable, upon conviction, by a fine not exceeding \$5,000, or by imprisonment in the penitentiary for not exceeding five years, or by both; and in case of a corporation, the persons acting for the corporation are liable for a like punishment upon indictment and conviction.

(3) Violation of ORS 586.250 is punish-

able, upon conviction, by a fine of not less than \$200 nor more than \$1,000, or by imprisonment in the county jail for not less than six months nor more than one year, or by both.

(4) Any person who violates the provisions of subsection (1) or (2) of ORS 586.500 is guilty of a felony.

(5) Any grain inspector who violates the provisions of subsection (3) of ORS 586.500 is guilty of a felony.

(6) Violation of ORS 586.730 is punishable, upon conviction, by a fine not exceeding \$1,000 or by imprisonment in the county jail for not more than one year, or by both.

(7) Violation by any warehouseman, as defined in ORS 586.210, of any of the provisions of ORS 586.210 to 586.630 and 586.650 to 586.730, or failure to comply with any order, rule, direction, demand or requirement of the department made pursuant to those sections, is punishable, upon conviction, by a fine not exceeding \$1,000 for each offense. Each violation is a separate and continuing offense; and in case of a continuing violation, every day's continuance of the violation is a separate and distinct offense.