

Chapter 599

1955 REPLACEMENT PART

Livestock Auction and Dealer Markets; Auction Sales

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599.010 [Amended by 1953 c.678 §3; repealed by 1955 c.542 §1]

599.020 [Repealed by 1955 c.542 §1]

599.030 [Amended by 1953 c.678 §3; repealed by 1955 c.542 §1]

599.040 [Repealed by 1955 c.542 §1]

599.050 [Repealed by 1955 c.542 §1]

599.060 [Repealed by 1955 c.542 §1]

599.070 [Repealed by 1955 c.542 §1]

599.080 [Repealed by 1955 c.542 §1]

599.090 [Repealed by 1955 c.542 §1]

599.100 [Repealed by 1955 c.542 §1]

599.110 [Repealed by 1955 c.542 §1]

599.120 [Repealed by 1955 c.542 §1]

599.130 [Repealed by 1955 c.542 §1]

599.140 to 599.200 [Reserved for expansion]

LIVESTOCK AUCTION MARKETS

599.205 Definitions. As used in ORS 599.205 to 599.375, unless the context otherwise requires:

(1) "Dairy cattle" includes the recognized breeds of bovine animals used primarily for the production of milk, such as, but not limited to, Jersey, Guernsey, Brown Swiss, Ayrshire, Milking Shorthorn, Holstein and Red Polled, whether or not such animals are purebred or grade, and crosses of such breeds, including crosses of such breeds with beef type animals.

(2) "Department" means the State Department of Agriculture of the State of Oregon.

(3) "Director" means the director of the department.

(4) "Licensee" means any person who operates a livestock auction market, either as owner or lessee, and who holds a license to conduct such market issued by the department pursuant to ORS 599.205 to 599.375.

(5) "Livestock" includes horses, mules, asses, cattle, sheep, swine, goats and poultry, including turkeys, of any age or sex.

(6) "Livestock auction market" means a place of business to which the public may consign livestock for sale by auction open to public bidding, but, specifically, it does not include sales at auction by breed or livestock associations, Future Farmer and 4-H groups,

auction sales conducted in conjunction with county, state or private fairs or auction sales conducted by or for a person at which livestock of such person's ownership are sold on his own premises.

(7) "Meat dealer" means a person licensed to slaughter meat food animals pursuant to ORS chapter 603. [1953 c.677 §1; 1955 c.724 §15]

599.210 [Repealed by 1953 c.677 §22]

599.215 Prohibitions. (1) No person shall operate a livestock auction market without a valid license to operate such market issued pursuant to ORS 599.205 to 599.375.

(2) No person shall interfere with the performance by any veterinarian of his duties and responsibilities imposed by ORS 599.205 to 599.375.

(3) No licensee, or his or its managing agent, shall operate a livestock auction market at which the sanitary practices or conditions prescribed by ORS 599.205 to 599.375 or regulations promulgated pursuant to ORS 599.205 to 599.375 have not been complied with.

(4) No licensee shall sell or offer for sale any livestock which has not been examined, tested or treated as required by ORS 599.205 to 599.375 or by the regulations promulgated under the authority of ORS 599.205 to 599.375.

(5) No person other than a meat dealer shall remove from the market zone an animal which has been sold or purchased for immediate slaughter pursuant to the provisions of ORS 599.205 to 599.375; provided, however, that a person may remove from the market zone any such animal if it is to be transported directly out of this state.

(6) No meat dealer who removes from the market zone an animal sold or purchased for immediate slaughter pursuant to the provisions of ORS 599.205 to 599.375 shall fail, refuse or neglect to slaughter such animal within eight days from the date the animal is so removed. [1953 c.677 §17]

599.220 [Repealed by 1953 c.677 §22]

599.225 Necessity for license to operate livestock auction market; application for license; issuance. (1) No person shall operate a livestock auction market in the State of Oregon without first having obtained from the department, under the provisions of ORS 599.205 to 599.375, a license therefor. The

applicant shall make application to the department upon forms to be furnished by the department which shall include the following information:

(a) The name and address of the applicant or applicants and, if a corporation, its officers.

(b) The place where the applicant proposes to operate a livestock auction market.

(c) A legal description of the property proposed to be used in connection with such livestock auction market.

(d) Such other and further information as the department may require.

(2) A livestock auction market license shall be issued when the department finds:

(a) That the application is in due form.

(b) That the applicant has filed with the director a bond as hereinafter provided.

(c) That the license fee prescribed by ORS 599.235 has been paid.

(d) That the requirements of ORS 599.205 to 599.375 and the regulations promulgated hereunder are complied with. [1953 c.677 §4]

599.230 [Repealed by 1953 c.677 §22]

599.235 License fee; appropriation of moneys; separate licenses for each facility; nontransferability; posting license and names of owners. (1) Subject to the provisions of subsection (2) of this section, every person operating a livestock auction market in this state shall be required to pay on or before June 30, annually, a fee of \$100 to the department for a license to operate such market for the year beginning July 1 next following. If a person operates a livestock auction market facility in more than one location, a separate license must be obtained for each such facility. All fees provided for under ORS 599.205 to 599.375 shall be paid into the State Treasury and shall be placed by the State Treasurer to the credit of the Department of Agriculture Account and hereby are appropriated for use only in the administration of ORS 599.205 to 599.375.

(2) In the case of an application for a license made after September 30 of a license year, and only in such cases, the license fee submitted with the application shall be prorated on the basis of the number of quarters of three months each or portions of a quarter remaining in the license year. The fee accompanying such applications shall be \$25 for each such quarter or portion thereof. For the purposes of this section, the license year

shall be the period July 1 to June 30 next following. Nothing in this section shall be construed to authorize a refund of license fees in any case.

(3) All licenses to operate a livestock auction market are personal to the holder and are not transferable, but the holder of any such license may change locations subject to the approval of the department of the new market facility.

(4) The licensee shall at all times have posted in a conspicuous place in the main business office of such market the full names and addresses of the legal owners of the market. The livestock auction market operator's license shall also be posted conspicuously in the main business office of the market. [1953 c.677 §5]

599.240 [Repealed by 1953 c.677 §22]

599.245 Licensee's bond. (1) Each licensee shall maintain a bond to secure the performance of his statutory duties and private obligations incurred as the operator of a livestock auction market. The bond shall be filed with the department and shall be renewed whenever the license is renewed. The bond shall be conditioned upon:

(a) The payment by the licensee of all legal claims in favor of the State of Oregon which may accrue from the conduct of the licensee's market, including those arising from the operation of ORS 604.010 to 604.050, 604.310 to 604.430 and 604.510 to 604.550.

(b) The payment by the licensee of all legal claims which may accrue against him and in favor of any seller or buyer of livestock arising from the conduct of the licensee's market.

(2) The surety on each bond shall be a surety company authorized to do business within the State of Oregon, or cash, or negotiable United States government securities.

(3)(a) The amount of the bond for a licensee whose average gross sales do not exceed \$4,000 per month shall be in the amount of \$2,000. A licensee whose gross sales exceed \$4,000 per month shall provide a bond with the penal sum equal to \$2,000 for the first \$4,000 of gross sales and \$1,000 for each additional \$4,000 of gross sales. The maximum bond shall not exceed \$10,000.

(b) Any livestock auction market licensee or applicant who presents to the department satisfactory evidence of his compliance with the bonding provisions of the U. S. Packers and Stockyards Act of 1921, as

amended, shall be deemed in compliance with the bonding requirements of this section during such time as he complies with the bonding provisions of such federal statute.

(4) (a) Any person having a claim, either contingent or fixed, against the licensee's bond shall give written notice to the surety on the bond within 90 days of the date the claim accrued.

(b) If two or more persons have claims, either fixed or contingent, against a licensee's bond, they shall share pro rata in the proceeds of the bond to the extent of their actual damages. [1953 c.677 §6]

599.250 [Repealed by 1953 c.677 §22]

599.255 Suspension or revocation or refusal to issue or renew licenses. (1) The department may revoke or suspend, or refuse to issue or renew the license of any person who does not or has not complied with the provisions of ORS 599.205 to 599.375 or any authorized regulations promulgated under the authority of ORS 599.205 to 599.375.

(2) The provisions of ORS 561.310 to 561.390 shall apply to any license proceedings instituted pursuant to ORS 599.205 to 599.375. [1953 c.677 §18]

599.260 [Repealed by 1953 c.677 §22]

599.265 Market zone; livestock entering market zone to be sold through auction facilities. (1) All property owned or controlled by a person licensed to operate a livestock auction market which is contiguous to, and used in conjunction with the operation of, the market shall be the market zone of such market.

(2) All livestock entering the market zone must be handled and sold through the facilities of the market and must comply with the requirements of ORS 599.205 to 599.375 and the rules and regulations under which the market is operating. [1953 c.677 §7]

599.270 [Repealed by 1953 c.677 §22]

599.275 Cattle in market zone to be kept in clean, disinfected and segregated pens. All dairy cattle over six months of age, except cattle which pursuant to paragraphs (c) and (d) of subsection (1) of ORS 599.325 are exempt from test for brucellosis as otherwise required by ORS 599.325, and hogs entering the market zone of a livestock auction market shall be placed and retained, before and after sale, in clean, disinfected

and segregated pens kept solely for that purpose. [1953 c. 677 §8]

599.280 [Repealed by 1953 c.677 §22]

599.285 Floors in pens; drainage; cleaning pens, alleyways and equipment. All pens used in livestock auction markets for holding dairy cattle and hogs and all alleyways between such pens shall be floored with concrete or some other impervious material. All such pens and alleys shall be sloped or otherwise constructed to permit adequate drainage. Such pens and alleyways and also fences, food racks and watering troughs shall be constructed so as to allow proper cleaning and sanitation. All such pens, alleyways, fences, food racks and watering troughs or other equipment shall be cleaned and disinfected after each sale or, in the case of a continuous sale, as often as may be prescribed by the department. [1953 c.677 §9]

599.290 [Repealed by 1953 c.677 §22]

599.295 Pens for diseased animals. The licensee shall provide separate pens of suitable size which shall be designated as quarantine pens which shall be floored with concrete or some other impervious material and constructed so as to allow for efficient drainage and cleaning. These pens shall be used for all animals coming into the market zone which are found to be infected with brucellosis or other contagious, infectious or communicable diseases. These pens shall be used only for the detention of diseased animals and shall be constructed and maintained in accordance with the regulations of the department. [1953 c.677 §10]

599.300 [Repealed by 1953 c.677 §22]

599.305 Pens for testing, treating or examining livestock. Each licensee shall provide pens with suitable catching chutes for testing, treating or examining livestock in accordance with the regulations of the department. [1953 c.677 §11]

599.310 [Repealed by 1953 c.677 §22]

599.315 Regulation by department of the testing, treating and examining of livestock. The department may require by regulation such testing, treating and examining of livestock sold, traded, exchanged or handled at or through livestock auction markets as in its judgment may be necessary to prevent the spread of brucellosis, hog cholera

and other infectious, contagious or communicable diseases among the livestock of this state. [1953 c.677 §12]

599.320 [Repealed by 1953 c.677 §22]

599.325 Testing and examining livestock for disease; infected livestock to be marked, segregated and sold for slaughter. (1) All dairy cattle over six months of age, except those in the categories set forth in subparagraphs (a) through (d) below shall be tested by the official market veterinarian for brucellosis:

(a) Cattle which are accompanied by a certificate executed by a veterinarian approved by the department showing on its face that such cattle have been officially tested for brucellosis within 30 days prior to their entry into the market zone.

(b) Cattle accompanied by some evidence, either physical or written, of having been officially vaccinated for brucellosis, if it appears also that not more than 24 months have elapsed since such vaccination.

(c) Steers and spayed females.

(d) The market veterinarian shall exempt other dairy cattle from the test for brucellosis, if he determines upon examination of the particular animal that by reason of age, disease or other condition it will be purchased for slaughter purposes.

(2) The official market veterinarian may use the plate blood agglutination test for brucellosis in making the tests required by ORS 599.205 to 599.375. All cattle found to be infected as a result of such test shall be branded with a "B" on the left jaw and have a reactor tag inserted in the left ear. Such animals shall be placed in a quarantine pen and shall be sold for immediate slaughter.

(3) Should any of the exceptions to the brucellosis testing requirements established by this section be invalidated for any reason, it is the specific intention of the legislature that all cattle within the class excepted should be tested.

(4) The auction market veterinarian shall be responsible for performing a clinical examination of all livestock entering the market zone for the purpose of determining whether or not such livestock are infected with any serious contagious or communicable disease which is or may constitute a threat to the health of other livestock of the state. Such examination shall be made as soon as the livestock enters the market zone, if possible, but in any case prior to the sale of such livestock. If the market veterinarian upon

examination finds any livestock infected with any serious communicable or contagious disease which is or may constitute a hazard to other livestock of this state, such infected livestock shall be clearly marked with an "S" and shall be sold for immediate slaughter. [1953 c.677 §14]

599.330 [Repealed by 1953 c.677 §22]

599.335 Employment of deputy state veterinarian by licensee; authority; revocation of market operator's license for failing to correct insanitary conditions. (1) The licensee must employ a veterinarian who shall be a deputy state veterinarian appointed under authority of ORS 596.210 to 596.250, to perform all tests and make all examinations required to be performed, carried out or made by ORS 599.205 to 599.375, or the rules and regulations promulgated by the department in compliance with the provisions of ORS 599.205 to 599.375.

(2) Each such veterinarian shall have authority and responsibility for the direction and control of the sanitary practices and examination of animals at such livestock auction market. The veterinarian shall notify in writing the licensee or his managing agent of insanitary conditions or practices. If the improper conditions or practices are not corrected in the time specified, the market veterinarian shall notify the department who shall investigate and upon finding the report correct shall take appropriate steps to revoke the market operator's license.

(3) In the event any licensee is unable to procure the services of a veterinarian, he or it may apply to the department for such service, and the department may furnish such services so far as its personnel permit; provided, the licensee so applying shall reimburse the department for the actual expenses incurred in furnishing the required and requested services.

(4) If upon investigation the department finds that any veterinarian so employed is not discharging his duties and responsibilities in compliance with the provisions of ORS 599.205 to 599.375 and the lawful rules and regulations promulgated thereunder, the department may, after notice and opportunity for hearing, disqualify such veterinarian from performing any further official functions in connection with such market. [1953 c.677 §13]

599.340 [Repealed by 1953 c.677 §22]

599.345 Weighing to be done by licensed weighmasters; scale tickets to be in triplicate. (1) Each licensee maintaining and operating any weighing facilities for the weighing of livestock at the livestock auction market operated by him shall provide for the weighing to be done by a weighmaster licensed pursuant to the provisions of ORS 618.770.

(2) Scale tickets shall be executed in triplicate for all livestock weighed at the auction market and a copy of such ticket shall be issued to the buyer and seller of the livestock weighed. [1953 c.677 §15]

599.350 [Repealed by 1953 c.677 §22]

599.355 Records to be kept by licensee. The licensee shall keep on file an accurate record of:

(1) The date on which each consignment of animals was received and sold.

(2) The name and address of the buyer and seller of such animals.

(3) The number and species of the animals received and sold.

(4) The marks and brands on each such animals as furnished by an Oregon brand inspector.

(5) Such records containing any and all statements of warranty or representations of title material to, or upon which, any such sale is consummated, together with the gross selling price, commission and other proper care, handling and sales charges on each consignment of livestock shall be available for inspection by the department or other persons having a legitimate interest therein. A copy thereof and the net proceeds shall be delivered to the buyer and the seller of such livestock or his duly authorized agent. All records of sales during the preceding 12 months shall be kept accessible during business hours for examination by the department or other persons having a legitimate interest in them. [1953 c.677 §16]

599.360 [Repealed by 1953 c.677 §22]

599.365 State Board of Livestock Auction Markets. (1) There is created hereby a State Board of Livestock Auction Markets consisting of five regular members and one ex officio member who shall be secretary of the board. The members of the board shall be appointed by the Governor. The board members shall be appointed one each from the Oregon Dairymen's Association, the Ore-

gon Cattlemen's Association and the Western Oregon Livestock Association; and two members from the Oregon Auction Yard Owner's Association. One of the members appointed from the Oregon Auction Yard Owner's Association shall be from association members doing business east of the Cascade Mountains and the other from association members doing business west of the Cascade Mountains. The director shall be an ex officio member of the board, provided that he may designate an employee of the department as his representative.

(2) The term of office of board members shall be five years; provided, however, that initial appointments to the board shall be for terms of one, two, three, four and five years, respectively.

(3) The board shall meet at least once every six months, or more frequently upon notice from the director.

(4) The members of the board shall be paid \$10 per diem while actually engaged in the business of the board, including necessary travel time, and their subsistence and actual traveling expenses from funds collected under ORS 599.205 to 599.375.

(5) An affirmative vote of at least four members of the board shall be necessary to constitute an official act of the board. [1953 c.677 §2]

599.370 [Repealed by 1953 c.677 §22]

599.375 Powers and duties of board. The powers and duties of the board shall be to prescribe, in conjunction with and subject to the approval of the department, the standards of construction and equipment necessary for livestock health and sanitation which a livestock auction market must have before such market shall be licensed. Standards so prescribed shall be in addition to those specifically provided in ORS 599.205 to 599.375; provided that this shall not be construed to empower the promulgation of regulations in excess of the authority conferred by ORS 599.205 to 599.375. [1953 c.677 §3]

599.380 [Repealed by 1953 c.677 §22]

599.390 [Repealed by 1953 c.677 §22]

599.400 [Repealed by 1953 c.677 §22]

599.410 [Repealed by 1953 c.677 §22]

599.415 to 599.505 [Reserved for expansion]

MISCELLANEOUS PROVISIONS RELATING TO AUCTIONS

599.510 Prevention of competitive bidding prohibited. No person shall enter or offer or attempt to enter into any agreement or arrangement with another person for the purpose of preventing competitive bidding upon any horses, mules, cattle, sheep, swine or other livestock shipped to a wholesale or central stockyards market for sale.

599.520 By-bids and fraudulent bids made to deceive bidders; minimum or reserve bids. (1) No person shall make any by-bids or other false or fraudulent bids designed to stimulate bona fide bidding at any auction sale of livestock.

(2) No person shall conspire with any other person for the purpose of making such a bid or make any false statement relative to any such livestock being sold, with intent to deceive any bidder or with intent to influence any bid therefor. Any false statement relative to such livestock, made by the owner thereof or his agent, shall prima facie be presumed to have been made with intent to deceive any such bidder.

(3) However, this section does not prohibit the owner or consignor of livestock offered at public auction from announcing a minimum or reserve bid, which shall either be noted in the catalog of such auction or announced by the auctioneer.

599.530 Prohibited practices in sales of purebreds. No person shall include in any public auction or sale of purebred livestock any animal which is not offered for bona fide sale, or which is placed in the sale for the purpose, or with the intent, of creating, or attempting to create, any fictitious value for any other animal offered at such sale by by-bidding, offering fictitious bids, making fictitious sales or otherwise.

599.540 Withdrawal of purebred livestock from a sale. (1) In cases where there is an animal listed in the printed catalogue or other advertisements of any auction sale of purebred livestock and is withdrawn prior to the sale, the reason for such withdrawal shall be publicly stated by the owner or consignor or his agents, or by the auctioneer, prior to the commencement of such sale.

(2) As used in ORS 599.530 and 599.540, the term "purebred livestock" includes all animals registered or eligible to registra-

tion in the various breed associations organized and maintained for the registration of cattle, horses, swine, sheep or goats, and having jurisdiction over the registration of such animals in the United States.

599.550 Milking dairy cows prior to sale. No person shall sell or offer for sale for dairy purposes at public auction, any cows giving milk and intended to be used for dairy purposes, that have not been milked out entirely dry within not more than 12 hours preceding the opening of the sale at which such cows are offered for sale or sold.

599.560 Affidavits as to time of milking. Any person selling or offering for sale any cows in milk at public auction, intended to be used for dairy purposes, shall file with the auctioneer of the sale the affidavits of two freeholders to the effect that they have knowledge that such cows have been milked entirely dry within the time specified by ORS 599.550.

599.570 to 599.980 [Reserved for expansion]

PENALTIES

599.990 Penalties. (1) Any violation of the provisions of ORS 599.205 to 599.375 including, but not limited to, the provisions of ORS 599.215 shall be punished upon conviction by a fine of not more than \$500 or by imprisonment in the county jail for not more than six months, or both. Justice courts and district courts shall have concurrent jurisdiction with circuit courts of criminal proceedings instituted for violations of ORS 599.205 to 599.375.

(2) Violation of ORS 599.510 is punishable, upon conviction, by a fine not exceeding \$5,000.

(3) Violation of ORS 599.520 is punishable, upon conviction, by a fine not exceeding \$1,000 or by imprisonment in the county jail not exceeding one year, or both.

(4) Violation of ORS 599.530 or 599.540 is punishable, upon conviction, by a fine of not less than \$500 nor exceeding \$1,000 or by imprisonment in the county jail for not less than six months nor exceeding one year, or both.

(5) Violation of ORS 599.550 or 599.560 is punishable, upon conviction, by a fine of not less than \$100 nor exceeding \$500. [Amended by 1953 c.677 §22; subsection (2) enacted as 1953 c.677 §§19,20; 1955 c.542 §2]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

