Chapter 578

1959 REPLACEMENT PART
(1963 reprint)

Oregon Wheat Commission

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

(1) "Commercial channels" means the sale of wheat for use as food, feed, seed, or any industrial or chemurgic use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any wheat or product produced from wheat.

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

(3) "First purchaser" means any person, corporation, association or partnership that buys wheat from the grower in the first instance, or any lienholder, public or private, who may possess wheat from the grower under any lien.

(4) "Grower" means any landowner personally engaged in growing wheat; a tenant of the landowner personally engaged in growing wheat; and both the owner and the tenant jointly; and includes a person, partnership, association, corporation, cooperative, trust, sharecropper, and any and all other business units, devices and arrangements.

(5) "Sale" includes any pledge or mortgage of wheat, after harvest, to any person, public or private.

578.020 Purpose of chapter. It is to the interest of all the people that the abundant natural resources of Oregon be protected, fully developed and uniformly distributed. Among the agricultural industries of the state that contribute to the economic welfare of Oregon is the growing of wheat. Because a surplus of wheat is grown in this state and, during recurrent years, that surplus has been in excess of all available markets, it is necessary in order to provide profitable enterprises for wheat growers and to provide employment for labor and industry dependent upon wheat, that additional markets be found. It is the purpose of this chapter, in the exercise of the police power, to promote the public health and welfare by providing means for the protection and stabilization of the wheat industry in this state.

578.030 Wheat commission created; members. (1) There hereby is created the Oregon Wheat Commission. The commission shall consist of five members who shall be appointed by the Governor and shall hold office for a term of five years. In making appointments of members of the commission the Governor shall take into consideration any nominations or recommendations made to him by growers or growers' organizations.

(2) The Director of Agriculture, or his duly authorized representative, and the dean of the school of agriculture of Oregon State University, or his duly authorized representative, shall be ex officio members, without vote, of the commission. Subsection (1) of this section, ORS 578.040, 578.050 and subsection (1) of ORS 578.060 do not apply to ex officio members.

[Amended by 1959 c.596 §35]

578.040 Qualifications of members. (1) Members of the commission shall be selected and appointed because of their ability and disposition to serve the state's interest and their knowledge of the state's natural resources. Members shall be citizens over 25 years of age, residents of the state, who have been actually engaged in growing wheat in this state for at least five years, and who derive a substantial portion of their income from growing wheat.

(2) Three of the members shall be residents of and have farming operations in that part of the Columbia Basin comprising the following counties: Umatilla, Morrow, Gilliam, Sherman, Wasco and Jefferson. One of the members shall be a resident of and have a farming operation in the territory comprised of the other counties lying east of the summit of the Cascade Mountains. One member shall be a resident of and have a farming operation in the territory lying west of the summit of the Cascade Mountains.

578.050 Term of members. Each year one member shall be appointed to the commission for a term ending on June 30, five years from the date of the expiration of the term for which his predecessor was appointed, except that a member appointed to fill a vacancy occurring before the expiration of the term of a member separated from the commission for any cause, shall be appointed for the remainder of the term of the member whose position has been vacant. Each member shall hold office until his successor is appointed and qualified.

578.060 Removal of members; compensation of members. (1) A member is removable by the Governor for cause after being given a copy of written charges and an opportunity to be heard publicly. In addition to all other causes, ceasing to be a

resident of this state or to be actually engaged in growing wheat therein is sufficient cause for removal.

(2) Members of the commission, other than the administrator, shall receive no salary but shall be paid a per diem of $10 for each day they are actually engaged in the performance of their official duties, including necessary travel time. Members, officers and employes of the commission shall receive their actual and necessary travel and other expenses incurred in the performance of their official duties. The commission shall adopt uniform and reasonable regulations governing the incurring and paying of such per diem and expenses.
[Amended by 1959 c.596 §36]

578.070 Chairman and secretary of commission. The commission shall elect a chairman and may employ a secretary who is not a member of the commission.

578.080 Meetings of commission. The commission shall meet at least once every three months regularly and at such other times as called by the chairman. The chairman shall call special meetings of the commission at any time.

578.090 Duties and powers of commission. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of this chapter the commission shall have the following duties, authorities and powers:

(a) To conduct a campaign of research, education and publicity.

(b) To find new markets for wheat and wheat products.

(c) To give, publicize and promulgate reliable information showing the value of wheat and wheat products for any purpose for which it is found useful and profitable.

(d) To make public and encourage the widespread national and international use of the special kinds of wheat and wheat products produced from the special varieties of wheat grown in Oregon.

(e) To investigate and participate in studies of the problems peculiar to the producers of wheat in Oregon.

(f) To take such action as the commission deems necessary or advisable in order to stabilize and protect the wheat industry of the state and the health and welfare of the public.

(g) To sue and be sued.

(h) To enter into such contracts as may be necessary or advisable.

(i) To appoint and employ officers, agents and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.

(j) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.

(k) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity.

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

(m) To prosecute in the name of the State of Oregon, any suit or action for the collection of the assessment provided for in ORS 578.210.

(n) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties.
[Amended by 1959 c.596 §37]

578.100 Commission accepting grants, donations and gifts. The commission may accept grants, donations and gifts of funds from any source for expenditure for any purposes consistent with this chapter which may be specified as a condition of any grant, donation or gift.
[Amended by 1959 c.596 §38]

578.110 Bond required of person authorized to receive or disburse commission moneys. The administrator and any other person authorized to receive or disburse moneys received by the commission 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 equal to the maximum amount of moneys the commission determines such person will have subject to his control at any

one time and upon such conditions as the commission shall prescribe. The cost of the bond shall be paid by the commission.
[Amended by 1959 c.596 §39]

578.120 Appointment of administrator; duties; salary. The commission shall appoint an administrator, who shall devote full time to the administration of this chapter. The administrator is an ex officio member, without vote, of the commission. He shall proceed immediately to prepare the plans and general program necessary and adequate to carry out the policies that are adopted by the commission. The administrator shall be paid the salary fixed by the commission.
[Amended by 1959 c.596 §40]

578.130 Establishment of administrator's office. For the convenience of the majority of those most likely to be affected in the administration of this chapter, the administrator, upon recommendation of the commission, may establish and maintain an office for the administrator, at any place the commission selects.

578.140 State not liable for acts of commission or its employes. The State of Oregon is not liable for the acts or omissions of the commission or any member thereof or any officer, agent or employe thereof.

578.150 Budget and expenditure control. No expenditures of moneys for a fiscal year may be made or incurred by or under the authority of the commission under this chapter unless ORS 576.425 and 576.430 are complied with. ORS 576.410 and 576.425 to 576.445 are applicable to the commission, and for such purpose references to ORS 576.051 to 576.575 in such sections are considered to be references to this chapter.
[1959 c.596 §47]

578.160 Services, facilities and materials furnished to and received from other state agencies. ORS 576.307 and 576.309 are applicable to the commission.
[1959 c.596 §49]

578.170 Commission exempt from certain financial administration laws. Except as otherwise provided in this chapter, ORS 291.022 to 291.026, 291.202 to 291.222, 291.232 to 291.260, 291.322 to 291.336, 293.225 to 293.280, 293.305 to 293.350, 293.605 to 293.640 and 292.210 to 292.260 do not apply to the commission or to the administration and enforcement of this chapter.
[1959 c.596 §50]

578.180 Cancellation of uncollectible assessments. (1) The commission by order may cancel an assessment which has been delinquent for five years or more, if it determines that:

(a) The amount of the assessment is less than $1 and that further collection effort or expense does not justify the collection thereof, or

(b) The assessment is wholly uncollectible.

(2) The order shall contain adequate information as to why the assessment cannot be collected.
[1959 c.596 §83]

578.190 Records and accounts of commission; certain information not public record. (1) 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.

(2) The amount of assessment moneys paid to the commission and reports or information filed with the commission by a first purchaser or grower under this chapter are not a public record.
[1959 c.596 §§46, 84]

578.200 [Reserved for expansion]

578.210 Collection of assessment against wheat. (1) The commission shall assess, levy and collect an assessment of one-half cent per bushel upon all wheat grown in this state and sold through commercial channels, beginning with and including wheat harvested in the crop of 1947, and each and every crop thereafter.

(2) The assessment shall be levied and assessed to the grower at the time of sale, and shall be deducted by the first purchaser from the price paid to the grower at the time of sale, or, in case of a lienholder who may possess such wheat under his lien, the assessment shall be deducted by the lienholder from the proceeds of the claim secured by such lien at the time the wheat is pledged or mortgaged. The assessment shall be deducted as provided in this section whether the wheat is stored in this or any other state.

(3) The assessment constitutes a lien prior to all other liens and encumbrances upon such wheat, except liens created by operation of a statute of this state.
[Amended by 1959 c.596 §41]

578.220 Delivery of invoices to grower. (1) The purchaser at the time of settlement

shall make and deliver separate invoices for each purchase to the grower.

(2) The invoices shall be on forms approved by the commission, and shall show:

(a) The name and address of the grower and seller.

(b) The name and address of the purchaser.

(c) The number of bushels of wheat so sold.

(d) The date of the purchase.

(3) The invoices shall be legibly written and shall have no corrections or erasures on the face thereof.

(4) No person shall alter any part of an invoice.

578.230 Payment of assessment. The assessment levied under the authority of ORS 578.210 shall be paid by the first purchaser to the administrator who shall receipt the purchaser therefor. In no case, if the total amount of assessment moneys deducted by the purchaser and not paid to the administrator exceeds $100, shall any assessment levied and assessed be considered not due for payment after the twentieth day of the third calendar month next following the date of settlement.
[Amended by 1955 c.156 §1; 1959 c.596 §42]

578.240 Disposition and use of moneys. (1) As soon as possible after such moneys are received, all moneys received by the administrator from the assessment levied under the authority of ORS 578.210 and all other moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under ORS 295.020 as state depositories. The commission shall designate such accounts and such banks or trust companies.

(2) No moneys shall be withdrawn from or paid out of such accounts except upon order of the commission, and upon checks or other orders upon such accounts signed by such member of the commission as the commission designates and countersigned by such other member, officer or employe of the commission as the commission designates. A receipt, voucher or other written record, showing clearly the nature and items covered by each check or other order, shall be kept.

(3) All moneys referred to in subsection (1) of this section shall be used by the commission only for the payment of the expenses of the commission in carrying out the powers conferred on the commission.
[1959 c.596 §44]

578.250 Records of person required to pay assessment. (1) Each person required to pay an assessment on wheat under this chapter shall keep accurate records sufficient to enable the commission to determine by inspection and audit the accuracy of assessments paid or due to the commission and of reports made or due to the commission.

(2) The commission or any person authorized by the commission may inspect and audit the records referred to in subsection (1) of this section for the purpose referred to in subsection (1) of this section. The commission or any person authorized by the commission may also inspect and audit the records of a grower who sells wheat to a first purchaser if such inspection and audit are necessary for the purpose referred to in subsection (1) of this section.

(3) No person shall refuse to permit an inspection and audit under subsection (2) of this section during business hours.
[1959 c.596 §85]

578.260 to 578.980 [Reserved for expansion]

578.990 Penalties. Violation of any of the provisions of this chapter is punishable, upon conviction, by a fine of not less than $25 nor more than $500, or by imprisonment in the county jail for not less than 30 nor more than 90 days, or by both. District and justice courts have concurrent jurisdiction with circuit courts in all prosecutions under this chapter.

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