

TITLE 47

AGRICULTURAL MARKETING AND WAREHOUSING

- Chapter 576. Agricultural Marketing Generally
577. State Flax and Linen Board
578. Oregon Wheat Commission; Wheat Commission Fund Tax
579. Oregon Potato Commission; Potato Commission Fund Tax
583. Milk Marketing
585. Produce Dealers; Hay Dealers
586. Warehouses; Grain Inspection
587. Storage of Grain as Basis of Farm Credit

Chapter 576

1957 REPLACEMENT PART

Agricultural Marketing Generally

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| MARKET DEVELOPMENT BY STATE
DEPARTMENT OF AGRICULTURE | |
| 576.006 Definitions for ORS 576.006 to 576.022 | 576.115 Supervision of hearings and referendum by department; informalities do not invalidate referendum |
| 576.009 Division of market development of State Department of Agriculture | 576.125 Creation of commission; filing referendum result |
| 576.013 Purpose of division; powers; limitations | 576.135 Oregon Dairy Products Commission deemed created under this chapter |
| 576.017 Restrictions on use and publication of information and data received by division | 576.145 Oregon Filbert Commission deemed created under this chapter |
| 576.019 Discrimination against any product or dealer prohibited | |
| 576.022 Authority and functions of Oregon State College unaffected; department may seek information from college | MEMBERSHIP, DUTIES AND POWERS OF
COMMISSION |
| CREATION OF COMMODITY COMMISSIONS | 576.205 Appointment of members of commission; number of producers and handlers |
| 576.051 Definitions for ORS 576.051 to 576.525 | 576.215 Ex officio members of commission |
| 576.053 Short title | 576.225 Qualifications of members |
| 576.055 Petition for establishment of commission for a particular commodity | 576.235 Terms of members |
| 576.065 Petition filing fee; advancing moneys to pay cost of proposed hearing and referendum | 576.245 Member's office vacant when he ceases to be qualified |
| 576.075 Hearings regarding establishment of commodity commission; notice of hearings | 576.255 Removal of members for inefficiency, neglect of duty or misconduct in office |
| 576.078 When hearings may be dispensed with | 576.265 Traveling expenses of members |
| 576.085 Determination by department regarding need for commodity commission | 576.275 Meeting place of commission |
| 576.095 Referendum regarding establishment of commodity commission after determination by department | 576.285 Commission organization; meetings |
| 576.105 Payment of expenses of hearings and referendum | 576.295 Limitation on commission's powers and duties by original petition or subsequent referendum |
| | 576.305 Authority of commission generally |
| | 576.315 Authority of commission to accept gifts and grants |
| | 576.325 Authority of commission to levy tax on commodity sales; use of tax proceeds |

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| <p>576.335 First purchaser of commodity to make reports and pay tax</p> <p>576.345 Producer to make reports of and pay tax on certain sales</p> <p>576.350 Exemptions from beef commission tax</p> <p>576.355 Penalty for delaying transmittal of funds</p> <p>576.365 Penalty for refusal to turn over tax moneys to commission</p> <p>576.375 Payment of commission moneys to authorized agent; deposit in General Fund; continuing appropriation</p> <p>576.380 Beef commission tax to be refunded in certain cases</p> <p>576.385 Bond required of person authorized to receive commission moneys</p> <p>576.390 Collection of beef commission tax by State Department of Agriculture; procedure</p> | <p>576.395 Records and accounts of commission</p> <p>576.405 Nonliability of state for acts or omissions of commission or agents</p> <p style="text-align: center;">DISCONTINUANCE OF COMMISSION BY REFERENDUM; LIMITING OR EXPANDING POWERS OF COMMISSION</p> <p>576.505 Referendum on continuance of commission; inclusion in ballot of proposition to limit or expand commission's powers</p> <p>576.515 Department to conduct referendum; notice; expenses</p> <p>576.525 Winding up commission's affairs if vote is in favor of discontinuance</p> <p style="text-align: center;">PENALTIES</p> <p>576.991 Penalties</p> |
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CROSS REFERENCES

- | | |
|--|--|
| <p>Administrative procedures and rules of state agencies, Ch. 183</p> <p>Department to administer and enforce legislation applying to production, processing and distribution of food products, 616.010</p> <p>Services by department for commodity commissions, 561.250</p> <p>State agencies generally, Ch. 182</p> <p style="padding-left: 40px;">576.009</p> <p>Divisions of department and organization of work, 561.040, 561.120</p> <p style="padding-left: 40px;">576.013</p> <p>Department of Planning and Development, promotion activities, 184.110</p> | <p>Market development work, 561.020</p> <p>Research on and coordination of market development, 184.170</p> <p style="padding-left: 40px;">576.135</p> <p>Salary of Secretary of Oregon Dairy Products Commission, 292.317 (58)</p> <p style="padding-left: 40px;">576.265</p> <p>Per diem allowance for members, 576.305(14)</p> <p>Subsistence and mileage allowance for travel, reimbursement, 292.210 to 292.260</p> <p style="padding-left: 40px;">576.390</p> <p>Bond of livestock auction market operator, conditioned upon payment of tax, 599.245</p> <p>Services by department for commodity commissions, 561.250</p> |
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**MARKET DEVELOPMENT BY STATE
DEPARTMENT OF AGRICULTURE**

576.005 [1953 c.489 §1; 1955 c.732 §1; renumbered 576.051]

576.006 Definitions for ORS 576.006 to 576.022. As used in ORS 576.006 to 576.022:

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

(2) "Farm products" means all agricultural, floricultural, vegetable and fruit products of the soil, livestock and meats, poultry, eggs, dairy products, and any and all products which have their situs of production on the farm.

(3) "Food products" means any and all products either in a natural or processed state used by man or animal as food. [1955 c.572 §1]

576.009 Division of market development of State Department of Agriculture. The department may establish a division of market development which shall have the powers conferred by ORS 576.006 to 576.022 and subsection (1) of ORS 576.991. [1955 c.572 §2]

576.010 [Repealed by 1953 c.119 §2]

576.013 Purpose of division; powers; limitations. (1) The purpose of the division shall be to assist in the development of new markets or expand existing markets for farm and food commodities produced or processed in this state.

(2) In furthering said purposes, the department may at its discretion:

(a) Disseminate information relating to the availability, quality and uses of such products.

(b) Serve as an intermediary between prospective purchasers and sellers of such products as to source of supply and demand.

(c) After notice to and with the approval of the Governor, represent the state in matters of legislation or rule-making affecting the development of markets for farm and food products.

(d) To cooperate with and aid farmers and other producers of farm and food products and distributors and consumers thereof in improving and maintaining an efficient system of distribution and marketing in reaching advantageous markets.

(e) To investigate delays, embargoes, conditions and practices, charges, and rates in the marketing, transportation and hand-

ling of farm and food products, and when such investigation discloses a probable violation of state or federal law, to make recommendations to the proper state or federal authorities for appropriate action thereon.

(f) Engage in negotiations with common and contract carriers and initiate or participate in the prosecution of proceedings before agencies engaged in freight rate regulation within or without this state in matters relating to the establishment of new freight rates, the modification of existing freight rates or to unjust, unreasonable or discriminatory rates or practices affecting the cost of transportation, production or processing of farm or food products produced or processed in this state.

(g) To investigate the advisability and need for establishment of terminal, regional, assembly, dock and other distributing facilities for the delivery, sale and distribution of farm and food products at or near the point of consumption or use, and to advise and cooperate with public or private agencies or organizations to promote the establishment, construction or acquisition of such facilities for public use and make recommendations as to the operations thereof.

(h) To accept and receive grants from public or private agencies for expenditure in furtherance of the purposes of ORS 576.006 to 576.022. Any such grant shall be deemed a trust fund within the meaning of ORS chapter 291.

(i) To consult with other states in development of joint programs for the establishment and development of markets on a mutual or regional basis.

(j) To cooperate in the development and operation of commodity commissions established under ORS chapter 576.

(3) Nothing in ORS 576.006 to 576.022 shall authorize the department to:

(a) Engage in any commercial transaction involving farm or food products as purchaser, seller, broker or dealer.

(b) Acquire or own any farm or food product or real property. [1955 c.572 §3]

576.015 [1953 c.489 §37; renumbered 576.053]

576.017 Restrictions on use and publication of information and data received by division. The information furnished to the department pursuant to ORS 576.006 to 576.022 shall be used only for the purposes for which it is furnished. No publication shall be made by the department whereby

the data furnished by any particular establishment can be identified. [1955 c.572 §4]

576.019 Discrimination against any product or dealer prohibited. In the performance of his duties, under ORS 576.006 to 576.022, no official or employe of the department shall discriminate against any farm or food product, or against any producer, processor, distributor or dealer of any such products. [1955 c.572 §5]

576.020 [Repealed by 1953 c.119 §2]

576.022 Authority and functions of Oregon State College unaffected; department may seek information from college. Nothing in ORS 576.006 to 576.022 shall be construed to limit, alter, repeal or duplicate the existing authority and functions of Oregon State College enumerated in ORS 561.080 and full effect shall be given to the provisions of ORS 561.090 and 561.100. The department may call upon Oregon State College for such technical and statistical information as it may need and as the college may be able to provide. [1955 c.572 §7]

576.030 [Repealed by 1953 c.119 §2]

576.040 [Repealed by 1953 c.119 §2]

576.050 [Repealed by 1953 c.119 §2]

CREATION OF COMMODITY COMMISSIONS

576.051 Definitions for ORS 576.051 to 576.525. As used in ORS 576.051 to 576.525, unless the context requires otherwise:

(1) "Commercial channels" means the sale of the commodity for which a commission is established for use as food, industrial, agricultural or chemurgic use, when sold to any commercial buyer or to any person who resells the commodity or any product derived therefrom.

(2) "Commission" means a commodity commission established under ORS 576.051 to 576.525.

(3) "Commodity" means any agricultural, horticultural, viticultural, apicultural, vegetable, animal or seafood product.

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

(5) "First purchaser" means any person who buys the commodity for which a commission is created from the producer in the first instance, or handler who received the commodity in the first instance from the producer for resale or processing.

(6) "Handler" means any producer, processor, distributor or other person engaged in the handling or marketing of or dealing in the commodity for which a commission is created, whether as an owner, agent, employe, broker or otherwise.

(7) "Producer" means a person producing within this state or procuring within the state, its rivers or the offshore waters, but not the Columbia River, for commercial handling within the state, a commodity for market, or receiving a share thereof as landowner, landlord, tenant, sharecropper, boat skipper or otherwise. [Formerly 576.005; amended by 1957 c.447 §1]

576.053 Short title. ORS 576.051 to 576.525 and subsections (2) and (3) of ORS 576.991 may be known and cited as the Commodity Commission Act. [Formerly 576.015]

576.055 Petition for establishment of commission for a particular commodity.

(1) Any 25 or more persons interested in the production of a particular commodity for which it is proposed to establish a commission may file a petition with the department asking that a commission be established for such commodity. The petition shall set forth:

(a) The name of the commodity for which the commission is to be established, and a description of it by genus, class, variety or other accurate and definite term.

(b) A concise statement of the reasons the establishment of a commission is requested.

(c) A request that a referendum be held among the producers of the commodity on the question of the establishment of a commission.

(d) Any desired limitation of the powers and duties provided for in ORS 576.305.

(e) The name and address of the individual who is authorized to represent the petitioners in all matters related to the establishment of the proposed commission as attorney in fact.

(2) The petition may also provide:

(a) Within the limits prescribed by ORS 576.205, for the number of commissioners on the commission.

(b) That the several commissioners be appointed from stated geographical areas.

(c) That the maximum permissible tax under ORS 576.325 be limited to a designated amount or percent.

(d) For an alternative method of levy, assessment and collection of a tax upon pro-

ducers for the support of the commission. [1953 c.489 §2; subsection (2) formerly part of 576.295; 1957 c.447 §2]

576.060 [Repealed by 1953 c.119 §2]

576.065 Petition filing fee; advancing moneys to pay cost of proposed hearing and referendum. (1) The petitions provided for in ORS 576.055 shall be accompanied by a filing fee of \$250.

(2) The department shall prepare a budget estimate, which shall include the cost of the preparation of the estimate, the cost of the proposed hearings and the cost of the proposed referendum. The petitioners, within 30 days after their receipt of the budget estimates by their attorney in fact, shall remit to the department the difference between the filing fee of \$250 and the total budget estimate. If the petitioners fail to remit the difference, or for any other reason the proceedings for the establishment of a commission are terminated, or if as a result of the referendum the commission is created or is disapproved, the balance of the filing fee or budget estimate or both remaining unexpended by the department shall be returned to the petitioners by the department. The commission shall return to the petitioners from the first moneys collected by it the difference between the filing fee and the budget estimate and the amount, if any, returned by the department. [1953 c.489 §3; 1957 c.447 §3]

576.070 [Repealed by 1953 c.119 §2]

576.075 Hearings regarding establishment of commodity commission; notice of hearings. (1) Within 60 days after the petition has been filed with the department and upon payment of the total budget estimate required, the department shall cause notices to be given of the proposed hearings in each of the counties of the state where the commodity is grown or produced upon the question of the desirability and necessity of creating such a commission, upon the propriety of the petition and other proceedings under ORS 576.051 to 576.525 and upon other relevant questions. All producers and all other interested parties, shall have a right to attend such hearings and to be heard.

(2) The department shall hold a hearing or hearings in each congressional district in which during the last preceding crop season or year at least five percent of the total

production of the commodity unit was produced, as determined by the department.

(3) The notices of hearing shall be:

(a) Published once at least 14 days prior to the date of hearing in a newspaper of general circulation in the state, and once in a newspaper of general circulation in each congressional district in which a hearing is to be held. In the discretion of the department such notice may also be published in a newspaper of general circulation in each county in which during the last preceding crop season or year at least five percent of the total production of the commodity unit was produced.

(b) Forwarded to the county clerk of all counties in this state. The county clerk shall post such notice in a conspicuous place in the county courthouse. [1953 c.489 §4; 1957 c.447 §4]

576.078 When hearings may be dispensed with. Notwithstanding any of the provisions of ORS 576.075 to 576.115, if a petition filed with the department as provided by ORS 576.055 is signed by more than 50 percent of the producers of the commodity in the state, or if it is signed by producers who produced more than 50 percent of the total quantity produced by producers in the state during the last preceding crop season or year, and if such petition contains a statement that the petitioners do not desire that hearings be held prior to a referendum upon the proposition of the creation of a commission:

(1) No hearings shall be held by the department prior to the referendum upon the proposition of the creation of a commission as provided by this chapter.

(2) Upon payment of the total budget estimate required, the department shall set the date for holding a referendum upon the proposition of the creation of a commission as provided by ORS 576.095 and subsequent sections of this chapter, to be held within four months. [Formerly part of 576.085]

576.080 [Repealed by 1953 c.119 §2]

576.085 Determination by department regarding need for commodity commission.

(1) After the hearings provided for in ORS 576.075, the department shall determine upon the facts presented and other relevant data and information available to it whether or not there is need for the proposed commission in the interest of the general welfare

of the producers of the commodity. It shall record the determination, with its reasons for it, in the office of the Secretary of State.

(2) Subsequent petitions relating to the same commodity may not be filed or action taken thereon within one year from the date the department has recorded a determination denying the need for a commission as to such commodity.

(3) The department's determination of "need" for a proposed commission shall be based upon a consideration of the following factors as they may be applicable to any commodity:

(a) The current market price to producers.

(b) The costs of production, including all elements of cost.

(c) Market price trends.

(d) Stability of prices.

(e) Relationship between factors (a), (b), (c) and (d).

(f) Commodity utilization and the possibility of increasing commodity utilization by research, promotive advertising, improved marketing practices, and improving time or place utility. [1953 c.489 §5; 1957 c.447 §5; part renumbered 576.078]

576.090 [Repealed by 1953 c.119 §2]

576.095 Referendum regarding establishment of commodity commission after determination by department. After the department has made and recorded its determination that there is need for the creation of a commission, or that there is justification for the holding of a referendum thereon, it shall within a reasonable time thereafter hold a referendum upon the proposition of the creation of the commission. Notice of such referendum shall be given in the same manner as notice of hearings is required to be given by ORS 576.075. The question shall be submitted by ballots upon which the words "For creation of a _____ (here to be inserted the name of the commodity) commission" and "Against creation of a _____ (here to be inserted the name of the commodity) commission" are printed, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of the propositions as the voter may favor or oppose creation of a commission. All producers of the particular commodity in the state are eligible to vote in the referendum, provided they shall register with the department, at least 20 days prior to the date of such refer-

endum, their names and such other pertinent information as the department may require. [1953 c.489 §6; 1957 c.447 §6]

576.100 [Repealed by 1953 c.119 §2]

576.105 Payment of expenses of hearings and referendum. The department shall pay, from the amounts paid to it under ORS 576.065, all the expenses resulting from the giving of notices mentioned in ORS 576.075 and 576.095, and from conducting the hearings and referenda, held for the purpose of creating a commission. [1953 c.489 §7]

576.110 [Repealed by 1953 c.119 §2]

576.115 Supervision of hearings and referendum by department; informalities do not invalidate referendum. (1) The department shall supervise and conduct any referenda and hearings held under ORS 576.051 to 576.525.

(2) No informalities in the conduct of a referendum or in any matters relating thereto shall invalidate any referendum held under ORS 576.051 to 576.525, or the result thereof, if notice was given in substantially the same manner as provided in ORS 576.051 to 576.525 and if the referendum was fairly conducted.

(3) No proposition submitted by a referendum under ORS 576.051 to 576.525 shall be declared approved unless the proposition is favored in the manner as necessary for the creation of a commission, as provided in subsection (1) of ORS 576.125.

(4) Preceding any referendum held pursuant to ORS 576.051 to 576.525, the department shall determine the number of producers in this state and their total production in the last preceding crop season or year of the commodity for which a commission is proposed. The department's determination shall be predicated upon available relevant and reliable information tending to establish such facts, from statistics of the U. S. Department of Agriculture, U. S. Department of Commerce, Oregon State College or other recognized authoritative sources; or from a survey of the commodity industry in the state conducted by the department, if reliable information needed is not available from such recognized authoritative sources. At the request of the department any handlers or other persons shall furnish to the department any information available relevant to the determination required of the department.

(5) All information submitted by a handler or other person shall be confidential and shall not be disclosed by the department or any of its officials or employes except to the extent that such disclosure is necessary in any proceeding instituted to challenge the correctness of the department's determination as permitted in subsection (6) of this section.

(6) The department's determination of the number of producers and their total production shall be filed with the county clerk and in the office of the county agent of each county. Any appeal from such determination must be instituted by filing a complaint or other pleading in an appropriate proceeding in the circuit court within 30 days after the date the determination is filed. [1953 c.489 §8; 1957 c.447 §7]

576.120 [Repealed by 1953 c.119 §2]

576.125 Creation of commission; filing referendum result. (1) The department shall declare a commission created, if the proposition received an affirmative vote in the referendum of two-thirds of the producers voting and if the total voting producers are the producers of more than one-third of the total quantity of the commodity produced by producers in the state in the last preceding crop season or year, as determined by the department.

(2) Within 10 days of the date of a referendum the department shall file with the Secretary of State a declaration of the result of the referendum. The Secretary of State shall record the declaration in an appropriate book in his office.

(3) If a referendum does not result in the creation of a commission, subsequent petitions relating to the same commodity may not be filed or action taken thereon within one year from the date of the filing of the department's declaration of the result of the referendum with the Secretary of State. [1953 c.489 §9; 1955 c.732 §2; 1957 c.447 §8]

576.130 [Repealed by 1953 c.119 §2]

576.135 Oregon Dairy Products Commission deemed created under this chapter. The Oregon Dairy Products Commission, established by ORS chapter 582, shall continue in full force and effect as a commission established pursuant to ORS 576.051 to 576.525 from the time the rights, powers, privileges and immunities of such commission expire pursuant to the laws relating

thereto. At the time ORS 576.051 to 576.525 become applicable to such commission, it shall be deemed to have been created in all respects pursuant to ORS 576.051 to 576.525 and shall be vested with all of the rights, powers, privileges and immunities duly conferred upon commissions created pursuant to 576.051 to 576.525. [1953 c.489 §34]

576.140 [Repealed by 1953 c.119 §2]

576.145 Oregon Filbert Commission deemed created under this chapter. The Oregon Filbert Commission, established by ORS chapter 580, shall continue in full force and effect as a commission established pursuant to ORS 576.051 to 576.525 from the time the rights, powers, privileges and immunities of such commission expire pursuant to the laws relating thereto. At the time ORS 576.051 to 576.525 become applicable to such commission, it shall be deemed to have been created in all respects pursuant to ORS 576.051 to 576.525 and shall be vested with all of the rights, powers, privileges and immunities duly conferred upon commissions created pursuant to 576.051 to 576.525. [1953 c.489 §35]

576.150 [Repealed by 1953 c.119 §2]

576.160 [Repealed by 1953 c.119 §2]

576.170 [Repealed by 1953 c.119 §2]

576.180 [Repealed by 1953 c.119 §2]

576.190 [Repealed by 1953 c.119 §2]

576.200 [Repealed by 1953 c.119 §2]

MEMBERSHIP, DUTIES AND POWERS OF COMMISSION

576.205 Appointment of members of commission; number of producers and handlers. (1) The commission shall be composed of from 5 to 11 members, as the Governor determines, all of whom shall be appointed by the Governor. Each member shall continue in office until his successor is appointed.

(2) A majority of the members shall be producers and at least one member shall be a handler. [1953 c.489 §11; 1957 c.447 §9]

576.210 [Repealed by 1953 c.119 §2]

576.215 Ex officio members of commission. The director of the department and the dean of the school of agriculture of Oregon State College, or their respective official representative, shall be ex officio mem-

bers of the commission, without right to vote. In the case of a seafoods commission, the chairman of the Fish Commission or his official representative shall also be an ex officio member of the commission, without right to vote. [1953 c.489 §12; 1957 c.447 §10]

576.220 [Repealed by 1953 c.119 §2]

576.225 Qualifications of members. (1) Each member of the commission shall have the following qualifications which shall continue during his term of office:

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

(b) Each shall be a bona fide resident of the state.

(c) Each shall have demonstrated through membership in a producers' organization, the public service or otherwise, an active interest in the development of the commodity industry in Oregon.

(2) The producer members shall be and have been actively engaged in producing, and the handler members in the handling of, the commodity for which the commission is established, in this state, for a period of at least five years, and shall derive a substantial proportion of their incomes from the sale of the commodity. [1953 c.489 §13; 1957 c.447 §11]

576.235 Terms of members. Members of the commission shall be appointed within 30 days after the filing of the declaration by the department with the Secretary of State, and the original members shall be appointed as follows:

(1) Approximately, as the Governor determines, one-third of the members for a term ending June 30 next following.

(2) One-third of the members for a term ending one year from June 30 next following.

(3) One-third of the members for a term ending two years from June 30 next following.

Thereafter, each member shall be appointed for a term ending three years from the date of 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. [1953 c.489 §14]

576.245 Member's office vacant when he ceases to be qualified. The Governor shall immediately declare the office of any mem-

ber of the commission vacant whenever the Governor finds that such member has ceased to be an active producer or handler in this state, has become a resident of another state or is unable to perform the duties of his office. [1953 c.489 §15; 1957 c.447 §12]

576.255 Removal of members for inefficiency, neglect of duty or misconduct in office. (1) The Governor may remove any member of the commission for inefficiency, neglect of duty or misconduct in office, after a public hearing thereon and after serving upon the member a copy of the charges against him, together with a notice of the time and place of the hearing, at least 10 days prior to such 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.

(2) 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. [1953 c.489 §16]

576.265 Traveling expenses of members. Members of the commission shall be paid their actual traveling expenses incurred while necessarily engaged in the transaction of official business of the commission. [1953 c.489 §17]

576.275 Meeting place of commission. The commission shall establish a meeting place anywhere within this 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 be affected by its acts. [1953 c.489 §18]

576.285 Commission organization; meetings. The commission shall meet as soon as practicable for the purposes of organizing. It shall elect a chairman and a secretary-treasurer from among its members. It shall adopt a general statement of policy for guidance, and shall transact such other business as is necessary to start the work of the commission. Thereafter, the commission shall meet regularly once each six months, and at such other times as called by the chairman. The chairman may call special meetings at any time, and shall call a special

meeting when requested by two or more members of the commission. [1953 c.489 §19]

576.295 Limitation on commission's powers and duties by original petition or subsequent referendum. The commission established by the department's declaration after the referendum as provided in ORS 576.125 has the powers and duties provided in ORS 576.051 to 576.525, except as those powers and duties are limited in the petition as provided in paragraph (d) of subsection (1) of ORS 576.055, or pursuant to a referendum held under ORS 576.505. [1953 c.489 §10; 1955 c.732 §3; part renumbered 576.055]

576.305 Authority of commission generally. The commission may:

(1) Conduct scientific research to discover and develop the commercial value of the commodity and products thereof.

(2) Disseminate reliable information founded upon the research undertaken under ORS 576.051 to 576.525, showing the value of the commodity and its products for any purpose for which they may be found useful and profitable.

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

(4) Sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by ORS 576.051 to 576.525.

(5) Enter into contracts which it deems appropriate to the carrying out of the purposes of the commission as authorized by ORS 576.051 to 576.525.

(6) Borrow money, not in excess of its estimate of its revenue from the current year's crop, catch, or animals, so that the crop, catch or animals responsible for the accumulation of funds may receive the benefits of the efforts for which the funds are used.

(7) Make grants to research agencies for financing special or emergency studies or for the purchase or acquisition of facilities necessary to carry out the purposes of the commission authorized by ORS 576.051 to 576.525.

(8) Appoint officers and prescribe their duties.

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

(10) 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 commodity industry of this state, and expend funds in connection therewith, provided that such program is compatible with the powers conferred by ORS 576.051 to 576.525.

(11) Prosecute, in the name of the State of Oregon, any suit or action for the collection of the tax provided for in ORS 576.325.

(12) Adopt, rescind, modify or amend all proper regulations, orders and resolutions for the exercise of its powers and duties. A copy of any of the commission's orders shall be filed with the department, and a copy mailed to the county agent of the counties in which the commodity is produced.

(13) Enter into contracts for advertising the commodity and to develop new markets through such advertising.

(14) Establish a reasonable per diem allowance, in addition to the reimbursement permitted by ORS 576.265, to members of the commission while engaged in business of the commission including travel time. [1953 c.489 §20; 1957 c.447 §13]

576.315 Authority of commission to accept gifts and grants. The commission may accept grants, donations or gifts, from any source for expenditures for any purposes consistent with the powers conferred on the commission. [1953 c.489 §29]

576.325 Authority of commission to levy tax on commodity sales; use of tax proceeds. (1) The commission may assess, levy and collect a tax, the amount of which the commission shall determine, on all units or animals of the commodity grown or produced in this state, or procured from its rivers or the offshore waters, but not the Columbia River, for handling within this state, and sold in commercial channels; pro-

vided, however, that no such tax shall apply to any transaction which occurred prior to the date the commission order making such assessment was entered. All casual sales of the commodity made by the producer direct to the consumer shall be exempt from said tax.

(2) The amount of the tax provided for in subsection (1) of this section shall not exceed one and one-half percent of the average unit price received by the producer on the farm after severance, or in the boat after catch, and before packaging or processing, during the three years immediately preceding, unless a greater tax, which in no case shall exceed 10 percent, is specifically provided:

(a) In the petition provided for in ORS 576.055,

(b) By a referendum held pursuant to ORS 576.505, or

(c) By a special referendum, held for that purpose, which referendum may be held annually.

(3) A commission of livestock producers may, in lieu of the levy and assessment procedures provided in subsections (1) and (2) of this section, provide that an identical tax shall be levied and collected against each animal, but in such case the tax shall not exceed one and one-half percent of the average price per animal received by livestock producers during the three years immediately preceding, for the class of animals in Oregon for which the commission was created, such as cattle, sheep or swine, unless a greater tax, which in no case shall exceed 10 percent, is specifically provided as authorized by paragraphs (a), (b) and (c) of subsection (2) of this section. The commission in ascertaining the average price received by producers may take into consideration data and estimates of the United States Department of Agriculture, the Oregon State College and other reliable sources for the three calendar years immediately preceding the date of the determination.

(4) The tax shall be levied and assessed to the producer at the time of sale and shall be deducted by the first purchaser from the price paid to the producer.

(5) All funds expended in the administration of ORS 576.051 to 576.525 and the payment of claims growing out of the performance of duties or activities pursuant thereto shall be paid from the funds derived from the tax levied under this section, except as any funds received under ORS

576.315 are available. [1953 c.489 §21; 1957 c.447 §14]

576.335 First purchaser of commodity to make reports and pay tax. (1) The first purchaser shall make reports to the commission on forms prescribed by the commission.

(2) No first purchaser shall fail to make the report, or make the report falsely.

(3) The commission shall fix dates upon which reports shall be made thereto by all first purchasers. Upon such dates all tax moneys collected by the purchaser shall be turned over to the commission which shall issue receipts therefor and make suitable records thereof. [1953 c.489 §§24,26]

576.345 Producer to make reports of and pay tax on certain sales. When a first purchaser lives or has his office in another state or is a federal or other governmental agency, the producer shall report all sales made to such 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. [1953 c.489 §25]

576.350 Exemptions from beef commission tax. (1) No person who sells livestock subject to a beef commission tax at an auction market or stockyard shall be required to pay the commission tax on the animals if:

(a) The animals were not sold for interstate movement or shipment; or

(b) The animals were not sold for the purpose of slaughter.

(2) To claim such exemption, the owner or his agent shall present to the auction market or stockyard a certificate in form approved by the department stating the grounds of exemption, and the auction market or stockyard shall not then assess, collect or withhold the beef commission tax on those animals identified and described therein.

(3) No person shall make a false certificate for the purpose of obtaining an exemption from a beef commission tax. [1957 c.447 §18]

576.355 Penalty for delaying transmittal of funds. In addition to the penalties prescribed in ORS 576.991, any first purchaser or other person 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. [1953 c.489 §28]

576.365 Penalty for refusal to turn over tax moneys to commission. If any first purchaser, or other person responsible for transmittal of the tax to the commission, wilfully refuses to turn over tax moneys collected under ORS 576.375, he shall pay an additional fine equal to twice the amount of the tax moneys so withheld. [1953 c.489 §27]

576.375 Payment of commission moneys to authorized agent; deposit in General Fund; continuing appropriation. All moneys received by any person from the tax levied under the authority of ORS 576.325 or other moneys received by the commission shall be paid to the authorized agent of the commission who shall deposit the same in the General Fund of the State Treasury to the credit of an account to be known as _____ (name of the commodity here to be inserted) Commission Account. Such account hereby is appropriated continuously for the payment of all expenses of the commission in carrying out the powers conferred on the commission. Notwithstanding the provisions of ORS 291.238, claims approved by the commission for payment of the expenses of the commission shall be paid as other claims against the state and no specific biennial appropriation by the Legislative Assembly or allotment is required. [1953 c.489 §22]

576.380 Beef commission tax to be refunded in certain cases. (1) Any person who has paid a beef commission tax on animals at a livestock auction market or stockyard, shall be entitled to a refund of the tax from the commission if:

- (a) The animals were not sold for interstate movement or shipment; or
- (b) The animals were not sold for the purpose of slaughter.

(2) Claim for such refund shall be made to the beef commission within 30 days from the date the tax was collected, on a form provided by the beef commission.

(3) No person shall make a false or fraudulent claim with a beef commission for the purpose of obtaining, on behalf of himself or of another, a refund of taxes paid to such commission. [1957 c.447 §16]

576.385 Bond required of person authorized to receive commission moneys. Any person authorized by the commission to receive moneys as provided in ORS 576.375 shall file with the commission a fidelity bond executed by a surety company authorized to

do business in this state in favor of the commission and the State of Oregon, in such amount and upon such conditions as the commission shall prescribe. The cost of the bond shall be paid by the commission. [1953 c.489 §23; 1957 c.447 §20]

576.390 Collection of beef commission tax by State Department of Agriculture; procedure. (1) Notwithstanding the provisions of ORS 576.051 to 576.525, a beef commission may authorize the collection of its tax by the department, and in such case, the department shall collect the tax at the same time, place and manner and upon the same animals as it collects brand inspection fees.

(2) When, pursuant to ORS 604.410, the department is authorized to refund brand inspection fees to a producer, it shall at the same time pay any refund of beef commission tax then owing to the same producer from funds, if any, of such beef commission in the hands of the department. If the department does not have adequate funds of the commission to make such refund of tax, the producer to whom such refund is owing shall have a claim therefor against the commission.

(3) All beef commission taxes collected by the department shall be deemed to be a trust fund within the meaning of ORS chapter 291, and not subject to ORS 291.368 to 291.372.

(a) The taxes collected shall be deposited by the department with the State Treasurer, who shall deposit them in a trust fund account and shall be the custodian of said funds.

(b) From the trust fund account, the department shall, at least once each two months, transfer or pay to the beef commission the tax funds so collected, less such amount determined by the department to be adequate to reimburse it for the collection and administrative costs necessary in carrying out the provisions of this section. [1957 c.447 §15]

576.395 Records and accounts of commission. The commission shall keep accurate books, records and accounts of all its dealings which shall be open to inspection and audit by the Secretary of State. [1953 c.489 §30]

576.405 Nonliability of state for acts or omissions of commission or agents. The State of Oregon is not liable for the acts or

the omissions of the commission or agents or officers thereof. [1953 c.489 §36]

576.410 to 576.500 [Reserved for expansion]

DISCONTINUANCE OF COMMISSION BY REFERENDUM; LIMITING OR EXPANDING POWERS OF COMMISSION

576.505 Referendum on continuance of commission; inclusion in ballot of proposition to limit or expand commission's powers.

(1) After five years from the date any commission was created, a referendum may be held at the petition of five percent of the producers of the commodity or 200 producers of the commodity, whichever is less, upon the question of continuance of the commission. The question shall be submitted by ballots upon which the words "For discontinuance of the _____ (here insert the name of the commodity) commission" and "Against discontinuance of the _____ (here insert name of commodity) commission" are printed, with a square before each proposition and a direction to insert an "X" mark in the square before the proposition which the voter favors. In the event a referendum is held as provided in this section, no further referendum on the question of continuance of such commission shall be held for five years from the date the result of the previous referendum was declared.

(2) Not less than 60 days prior to the referendum provided for in subsection (1) of this section, five percent of the producers or 200 producers, whichever is less, may file a petition with the commission asking inclusion on the ballot of a proposition for limiting or expanding the powers of the commission. However, no power shall be granted to the commission which is not permitted under ORS 576.051 to 576.525. [1953 c.489 §31; 1957 c.447 §21]

576.515 Department to conduct referendum; notice; expenses. (1) The depart-

ment shall conduct the referendum provided for in ORS 576.505, and cause at least 30 days' notice thereof to be given.

(2) The cost of such referendum shall be paid by the commission. [1953 c.489 §32]

576.525 Winding up commission's affairs if vote is in favor of discontinuance. If the vote at the referendum provided in ORS 576.505 is in favor of discontinuation, the commission shall as rapidly as possible terminate its activities, convert its assets into cash and do all other things necessary to terminate its activities. At the termination of such activities, any funds remaining in possession of the commission shall be paid to Oregon State College for research regarding the commodity for which the commission was created. [1953 c.489 §33]

576.535 to 576.985 [Reserved for expansion]

PENALTIES

576.990 [Repealed by 1953 c.119 §2]

576.991 Penalties. (1) Violation of ORS 576.017 by any official or employe of the State Department of Agriculture of the State of Oregon shall constitute grounds for dismissal of such person and shall be a misdemeanor.

(2) Violation of ORS 576.051 to 576.525 is punishable, upon conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than 90 days, or both.

(3) District and justice courts shall have concurrent jurisdiction with circuit courts in all prosecutions under ORS 576.051 to 576.525.

(4) Violation of ORS 576.350 is a misdemeanor.

(5) Violation of ORS 576.380 is a misdemeanor. [1953 c.489 §38; subsection (1) enacted as 1955 c.572 §6; subsection (4) enacted as 1957 c.447 §19; subsection (5) enacted as 1957 c.447 §17]

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 December 2, 1957.

Sam R. Haley
Legislative Counsel