

Chapter 632

1973 REPLACEMENT PART

Grades, Standards and Labels for Agricultural and Horticultural Products

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- 632.025 [Repealed by 1965 c.582 §24]
- 632.030 [Repealed by 1965 c.582 §24]
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- 632.040 [Renumbered 632.730]
- 632.045 [Amended by 1961 c.425 §16; repealed by 1965 c.582 §24]
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- 632.090 [Amended by 1955 c.91 §1; 1959 c.633 §7; repealed by 1965 c.582 §24]
- 632.092 [1959 c.633 §8; repealed by 1965 c.582 §24]
- 632.095 [Repealed by 1965 c.582 §24]
- 632.097 [1961 c.655 §7; 1965 c.582 §19; renumbered 632.760]
- 632.098 [1961 c.655 §8; repealed by 1965 c.582 §24]
- 632.100 [Subsection (2) of 1961 Replacement Part enacted as 1961 c.655 §9; repealed by 1965 c.582 §24]
- 632.105 [Repealed by 1965 c.582 §24]
- 632.110 [Renumbered 632.815]
- 632.115 [Repealed by 1965 c.582 §24]
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- 632.125 [Repealed by 1965 c.582 §24]

ONIONS

632.205 [Repealed by 1955 c.363 §16]

632.206 Definitions for ORS 632.211 to 632.260. As used in ORS 632.211 to 632.260:

(1) "Culls" means onions which fail to meet the standard of any grade established by the department under ORS 632.211.

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

(3) "Sell" includes offer, consign or expose for sale.

(4) "Transport" includes load or deliver.

(5) "Unlabeled onions" means any onions not labeled as required by ORS 632.226. [1955 c.363 §1]

632.210 [Repealed by 1955 c.363 §16]

632.211 Establishment of grades and standards; grading and inspection fee. (1) The department shall, in accordance with the applicable provisions of ORS 632.900 to 632.935, establish grades and standards for onions which shall conform, in so far as practicable, to the official grades and standards prescribed by the United States Department of Agriculture.

(2) The grades and standards adopted by the department under ORS 632.205, 632.210, 632.215, 632.220, 632.225, 632.230, 632.235, 632.240, 632.245 and 632.250 shall continue in force and effect and be applicable until superseded, changed or repealed by standards and grades adopted by the department under subsection (1) of this section.

(3) The department may fix and collect a fee for grading and inspecting of onions in accordance with ORS 632.940. [1955 c.363 §8]

632.215 [Repealed by 1955 c.363 §16]

632.216 Certificate of grade required before sale or transportation of onions; exceptions. (1) No person shall sell or transport onions without first obtaining a certificate of grade pursuant to ORS 632.940 to 632.965, unless the onions are:

(a) Sold or transported in quantities of less than one ton.

(b) Graded and inspected onions which have been reconditioned or re-sorted.

(c) Culls labeled as such and other onions which are exempted from labeling by ORS 632.231 and 632.236.

(2) For the purposes of subsection (1) of this section, if the container of onions is labeled in accordance with ORS 632.226, a certificate of grade of the United States Department of Agriculture or a shipping point inspection service recognized by the United States Department of Agriculture may be accepted in lieu of a certificate issued under ORS 632.965.

[1955 c.363 §2]

632.220 [Repealed by 1955 c.363 §16]

632.221 Only one inspection of each load or lot. No more than one inspection under ORS 632.216 is required for any load or lot of onions, regardless of the fact that, after inspection, the load or lot inspected loses its specific identity because of division of, or addition of other inspected onions of the same grade to, the load or lot inspected, or because of reconditioning or re-sorting. [1955 c.363 §3]

632.225 [Repealed by 1955 c.363 §16]

632.226 Labeling. Except as otherwise provided in ORS 632.231 and 632.236, no person shall sell or transport onions, unless their container is labeled with:

(1) The name and address or brand name of the grower or packer.

(2) The net weight of its contents.

(3) The word "culls" in bold-face letters not less than two inches high if the onions in the container fail to meet the standards of any grade established for onions by the department.

[1955 c.363 §4]

632.230 [Repealed by 1955 c.363 §16]

632.231 Sale of unlabeled onions. Unlabeled onions may be sold:

(1) By the grower at the field where grown.

(2) To a processing plant.

(3) At retail to consumers if the onions are displayed in open containers or bins and the onions were labeled and inspected for grade as required by ORS 632.216 to 632.226, at or prior to the time of purchase by the retailer.

(4) To a livestock feeder for feeding purposes.

[1955 c.363 §5]

632.235 [Repealed by 1955 c.363 §16]

632.236 Transportation of unlabeled onions. (1) Unlabeled onions may be transported for a distance of less than 50 miles on a sale or delivery to:

(a) A warehouse or other facility for grading or storage.

(b) A livestock feeder for feeding purposes.

(2) Upon written permit of the department issued under ORS 632.241, unlabeled onions may be transported:

(a) To a processing plant.

(b) For distances of 50 miles or more to a livestock feeder for feeding purposes, or to

a warehouse or other facility for grading or storage.

[1955 c.363 §6]

632.240 [Repealed by 1955 c.363 §16]

632.241 Transportation permits. (1) Permits for transportation under subsection (2) of ORS 632.236 shall be issued by the department to any person upon request made prior to the date of transportation.

(2) Two copies of the permit shall be issued by the department. One copy shall be retained by the consignor. The second copy shall accompany the shipment at all times to be delivered to the consignee at the point of destination of the shipment. The department may issue and deliver additional copies of the permit on request as they are needed. Permits shall be retained by both the consignor and the consignee for one year from the date of issuance. Permits shall be presented to the department or its duly authorized representatives for inspection upon request.

(3) The department may collect from the person making the request for the permit a fee on a uniform basis in an amount reasonably necessary to defray the administrative costs of the department in issuing permits under this section, but not exceeding \$2 for any permit.

[1955 c.363 §7]

632.245 [Repealed by 1955 c.363 §16]

632.246 Seizing unlawful onions. The department may seize or detain any onions sold or transported in violation of any provision of ORS 632.216 or 632.226.

[1955 c.363 §9]

632.250 [Repealed by 1955 c.363 §16]

632.251 Access to premises or vehicle for inspection purposes. The department or any of its duly authorized representatives shall have free access at any reasonable hours to any place or premises where onions are stored, processed or sold, and may stop or enter any vehicle or means of conveyance used to transport onions for the purpose of inspection or to determine whether any provisions of ORS 632.206 to 632.260 have been violated.

[1955 c.363 §10]

632.255 [1955 c.363 §11; repealed by 1965 c.276 §2]

632.260 Defendant in prosecution to plead any exemption. In any criminal proceeding brought for violation of any of the

provisions of ORS 632.216 or 632.226, exemption of the party accused from the requirements of ORS 632.216 or 632.226 shall be pleaded and alleged by the defendant as a matter of defense upon a plea of not guilty. [1955 c.363 §12]

REGISTRATION OF BRAND FOR, AND USE OF, CONTAINERS, EQUIPMENT AND SUPPLIES

632.275 Filing trade-mark for containers, equipment and supplies for fruit and vegetables. Any persons, firms, corporations or associations engaged in producing, packing, canning tree fruits, vegetables and small fruits who furnish or provide lug boxes or containers for any grower or other person, firm or corporation with his or its trade-mark as defined by ORS 647.005, impressed or produced thereon, or whose equipment or supplies, owned by and used in his or its business, bears a trade-mark impressed or produced thereon, and any corporations and associations whose members are so engaged and use such containers or have such equipment or supplies may file such trade-mark with the Corporation Commissioner as provided in ORS chapter 647.

[Formerly 616.605]

632.280 Unlawful use of, or traffic in, name or mark as presumptive evidence. Each of the following is presumptive evidence of unlawful use of or traffic in the containers, supplies or equipment described in ORS 632.275 if the description of the name, mark or device has been filed and published as provided in ORS 632.275:

(1) The use, without the consent provided for in ORS 632.290, of such container, supplies or equipment by any person other than:

(a) The person, firm, corporation or association whose name, mark or device is upon the container, supplies or equipment; and

(b) The members of any corporation registering the name, mark or device.

(2) The having by any junk dealer, or any dealer in secondhand articles, of possession of any such containers, supplies or equipment.

[Formerly 616.610]

632.285 Security for return not a sale. If the owner of containers marked or branded pursuant to ORS 632.275, or of equipment or supplies used in the business so marked or otherwise impressed, or others

lawfully entitled to use the containers, equipment or supplies, requires the taking or accepting of money as a deposit for security for the safekeeping and return of the articles, it shall not constitute a sale of such property, either optional or otherwise, in any proceedings under ORS 632.275 to 632.290. [Formerly 616.615]

632.290 Acquiring of marked containers, supplies and equipment. Any person, firm, corporation or association, or any member of such corporation or association acquiring containers, supplies or equipment marked pursuant to ORS 632.275, by purchase or other lawful means, and having written consent, shall not be required to again file and publish the description, but shall as to the containers, supplies and equipment, describe any such written consent acquired as a part of the purchase and shall have all such benefits as the vendor has under ORS 632.275 to 632.290.

[Formerly 616.620]

POTATOES

Note: 1955 c.711 §1 repealed ORS 632.305, 632.310, 632.315, 632.320, 632.325, 632.330, 632.335, 632.340, 632.345, 632.350, 632.355 and 632.360 and enacted in lieu thereof ORS 632.306, 632.311, 632.316, 632.321, 632.326, 632.331, 632.336, 632.341, 632.346, 632.351, 632.356 and 632.361.

632.305 [Repealed by 1955 c.711 §1]

632.306 Definitions for ORS 632.306 to 632.361. (1) As used in ORS 632.306 to 632.361, "department" means the State Department of Agriculture of the State of Oregon.

(2) The provisions of ORS 632.306 to 632.361 regarding the sale of potatoes include the exposure, offer, possession, holding and consignment of potatoes for sale, but the act of selling potatoes by a grower at his field or place of storage shall not become unlawful until such time as transportation takes place. The provisions of ORS 632.306 to 632.361 regarding the transportation of potatoes include the hauling and shipment of potatoes.

[1955 c.711 §§2, 5; 1957 c.96 §1]

632.310 [Repealed by 1955 c.711 §1]

632.311 Establishment of standard grades. The department hereby is directed to establish standard grades for potatoes for the State of Oregon. The official grades shall conform, as far as practicable, to the official grades of the United States as prescribed

and promulgated by the United States Department of Agriculture. The grades may be changed from time to time as may be necessary. The provisions of ORS 632.910 to 632.930 shall apply to the establishment of grades for potatoes under the provisions of ORS 632.306 to 632.361.

[1955 c.711 §4]

632.315 [Repealed by 1955 c.711 §1]

632.316 Prohibition against advertising potatoes for sale without stating grade. No person shall advertise potatoes for sale without stating the grade of such potatoes.

[1955 c.711 §13]

632.320 [Repealed by 1955 c.711 §1]

632.321 Labeling. No person shall sell or transport potatoes, or offer or submit potatoes for transportation, unless each bag, box, carton or other container is labeled with:

(1) The applicable Oregon grade or United States grade, as promulgated by the department for use in Oregon, of potatoes in the container; provided, however, if the potatoes fail to comply with any such grade their container shall be labeled with the word "culls" in bold face letters not less than two inches high.

(2) The name and address or the registered brand name of the grower or packer, providing such brand name is registered with the Secretary of State or the United States Government and is filed with the department.

(3) The name of the variety if the potatoes are not certified and are sold for seed.

(4) The net weight of the contents of the container.

[1955 c.711 §6; 1957 c.96 §2]

632.325 [Repealed by 1955 c.711 §1]

632.326 Exemptions from labeling. ORS 632.321 shall not apply to:

(1) Potatoes which have been certified for seed as provided in ORS 633.620 and to which is attached an official certification tag.

(2) The casual sale by a grower of potatoes in quantities of 500 pounds or less, when such sales are made at the grower's field where grown or place where stored, to a consumer; and the transportation of such potatoes by the consumer to his residence for use in his own private household.

(3) The transportation of potatoes from the field where grown to a pit or warehouse for storage or grading.

(4) The sale and transportation of potatoes to a processing plant.

(5) The sale of potatoes to a livestock feeder and the transportation of potatoes to a livestock feeder for feeding purposes.

(6) The sale at retail of grade labeled potatoes when such potatoes are repacked into open containers or sold from bulk displays, if such potatoes are otherwise in compliance with the provisions of ORS 632.306 to 632.361.

(7) The sale or transportation of potatoes from the grower's place of storage to a warehouse or other storage facility for the purpose of grading.

[1955 c.711 §7; 1957 c.96 §3]

632.330 [Repealed by 1955 c.711 §1]

632.331 Permit authorizing transportation of unlabeled potatoes. (1) The department shall by written permit authorize potatoes to be transported without being labeled as required by ORS 632.321:

(a) To a processing plant, when such transportation is for a distance of 50 miles or more.

(b) To a livestock feeder for feeding purposes, when such transportation is for a distance of 50 miles or more.

(c) From the field where grown or from the place where stored to a warehouse or other facilities for storage or grading, when the transportation is for a distance of 50 miles or more.

(2) A person wishing to transport potatoes to any of the places or for any of the purposes mentioned in this section under permit shall make a request therefor prior to any transportation. Two copies of the permit shall be issued by the department to the person requesting it. One copy of the permit shall be retained by the consignor, and the second copy shall accompany the shipment at all times and be delivered to the consignee at the destination of the shipment. The department may issue and deliver additional copies of the permits as they may be needed. The permits shall be held by the consignor and the consignee for one year from the date of issuance and shall be presented to the department for inspection at its request.

(3) No person shall transport potatoes to any of the places named in subsection (1) of this section without first obtaining a permit therefor.

(4) The department is authorized to collect a fee for the issuance of permits required by this section in an amount calculated by it to cover the expense of issuance

of the permit, but such fee shall not exceed \$2 for each permit.

[1955 c.711 §8; 1957 c.96 §4]

632.335 [Repealed by 1955 c.711 §1]

632.336 Grade inspection by department. (1) No person shall sell or transport potatoes which have been labeled as required by ORS 632.321, or which are subject to the labeling provisions of that section, without first obtaining a grade inspection from the department as provided in ORS 632.940, including the payment of fees for such inspection. Such inspection shall be evidenced by a certificate as provided in ORS 632.965.

(2) The department may prescribe and approve exemptions from the requirements of the provisions of subsection (1) of this section, if:

(a) A person directly transports potatoes during regular hours of inspection to the nearest department inspection point.

(b) A person who desires to move or transport potatoes to a place or destination other than that provided for in paragraph (a) of this subsection, at least 24 hours in advance of such movement or transportation, notifies the department and thereafter directly moves or transports the potatoes to a place or destination approved by the department.

(c) The person authorized by the department to move or transport potatoes, as provided in paragraph (b) of this section, upon delivery to the approved place or destination notifies such receiver or purchaser that the potatoes are to be held for department inspection. It shall be unlawful for such receiver or purchaser to sell or transport the potatoes until an inspection has been made by the department.

(3) The department may refuse to permit further exemptions from the provisions of subsection (1) of this section if any person, as authorized by paragraph (a) or (b) of subsection (2) of this section, fails or refuses to follow or to comply with the directions or order of the department, the provisions of this subsection, or rules and regulations promulgated thereunder.

[1955 c.711 §9; 1957 c.96 §5]

632.340 [Repealed by 1955 c.711 §1]

632.341 Exemption from grade inspection. (1) ORS 632.336 shall not apply to:

(a) Potatoes which are sold or transported in loads or quantities of less than one ton providing each bag, box, carton or other

container of such potatoes are labeled as required by ORS 632.321.

(b) Inspected and graded potatoes which have been reconditioned or re-sorted.

(c) Potatoes which have been inspected by another state or the United States for grades comparable to those established by ORS 632.306 to 632.361.

(2) No more than one inspection shall be required pursuant to ORS 632.306 to 632.361 for any load or lot of potatoes subject to inspection, notwithstanding that after such inspection, the load or lot so inspected may lose its specific identity by reason of a division of the load or lot so inspected or addition to such load or lot of other inspected potatoes of the same grade, or by reason of reconditioning or re-sorting.

(3) Any interested party may obtain a reinspection of any load or lot of potatoes as provided in ORS 632.960.

[1955 c.711 §10]

632.345 [Repealed by 1955 c.711 §1]

632.346 Seizing unlawful potatoes. The department may seize, embargo or detain any load or lot of potatoes, or any portion thereof, if such potatoes are being sold or transported in violation of ORS 632.306 to 632.361.

[1955 c.711 §11]

632.350 [Repealed by 1955 c.711 §1]

632.351 Access to premises or vehicle for inspection purposes. The department or its duly authorized representatives shall have free access at all reasonable hours to any place or premises in which potatoes are stored, processed or sold or to stop or enter any vehicle being used to transport potatoes for the purpose of inspecting such place, premise or vehicle to determine if the provisions of ORS 632.306 to 632.361 are being violated.

[1955 c.711 §12]

632.355 [Repealed by 1955 c.711 §1]

632.356 [1955 c.711 §14; repealed by 1965 c.276 §2]

632.360 [Repealed by 1955 c.711 §1]

632.361 Administration and enforcement. The administration and enforcement of ORS 632.306 to 632.361 is vested in the department.

[1955 c.711 §3]

PRUNES

632.405 Definitions for ORS 632.405 to 632.440. As used in ORS 632.405 to 632.440, "department" means the State Department of Agriculture.

632.410 Establishing official grades and standards. (1) The department shall fix, establish and promulgate, after investigation and public hearing, official grades and standards for grading and classifying dried prunes.

(2) In establishing such grades and standards the department shall take into account and base them upon the following factors:

(a) Flavor, texture, size, appearance and moisture content.

(b) Freedom from disease.

(c) Freedom from or extent of damage or deterioration.

(d) Absence of foreign material, dirt, insect infestation or scorch.

(e) Extent of carmelization.

(f) Method of packing or packaging.

(g) Such other factors as may be indicative of or which may affect quality or condition and value or suitability for human consumption or for the commercial or other uses to which that product normally is put.

(3) In addition, the department shall take into account any grades, standards or classifications for dried prunes established by the United States Department of Agriculture, and also applicable state and federal food and drug laws. ORS 632.900 to 632.935 relating to grades and standards shall apply to ORS 632.405 to 632.440.

632.415 Application of factors to be considered; change of grade. (1) The factors to be considered in establishing any grades or standards for dried prunes, as provided by ORS 632.410, shall be applied in accordance with the extent to which and manner in which they relate to the quality, quantity and condition of that product and the value or suitability of it for human consumption or for the commercial or other uses to which it is normally put.

(2) Any such grades, standards or classifications established under ORS 632.405 to 632.440 may, from time to time, be changed by the department in order:

(a) To conform them more nearly to the requirements or interests of consumers or to commercial or trade requirements, practices or methods.

(b) To meet changed conditions.

(c) To comply with new and improved methods of handling, processing, packing, transporting, marketing or using dried prunes.

(d) To apply or make effective any new and improved method of test, analysis or examination of the quality or condition of that product or the value or suitability of it as stated in this section.

632.420 Sample kept of purchases according to grade; determination of dispute as to grade. (1) Any person who purchases in commercial quantity any dried prunes which are to be further processed before being sold or offered for sale for human consumption, the price or consideration for such being dependent upon the quality or quantity determined according to the number of dried prunes to the pound, shall keep for a period of not less than 30 days, conveniently available to checking by the person from whom those dried prunes were purchased, the exact sample used in so determining their quality or quantity.

(2) In the event of dispute as to the accuracy of that determination of quality or quantity, the department, upon the request of either party to that sale and payment of the required fee, shall examine the sample. The determination by the department on the basis of such examination of the quality or quantity of those dried prunes shall be binding upon both parties.

632.425 Fees for inspecting and grading. The department shall fix, assess and collect fees for all inspections or grading of dried prunes made pursuant to ORS 632.405 to 632.440, on a uniform basis, in a reasonable amount, which the department shall determine to be sufficient to cover the cost of such inspection and grading.

632.430 Enforcement; inspection or grading certificate as evidence. (1) The department shall administer and enforce the provisions of ORS 632.405 to 632.440. It may employ such inspectors and deputies and enter such agreements with officers of the United States Department of Agriculture and make such reasonable rules and regulations as may be necessary to carry out such sections.

(2) In any court proceeding any inspection or grading certificate, issued pursuant to such sections, is prima facie evidence of the facts stated in it.

632.440 Injunction. Any circuit court has jurisdiction to restrain any violation or threatened violation of ORS 632.405 to 632.435, upon suit by the Attorney General.

PACKING AND LABELING OF HORTICULTURAL PRODUCTS

632.450 Definitions for ORS 632.450 to 632.485. As used in ORS 632.450 to 632.485:

(1) "Horticultural products" means all horticultural products excepting those that are canned, bottled, frozen, dried, candied or brined.

(2) "Container" means the box, crate, lug, chest, basket, carton, barrel, keg, drum, sack, hamper, bag, bin, tray, bucket or other receptacle, whether open or closed, used by any person in transporting horticultural products, or in which such products are offered for sale.

(3) "Stamp," "mark" or "label plainly" means placing the information required by ORS 632.450 to 632.485 on the container in legible letters or figures of not less than three-eighths inch in height and not less than three-sixteenths inch in width, by means of a rubber stamp, stencil, printing by machine, or by attaching to the package by means of glue or paste, a machine-printed label. Such marks, and the location thereof, shall conform to the rules and regulations established by the department when promulgating grades for horticultural products.

(4) "Deceptive pack" means any arrangement of horticultural products which has in the outer layer or any exposed surface horticultural products which are so superior in quality, size, condition or in any other respect to those in the interior of the lot or the unexposed portion as to materially misrepresent the contents of the lot. A deceptive pack also means a container slackly filled so as to deceive the purchaser in regard to the total contents, or a container which has had a portion of the original contents removed and then offered for sale as a full pack.

[Formerly 616.505]

632.455 Labeling container of horticultural products. No person shall sell, offer for sale or transportation, or transport within Oregon, horticultural products unless each container or package of such products is plainly and conspicuously labeled with the name and post-office address of the grower, shipper or dealer, and the net contents of

the container or package in terms of weight, measure or numerical count. This section does not apply to transportation from the owner's fields to a warehouse for storage or grading and packing, or to processing plants.
[Formerly 616.510]

632.460 Establishment of grades; branding and packing regulations. (1) The department may establish grades for horticultural products and provide by regulation such branding and packing requirements as are deemed necessary. Such regulations shall be adopted under the procedure and in the manner provided by ORS 632.900 to 632.925.

(2) Except as expressly provided in ORS 632.450 to 632.485, all grades and regulations relating to fruits and vegetables in effect on June 14, 1941, shall so remain unless changed under the authority conferred by ORS 632.450 to 632.485.

(3) The use of grade standards authorized to be established by this section is not mandatory unless otherwise specifically provided by law. However, the deceptive use or misuse of any grade standards is unlawful.
[Formerly 616.515]

632.465 Used packages or containers. It is unlawful to sell or offer for sale or to transport or offer for transportation, horticultural products in used packages or containers unless such used packages or containers are first cleaned of all foreign matter and substances and are in all respects sanitary, and unless all previous markings, brands, grade markings, labels, trade-marks, names and addresses are entirely removed or so defaced as to destroy their legibility, or by turning such container or package inside out. This section does not apply to transportation from the owner's fields to a warehouse for storage or grading and packing, or to processing plants.

[Formerly 616.520]

632.470 False representations as to raising, production or packing. No person, by means of any false representation, either verbal, printed or written, shall represent or pretend that horticultural products were raised, produced or packed by any person, or in any locality other than by the person, and in the locality where the same were in fact raised, produced or packed.

[Formerly 616.525]

632.475 Possession of unlabeled, falsely labeled or deceptively packed products. (1) No person shall have in his possession for

sale or transportation any horticultural products not labeled as required in ORS 632.450 to 632.485, or falsely marked or labeled, or deceptively packed contrary to the provisions of ORS 632.450 to 632.485.

(2) The possession for sale or transportation by such person of any such horticultural products so falsely marked, labeled or packed is prima facie evidence that such person has so falsely marked, labeled or packed such horticultural products.

(3) The provisions of ORS 632.450 to 632.485 do not apply to the transportation of horticultural products by common carrier, except when the common carrier is issued a written notice by the department that the lot of horticultural products offered for shipments has been seized by the department for not meeting the requirements of ORS 632.450 to 632.485 and the notice is accompanied with a copy of the seizure notice.
[Formerly 616.530]

632.480 Shipment or sale of deceptive pack, load or display prohibited. No person shall prepare, deliver for shipment, ship, transport, offer for sale or sell a deceptive pack, or package, load, arrangement or display of horticultural products.
[Formerly 616.535]

632.485 Enforcement; entry and inspection; seizure. (1) The director and all authorized agents of the department shall enforce ORS 632.450 to 632.485 and to that end may enter any place or conveyance within this state where any fruit, nuts or vegetables are produced, stored, packed, delivered for shipment, loaded, shipped, being transported, or sold, and inspect all such fruit, nuts or vegetables and the containers thereof and take for inspection such representative samples of the fruit, nuts or vegetables and such containers, as may be necessary, to determine whether or not ORS 632.450 to 632.485 have been violated.

(2) Whenever a duly authorized representative of the department finds, or has probable cause to believe, that any products are marked, labeled or packed in violation of ORS 632.450 to 632.485, he shall seize the products and proceed in the manner directed by law for the disposal of products seized by the department.

[Formerly 616.540]

632.490 Labeling fruit or vegetables as Oregon grown or packed. All persons operating under their own private brand in Oregon in the business of packing or canning

fruit or vegetables, either fresh, canned, evaporated or otherwise, shall plainly designate on such private brand that goods were Oregon grown or packed in Oregon. For the purpose of this section it is sufficient for the firms whose headquarters are in Oregon to either designate the local address of the cannery or to designate the location of their main office in Oregon. This section does not apply to sales to wholesalers, packers or others for reselling.

[Formerly 616.545]

WALNUTS AND FILBERTS

632.505 Definitions for ORS 632.505 to 632.625. As used in ORS 632.505 to 632.625, "department" means the State Department of Agriculture.

632.510 [Repealed by 1955 c.239 §8]

632.515 [Repealed by 1955 c.239 §8]

632.516 Establishment of grades and standards. The department shall, in accordance with the applicable provisions of ORS 632.905 to 632.980, establish standards and grades for walnuts and filberts by rules or regulations enacted pursuant to ORS 183.310 to 183.500. The grades shall conform, as far as practicable or applicable in this state, to the official grades and standards prescribed by the United States Department of Agriculture. The grades may be changed from time to time as may be necessary.

[1955 c.239 §2; 1971 c.734 §28]

632.520 [Repealed by 1955 c.239 §8]

632.521 Grades and standards established by repealed statute; continued in effect until superseded. Notwithstanding the powers and duties of the department under ORS 632.516, the statutory standards and grades in ORS 632.510, 632.515, 632.520, 632.525, 632.530, 632.535, 632.540, 632.545, 632.550, 632.555, 632.560, 632.565, 632.570, 632.575 and 632.580 prior to the repeal of those sections by section 8, chapter 239, Oregon Laws 1955, shall continue in force and effect and be applicable as if adopted by the department until superseded or repealed by rules and regulations adopted by the department under ORS 632.516.

[1955 c.239 §3]

632.525 [Repealed by 1955 c.239 §8]

632.530 [Repealed by 1955 c.239 §8]

632.535 [Repealed by 1955 c.239 §8]

632.540 [Repealed by 1955 c.239 §8]

- 632.545 [Repealed by 1955 c.239 §8]
- 632.550 [Repealed by 1955 c.239 §8]
- 632.555 [Repealed by 1955 c.239 §8]
- 632.560 [Repealed by 1955 c.239 §8]
- 632.565 [Repealed by 1955 c.239 §8]
- 632.570 [Repealed by 1955 c.239 §8]
- 632.575 [Repealed by 1955 c.239 §8]
- 632.580 [Repealed by 1955 c.239 §8]

632.585 Necessity of conformity to standards. All unshelled walnuts and unshelled filberts sold or offered for sale or shipment in this state shall conform to the standards established by the department for such walnuts and filberts.
[Amended by 1955 c.239 §5]

632.590 Labeling. All unshelled walnuts and unshelled filberts sold, displayed or offered for sale or shipment in this state, shall have the containers, bins, display table or other bulk display labeled with a legible label containing:

(1) Name of the state in which such nuts were grown.

(2) Grade or registered brand and size of nuts in the container.

(3) Name and address of the grower, dealer or packer.

However, containers of five pounds or less capacity and bins and bulk tables shall be required to be labeled only with the name of the state where grown and the grade and size of such nuts. Such labeling shall not be required when nuts are being sold at retail from a properly labeled container or bulk display and packaged in the presence of the purchaser for the immediate purpose of the sale.

632.595 Containers. All containers of unshelled walnuts or unshelled filberts of the two highest grades established by the department, sold or offered for sale or shipment in this state, shall be uniform, new, sound and clean and otherwise conform to the standards approved by the department. Containers for lower grades shall be clean, fairly bright and sound.

[Amended by 1955 c.239 §6]

632.600 Inspection districts; inspection, reinspection and fees. (1) The department may designate certain areas as inspection districts and certain cities as inspection points, as necessary for the enforcement of ORS 632.505 to 632.625 and the rules and regulations of the department.

(2) All unshelled walnuts and unshelled filberts shipped out of or into or received in such inspection districts or inspection points in lots of 250 pounds or more shall be inspected by the department in accordance with its rules and regulations. However, no inspection shall be required for such nuts in transit to a processing plant. Not more than one inspection shall be made by the department for any car or lot of unshelled walnuts, or unshelled filberts unless the buyer or seller of the car or lot applies for reinspection and advances the charges for it as provided by the department. Any shipper of unshelled walnuts or unshelled filberts who feels that the grade established on any lot of nuts by any inspector, agent or representative of the department is not a true grade of such lot of unshelled walnuts or unshelled filberts may appeal to the department for a reinspection. However, the department may inspect any lot of less than 250 pounds, if at any time it deems it necessary.

(3) The department may fix, assess and collect or cause to be collected fees for all inspections of unshelled walnuts and unshelled filberts, on a uniform basis, in an amount determined to be reasonable and to cover the cost of its inspections and the enforcement of ORS 632.505 to 632.625.
[Amended by 1955 c.239 §7]

632.605 [Subsection (2) enacted as 1955 c.239 §4; repealed by 1965 c.276 §2]

632.610 Duty to notify department of availability for inspection. (1) Every operator or person in charge of any motor vehicle transporting on the streets or highways any unshelled walnuts or unshelled filberts, of which inspection is required by ORS 632.505 to 632.625, out of, into or through any inspection district, or any city which has been declared an inspection point, shall give notice by mail or in person to the nearest office or inspector of the department that such nuts are available for inspection as required by law.

(2) Any person, receiving any shipment, load or lot of such nuts, which has not been inspected, for the purpose of sale or storage in such quantities and in such places as would require inspection, shall give notice within 24 hours by mail or in person to the nearest office or inspector of the department that such nuts have been received and are being held for inspection.

632.615 Enforcement; inspection certificate as evidence. (1) The department shall enforce the provisions of ORS 632.505 to 632.625, and may make rules and regulations necessary or convenient for such enforcement. It may employ such inspectors, agents and representatives as it finds necessary and enter into agreements with the United States Department of Agriculture, its authorized agents, officers and representatives as it deems necessary to carry out such sections, not contrary to the laws of this state.

(2) Upon complaint, properly filed, that unshelled walnuts or unshelled filberts are offered for sale or shipment in violation of ORS 632.505 to 632.625, the department shall make the necessary investigation. If the complaint is found true, the department shall report the facts to the district attorney of the county in which the violation occurred and the district attorney shall prosecute such offender.

(3) Certificates of inspection of unshelled walnuts and unshelled filberts issued by the department shall be prima facie evidence of the facts contained therein.

632.620 Jurisdiction. Justices of the peace and district courts have concurrent jurisdiction with the circuit court in all proceedings to enforce the provisions of ORS 632.505 to 632.625.

632.625 Violation of walnut and filbert law prohibited. No person shall sell or offer for sale or shipment any unshelled walnuts or unshelled filberts in violation of any of the provisions of ORS 632.505 to 632.625, or the rules or regulations established under such sections.

EGGS

632.705 Definitions for ORS 632.705 to 632.810. As used in ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810:

(1) "At retail" means a sale or transaction between a retailer and a consumer.

(2) "Candling" means the examination of the interior of eggs by the use of transmitted light used in a partially dark room or place.

(3) "Consumer" means any person who purchases eggs for his or her own family use or consumption; or any restaurant, hotel, boarding house, bakery, or institution or

concern which purchases eggs for serving to guests or patrons thereof, or for its own use in cooking or baking.

(4) (a) "Container" means any box, case, basket, carton, sack, bag or other receptacle.

(b) "Subcontainer" means any container when being used within another container.

(5) "Dealer" means any person who contracts for or obtains possession or control of any eggs for the purpose of sale to another dealer or retailer.

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

(7) "Egg meats" or "egg products" means the white, yolk, or any part of eggs, in liquid, frozen, dried, or any other form, used, intended or held for use, in the preparation of, or to be a part of or mixed with, food or food products, for human consumption.

(8) "Eggs" or "shell eggs" means eggs in the shell from chickens, turkeys, ducks, geese or any other species of fowl.

(9) "Marked" means plainly, legibly and conspicuously labeled, stamped, stenciled, printed or branded.

(10) "Mislabel" means the placing or presence of any false, deceptive or misleading mark, term, statement, design, device, inscription or any other designation upon any eggs or upon any container or subcontainer of eggs, or upon the label or lining or wrapper thereof, or upon any placard or sign used in connection therewith or in connection with any bulk lot or display having reference to eggs.

(11) "Retailer" means any person who sells eggs to a consumer.

(12) "Sell" means offer for trade, expose for sale, have in possession for sale, exchange, barter or trade.

[1965 c.582 §1]

632.710 "Lot" defined. (1) When an inspection of eggs is made by the department to enforce and carry out the provisions of ORS 632.705 to 632.805, 632.810 and 632.815, if the cartons, containers and invoices are coded, numbered, identified or dated in a manner and method approved by the department, to enable the department to clearly and accurately identify and ascertain a certain quantity, group or shipment of one grade or size of eggs which have been labeled and candled by a particular producer, wholesaler or retailer, then for the purposes of ORS 632.705 to 632.805, 632.810 and

632.815 such quantity, group or shipment shall be a "lot" of eggs.

(2) If the data, information, labeling or coding, numbering or dating as set out in subsection (1) of this section is not present or complete at the time and place the eggs are being inspected, to enable the department to clearly and accurately make the determination as authorized by subsection (1) of this section, then the term "lot" for the purpose of ORS 632.705 to 632.805, 632.810 and 632.815 shall mean all of the eggs on the premises where the eggs are being inspected, of one grade and size, from the producer, wholesaler or retailer whose name appears on the cartons or containers as required by ORS 632.705 to 632.805, 632.810 and 632.815. [Formerly 632.007]

632.715 Dealer's license. (1) No person shall sell or distribute within this state any shell eggs to consumers or to retailers without having first obtained a dealer's license from the department. The license shall not be required:

(a) Of a producer selling and delivering shell eggs of his own production direct to an individual for his own family consumption; or

(b) For the sale of uncandled eggs to other than a consumer; or

(c) For the sale to a consumer of eggs which previously have been candled and graded by a dealer in compliance with ORS 632.206 to 632.260, 632.306 to 632.440, 632.505 to 632.815 and 632.990; or

(d) Of a producer who produces and sells fewer than 600 dozen eggs annually.

(2) Application for such license shall be in writing on such forms as the department may prescribe.

[1965 c.582 §2]

632.720 Fees. There shall be paid to the department with each application for an egg dealer's license an annual license fee of \$2. Duplicate copies of licenses may be issued for \$2. The proceeds from the license fees shall be expended by the department to assist in defraying costs incurred in the enforcement of the provisions of ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810.

[1965 c.582 §3]

632.725 Expiration; nontransferability; posting of original and duplicates. Each egg dealer's license shall expire on the 31st day of December following the date of issuance.

Such license shall not be transferable to any person. The original of the license shall be conspicuously displayed in the main office of the licensee. A duplicate copy of the license shall be conspicuously displayed in each separate branch, store, sales outlet, office, warehouse or location operated or owned by the licensee in which eggs are candled or graded.

[1965 c.582 §4]

632.730 Commercial egg breaker's permit; fee. No person shall engage in the commercial breaking of eggs for the purpose of recovering therefrom, for human food, the whites, yolks or whole egg meats, or any part thereof, for resale as such, without first obtaining from the department a permit to do so. Such permit shall be issued to any person making written application for it and a proper showing of ability and intent to comply with the sanitary requirement specified by ORS 632.705 to 632.805, 632.810 and 632.815, and payment to the department of an annual license fee of \$50. Such permit shall be effective for one fiscal year only and may be renewed from year to year upon written application and payment of the annual license fee.

[Formerly 632.040]

632.735 Issuance, suspension or revocation of license or permit. The department, as provided in ORS chapter 183, may refuse to issue, or may suspend or revoke, a dealer's license issued under ORS 632.715, or a permit issued under ORS 632.730, if the applicant, the permit holder, or the licensee, has or is violating the provisions of ORS 632.705 to 632.805, 632.810 and 632.815.

[1965 c.582 §5]

632.740 Use of Oregon state egg seal regulated; fees; reuse of containers; exceptions. (1) The department shall provide and make available a suitable seal to be known as the Oregon state egg seal. The seal shall contain the identification "O.S.D.A." which is the abbreviation for Oregon State Department of Agriculture. No other reference to Oregon shall be contained on the seal. In order to accomplish this end the department is authorized to issue special permits allowing reasonable facsimiles of the Oregon state egg seal to be imprinted on cartons used for shell eggs. The department shall prescribe rules for the affixing of seals and the issuance, use, and cancellation of such permits or seals and it is authorized, under ORS

chapter 183, to suspend or revoke any special permit issued pursuant to ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810 or to said rules whenever the department finds that a violation of the terms under which the permit was granted has occurred or a violation of any of the provisions of ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810 has occurred.

(2) The department is authorized to establish a sum not in excess of one and three-fourths mills per dozen eggs which persons who purchase such gummed seals or who imprint such facsimile seals or who use the same shall pay for each seal so purchased, affixed, or imprinted and to promulgate regulations relating to the time and manner of the payment of such sums. The proceeds from the sale of said seals shall be expended by the department to assist in defraying salaries and expenses incurred in the enforcement of the provisions of ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810.

(3) (a) It shall be unlawful, except as provided in ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810, for any person to sell any eggs for human consumption within the State of Oregon in previously used cartons, bearing the Oregon state egg seal, or any similar identification, unless the same is obliterated or defaced.

(b) The department may prescribe for the reuse by dealers, of large containers in which 15 dozen or more eggs are transported or delivered and sold to a restaurant, hotel, bakery, institution, or other similar place or business which purchases such eggs only for serving to guests, members or patrons thereof, or for its own use, if such eggs are not received or used for the purpose of resale in shell form.

(4) The department may provide for the transportation or delivery of eggs in containers without the Oregon state egg seal being affixed thereto, if such eggs are destined for, and are thereafter only sold in bulk and if at the time and place of such bulk sale the eggs are sold only in containers to which the Oregon state egg seal is affixed.

(5) The provisions of subsections (1) and (2) of this section do not apply to:

(a) A producer on the eggs he produces and sells direct to an individual for his own family consumption.

(b) Eggs packed for shipment or sale as

prescribed in paragraphs (b), (c) and (d) of subsection (1) of ORS 632.775.

(c) A person exempted from the requirement of a license by paragraph (d) of subsection (1) of ORS 632.715.

(6) Unless exempt under the provisions of ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810, no person shall sell eggs for human consumption in containers unless the Oregon state egg seal is affixed thereon or therein as required by the provisions of ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810. [1965 c.582 §6]

632.745 When invoices required; exception; availability for inspection. (1) Each person who sells to any retailer, or to any restaurant, hotel, boarding house, bakery, or other institution or concern which purchases eggs for serving to guests or patrons thereof or for its use in preparation of any food products for human consumption, candled or graded eggs other than those of his own production sold and delivered on the premises where produced, shall furnish that retailer or other purchaser with an invoice covering each such sale, showing the exact grade or quality and the size or weight of the eggs sold, according to the standards prescribed by the department, together with the name and address of the person by whom the eggs were sold. The invoices shall be available during business hours for inspection by the department. The invoices shall be kept for at least:

(a) One year by the seller, and

(b) 60 days by the retailer or other purchaser.

(2) No invoice shall be required on eggs when packed for sale to the Armed Forces or federal agencies if labeled with the United States Department of Agriculture grades.

(3) Any person or retailer selling eggs through its own stores or outlets may keep the records required by subsection (1) of this section, at its main office or principal place of business within this state and is not required to keep the records at the stores or outlets.

[1965 c.582 §7]

632.750 Labeling of imported eggs; posting notices. (1) All eggs imported into the state from any foreign country shall be sold as such. The case or container in which such eggs are shipped shall have the words

"Foreign Eggs," or the word "Eggs" preceded by the name of the country where produced, displayed on it in letters two inches high.

(2) A retailer of such eggs shall sell or offer them for sale only from the container in which he received them, and shall inform each purchaser that they are foreign eggs.

(3) Each restaurant, hotel, cafe, bakery or confectionery using or serving foreign eggs in any form shall maintain a sign, in letters not less than four inches high, in some conspicuous place where all entering customers or patrons can see it, and reading "We Use Foreign Eggs" or the same words with the exception that the name of the country where the eggs were produced may be substituted for the word "Foreign."
[Formerly 632.085]

632.755 Sanitary requirements for egg-breaking rooms. (1) Any room, machinery and equipment used in the breaking of eggs for commercial purposes, the egg meats from which are to be sold for human consumption, must be maintained in a clean, sanitary condition. It must be well lighted by either natural or artificial light and have suitable and ample ventilation. Any such room, during the egg-breaking season, shall be used for egg-breaking purposes only. The walls and ceiling must be constructed of material that can be readily cleaned and must be painted or calcimined in a light color. The floors must be tight, of concrete or other impervious material and be graded to drain, with proper drainage facilities.

(2) An abundant supply of safe, potable water shall be readily available and maintained under pressure. Steam or boiling water shall be kept available in quantity sufficient for thorough washing and sterilization of all equipment coming in contact with the egg meats.

(3) Egg-breaking apparatus shall be of such material and design that can be easily cleaned and shall be constructed so as to permit the breaking of each egg separately. Any utensil coming in contact with the egg meats shall be washed thoroughly and sterilized at the end of each day's operation. Proper means shall be employed to exclude flies and other vermin from the breaking rooms.

(4) Employes in egg-breaking rooms shall wear clean outer garments, including caps or head bands. Properly constructed toilets and wash rooms shall be provided

for employes and shall be maintained in a strictly clean condition, with clean towels available at all times. Egg crates or fillers shall not be permitted in any egg-breaking room. Egg shells, discarded eggs and other waste products from the egg-breaking rooms must be deposited in suitable containers and removed daily.

(5) The egg meats shall be so handled and kept as to avoid contamination.

(6) No person shall work or be permitted to work in any egg-breaking plant or in the handling of the egg meats who is afflicted with any contagious or communicable disease. The department shall have the right to require a medical examination of any employe suspected of being so afflicted.
[Formerly 632.060]

632.760 Inspections to determine compliance. (1) The department shall inspect eggs in Oregon at such time and place as it deems necessary to determine if there is compliance with the provisions of ORS 632.705 to 632.805, 632.810 and 632.815, or regulations promulgated thereunder.

(2) If the department determines from its inspection that eggs are not in compliance with ORS 632.705 to 632.805, 632.810 and 632.815 or regulations promulgated thereunder, it may attach or stamp a mark, label or tag, in the manner, method and wording to be determined by the department, to cartons, containers or a lot of eggs and shall mail or give written notice of such action to the owner or person in possession of the eggs. The mark, label or tag and the notice shall clearly set out the violation of law, the disposition which shall be made of the eggs and the process of procedure which must be carried out and followed by the owner or person in possession, before the eggs shall again be sold, offered, held or exposed for sale.

(3) It shall be unlawful for any person to:

(a) Deface or remove the mark, label or tag from the cartons, containers or the lot of eggs except with the written permission of the department or unless all of the requirements and provisions of the mark, label or tag and the notice have been carried out as approved by the department.

(b) Sell, offer, hold or expose for sale eggs which have been marked, labeled or tagged by the department until the requirements and provisions of the mark, label or tag and notice from the department have been completely carried out.

(4) The department is authorized to mark, label or tag and give notice to the owner or person in possession of eggs, as authorized by this section, for any violation of the provisions of ORS 632.705 to 632.805, 632.810 and 632.815 for one or more cartons or containers of eggs and if each such carton or container is verified to be in violation of such provisions. Before the department is authorized to tag, mark or label a lot of eggs, it shall inspect at least the minimum number of samples of eggs in the lot as prescribed by ORS 632.800.

[Formerly 632.097]

632.765 Sale of incubated eggs or ova of slaughtered birds prohibited. It shall be unlawful to deliver, sell, hold or offer for sale for human consumption:

(1) Eggs which have been incubated, or have been in an incubator, either natural or artificial.

(2) Ova from slaughtered birds of any species.

[1965 c.582 §8]

632.770 Labeling of containers, subcontainers and placards. (1) It shall be unlawful to prepare, pack, place, deliver for sale or sell eggs in bulk or in containers or subcontainers:

(a) Unless each container or all subcontainers within each container of eggs are marked with the full, correct and unabbreviated designation of size and quality of eggs therein according to the standards as prescribed by the department together with a date code for identification and the name and address of the producer, wholesaler or retailer by or for whom the eggs were graded or packed.

(b) Which are mislabeled.

(c) That are or contain inedibles and which are not denatured.

(2) Only one description of the size and quality of eggs shall appear upon a container, subcontainer or placard required by ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810. Designations of size and quality required by this section to be marked upon containers of eggs shall be plainly and conspicuously marked in bold-face type letters:

(a) Not less than one-fourth inch in height on the outside top face of each container holding less than 15 dozen eggs, and

(b) Not less than one-half inch in height on one outside end of any oblong container

holding 15 dozen or more eggs and on one outside side of any other container holding 15 dozen or more eggs.

[1965 c.582 §9]

632.775 Exceptions to ORS 632.770. (1) No markings, as prescribed in ORS 632.770, are required on containers or subcontainers of eggs:

(a) When sold at retail from a properly marked bulk display and packaged in the presence of the purchaser for the immediate purpose of the sale.

(b) When packed for sale to the Armed Forces or federal agencies if labeled with United States Department of Agriculture grades.

(c) When packed for shipment or being shipped to points outside of the State of Oregon.

(d) When occasional sales are made, as prescribed by the department to consumers by the producer from eggs produced and delivered on his own premises.

(e) When the containers and subcontainers are packed and certified in accordance with the standards of grade and quality and the grading rules promulgated by the United States Department of Agriculture.

(f) When being delivered from outside of the state to dealers in the state for candling and grading.

(g) When being delivered to or when in possession of a dealer for candling and grading, or when being delivered to cold storage, when in cold storage, or being removed therefrom.

(2) Eggs when marked with United States Department of Agriculture grades such as referred to in paragraphs (b) and (e) of subsection (1) of this section shall be considered as complying with the provisions of ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810 if the eggs so marked as to grade and size meet requirements of the comparable quality grade and size designation according to the standards prescribed by the department. In no case may eggs so marked with United States grade designations be of a lower quality or size than comparable grades or standards prescribed by the department.

[1965 c.582 §10]

632.780 Container to show grade or egg seal; exceptions. (1) It shall be unlawful to sell eggs for human consumption:

(a) Without notifying the consumer or

purchaser of the exact grade or quality and size or weight of the eggs, according to the standards prescribed by the department, by stamping or printing on the container of the eggs such grade or quality and size or weight; or

(b) If the eggs are sold, offered or held for sale, in bulk, without displaying in a conspicuous place on the container from which they are offered or exposed for sale, a sign in printed or other prescribed lettering not less than two inches high, giving the grade or quality and size or weight. The container in which such eggs are placed for the convenience and use of the consumer or purchaser, before removal from the store or place of sale, shall have the Oregon state egg seal imprinted thereon, placed therein, or attached thereto by the person selling such eggs, as shall be prescribed by the department.

(2) The provisions of this section shall not apply to a person selling eggs of his own production, except when they are sold at retail to the consumer. This section shall not affect or apply to the sale of eggs by the producers when the consumer purchases and receives them at the place of production.
[1965 c.582 §11]

632.785 Mislabeling prohibited. It shall be unlawful:

(1) To sell or represent as chicken eggs, eggs from any other species of fowl, or mixed eggs from more than one species of fowl, or eggs from ducks, turkeys, geese, or any species of fowl other than chickens, without marking the containers and subcontainers of such eggs or otherwise indicating fully by sign, placard or other inscription the species of fowl from which such eggs were produced.

(2) To place or pack eggs in any containers or subcontainers bearing any name, markings of any designation of brand quality, grade or other matter, unless all of such markings which do not properly and accurately apply to the eggs placed or packed therein have been removed, erased or obliterated.

(3) To sell or use any container or subcontainer of eggs which bears a name, a trade-mark or a trade name unless such a name, trade-mark or trade name is obliterated or effaced, except where the seller or user is entitled to use such name, trade-mark or trade name.

(4) To sell or advertise eggs below the quality grade of grade A as "fresh eggs," "ranch eggs," "farm eggs" or to represent the same to be fresh.
[1965 c.582 §12]

632.790 Compliance with department orders; inspections. It shall be unlawful:

(1) To fail to comply with any lawful order of the department, or of any court, in any proceeding under the provisions of ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810.

(2) To refuse to submit any eggs or any container, subcontainer, lot, load or display of eggs to the inspection of the department.
[1965 c.582 §14]

632.795 Department to administer ORS 632.705 to 632.815; inspections; seizure of noncomplying eggs. (1) The department is charged with the administration and enforcement of ORS 632.705 to 632.805, 632.810 and 632.815.

(2) Authorized personnel of the department may enter and inspect during business hours and in the presence of the owner of the place or conveyance or his employe, any place or conveyance within this state, where any eggs are produced, candled, incubated, stored, packed, delivered for shipment, loaded, shipped, transported or sold, and may inspect all such eggs and the containers thereof and equipment found in any such places or conveyances, and may take for inspection representative samples of such eggs and containers, for the purpose of determining whether or not any provisions of ORS 632.705 to 632.805, 632.810 and 632.815 have been violated.

(3) The department may seize, while enforcing the provisions of ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810, and hold as evidence any container of eggs or all or any part of any pack, load, lot consignment or shipment of eggs, packed, stored, delivered for shipment, loaded, shipped, transported or sold in violation of any provisions of ORS 632.705 to 632.805, 632.810 and 632.815.
[1965 c.582 §15]

632.800 Selecting lot samples; sample as evidence. The department shall prescribe methods of selecting samples of lots, and may further define lots, or containers of eggs which shall be reasonably calculated to produce by such sampling fair representations of the entire lots or containers sampled.

The department may take samples and any sample taken shall be prima facie evidence, in any court in this state, of the true condition of the entire lot in the examination of which said sample was taken.

[1965 c.582 §16]

632.805 Adulterated and misbranded eggs. (1) Whenever eggs or egg meats are inedible (or denatured) and unfit for human consumption, they shall be deemed to be adulterated for all purposes of law, including all of the purposes of ORS chapter 616, ORS 632.275 to 632.290, 632.450 to 632.490 and 632.900 to 632.985.

(2) All eggs and egg meats and containers holding the same shall be deemed to be misbranded for all of said purposes unless they bear or are purveyed under the seals, labels, markings, printed matter, signs, displays, or other branding and labeling devices required by ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810, and unless they conform to the standards and grades heretofore or hereafter promulgated by the department pursuant to ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810.

[1965 c.582 §17]

632.807 Sale, purchase of unpasteurized, untreated egg meats prohibited. (1) No person shall sell or offer for sale egg meats unless they have been pasteurized and treated as required under the provisions of ORS 632.810.

(2) No person engaged in the business of processing, baking, preparing or manufacturing food or food products for sale at wholesale or retail, or the State of Oregon and its agencies, or counties, cities or other governmental bodies, shall purchase egg meats unless they have been pasteurized and treated as required under the provisions of ORS 632.810.

[1967 c.250 §2]

632.810 Rules for grades, labeling and sanitation; inspection. (1) The department, as provided in ORS chapter 183, shall prescribe rules for:

(a) Grades and standards of quality, grades of size and weight, and other necessary requirements relating to the use and the sale of eggs, or to enforce and carry out the intent and provisions of ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810.

(b) The manner of designating price, grade and size in all advertising of eggs.

(c) Labeling and marking of egg meats, whether in frozen, liquid, dried or other form.

(d) Measures and procedures reasonably necessary to protect the health of the users and consumers of eggs and egg meats, including but not limited to the requirement that egg meats and egg products undergo treatment, as defined in ORS 632.812, in a manner to assure that such meats or products are free from salmonella.

(e) Sanitation standards for places or facilities where eggs are broken, graded or candled.

(2) Within the availability of fees collected under ORS 632.705 to 632.725, 632.735 to 632.745, 632.760 to 632.805 and 632.810, or funds appropriated for such purpose, the department shall establish a system of inspection of eggs received, broken, sold or held for sale by persons licensed under ORS 632.730.

(3) In carrying out the provisions of this section and the provisions of ORS 632.705 to 632.805, 632.810 and 632.815, the department, in addition to other guideposts and standards, shall take into consideration:

(a) The laws and regulations of the United States Department of Agriculture and the laws and regulations of other states.

(b) The customs and practices of the egg industry in this and other states.

(c) The advice of the appropriate health agencies of the United States and this state.

[1965 c.582 §18; 1967 c.250 §3]

632.812 "Treatment" defined. As used in ORS 632.807, 632.810 and 632.812, "treatment" includes:

(1) Pasteurization;

(2) Use in acidic dressings in the processing of which the pH factor is not above 4.1 and the acidity of the aqueous phase, expressed as acetic acid, is not less than 1.4 percent; and

(3) Such other treatment as may be approved by the State Department of Agriculture.

[1967 c.250 §1]

632.815 Disposition of fees. All fees collected by the department under ORS 632.705 to 632.805, 632.810 and 632.815 shall be paid to the State Treasurer not later than the 10th day of the calendar month next succeeding their receipt by the department, and by him credited to the Department of Agriculture Account. As much of it as is required shall be available and constitute a

continuing appropriation from such fund for the payment of the necessary expenses of the department in administration and enforcement of such sections.

[Formerly 632.110]

GRADES AND STANDARDS FOR, INSPECTION AND CLASSIFICATION OF, AGRICULTURAL PRODUCTS

632.900 "Horticultural and agricultural products" defined. As used in ORS 632.900 to 632.940 and 632.955 to 632.980, "horticultural and agricultural products" includes articles of food, drinks, dairy products, livestock products, poultry products and apiary products, grown or produced in this state, exclusive of bakery products and alcoholic liquors.

[Formerly 616.405]

632.905 Department of Agriculture to fix grades and standards for agricultural products and containers. In order to promote, protect, further and develop the agricultural industry of this state the department may, after investigation and public hearing, fix and promulgate official standards for grading and classifying any or all horticultural and agricultural products, may fix and promulgate official standards for containers of such products and may change any of such grades and standards from time to time. The grades and standards fixed and promulgated by the department shall be in conformance to any and all laws of this state providing special grades or standards for any of such products or containers. With respect to canned goods, the department is empowered to promulgate only definitions and standards of identity, quality and fill of containers. Unless modified, altered or revoked, grades and standards in force on February 2, 1939, shall continue to be official as though promulgated under ORS 632.900 to 632.940 and 632.955 to 632.980.

[Formerly 616.410]

632.910 Factors to be considered in establishing grades and standards. In establishing, under any law of this state, any grades, standards or classifications for any horticultural or agricultural products, the department, in addition to such other factors as may be specified by such law, shall take into account and base such grades, standards or classifications upon such of the following factors as are applicable to the product involved: Degree of maturity; size, measured by dimensions or weight; degree of freshness, as determined by physical

examination or chemical test or analysis; moisture content; uniformity; color; firmness; tenderness; freedom from injury; freedom from insect pests; diseases; appearance; freedom from mixture with other varieties; freedom from decay; conformation; soundness; varietal characteristics or type; number of specimens per pound; nature of pack; presence of dirt or other foreign material; condition as to temperature and extent to which the product is hot or heating or is in a sour condition; extent to which commodity is satisfactory for human or other consumption or use, as the case may be; extent to which the product has been affected by handling or treatment; extent to which the product has a commercially objectionable odor or flavor; and other factors indicative of quality or condition, and the value or suitability of the commodity involved for the commercial or other use to be made thereof. In addition, the department shall take into account any grades, standards or classifications for such product established by the United States Department of Agriculture and also applicable federal grades and standards laws.

[Formerly 616.415]

632.915 Consideration of commercial or other use; change of grades, standards or classifications. The factors required to be considered by the department in establishing any grades, standards or classifications for any agricultural or horticultural product shall be applied in accordance with the extent to which and manner in which the same relate to the quality, quantity and condition of that product and the value and suitability thereof for the commercial or other use to which it normally is put. Any such grades, standards or classifications established pursuant to law by the department may, from time to time, be changed thereby in order to conform the same more nearly to commercial or trade requirements, practices or methods or to meet changed conditions or to comply with new and improved methods of handling, processing, packing, transporting, marketing or using the product involved, or in order to apply or make effective any new and improved method of test, analysis or examination of the quality or condition of that product or the value or suitability thereof for its normal use, and to comply with new methods of controlling insect pests and diseases.

[Formerly 616.420]

632.920 Notice of hearing. In promulgating the standards or any alterations or modifications to such standards, the department shall call a public hearing and shall give notice thereof at least 10 days prior thereto by publication of the notice in some publication of general circulation throughout the state. The notice shall give the time and place at which the department will hold a hearing on the grades and standards to be promulgated, altered or modified.

[Formerly 616.425]

632.925 Hearing; publication and distribution of grades, standards, rules and regulations. After holding a public hearing upon the establishment, alteration or modification of any grades and standards, the department shall consider all the facts and arguments presented at the hearing and shall issue its order establishing such grades and standards, or modifying or altering such grades and standards, as it may deem best suited to the agricultural and horticultural interests of the state and of the citizens of Oregon, and shall publish such grades and standards, together with rules and regulations applying thereto, in pamphlet form and have such pamphlets available for distribution before the date upon which such grades and standards become effective.

[Formerly 616.430]

632.930 Revocation of grades and standards. Whenever the department finds that any grades and standards established by it no longer meet the purposes for which they were established, the department may, by order, revoke such grades and standards in the same manner and under the same procedure that the department is authorized to establish such grades and standards.

[Formerly 616.435]

632.935 Adoption of United States standards; cooperation with United States. The department may fix and promulgate, under the procedure provided in ORS 632.900 to 632.930, as the official standard for this state for any horticultural or agricultural product or container, any standard which may have been promulgated or announced therefor under the authority of the Congress of the United States, and the department is authorized to cooperate with the United States, or any department thereof, in accomplishing the matters and things provided for in ORS 632.900 to 632.940 and 632.955 to 632.980.

[Formerly 616.440]

632.940 Inspection and classification of agricultural and horticultural products by department. Except as provided in ORS 632.945, the department may designate any competent employe or agent of the department to inspect or classify horticultural and agricultural products when such services are requested by persons having an interest in such products, and the department may ascertain and certify to such persons the grade, classification, quality, condition or amount thereof and any other pertinent facts relating to such products that the interested person may request. The department may fix, assess and collect, or cause to be collected, fees for such services when they are performed by employes or agents of the department. Such fees shall be on a uniform basis in an amount reasonably necessary to cover the cost of such inspection and administration of this section. The department shall so adjust the fees to be collected under this section as to meet the expenses necessary to carry out the provisions of this section, and may prescribe a different scale of fees for different localities. The department also may prescribe a reasonable charge for traveling expenses and services when such services involve unusual cost to the department in their performance. All fees and moneys collected or received by the department, its employes or agents, under this section shall be deposited in the General Fund of the state to the credit of the Department of Agriculture Account.

[Formerly 616.445]

632.945 Procedure for department inspection and classification; collection of costs. (1) Under such conditions as the department may prescribe by rule, the department, through any competent employe or agent, shall inspect or classify produce in accordance with standards specified in the written agreement between the grower and the handler for sale of the produce. The methods and procedures for inspection or classification of produce shall be in accordance with such rules as the department may prescribe.

(2) The department shall ascertain and certify to the parties to the written agreement the grade, classification, quality, condition or amount of the produce and any other pertinent facts relating to such produce that a party to the written agreement may request.

(3) The department may fix, assess and collect or cause to be collected from the handler, fees for such services in the manner and to the extent provided by ORS 632.940. All such fees are continuously appropriated to the department for the enforcement of ORS 632.940 to 632.980.

(4) As used in this section:

(a) "Grower" means any person engaged in the business of growing or producing any produce in this state and includes any cooperative organization composed exclusively of growers and handling exclusively the produce of its own members and operating under and by virtue of the laws of this state or of any other state or of the United States.

(b) "Handler" means a person or his agent who processes produce he has purchased or otherwise acquired in this state from a grower.

(c) "Produce" means any fruit or vegetable grown or produced by a grower and of which total sales by growers to handlers for the previous growing season totaled more than \$1 million. The department shall determine and verify the application of this defined term, and the total sales value herein specified, and for this purpose shall be authorized to inspect books and records and require reports.

[1973 c.587 §3]

632.950 Termination of department inspection activities by grower vote; election procedure; costs. At any time before or after the department is conducting the inspection and classification of a particular fruit or vegetable at a particular plant of a handler, if 51 percent of the growers who produce 60 percent or more of that product vote against the department inspection and classification of that particular product, the department shall not inaugurate such inspection, or if already inspecting shall terminate such inspections. To have such an election 20 of the growers shipping that product to the handler shall petition the department. If the department finds the petition in order it shall conduct an election. The costs of the election and the method and time of voting shall be specified by the department and the petitioners for such election shall pay such costs prior to any vote. Once an election has been held to reject inspection no new election either to require inspection or to reject inspection shall be held in less than one year following the previous election. All subsequent elections shall require the same percentage of petitioners for the election and

the same percentage vote of growers and volume of product as provided in this section. The costs of all elections shall be assessed to the petitioners for each election and shall be paid to the department prior to such election.

[1973 c.587 §4]

632.955 Investigation of complaint of purchaser's misrepresentation of product; inspection and classification of products received by purchaser. Upon complaint of any person to the department that the grade, classification, quality, condition or amount of any horticultural or agricultural product is being misrepresented by the purchaser thereof, or that the grades are not being made by the purchaser in accordance with the purchase agreement, the department shall investigate such complaint and, when in its opinion such complaint is justified, shall order such purchaser so misrepresenting to cease and desist from such practices in addition to the other provisions of ORS 632.900 to 632.940 and 632.955 to 632.980. Upon failure of the purchaser to so cease and desist from such practices, the department shall designate its agent to inspect and classify all such products received by such purchaser, the cost of such service to be fixed, assessed and collected from such purchaser as provided in ORS 632.940. This section does not apply to a cooperative association nor to a person deriving his major livelihood from a farm or orchard which he himself operates either as owner or renter.

[Formerly 616.450]

632.960 Appeal to department for classification. Whenever any quantity of any horticultural or agricultural product has been inspected under ORS 632.940 and 632.955 to 632.980 and a question arises as to whether the certificate issued therefor shows the true grade, classification, quality or condition of such product, any interested person, subject to such regulations as the department may prescribe, may appeal the question to the department. The department is authorized to cause such investigation to be made and such tests to be applied as it may deem necessary and to determine and issue a finding as to the true grade or classification of the product or the quality or condition thereof. Whenever any appeal is taken to the department under this section it shall charge and assess and collect, or cause to be collected, a reasonable fee, to

be fixed by it, which shall be refunded if the appeal is sustained.

[Formerly 616.455]

632.965 Certificate of grade, classification, quality or condition as prima facie evidence. A certificate, when not superseded by a finding on appeal, or a finding on appeal of the grade, classification, quality or condition of any horticultural or agricultural product, issued under ORS 632.900 to 632.940 and 632.955 to 632.980 and all certificates issued under authority of the Congress of the United States relating to the grade, classification, quality or condition of horticultural or agricultural products shall be accepted in any court of this state as prima facie evidence of the true grade, classification, condition or quality of the horticultural or agricultural products at the time of its inspection.

[Formerly 616.460]

632.970 Misrepresentation of grades and standards for agricultural products; improper use of insignia indicating grade. If any quantity of any horticultural or agricultural product has been inspected and a certificate issued under ORS 632.900 to 632.940 and 632.955 to 632.980 showing the grade, classification, quality or condition thereof, no person shall represent that the grade, classification, quality or condition of the product at the time and place of the inspection was other than as shown by the certificate. Whenever any standard for the grading or classification of any horticultural or agricultural product becomes effective under ORS 632.900 to 632.940 and 632.955 to 632.980, and any word or words, figure or letter, has been adopted by the department to indicate the grade or quality of the horticultural or agricultural product contained in any container or package, no person, firm or corporation shall use any of such words, letters or figures, in connection with any container or package, to represent the grade or quality of the horticultural or agricultural product contained therein, to be sold or offered for sale, if such product does not meet the requirements of the grade indicated by the marking.

[Formerly 616.465]

632.975 Use of containers not conforming to standard. Whenever any standard for a container for any horticultural or agricul-

tural product becomes effective under ORS 632.900 to 632.940 and 632.955 to 632.980, no person thereafter shall pack or place for sale, offer for sale, consign for sale or sell and deliver, in a container, any such horticultural or agricultural product to which the standard is applicable, unless the container conforms to the standard, subject to such variations therefrom as may be allowed by law or by rules and regulations made pursuant to law, unless such product is brought from outside the state and offered for sale, consigned for sale, or sold in the original package which is a standard package in the state of origin. This section does not apply to horticultural or agricultural products packed for and sold as gift packages, and shipped in containers, the specifications of which, or a sample of which, have been submitted to and approved by the department.

[Formerly 616.470]

632.980 Improper grading and incorrect certificates prohibited. No person shall, under ORS 632.900 to 632.940 and 632.955 to 632.980, knowingly inspect, grade or classify improperly any horticultural or agricultural product or knowingly give any incorrect certificate of grade, classification, quality or condition.

[Formerly 616.475]

632.985 Submitting hay, grain or potatoes to inspection. (1) No operator or person in charge of any motor vehicle shall transport on the streets or highways of this state, any hay, grain or potatoes, of which inspection is required by law, out of, into or through any inspection district, so designated by the department, or out of, into or through any city which has been declared an inspection point, unless he has given notice by mail or in person to the nearest office or inspector of the department, that such products or any thereof are available for inspection as required by law.

(2) Every person receiving any shipment, load or lot of such products, which has not been inspected, for the purpose of sale or storage in such quantities and in such places as would require inspection, shall give notice within 24 hours by mail or in person, to the nearest office or inspector of the department that the products have been received and are being held for inspection.

[Formerly 616.480]

PENALTIES

632.990 Penalties. (1) Violation of any provision of ORS 632.705 to 632.805, 632.810 or 632.815 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$100 for the first offense, and for each subsequent offense by a fine or not less than \$25 nor more than \$200.

(2) Violation of ORS 632.216 or 632.226 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$100 or by imprisonment in the county jail for not less than 10 nor more than 30 days, or both.

(3) Violation of any provision of ORS 632.306 to 632.361 is punishable, upon con-

viction, by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail for not less than 10 nor more than 30 days, or both.

(4) Violation of any provision of ORS 632.405 to 632.435 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$100.

(5) Violation of ORS 632.625 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$100, or by imprisonment in the county jail for not less than 10 nor more than 30 days, or both.

[Amended by 1955 c.363 §13; 1955 c.711 §15; subsection (2) enacted as 1955 c.363 §15; subsection (3) enacted as 1955 c.711 §16]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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, 1973.

Thomas G. Clifford
Legislative Counsel

