

Chapter 583

1957 REPLACEMENT PART

Milk Marketing

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CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183 Dairy products, Ch. 621

583.005 Definitions. As used in this chapter:

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

(2) "Grade A milk" means fluid milk or cream which complies with the official state standards of quality established by the department for Grade A milk, or which complies with standards of quality established under any municipal ordinance equal to or higher than such official state standards.

(3) "Milk dealer" means any person, other than a producer's marketing agent or storekeeper, who purchases Grade A milk from producers or producer's marketing agents for resale for human consumption in fluid form.

(4) "Milk product" means any product manufactured from Grade A milk.

(5) "Producer" means any person who produces Grade A milk and sells any portion of such milk to a milk dealer directly or through a producer's marketing agent.

(6) "Producer's marketing agent" means any cooperative association which acts as agent or representative of a producer in marketing Grade A milk produced by the producer.

(7) "Storekeeper" means any person who operates a grocery store, hotel, restaurant, soda fountain, dairy products store or any other establishment wherein Grade A milk is sold to consumers and who does not process and bottle Grade A milk for human consumption in fluid form. [1957 c.719 §1]

583.010 [Amended by 1953 c.712 §4; repealed by 1955 c.1 §1]

583.015 Poundage fees payable to State Department of Agriculture by milk dealers and producer's marketing agents. (1) Each milk dealer shall pay to the department a poundage fee of not more than three-fourths cent per hundredweight on all Grade A milk purchased by the milk dealer from producers or producer's marketing agents. Such poundage fee shall be paid monthly not later than the fifteenth day of each month as to all quantities of Grade A milk received by the milk dealer in the previous calendar month, or part thereof. Each milk dealer shall deduct from the purchase price for Grade A milk purchased by such milk dealer from a producer or producer's marketing agent the amount of the poundage fee such milk dealer is required to pay to the department under

this section as to such Grade A milk so purchased.

(2) Each producer's marketing agent shall pay to the department a poundage fee of not more than three-fourths cent per hundredweight on all Grade A milk produced by the producers represented by such producer's marketing agent and sold to persons other than milk dealers or used by the producer's marketing agent in the manufacture of milk products. Such poundage fee shall be paid monthly not later than the fifteenth day of each month as to all quantities of Grade A milk sold to persons other than milk dealers or used by the producer's marketing agent in the manufacture of milk products in the previous calendar month, or part thereof. Each producer's marketing agent shall deduct from amounts to be distributed to producers represented by such producer's marketing agent the amount of the poundage fee the producer's marketing agent is required to pay to the department under this section as to such Grade A milk sold or used in the manufacture of milk products by the producer's marketing agent.

(3) Subject to the three-fourths cent limitation, the amount of the poundage fee required by subsections (1) and (2) of this section shall be determined by the department upon the basis of the estimated amount of money necessary for the purpose of administering and enforcing this chapter and shall be at the same rate for all milk dealers and producer's marketing agents required to pay such fees. [1957 c.719 §3]

583.020 [Repealed by 1955 c.1 §1]

583.025 Disposition of poundage fees by department. The department shall deposit all fees paid to it under ORS 583.015 in the General Fund in the State Treasury to the credit of the Department of Agriculture Account. Such account is continuously appropriated to the department for the purpose of administering and enforcing this chapter. [1957 c.719 §4]

583.030 [Repealed by 1955 c.1 §1]

583.035 Records to be kept by milk dealer; Grade A milk not accounted for presumed sold for human consumption. (1) Each milk dealer shall keep books and records that shall accurately reveal:

(a) The quantity of all Grade A milk purchased by the milk dealer from producers, producer's marketing agents and other

milk dealers, the butterfat content of such milk, the prices paid therefor, the deductions or charges made in connection therewith and the names and addresses of the persons from whom such milk was purchased.

(b) The quantity of all Grade A milk produced by the milk dealer and the butterfat content thereof.

(c) The quantity of Grade A milk used by the milk dealer in the manufacture of milk products and the butterfat content of such milk.

(d) The quantity of each milk product manufactured by the milk dealer, the quantity of Grade A milk used in the manufacture thereof and the butterfat content of such milk.

(e) The quantity of Grade A milk sold by the milk dealer for use in the manufacture of milk products, the butterfat content of such milk, the prices received therefor and the names and addresses of the purchasers thereof.

(f) Such other information as the department considers necessary for the proper administration and enforcement of this chapter.

(2) If the total of the quantities of Grade A milk used or disposed of by a milk dealer as provided in paragraphs (c) and (e) of subsection (1) of this section is less than the quantity of Grade A milk accounted for by such milk dealer under paragraphs (a) and (b) of subsection (1) of this section, the difference shall be considered, in the absence of affirmative proof to the contrary, to have been sold by the milk dealer for human consumption in fluid form. [1957 c.719 §8]

583.040 [Repealed by 1955 c.1 §1]

583.045 **Records to be kept by producer's marketing agent; Grade A milk not accounted for presumed sold for human consumption.** (1) Each producer's marketing agent shall keep books and records that shall accurately reveal:

(a) The quantity of all Grade A milk produced by producers and marketed by the producer's marketing agent, the butterfat content of such milk, the amounts distributed to producers therefor, the deductions or charges made in connection therewith and the names and addresses of the producers for whom such milk was marketed.

(b) The quantity of Grade A milk used

by the producer's marketing agent in the manufacture of milk products and the butterfat content of such milk.

(c) The quantity of each milk product manufactured by the producer's marketing agent, the quantity of Grade A milk used in the manufacture thereof and the butterfat content of such milk.

(d) The quantity of Grade A milk sold by the producer's marketing agent to milk dealers for use in the manufacture of milk products, the butterfat content of such milk, the prices received therefor, the deductions or charges made in connection therewith and the names and addresses of the purchasers thereof.

(e) The quantity of Grade A milk sold by the producer's marketing agent to persons other than milk dealers for use in the manufacture of milk products, the butterfat content of such milk, the prices received therefor, the deductions or charges made in connection therewith and the names and addresses of the purchasers thereof.

(f) The quantity of Grade A milk sold by the producer's marketing agent to persons other than milk dealers.

(g) Such other information as the department considers necessary for the proper administration and enforcement of this chapter.

(2) If the total of the quantities of Grade A milk used or disposed of by a producer's marketing agent as provided in paragraphs (b), (d) and (e) of subsection (1) of this section is less than the quantity of Grade A milk accounted for by such producer's marketing agent under paragraph (a) of subsection (1) of this section, the difference shall be considered, in the absence of affirmative proof to the contrary, to have been sold by the producer's marketing agent for human consumption in fluid form. [1957 c.719 §9]

583.050 [Repealed by 1955 c.1 §1]

583.055 **Milk dealers and producer's marketing agents to furnish information to department.** Each milk dealer or producer's marketing agent shall furnish such reports, statements or information as are required by the department for the proper administration and enforcement of this chapter. [1957 c.719 §10]

583.060 [Repealed by 1955 c.1 §1]

583.065 [1953 c.590 §2; repealed by 1955 c.1 §1]

583.070 [Repealed by 1955 c.1 §1]

583.075 Reports and other information confidential. Except as provided by ORS 583.095, all reports, statements and all other information required to be forwarded to or filed with the department by a milk dealer or producer's marketing agent, or the records, findings, reports or the results of an audit made by the department as required by ORS 583.085, shall not be a public record. [1957 c.719 §2]

583.080 [Repealed by 1955 c.1 §1]

583.085 Audit of books and records and of information furnished. Not less than twice each year and at such other times as it considers necessary, the department shall cause an audit to be made of the books, records, reports, statements and information required to be kept or furnished under ORS 583.035, 583.045 and 583.055, in so far as such books, records, reports, statements and information relate to Grade A milk used or sold for the purpose of determining whether or not milk dealers or producer's marketing agents are accurately and properly accounting and making payment to producers and producer's marketing agents and whether or not producer's marketing agents are accurately and properly accounting and making payment to producers. All such books, records, reports, statements and information required to be kept by or furnished to the department by a milk dealer or producer's marketing agent as provided by this section shall be kept accessible during business hours for examination by the department or its authorized representatives. [1957 c.719 §11]

583.090 [Repealed by 1955 c.1 §1]

583.095 Procedure where audit indicates producer has not been accurately and promptly paid. (1) If the department as a result of an audit authorized by ORS 583.085 finds that a producer has not been accurately and properly paid, the department may:

(a) Attempt to settle the controversy between the milk dealer or producer's marketing agent and the affected producers.

(b) File a copy of its findings in the Salem and Portland offices of the department. Such findings shall be available for examination only by the affected milk dealer or producer's marketing agent or by producers of such milk whose audit is thus

placed on file, or by the duly authorized agent of such producers.

(2) The provisions of this section shall not be construed as preventing a producer from taking any legal action to which he otherwise may be entitled. [1957 c.719 §12]

583.100 [Amended by 1953 c.712 §4; repealed by 1955 c.1 §1]

583.105 Revocation or suspension of right of milk dealer or producer's marketing agent to sell or distribute Grade A milk for sale for certain violations of law. (1) Notwithstanding the provisions of ORS chapter 621, or the fact that a milk dealer or producer's marketing agent may be licensed as provided by ORS 621.055 to 621.075, or ORS 621.090, the department may suspend or revoke the right of a milk dealer or producer's marketing agent to sell or distribute Grade A fluid milk for sale when it appears that such milk dealer or producer's marketing agent, as the case may be, has:

(a) Failed without reasonable cause to account and make payment for Grade A milk purchased from a producer or producer's marketing agent.

(b) Continued in a course of dealing of such nature as to manifest an intent to deceive or defraud producers, producer's marketing agents, stores or consumers.

(c) Failed to pay the fees required by ORS 583.015.

(d) Failed to keep books and records as required under ORS 583.035 and 583.045.

(e) Failed to furnish the reports, statements or information as required under ORS 583.055.

(f) Failed to obey any lawful subpoena, rule, regulation or order of the department in the administration and enforcement of this chapter.

(2) Any milk dealer or producer's marketing agent who sells Grade A milk for human consumption in fluid form which he has purchased from producers or producer's marketing agents for a price based upon the assumption or representation that such milk would not be so sold, shall be considered to have engaged in conduct contrary to the provisions of paragraph (a) or (b) of subsection (1) of this section.

(3) The provisions of ORS 561.310 to 561.390 apply to the revocation or suspension of the right to sell or distribute Grade A fluid milk for sale under subsection (1) of this section. [1957 c.719 §5]

583.110 [Amended by 1953 c.712 §4; repealed by 1955 c.1 §1]

583.115 Unlawful to sell or distribute milk after right revoked or suspended. Notwithstanding the provisions of ORS chapter 621, it shall be unlawful for any milk dealer or producer's marketing agent to sell or distribute Grade A fluid milk for sale during any period such right has been suspended or has been revoked by the department as provided by ORS 583.105. [1957 c.719 §6]

583.120 [Repealed by 1955 c.1 §1]

583.125 Revocation or suspension under ORS 583.105 supersedes city license. The authority of the department as provided by ORS 583.105 to suspend or revoke the right of a milk dealer or producer's marketing agent licensed by a city under the provisions of ORS 621.090 to sell or distribute Grade A fluid milk for sale, is in addition to and supersedes the authority of such city and its ordinances promulgated thereunder. [1957 c.719 §7]

583.130 [Repealed by 1955 c.1 §1]

583.135 Employment of personnel; contracting with accountants or state agencies. The department in carrying out and enforcing the provisions of this chapter may:

(1) Employ personnel subject to the State Civil Service Law, or

(2) Contract with one or more competent accountants or accounting firms. The department may fix and pay the compensation of such accountants. Such accountants shall not be subject to the State Civil Service Law, or

(3) Contract with state agencies including but not limited to the Secretary of State. The department is authorized to pay for such services. [1957 c.719 §13]

583.140 [Repealed by 1955 c.1 §1]

583.145 Judicial proceedings for enforcement of law or regulations. The department may enforce by injunction or other appropriate proceeding in the circuit court of the county in which the defendant resides or has his principal place of business any provision or violation of a provision of this chapter or any rule, regulation or order of the department under this chapter. The department is not required to give any bond

in any such proceeding. Such proceeding shall be given a preference on the calendar of the circuit court in which filed. [1957 c.719 §14]

583.150 [Repealed by 1955 c.1 §1]

583.155 Provisions of chapter supplement other laws. Subject to the provisions of ORS 583.105, the provisions of this chapter shall not be construed to conflict with or repeal, and are in addition to and not in lieu of, any other law of this state or any municipal ordinance relating to any health or sanitary requirement, or any municipal ordinance relating to the inspection, grading or production of Grade A milk. [1957 c.719 §15]

583.160 [Repealed by 1955 c.1 §1]

583.165 [1953 c.274 §2; repealed by 1955 c.1 §1]

583.170 [Repealed by 1955 c.1 §1]

583.175 Jurisdiction of courts for violations. Justice courts and district courts have concurrent jurisdiction with circuit courts of all violations under ORS 583.991. [1957 c.719 §16]

583.180 [Amended by 1953 c.712 §4; repealed by 1955 c.1 §1]

583.190 [Repealed by 1955 c.1 §1]

583.200 [Repealed by 1955 c.1 §1]

583.210 to 583.300 [Reserved for expansion]

583.310 [Repealed by 1955 c.1 §1]

583.320 [Repealed by 1955 c.1 §1]

583.330 [Amended by 1953 c.712 §4; repealed by 1955 c.1 §1]

583.340 [Repealed by 1955 c.1 §1]

583.350 [Repealed by 1955 c.1 §1]

583.360 [Repealed by 1955 c.1 §1]

583.370 [Repealed by 1955 c.1 §1]

583.380 [Repealed by 1955 c.1 §1]

583.390 [Repealed by 1955 c.1 §1]

583.400 [Repealed by 1955 c.1 §1]

583.410 to 583.980 [Reserved for expansion]

583.990 [Repealed by 1955 c.1 §1]

583.991 Penalties. Violation of any provision of this chapter is punishable, upon conviction, by a fine of not less than \$25 nor more than \$1,000, or by imprisonment in the county jail for not less than 30 days nor more than 90 days, or both. [1957 c.719 §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