

Chapter 579

Oregon Potato Commission; Potato Commission Fund Tax

OREGON POTATO COMMISSION

579.010	Definitions
579.020	Purpose of chapter
579.030	Potato commission created; members
579.040	Qualifications of members
579.050	Term of members
579.060	Removal of members
579.070	Compensation of members; expenses allowed
579.080	Chairman and secretary of commission
579.090	Meetings of commission
579.100	Powers and duties of the commission
579.110	Expending moneys to promote production and marketing of potatoes
579.120	Commission accepting grants, donations and gifts
579.130	Bonds of agents of commission
579.140	Appointment of administrator; duties; salary

579.150	Establishment of commission office
579.160	State not liable for acts of commission or its agents

POTATO COMMISSION FUND TAX

579.210	Imposition of tax
579.220	Payment of tax when first purchaser is in another state or is a governmental agency
579.230	Purchaser to make reports to commission
579.240	Payment of tax by purchasers; disposition of receipts; continuing appropriation
579.250	First purchaser penalized for delay in transmittal of funds
579.260	Disposition of funds if chapter repealed

PENALTIES

579.990	Penalties
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CROSS REFERENCES

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

579.020
Facilities for seed potato testing, 567.005 to 567.020

579.030
Term of appointive officers, 236.140

579.050
Term and removal of appointive officers, 236.140

579.070
Subsistence and mileage allowance for travel, reimbursement, 292.210 to 292.260

579.100
Civil service for state employes, Ch. 240
Purchasing and contracting under control of Department of Finance and Administration, 291.004

579.150
Leasing or renting office space, approval by Department of Finance and Administration, 276.426, 276.428

579.240
Expenditures without allotment prohibited in certain cases, 291.238

OREGON POTATO COMMISSION

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

(1) "Commercial channels" means the sale of potatoes for use as food, seed, industrial or chemurgic use, when sold to any commercial buyer or to any person who resells potatoes or any product derived therefrom. Such term also means and includes sales of seed potatoes by the grower to another grower, for planting by such other grower, when such sales in the aggregate for any one year amount to more than 20 hundredweight.

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

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

(4) "Grower" means any landowner personally engaged in growing potatoes; a tenant personally engaged in growing potatoes; 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.

579.020 Purpose of chapter. It is to the interest of all the people of the state that the soil resources of Oregon be developed to the fullest extent consistent with available market outlets for the products of the soil. It is also to the interest of all the people that consumers of the state be provided with an abundant supply of food of the best quality obtainable and that prices for that food are reasonable. The potato crop of the state is one of the leading cash crops, is grown to some extent in every county, makes up a large part of the total diet of virtually every consumer, and hence is of utmost importance to both farmers and consumers. The crop is peculiarly dependent upon seed supplies because potato diseases spread with such rapidity that good seed stocks may become worthless in one season. Commercial growers are suffering tremendous losses due to inability to locate dependable seed and through lack of facilities for determining seed value. Poor quality of too high a percentage of the various table stock lots, due to net necrosis caused by leaf roll, is directly traceable in most instances

to high percentage of leaf roll in seed stock. Consumers of the state are often given a poor product with undue waste in food preparation because of the lack of facilities for determining seed value. Oregon potatoes are in a poor competitive position in the markets of the coast due to large advertising campaigns by producers in other states. Well-organized, well-timed and well-placed advertising on the part of the Oregon potato industry is indicated as a need. The extremely perishable nature of potatoes, especially early potatoes, raises numerous unsolved problems in marketing. It is the purpose of this chapter to provide a means for the protection of the potato industry and the protection of potato consumers.

579.030 Potato commission created; members. (1) There hereby is created the Oregon Potato Commission. The commission shall consist of nine members to be appointed by the Governor for a term of five years, each to continue in office until his successor is appointed and qualified. The appointments shall be made so that each major potato-producing area of the state is represented as follows:

(a) Two from Malheur County.

(b) Two from central Oregon, comprised of the Counties of Crook, Deschutes and Jefferson.

(c) Two from the area comprised of Klamath and Lake Counties.

(d) One from the Blue Mountain area, comprised of the Counties of Baker, Union, Wallowa, Grant and Umatilla.

(e) One from Multnomah County.

(f) One from the state at large.

(2) The Director of the State Department of Agriculture, or his official representative, and the dean of the school of agriculture of Oregon State College, or his official representative, are ex officio members of the commission, without right to vote.

579.040 Qualifications of members. Each member of the commission shall have the following qualifications:

(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 shall be a grower in this state, shall have been actively engaged in growing potatoes for a period of at least five

years, and shall derive a substantial proportion of his income from the sale of potatoes.

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

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

- (a) Two for a term ending June 30, 1950.
- (b) Two for a term ending June 30, 1951.
- (c) Two for a term ending June 30, 1952.
- (d) Two for a term ending June 30, 1953.
- (e) One for a term ending June 30, 1954.

(2) Each subsequent member shall be appointed for a term ending five 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.

579.060 Removal of members. (1) The Governor shall immediately declare the office of any member of the commission vacant whenever the member ceases to be an active potato grower in this state, becomes 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, but not until after a public hearing thereon and service upon such member of a copy of the charges against him, together with a notice of the time and place of such hearing. Service shall be made not less than 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.

(3) 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.

579.070 Compensation of members; expenses allowed. Members of the commission, except the administrator, shall receive no salary, but shall be paid a per diem of \$10 for each day actually and necessarily en-

gaged in the transaction of official business of the commission and for their actual traveling expenses.

579.080 Chairman and secretary of commission. The commission shall elect a chairman and may employ a secretary, not a member of the commission.

579.090 Meetings of commission. The commission shall meet regularly once each quarter, 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.

579.100 Powers and duties of the commission. The commission has the following duties, authorities and powers:

(1) To conduct advertising and publicity campaigns in this and other states, designed to promote Oregon potatoes, to educate consumers in their use, and to educate retailers in methods of handling and sale of potatoes.

(2) To find and open up new markets for Oregon potatoes.

(3) To investigate and participate in studies of problems of Oregon growers.

(4) To establish and maintain facilities for the housing of seasonal labor, to recruit labor and to administer the distribution of such labor among potato producers.

(5) To take such action as it deems advisable to stabilize and protect the potato industry and to safeguard the interests of potato consumers.

(6) To sue and be sued.

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

(8) 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 promotion efforts for which funds are used. Expenditures may be necessary for special promotion efforts in the case of surplus or distressed production or when the commission determines necessity for research or seed testing facilities prior to accumulation of funds.

(9) To make grants to research agencies for financing special or emergency studies or to build greenhouses, laboratories, storage houses, or other facilities necessary to safeguard the potato industry.

(10) To appoint and employ officers,

agent or other personnel, including agricultural or publicity experts, and to prescribe their duties and fix their salaries.

(11) To make use of all advertising means and methods and make such advertising contracts as it deems advisable for publicity and advertising within and without this state.

(12) 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 research, education or publicity.

(13) 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 potato industry of this state, and to expend funds in connection therewith.

(14) To aid in financing local quarantine districts when such quarantines are manifestly for the good of Oregon's potato industry.

(15) To lease, purchase or own the real estate or personal property necessary in the administration of this chapter.

(16) 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 579.210.

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

579.110 Expending moneys to promote production and marketing of potatoes. (1) The commission may expend moneys in or out of this state, but, due to the widely different markets, production problems and seed needs of the various areas, the commission shall, so far as practicable, promote production and marketing of potatoes within the different areas of the state with the income from such areas, after deduction of administrative costs.

(2) The decision of the commission to expend funds for the promotion shall be governed by recommendation of members from the area for which such promotion is intended.

579.120 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.

579.130 Bonds of agents of commission. The commission may require the administrator or any other agent handling money to give a bond payable to the State of Oregon in the amount and with the security, and containing the provisions the commission prescribes. The cost of such bonds is deemed an administrative expense under this chapter.

579.140 Appointment of administrator; duties; salary. The commission shall adopt a general statement of policy for guidance in employing an administrator. The commission shall select an administrator who shall devote his entire time to the administration of this chapter. He shall be an ex officio member of the commission, without vote. He immediately shall prepare a program and plans for carrying out all policies of the commission. He shall be paid such salary as is determined by the commission but his salary shall not be more than \$7,200 a year. [Amended by 1953 c.128 §2]

579.150 Establishment of commission office. The commission shall establish an office at any place in the state 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.

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

579.170 to 579.200 [Reserved for expansion]

POTATO COMMISSION FUND TAX

579.210 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 one and one-half cents per hundred-weight upon all potatoes grown in this state and sold through commercial channels in such quantities as are subject to state and federal inspections, beginning with and in-

cluding all potatoes harvested after July 1, 1949, and each crop thereafter. Such 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, whether the potatoes are stored in this state or in another state or country. The tax provided by this section shall not be levied or assessed to any grower whose entire potato crop for any one year is grown on no more than one acre.

579.220 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, it is the duty of the grower to 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 governmental agency, the grower shall likewise report to, and pay the tax directly to the commission.

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

579.240 Payment of tax by purchasers; disposition of receipts; continuing appropriation. (1) The commission shall fix dates upon which reports shall be made 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, make suitable records thereof and promptly pay such moneys over to the State Treasurer who shall deposit such moneys in the General Fund to

the credit of a special account to be designated the Oregon Potato Commission Fund.

(2) All moneys so deposited hereby are appropriated for expenditure in the administration of this chapter for the payment of claims growing out of obligations or activities of the commission. Such moneys shall be used solely for carrying out the purposes of this chapter. Unexpended balances from year to year shall remain in the Oregon Potato Commission Fund.

579.250 First purchaser penalized for delay in transmittal of funds. In addition to any other penalties prescribed by 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.

579.260 Disposition of funds if chapter repealed. In case of repeal of this chapter, all funds remaining in the Oregon Potato Commission Fund, after settling all claims and allowing a six months' period for new claims, shall revert to the General Fund.

579.270 to 579.980 [Reserved for expansion]

PENALTIES

579.990 Penalties. 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 nor more than 90 days, or by both; except that if any first purchaser wilfully refuses to turn over tax moneys collected under the provisions of this chapter, he shall pay an additional fine equal to twice the amount of the tax moneys so withheld. District and justices' courts shall have concurrent jurisdiction with circuit courts in all prosecutions under this chapter.