Chapter 586

1959 REPLACEMENT PART

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COMMODITY STORAGE GENERALLY

586.010 [Repealed by 1955 c.731 §34]

586.020 [Repealed by 1955 c.731 §34]

586.030 [Repealed by 1955 c.731 §34]

586.040 [Repealed by 1955 c.731 §34]

586.050 [Repealed by 1955 c.731 §34]

586.060 [Repealed by 1955 c.731 §34]

586.070 [Repealed by 1955 c.731 §34]

586.080 [Repealed by 1955 c.731 §34]

586.090 [Repealed by 1955 c.731 §34]

586.100 [Repealed by 1955 c.731 §34]

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

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

586.130 [Repealed by 1955 c.731 §34]

586.140 to 586.200 [Reserved for expansion]

PUBLIC WAREHOUSES; LICENSING; GRAIN AND COMMODITY INSPECTION, WEIGHING AND GRADING

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

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

(2) "Grain" means wheat, corn, oats, barley, rye, flaxseed, soybeans, grain sorghum, dried beans and peas and any other grain for which grain standards are established by the Federal Government.

(3) "Public terminal warehouse" means any public warehouse located in the cities in the state designated as an inspection point by the department.

(4) "Public warehouse" includes any elevator, mill, warehouse or structure in which grain is received from one or more members of the public for storage, shipment or handling.

(5) "Warehouseman" includes any person or municipality owning, operating or controlling any public warehouse. [Amended by 1955 c.731 §1; 1959 c.195 §1]

586.220 [Repealed by 1955 c.731 §34]

586.230 State Department of Agriculture to inspect warehouses and records and to enforce ORS 586.210 to 586.730. (1) The department shall have the power to inspect public warehouses. The department shall investigate all complaints of fraud or injustice in the grain trade and make all necessary rules and regulations for carrying out and enforcing the provisions of ORS 586.210 to 586.730.

(2) The department shall have the right to inspect at reasonable times any warehouse or storage facility where grain is stored or received and any records kept by the owner or person in control of such warehouse or storage facility and pertaining to the operation thereof in order to determine whether or not such facility should be licensed under this chapter. [Amended by 1955 c.731 §2; 1959 c.195 §2]

586.240 [Repealed by 1955 c.731 §34]

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

(a) Be guilty of any neglect of duty.

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

(c) Directly or indirectly accept any money or other consideration for any neglect of duty or any improper performance of

duty as such officer, employe, inspector, sampler or weigher.

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

586.260 [Repealed by 1955 c.731 §34]

586.270 Warehouse licenses; federal licenses; license applications and fees. (1) Every person operating any public warehouse in this state, except those municipally owned and operated, shall, on or before July 1 of each year, procure from the department a license for each such warehouse so operated for the ensuing year, before transacting business at such public warehouse; but the holder of a license to store grain under the United States Warehouse Act shall furnish the department with a copy of such license and bond and, having furnished such copies, is not required to secure a state license or pay state warehouse inspection fees during the time he continues to operate under the federal license. The license shall be posted in a conspicuous place in the office of each warehouse.

(2) Application for a license under this section shall be made to the department upon forms furnished by it. The application shall include:

(a) The name and address of the applicant.

(b) The location of each public warehouse of the applicant.

(c) The total rated storage capacity in bushels of each public warehouse.

(d) The tariff schedule of charges to be made at each public warehouse for the handling, storage and shipment of grain during the license year.

(e) Such other information as the department deems necessary to carry out the purposes of ORS 586.210 to 586.730.

(3) The applicant shall submit concurrently with his application an annual license fee computed in accordance with the following schedule:

Bushel Storage Capacity of Public Warehouses of Applicant	Fee
0 to 100,000	$25
100,001 to 500,000	$50
Over 500,000	$100

However, where an applicant for a license has more than one station, each station shall be treated separately for the purpose of computing the license fee. As used in this subsection, "station" means the public warehouses of an applicant in a particular locality.

(4) The department shall issue a license to the applicant if it finds that the application is in due form and the applicant has complied with the provisions of ORS 586.210 to 586.730. [Amended by 1955 c.731 §3]

586.275 Revocation of or refusal to issue license. Upon determining that any person licensed under this chapter, or who has applied for a license under ORS 586.270, has violated or failed to comply with any of the provisions of this chapter or any of the rules and regulations of the department made under this chapter, or that such person has failed to place and keep the premises, where he conducts the licensed business, in the manner required under this chapter, the department may revoke such person's license or refuse to issue a license to such person. ORS 561.310 to 561.390 relating to the revocation or refusal to issue licenses by the department and other provisions contained in such sections, relating to licenses, apply to this chapter. [1957 c.11 §2]

586.280 Prohibition against operating a warehouse or issuing a warehouse receipt without a license. (1) No person operating a public warehouse within this state shall issue any negotiable grain warehouse receipt for grain for storage purposes unless he is at the time licensed so to do, either by the department or by the United States Department of Agriculture.

(2) No person shall operate a public warehouse in this state without a license under ORS 586.210 to 586.730. [Amended by 1955 c.731 §4]

586.285 Operation without a license may be enjoined. The department may apply for, and the circuit courts of this state hereby are vested with jurisdiction to issue, a temporary or permanent injunction against the operation by any person of a public warehouse without a license if such license is required by ORS 586.210 to 586.730. The remedy conferred by this section is in addition to any other remedy provided by law. The department shall be represented in such suit by the Attorney General. [1955 c.731 §8 (enacted in lieu of ORS 586.320)]

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

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

(a) Remove the sign.

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

(c) Place and maintain for at least one year at the main entrance to the warehouse a sign of such dimensions and other specifications as prescribed by the department and having thereon the words, "This is Not a Licensed or Bonded Grain Warehouse." [Amended by 1955 c.731 §5; 1959 c.195 §3]

586.295 Warehouse to be maintained in adequate manner. A public warehouse shall be maintained in a manner adequate to provide suitable, sanitary and safe storage of the particular product or commodity stored therein. [1957 c.11 §6; 1957 c.314 §4]

586.300 Warehousemen's bonds; liability; warehousemen bonded under United States Warehouse Act exempt. (1) Each warehouseman operating any public warehouse required to be licensed under ORS 586.210 to 586.730, shall, on or before July 1 of each year, give a bond to the State of Oregon executed by the warehouseman as principal and by a surety company licensed to do business in the state as surety in such sum as the department requires. The bond must be approved by the department and conditioned upon the faithful performance by the warehouseman of the acts and duties enjoined upon him by law. The liability of the surety upon such bond is limited to the amount specified in the bond.

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

(3) The warehouseman may give a single bond meeting the requirements of ORS 586.210 and 586.730, and all public warehouses operated by the warehouseman shall be deemed as one public warehouse for the purpose of the bond required under such sections.

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

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

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

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

(d) The bond meets with the other requirements of ORS 586.210 to 586.730. [Amended by 1955 c.731 §6; 1959 c.195 §4]

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

586.315 Warehouseman required to insure grain or retain written waiver by depositor. (1) Except as provided in subsection (2) of this section, grain in storage in a public warehouse or public terminal warehouse shall be kept fully insured by the warehouseman for the current market value of such grain against loss by fire, lightning, inherent explosion, windstorm, cyclone and tornado. Evidence of such insurance coverage in the form of a certificate of insurance approved by the department shall be filed with the department at the time of making application for an annual license to operate a public warehouse as required by this chapter. The department shall not issue a license until

such certificate of insurance is received.

(2) Any person depositing or storing grain who does not wish to have his grain insured by a warehouseman, as required by subsection (1) of this section, may relieve the warehouseman of that duty and the provisions of this section, by notifying the warehouseman in writing that he does not wish his grain insured. If such notice specifies a definite period during which such grain shall not be insured, the warehouseman shall keep such notice in his files for at least two years after such period ends. If no period is mentioned and the notice covers all grain which has been or may thereafter be deposited or stored with such warehouseman, then he shall retain such notice for at least two years after all grain has been removed by the person giving such notice.

(3) Notwithstanding the provisions of ORS 561.310 to 561.390 and 586.275, when the provisions of this section are violated, the department shall immediately suspend the license of the warehouseman. The suspension shall remain in effect until there has been compliance with this section. The provisions of this subsection shall supersede any inconsistent provisions in ORS chapter 183. [1959 c.195 §6]

586.320 [Repealed by 1955 c.731 §§ 7, 34 (ORS 586.285 enacted in lieu of ORS 586.320)]

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

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

(2) Declare and order what is a just and reasonable charge or regulation to be imposed or enforced in place of that found to be unreasonable or unjust. [Amended by 1955 c.731 §9]

586.340 Posting rate schedules; increase or discrimination in rates prohibited. Every warehouseman shall annually, during the first week in July, publish by posting in a conspicuous place in his public warehouse, a schedule of grain storage and handling rates for the ensuing year. The schedule shall be kept posted in a conspicuous place in the public warehouse. The rates shall not be changed during such year. No discrimination in rates shall be made by any warehouseman. [Amended by 1955 c.731 §10]

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

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

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

(3) Subject any particular person to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. [Amended by 1955 c.731 §11]

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

(2) Every warehouseman receiving grain for storage or shipment shall issue and deliver to every person delivering the grain a load slip which shall contain thereon the actual weight of each draft of the grain and the tare, if any, immediately upon receipt of each load or parcel of grain, or as he may demand. The warehouseman receiving grain for storage or shipment shall also, within 10 days after demand, issue and deliver to the owner of the grain, or his representative, a negotiable grain warehouse receipt in form prescribed by the department.

(3) Except as provided in subsection (3) of ORS 586.380, no person shall issue a negotiable grain warehouse receipt for grain on a receipt form other than a receipt form obtained under ORS 586.370. [Amended by 1955 c.731 §12]

586.370 Obtaining blank forms of receipts from department. (1) The department shall cause to be printed, bound and delivered to each person operating a public warehouse a sufficient number of blank forms of negotiable grain warehouse receipts required to carry on the business of such public warehouse for the ensuing year, beginning July 1 of each year. The receipts shall be prepared in a form prescribed by the department. No person shall use such receipts for any purpose other than in connection with receipt of grain for storage or shipment.

(2) Every person intending to operate a public warehouse shall file with the department for that purpose a requisition for such number of blank forms of negotiable grain warehouse receipts as may be required for the operation of such public warehouse during the ensuing license year, specifying:

(a) The name of the warehouseman intending to operate such public warehouse.

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

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

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

(e) The location of the principal place of business of the warehouseman operating such public warehouse or warehouses.

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

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

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

(3) Payment for such receipts shall be made in advance. Every such warehouseman may file requisitions for additional receipts from time to time as he requires. [Amended by 1955 c.731 §13]

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

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

(3) Municipally operated warehouses, or warehouses operated under the United States Warehouse Act, are exempted from the use of receipts furnished by the department. [Amended by 1955 c.731 §14]

586.390 [Repealed by 1955 c.731 §34]

586.400 Duty of warehouseman receiving grain for storage; damages for failure to deliver. (1) Except as otherwise provided in subsection (2) of this section, the duty of a warehouseman receiving grain for storage or shipment in a public warehouse operated by him shall be governed by the provisions of ORS 74.080.

(2) A warehouseman's duty to deliver grain is fulfilled if delivery is made to the several owners in the order of demand as rapidly as it can be done by ordinary diligence; where delivery is made within 48 hours after facilities for receiving the grain are provided, such delivery is deemed to comply with this subsection.

(3) No warehouseman shall fail to deliver grain as provided in this section.

(4) In addition to being subject to penalties under ORS 586.990 for violation of subsection (3) of this section, if a warehouseman fails to deliver grain as provided in this section, the person entitled to delivery of the grain may maintain an action against the warehouseman for any damages resulting from the warehouseman's failure to deliver. In any such action the person entitled to delivery of the grain has the option to seek recovery of his actual damages or of liquidated damages of one cent

per bushel for each day's delay. [Amended by 1955 c.731 §15]

586.410 Loading and shipping instructions; liability of warehousemen. Owners of negotiable grain warehouse receipts surrendered for shipment of grain or of grain in a public warehouse for which load slips only are furnished shall furnish the warehouseman with written instructions regarding the capacity of cars to be ordered from the transportation company and as to the manner of loading and billing shipments made in such cars as are furnished by the transportation company. The warehouseman shall load and bill all such shipments in exact accordance with instructions given, and is liable to the owner of the receipt so surrendered or of the grain for which load slips only are furnished for the amount of any excess freight paid, or for other damages suffered, by the owner of the receipt or grain resulting from the failure of the warehouseman to follow exactly the loading and billing instructions as given him. [Amended by 1955 c.731 §16]

586.420 [Repealed by 1955 c.731 §34]

586.425 Deposit of grain for sale to warehouseman, for processing or cleaning or for shipping by warehouseman for depositor. (1) If adequate definite written instruction or order is given or furnished by the owner of grain, or his authorized agent, directed to a licensed warehouseman, and if such order is properly made a part of the warehouseman's records and available for department inspection, then the warehouseman:

(a) May accept such deposit of grain for the purpose of sale to the warehouseman;

(b) May receive such grain for the purpose of processing and cleaning; and

(c) May receive such grain for the purpose of shipping by the warehouseman for the account of the depositor.

(2) Grain deposited with a licensed warehouseman without written order, as provided for in subsection (1) of this section, must be handled and considered to be grain in storage and subject to all the provisions of this chapter and, except as provided in ORS 586.720, to the provisions of ORS chapter 74. [1957 c.11 §4; 1957 c.314 §3]

586.430 [Repealed by 1955 c.731 §34]

586.440 [Repealed by 1955 c.731 §34]

586.450 [Repealed by 1955 c.731 §34]

586.460 [Repealed by 1955 c.731 §34]

586.470 [Repealed by 1955 c.731 §34]

586.480 [Repealed by 1955 c.731 §34]

586.490 [Repealed by 1955 c.731 §34]

586.500 [Repealed by 1955 c.731 §34]

586.510 [Repealed by 1955 c.731 §34]

586.520 Inspection of warehouses; records required of warehouseman. (1) Upon the request of any person or persons having an interest in grain stored in any public warehouse and upon payment of $25 in advance, the department shall cause such warehouse to be inspected and shall cause to be checked the outstanding negotiable grain warehouse receipts and load slips which have not been superseded by negotiable grain warehouse receipts with the grain on hand and shall report the amount of receipts and load slips outstanding and the amount of storage, if any. If the cost of the examination is less than $25 the excess shall be returned to the person making the payment, and if the cost of the examination is more than $25 the person or persons having an interest in the grain stored in any such warehouse, and requesting such examination, shall pay the additional cost to the department.

(2) The department may cause every such warehouse and business thereof and the mode of conducting the warehouse to be inspected by one or more of its officers, employes or inspectors whenever deemed proper. A public warehouse shall be maintained in a manner adequate to provide convenient and safe means of ingress and egress to the various storage bins and compartments by those persons authorized to make inspections.

(3) The property, books, records, accounts, papers and proceedings of every such warehouseman shall at all times during the business hours be subject to such inspection by the department. The warehouseman shall maintain adequate records and systems for the filing and accounting of warehouse receipts, canceled warehouse receipts, load slips, other documents and transactions necessary or common to the warehouse industry. Canceled warehouse receipts, copies of

load slips and other copies of documents evidencing ownership or ownership liability shall be retained by the warehouseman for a period of at least three years. [Amended by 1955 c.731 §17; 1957 c.11 §5; 1957 c.314 §2]

586.525 Procedure where probable shortage in grain or where warehouseman refuses to submit to inspection. (1) Whenever it appears probable after investigation that any licensed grain warehouseman has not in his possession sufficient grain to cover the outstanding warehouse receipts, load slips or other evidence of storage liability issued by him, or that such warehouseman refuses to submit his books, papers or concerns to lawful inspection, the department may give notice to the warehouseman to:

(a) Cover such shortage;

(b) Give additional bond; and

(c) Submit to such inspection as the department may deem necessary.

(2) If such warehouseman fails to comply with the terms of such notice within 24 hours from the date of its issuance, or within such further times as the department may allow, then the department, by virtue of an order procured by the Attorney General or the district attorney from the circuit court of the county in which the warehouse is located, shall take possession of all special piles or special bins of grain and of all commingled grain in the warehouse or warehouses owned, operated or controlled by the warehouseman, and of all books, papers or concerns of such warehouseman.

(3) Upon taking possession the department shall notify in writing the surety on the bond of the warehouseman and may notify the holders of all warehouse receipts or other evidence of deposits, issued for grain to present their warehouse receipts, or other evidence of deposits, for inspection or to account for the same. The department may thereupon cause an audit to be made of the affairs of such warehouse with respect to the grain in which there is an apparent shortage, determine the amount of such shortage and compute the shortage with respect to each warehouse receipt holder affected thereby, and notify the warehouseman and the surety on the bond of the amount of such shortage and notify each warehouse receipt holder affected thereby of his interest in such shortage.

(4) The department shall retain possession of the grain in the warehouse or warehouses, and of the books, papers and concerns of the warehouseman, until such time as the warehouseman or the surety on the bond shall have satisfied the claims of all holders of warehouse receipts, or other evidence of deposits, or, in case the shortage exceeds the amount of the bond, the surety on the bond shall have satisfied such claims pro rata, or until such time as the department is ordered by the court to surrender possession.

(5) If during or after the audit provided for in this section is made, or at any time the department is of the opinion that the warehouseman is insolvent or unable to satisfy the claims of all holders of warehouse receipts or other evidence of deposits, the department, through the Attorney General or the district attorney, shall have the right to petition the circuit court of the county in which the warehouse is located for the appointment of a receiver to operate or liquidate the business of the warehouseman in accordance with the law.

(6) At any time within 10 days after the department takes possession of any grain, or the books, papers and concerns of any licensed grain warehouse, the warehouseman may serve notice upon the department to appear in the circuit court of the county in which such warehouse is located, at a time to be fixed by such court, which shall be not less than five, nor more than 15 days from the date of the service of such notice, and show cause why such grain, books, papers and concerns should not be restored to his possession.

(7) All expenses incurred by the department in carrying out the provisions of this section shall be a first charge upon the assets of the warehouseman, and may be recovered in a civil action brought by the Attorney General or the district attorney upon complaint of the department in the circuit court of the county in which the warehouse is located.

(8) As a part of the expenses incurred by the department, it is authorized to purchase and pay for insurance necessary to adequately protect the department, its officers or others engaged in and while carrying out the provisions of this section.

(9) Nothing in this section shall be construed as a waiver by the State of Oregon of any immunity against suit. [1957 c.11 §3]

586.530 Establishment of standard grades for commodities received. (1) The

department shall fix and establish standard grades to apply to all grain received for shipment or storage by public warehouses in this state. The department may establish standard grades for hay and other agricultural commodities received for shipment or storage at such warehouses. All such grades shall be known as Oregon grades.

(2) The standards shall be established or changed in accordance with the provisions of ORS 616.405 to 616.440. [Amended by 1955 c.731 §18]

586.540 [Repealed by 1955 c.731 §34]

586.550 Warehousemen to keep copy of regulations available for inspection. (1) It is the duty of the department, immediately after the establishment of grades under ORS 586.530, to supply all warehousemen with a copy of the grades, rules and regulations of the department.

(2) Every public warehouseman shall keep:

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

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

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

(3) Every warehouseman shall exhibit the copy of grades, rules and regulations to any interested party applying therefor at the warehouse or office and shall permit the interested party to examine and consult the copy. [Amended by 1955 c.731 §19]

586.560 [Repealed by 1955 c.731 §34]

586.561 Discontinuance of operation of warehouse. (1) Any person operating a public warehouse who desires to discontinue the operation shall at least 30 days prior to the date of expiration or closing date notify, by certified or registered mail, at the last known address all holders of warehouse receipts, all persons storing grain in such warehouse and the department of the intention to discontinue the public warehouse business.

(2) If the address of any holder of a warehouse receipt or persons storing grain is unknown, then the person operating a public warehouse shall also give notice of the intention to discontinue the operation of a public warehouse by publication in some newspaper of general circulation in the county once a week for two consecutive weeks. The date of the second published notice shall be at least 30 days prior to the date of expiration of the operations.

(3) It shall be the duty of owners of such grain to remove, or cause to be removed, their grain from such warehouse before the expiration date.

(4) If the warehouseman has not notified all persons or holders of warehouse receipts as provided in subsection (1) of this section or published a notice as provided by subsection (2) of this section, and if at the expiration date of his operations there are outstanding warehouse receipts covering grain in storage in the warehouse, or in the opinion of the department there is reasonable evidence of outstanding liability by the warehouseman under ORS chapter 74 or this chapter, then:

(a) The warehouseman is required to apply for, obtain and maintain a bond as provided for in ORS 586.300 and 586.310 until such date that the department determines all grain has been removed from the warehouse or the rights or claims of all holders of warehouse receipts have been protected and satisfied.

(b) The department may invoke and is authorized to use the procedures and authority as provided for in ORS 586.525. The department is authorized to carry out and the warehouseman is subject to the provisions of ORS 586.525 regardless of the fact that his license may have expired. [1957 c.11 §1]

586.570 Department to control weighing, inspection and grading of grain at inspection points; inspection of commodities other than grain; records to be kept; certificates issued. (1) The department shall have exclusive control of the weighing, inspection and grading of grain at all inspection points established under ORS 586.600, including public terminal warehouses. The department may also, upon the request of any interested party, weigh, grade, sample or inspect commodities of commerce other than grain including but not limited to hay, grain or hay products, rice, beans and other agricultural or horticultural commodities, fertilizer, sulphur or other chemicals used in

the arts, science or in manufacturing, when such commodities are received from or delivered to any rail, water or other motor vehicle carrier within the state in commercial transportation. The department may certify the weight, grade or other results of its inspection in accordance with the request therefor, in so far as its personnel and facilities permit. The action and certificate of the department, signed by one of its officers, employes, inspectors or weighers in the discharge of his duties, as to all commodities weighed, graded or inspected by him, is conclusive upon all parties interested but appeal may be taken to the department in the manner provided in ORS 616.455. The provisions of ORS 616.460 shall apply to any certificate issued under the provisions of this section.

(2) Suitable books and records shall be kept in which shall be entered a faithful and true record of every carload, motor vehicle load or cargo or part of cargo of grain and other commodities inspected, graded or weighed by the department, showing the following:

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

(b) Its weight.

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

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

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

(b) If other than bulk, the number of sacks, bales or other parcels thereof, with the grade or grades and weight of same.

(4) The department also shall furnish the agent of the railroad company or other carrier over which such commodity was shipped or carried a certificate showing the weight thereof, if requested so to do.

(5) The department also shall keep a true record of all appeals, decisions and a complete record of every official act, which books and records shall be open to inspection by any party in interest. [Amended by 1955 c.731 §20]

586.580 Fixing fees for inspecting, grading and weighing; fees as lien. The department shall fix the fees for inspection, grading and weighing of grain and other commodities included in the provisions of ORS 586.210 to 586.730, which fees shall be sufficient to cover the cost of such service. The fees for the inspection, grading and weighing of grain or other commodities are a lien upon such grain or other commodities and shall, in the case of grain and hay only, be paid by the carrier transporting it and treated by the carrier as advanced charges. The department may prescribe a different scale of fees for different localities. [Amended by 1955 c.731 §21]

586.590 Review by department of decisions as to grades. If any owner, consignee or shipper of grain or other commodity, or his agent or broker or any warehouseman, is aggrieved at the grading of such commodity, the aggrieved person may appeal to the department as provided in ORS 616.455. Notice of appeal to the department shall state that the party appeals from the decision of the inspector and shall specify the initials and numbers of cars or motor vehicles or the name of the ship in which the commodity was contained when inspected and graded. [Amended by 1955 c.731 §22]

586.600 Designating inspection points; expenditure for inspection and weighing limited. Any place where grain is received in carload lots or by watercraft, or motor vehicle, may be designated by the department as an inspection point and be provided with state inspection, grading and weighing. The expenditure for the inspection, grading and weighing at the points designated by the department shall not exceed the receipts of fees at such points. [Amended by 1955 c.731 §23]

586.610 Inspection, weighing and grading of grain and hay at terminal warehouses and inspection points. (1) All grain and hay received at public terminal warehouses, except that received in truck lots of not more than 15 tons of grain or three tons of hay, shall be inspected, graded and weighed by the department; but inspection, grading and weighing is not required where grain has been officially inspected, graded and weighed at point of origin unless it is so requested by the consignee. If requested, all grain delivered out of any such warehouse

shall be inspected, weighed or graded in like manner and a certificate of grade issued.

(2) All other grain and hay received at inspection points in carload lots or in any other manner, in lots containing more than 15 tons of grain, or three tons of hay, not unloaded at a public terminal warehouse, shall be weighed, inspected and graded. [Amended by 1955 c.731 §24]

586.620 [Repealed by 1955 c.731 §34]

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

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

(3) The authorized officers, employes, inspectors, deputies, samplers or weighers of the department shall break the seal, weigh and superintend the unloading of all cars of grain, hay or other commodity subject to inspection, grading or weighing. No person other than the authorized officers, employes, inspectors, deputies, samplers or weighers of the department shall break the seal or weigh such cars of grain, hay or other commodity. [Amended by 1955 c.731 §25]

586.640 Sidetracks for cars to be inspected, graded or weighed; distribution of cars after inspection. Any railroad delivering grain, hay or other commodities in cars at any of the places provided with state inspection under ORS 586.210 to 586.730 shall designate safe and convenient sidetracks on which all cars of such commodities required to be inspected, graded or weighed shall upon arrival be set and arranged convenient for inspection, grading or weighing and there held until the inspection, grading or weighing has been completed, subject to applicable tariffs, charges and limitations. [Amended by 1955 c.731 §26]

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

(2) All moneys collected under the provisions of this section shall be paid into the State Treasury and credited to the Department of Agriculture Account and an amount not exceeding such additional fees may be paid to the employes of the department by whom such additional service may be performed. [Amended by 1955 c.731 §27]

586.660 Samples of products graded, inspected or weighed; furnishing samples to those handling or dealing in grain. Samples may be drawn from all grain and other commodities inspected, graded or weighed. Such samples become the property of the state and are subject to disposition by the department under such rules and regulations as the department prescribes. The department shall transmit samples of grain showing the standards thereof adopted to such foreign chambers of commerce, boards of trade, exporters and persons, firms, corporations or associations handling and dealing in grain, as the department deems desirable. Upon request the department shall furnish such samples to similar parties in this state or the United States under such reasonable rules and regulations as the department prescribes. [Amended by 1955 c.731 §28]

586.670 Examining grain stored in warehouses. Every person having an interest

in any grain stored in any public warehouse has the right to examine at all times during ordinary business hours any grain so stored, and all parts of the public warehouse. Every warehouseman, his agents and servants, shall furnish proper facilities for such examination. [Amended by 1955 c.731 §29]

586.680 When shipper's weight and grade final and conclusive. When grain, hay or any other agricultural commodity is shipped to points where inspection is provided and the grain, hay or other agricultural commodity is unloaded without being inspected, graded or weighed by the department under the provisions of ORS 586.210 to 586.730, the shipper's weight and grade is conclusive and final and is the weight and grade upon which settlement shall be made with the seller. [Amended by 1955 c.781 §30]

586.690 [Repealed by 1955 c.731 §34]

586.700 [Repealed by 1955 c.731 §34]

586.710 Disposition of fees and moneys collected; continuing appropriation; public scale owners to retain fees collected. All fees, licenses and charges collected by the department under ORS 586.210 to 586.730 shall be paid into the State Treasury on or before the tenth day of the month next succeeding the month during which such moneys were received. The State Treasurer shall place such moneys to the credit of the Department of Agriculture Account. Such moneys constitute a continuing appropriation for the purpose of carrying out the provisions of ORS 586.210 to 586.730. The department shall keep a record of all sums received pursuant to ORS 586.270 to 586.290 and other provisions of ORS 586.210 to 586.730 dealing with the administration of warehouse provisions. Such sums shall be used in the carrying out of the provisions of ORS 586.210 to 586.730, as those sections apply to warehouses. [Amended by 1955 c.731 §31]

586.720 Application of ORS chapter 74 and other laws to public warehouses and warehousemen. (1) Except as provided in subsection (2) of this section, every public warehouse and warehouseman complying with the provisions of ORS 586.210 to 586.730 is exempt from all the provisions of all other laws of this state regulating and licensing warehouses and warehousemen.

(2) The provisions of ORS chapter 74 apply to public warehouses and warehousemen complying with the provisions of ORS 586.210 to 586.730 to the extent that the provisions of ORS chapter 74 are not inconsistent with the provisions of ORS 586.210 to 586.730. [Amended by 1955 c.731 §32]

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

(2) No person, individually or acting as an official or agent of any corporation other than a warehouseman, shall violate any provisions of ORS 586.210 to 586.630 and 586.650 to 586.730, or fail to comply with any order made by the department under those sections so long as the order remains in force, or procure, aid or abet any such corporation, in its violation of those sections, or in its failure to comply with any such order.

586.740 to 586.980 [Reserved for expansion]

PENALTIES

586.990 Penalties. (1) Violation of ORS 586.110, 586.120 or 74.010 is punishable, upon conviction, by a fine not exceeding $5,000, or by imprisonment in the penitentiary for not exceeding five years, or by both; and in case of a corporation, the persons acting for the corporation are liable for a like punishment upon conviction.

(2) Violation of ORS 586.250 is punishable, upon conviction, by a fine of not less than $200 nor more than $1,000, or by imprisonment in the county jail for not less than six months nor more than one year, or by both.

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

(4) Violation of any of the provisions of ORS 586.210 to 586.630 and 586.650 to 586.720, or failure to comply with any order, rule, direction, demand or requirement of the department made pursuant to those sections, is punishable, upon conviction, by a fine not exceeding $1,000 for each offense.

Each violation is a separate and continuing offense; and in case of a continuing violation, every day's continuance of the violation is a separate and distinct offense. [Amended by 1955 c.731 §33]

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 November 1, 1959.

Sam R. Haley
Legislative Counsel