Chapter 602

1967 REPLACEMENT PART

(1975 reprint)

Bees

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GENERALLY

602.010 Definitions. As used in this chapter, the term:

(1) "Apiary" and "apiary property" includes bees, honey, beeswax, bee comb, hives, frames and other equipment, appliances and material used in connection with an apiary.

(2) "Apiarist" means any person, firm or corporation who owns bees or is a keeper of bees.

(3) "Appliances" means any implement or device used in the manipulating of bees or their brood or hives, which may be used in any apiary.

(4) "Bees" means honey-producing insects of the genus Apis and includes the adults, eggs, larvae, pupae or other immature stages thereof, together with such materials as are deposited into hives by their adults, except honey and beeswax in rendered form.

(5) "Colony" or "colonies of bees" refers to any hive occupied by bees.

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

(7) "Disease" means American or European Foulbrood or any other disease or any condition affecting bees or their brood which may cause an epidemic.

(8) "Hive" means any receptacle or container made or prepared for use of bees, or box or similar container taken possession of by bees.

(9) "Inspector" means any person authorized to enforce the provisions of this chapter.

(10) "Location" means the premises upon which an apiary is located.

(11) "Person" includes any individual, partnership, association or corporation, but does not include any common carrier when engaged in the business of transporting bees, hives, appliances, bee cages or other commodities which are the subject of this chapter, in the regular course of business.

[Amended by 1961 c 177 s 1, 1963 c 65 s 1]

602.020 Chief Apiary Inspector. The department is authorized to appoint a Chief Apiary Inspector and such deputy apiary inspectors as may be necessary to carry out this chapter. The administration of such sections by the Chief Apiary Inspector shall be under the direction and control of the Director of Agriculture.

[Amended by 1961 c.177 s 2]

602.030 Inspection of apiaries; notice to eradicate and eradication of disease; quarantine of apiaries. (1) The Chief Apiary Inspector shall make, or cause to be made, whenever he deems it necessary, inspections of all apiaries.

(2) Whenever a disease exists in any apiary, the inspector making the inspection shall mark the hives containing diseased bees. The inspector shall, in writing, notify the owner or person in charge of such apiary, stating in the notice the nature of the disease found in each colony, identifying such colony by reference to the mark placed upon the hive thereof, and ordering the eradication of such disease within a specified time. When the person in charge of any apiary is not known, the notice shall be served by posting in a conspicuous place in the apiary or mailing a copy to the owner's registered address.

(3) The owner or person in charge of any diseased apiary must eradicate such disease within the time specified in the notice. If the disease is American Foulbrood, the time specified in the notice shall not be less than 24 hours nor more than 120 hours from the time of serving notice. Eradication of American Foulbrood shall be by burning the diseased colonies, including the bees, brood, combs, frames, honey and wax, and by burying the ashes and disinfecting the hives by means approved by the department.

(4) Any apiary which is found to contain five percent or more colonies of bees infected with American Foulbrood may be summarily quarantined by the department. Colonies of bees which have died because of such infection shall be counted in computing the percentage of colonies infected. Notice of the quarantine shall be posted prominently on the apiary, and the owner notified of such quarantine. During the quarantine no bees, honey, equipment or other materials may be removed from the apiary, except under the supervision of an inspector, and for the purpose of eradicating the disease. The quarantine shall be removed when an inspection by the department made at least 30 days after the last previous inspection shows the apiary apparently free from American Foulbrood.

[Amended by 1953 c 400 s 7]

602.040 Diseased apiary declared public nuisance; abatement; limitations on moving diseased bees. (1) Every apiary in which diseased bees are found is declared to be a public nuisance. Whenever any such nuisance exists and the owner refuses or neglects, after notice by an inspector to abate it within the time specified in the notice issued under ORS 602.030, the inspec-

tor shall abate it by burning the condemned hives and their contents, including bodies, bottom boards, covers and supers, within 48 hours after the expiration of the time specified in the notice. During the period of time specified in such notice and during any extended time permitted under the provisions relative to an appeal for diagnosis as provided by ORS 602.050, no person shall remove any of the hives or their contents which are marked to indicate infestation with American Foulbrood, except that the hive or its contents may be removed by the owner or bailee for the purpose of destroying it under the supervision of an inspector.

(2) If, upon inspection of an apiary, European Foulbrood is found to exist therein to a serious extent, no colonies shall be removed from such apiary except under the supervision of an inspector and after affected colonies have been treated in a manner which shows the disease is being eradicated.
[Amended by 1953 c.400 s 7]

602.050 Laboratory test for existence of American Foulbrood. The inspector may take a sample of material from any hive suspected of containing American Foulbrood. Such sample shall be submitted to the department or to a laboratory designated by the department to test for the presence of American Foulbrood. The findings of the department or the designated laboratory shall be deemed prima facie correct.

602.060 Prohibited conduct. (1) No person shall.

(a) Possess any bees which have not been registered as provided by ORS 602.090;

(b) Interfere with any inspector engaged in the performance of his duties pursuant to this chapter;

(c) Keep bees in hives with immovable combs,

(d) Damage or destroy bees or their equipment by poison, by moving them a short distance or by any other means. Any person violating this provision is liable for the damages, which may be recovered in an action at law; or

(e) Place in any combless package of bees offered for sale or distribution in this state any food, article or substance containing honey.

(2) No person in possession of an appliance, hive or equipment contaminated with any disease shall negligently or wilfully expose or handle such appliance, hive or equipment in a manner which will permit bees to become infected with such disease.

(3) No person shall carelessly or negligently expose combs wet with honey or combs containing honey or pollen to bees.
[Amended by 1953 c 400 s.7, 1961 c 177 s.3]

602.070 Movement of bees; notice; inspection. (1) No person shall move bees from one location to another within this state without notifying the department, in writing, of such movement within five days after moving the bees. The written notice shall state the number of colonies moved, the location from which and to which the bees were moved and proper directions for locating the bees.

(2) When the department receives notice of a movement of bees it shall, if it deems it necessary, make an inspection of such bees for the presence of disease.

(3) When an inspection is requested by any person for the purpose of obtaining a certificate of inspection for out of state movement of bees or appliances, the applicant for such certificate shall pay the cost of inspection, including per diem and traveling expenses of the inspector.
[Amended by 1953 c 400 s 7]

602.080[Repealed by 1953 c 400 s 7]

602.081 Importation of bees or used apiary equipment or appliances. No person shall bring or cause to be brought into the State of Oregon bees or used apiary equipment or appliances, excepting used packaged bee cages returned empty to this state, without an accompanying certificate of health as approved by the department, made within 60 days prior to such movement, by an authorized inspector or other officer of the state or country in which the movement originated, stating that such bees, equipment and appliances are free from disease.
[1961 c 177 s 5]

602.083 Quarantine of imported bees, appliances. (1) All bees and appliances imported into this state shall be placed in quarantine not to exceed 30 days in a location or place designated and approved by the department. Any person importing bees or appliances shall obtain approval from the department prior to importation.

(2) The department shall establish reasonable provisions relating to and covering bees and appliances in quarantine. Bees or appliances, including those in quarantine, are subject to the provisions of this chapter.

(3) If the department verifies that a person owning or possessing imported bees has violated any provision of this chapter, it

may, notwithstanding other provisions of law, suspend for a period not to exceed two years the right of such person to again import bees or appliances.
[1967 c.123 s.2]

602.085 Exceptions to quarantine of bees, appliances. The provisions of ORS 602.083 do not apply to:

(1) A person or the bees or appliances he owns or controls, if such bees are brought into this state as "combless packages of bees." "Combless packages of bees" means bees, which may include a queen bee, packed for shipment and imported into this state in packages which contain no honey, honeycomb, broodcomb, or appliances previously used on bees.

(2) Bees and applicances registered with the department, which, after being moved or transported out of state, are moved or transported back into Oregon within five months, if they are accompanied into Oregon by a health certificate issued by an authorized official of the other state approved by the department.

(3) Oregon registered bees absent from this state for two months or less. A health certificate for Oregon registered bees and appliances described in subsection (2) of this section is not necessary when they are returned or moved or transported back into Oregon if, during their absence from Oregon they have not been brought into contact with or commingled with bees or appliances in the other state that are not covered by a health certificate.
[1967 c.123 s.4]

602.087 Diseased bees discovered during quarantine; notice of seizure; disposition. (1) If at any time during the quarantine as authorized in ORS 602.083 the department determines that two percent or more of the colonies of bees under quarantine are infected with American or European Foulbrood, the department shall seize said bees and shall notify the owner or person in possession of the bees in writing that:

(a) The department has seized the infected colonies of bees, that they are declared to be a public nuisance and they shall be destroyed and the nuisance abated as authorized or required under subsection (1) of ORS 602.040, and

(b) The department has seized the remaining colonies of bees under quarantine and all such colonies are to be removed from Oregon within 10 days of the date of such notice, and that if they are not removed within such period, the colonies will be disposed of by the department as authorized and required by ORS 602.210 to 602.260.

(2) Colonies of bees which have died because of infection with American Foulbrood shall be counted in computing the percentage of colonies infected.
[1967 c 123 s 3]

602.090 Registration of apiaries. (1) Every person who owns or is in charge of any apiary located within this state, shall cause such apiary to be registered with the department as in this section provided.

(2) Application for registration shall be made on a form furnished by the department. The registration shall cover each colony of bees owned by the applicant, and shall give the locations of such colonies and the name and address of the owner. The registration shall be made before April 1 of each year and whenever colonies are acquired from sources other than his own registered apiaries thereafter. Each registrant shall furnish an address to which any notice required by this chapter to be given may be sent, and shall agree that any notice sent by the department to such address shall be deemed to be notice in fact.

(3) The application for registration shall be accompanied by a fee of $1 per applicant. The application shall also be accompanied by a colony registration fee of 15 cents for each colony of bees owned by the applicant over six in number.

(4) When the ownership of bees which have been subject to the charge provided in this section is changed, the department may transfer the registration to the new owner without charges. However, if the new owner has not been previously registered, he shall pay the registration fee of $1.
[Amended by 1953 c 400 s 7, 1961 c 177 s 6, 1963 c 65 s 2]

602.100 Establishing standards of colony strength; certification of hives. (1) The department shall, after public hearing, establish standards of colony strength for apiaries used in the commercial pollenization of agricultural and horticultural crops.

(2) For purposes of this section "colony strength" has reference to the potential of a hive of bees to pollenize horticultural or agricultural crops. Standards of colony stength shall be based upon, among other things:

(a) The number of bees per hive.

(b) The number of cells containing brood per hive.

(c) The health of the bees and the brood.

(d) Such other factors as may relate to the ability of the colony to pollenize horticultural and agricultural crops.

(3) The department may at such places as the volume of business is found to warrant the furnishing of such work, provide qualified inspectors who shall carry on colony strength certification work. The department may identify and certify hives of bees used in commercial pollenization on the basis of colony strength. The department shall establish a schedule of fees to cover the cost of inspection and certification of hives for colony strength.

602.110 Registration of apiary equipment. (1) Upon receipt of an application of any person therefor, accompanied by a fee of $1, the State Department of Agriculture shall register, in a registration book kept in its office for that purpose, the apiary equipment identifying brand of such applicant, if a certificate for such brand has not been previously issued. Any person owning apiary equipment who, prior to July 5, 1947, was not in possession of any established apiary equipment identifying brand, may make application to the department for a serial-number brand therefor.

(2) Upon receipt of any application for the issuance of a serial-number brand, accompanied by a fee of $1, the department shall issue to the applicant, an exclusive apiary equipment serial number and shall register it as provided by this section.

(3) Every application for the registration of an apiary equipment brand or for an apiary equipment serial number shall contain the name and address of the applicant and the name of the county in Oregon in which such applicant regularly keeps the greatest number of bee colonies. Such information shall be registered, together with the brand or apiary equipment serial number of such applicant.

602.120 Issuance of brand or serial number certificate. Upon the registration of the brand or the issuance of an apiary equipment serial number as provided by ORS 602.110, the State Department of Agriculture shall issue to the applicant a certificate setting forth a concise description of the brand or the serial number. The possession of this certificate entitles the person in whose name it is issued to the exclusive and sole use of the brand or apiary equipment serial number described or set forth in it.

602.130 Identification of hive bodies, supers and frames. Every person who is in possession of an apiary equipment brand or apiary equipment serial number, as provided by ORS 602.110, shall identify all hive bodies and supers by burning a replica of the apiary equipment brand or apiary equipment serial number on both ends of all hive bodies and supers. Such replica shall be not less than one-half inch in height. Such persons may identify frames with the replica of the brand or serial number permanently on the top bars thereof. A replica of the brand or serial number may be permanently placed on any other equipment in any manner or position desired.

602.140 Transfer of ownership of apiary equipment. (1) In case of a transfer of ownership of any apiary equipment by the possessor of a registered and certified brand or serial number, a copy of the bill of sale specifying the equipment transferred, as to identification and amount, shall be forwarded by registered mail to the State Department of Agriculture. The department shall record such bill of sale in a book kept in its office for that purpose.

(2) In no case, after any such transfer of apiary equipment, shall the replica of the original brand or serial number be defaced or obliterated. The brand or serial number, if any, of the new owner, shall be placed below the original brand or, if that is not possible, then as near to the original brand as can conveniently be done.

602.150 Prohibited conduct relating to brands and serial numbers. No person shall:

(1) Alter, deface, remove or obliterate the replica of a registered brand or serial number which appears on any apiary equipment, with the intent to steal it or prevent the identification thereof.

(2) Have in his possession any apiary equipment upon which appears a replica of any registered brand or serial number, unless such person is the possessor of a certificate of registration for such brand or serial number issued by the State Department of Agriculture, if a bill of sale for such apiary equipment has not been previously forwarded to the department as provided by ORS 602.140.

(3) Have in his possession any apiary equipment which has previously borne the replica of a registered brand or serial number, but which brand or serial number has been altered, defaced, obliterated or removed.

602.160 Posting registration number or statement of ownership. Any owner or possessor of an apiary in which there are hives that are not marked with a registered brand or apiary equipment serial number, shall, unless such apiary is located at the owner's place of residence or beekeeping headquarters, post and keep posted in a prominent place at each apiary, in figures at least one inch high, the registration number issued by the State Department of Agriculture which currently applies to the colonies of bees in such apiary. In lieu of posting such registration number, such owner or person in possession may post a statement of the ownership of the apiary giving on it the name and address of the owner.

602.170 Jurisdiction of courts. The district courts and circuit courts have concurrent jurisdiction with justice courts in the enforcement of ORS 602.010 to 602.100.

602.180 Disposition of fees. The department shall deposit all fees and moneys paid to it under this chapter into the General Fund in the State Treasury to the credit of the Department of Agriculture Account. Such account is continuously appropriated to the department for the purpose of administering and enforcing this chapter, including release and publication of information and material to better acquaint the bee industry with the law and regulations promulgated thereunder.
[Amended by 1961 c.177 s 7]

DISEASE CONTROL

602.210 Authority to seize apiary property. In order to control and eradicate diseases which could cause irreparable damage to the bee industry and to all segments of agriculture of this state, any apiary property within the state which exists in violation of ORS 602.081 or 602.090 may be seized by the department.
[1963 c 65 s 4]

602.220 Notice of seizure. (1) Whenever apiary property is seized under ORS 602.210, the department shall give notice of such seizure to the owner of the apiary; or, after reasonable effort to ascertain the owner or his address if such owner remains unknown or cannot be located, notice shall be given to the person in possession of the apiary.

(2) Notice of seizure shall:

(a) Be in writing.

(b) Describe the property seized.

(c) Describe the violation involved.

(d) State the time within which the violation must be corrected, which time shall be not less than 15 days from notice of seizure.

(3) A warning to all persons that the apiary property may not be removed, together with a copy of the written notice of seizure, shall be posted in a conspicuous place in the apiary.
[1963 c.65 s.5]

602.230 Disposition of seized apiary property. If the violation charged is not corrected within the time prescribed by the notice of seizure, the department may dispose of the apiary property in the following manner:

(1) The department shall give written notice to the owner or to the person in possession of the apiary that the seized property will be disposed of by public sale at a stated time and place not less than 10 days from date of such disposal notice.

(2) If the owner remains unknown or cannot be located, the department shall also, not less than 10 days before the sale, cause a notice of such disposal sale to be published in a newspaper of general circulation in the county where the apiary is located.

(3) The apiary property shall be sold to the highest bidder, taking into consideration written bids received before the time of sale and oral bids at the sale. However, any person submitting a bid must agree to comply with the provisions of this chapter before his bid will be acknowledged.

(4) If there is no acknowledged bid and if the apiary property is not otherwise disposed of under the provisions of ORS 602.270, the department may dispose of such property in any other manner it deems necessary including destruction without indemnity to any person.
[1963 c 65 s 6]

602.240 Department not responsible for loss or damage. The department shall not be responsible for any loss or damage to the apiary property during seizure or disposal.
[1963 c 65 s 7]

602.250 Claim by owner; reimbursement. If the owner appears and files a written claim with the department for the apiary property before the time of sale, he must, within 24 hours before the scheduled time of

sale, reimburse the department for its actual costs already incurred and comply with the notice of the department before he is given control and custody of the apiary property. If the owner fails so to reimburse and comply, the sale shall be carried out as in cases where the owner does not appear.
[1963 c.65 s 8]

602.260 Title of apiary property sold by department. The purchaser of the sold apiary property shall have clear and absolute title to the apiary property upon receiving a bill of sale from the department.
[1963 c.65 s 9]

602.270 Temporary custody of apiary property; notice; reimbursement. (1) Notwithstanding ORS 602.210 and 602.220, when it is necessary for the department, or persons under its supervision, to feed bees in order to maintain colony strength or to prevent them from dying, the department may, without charge therefor, give temporary custody of the seized apiary property to any person who will maintain it in compliance with this chapter.

(2) Within 10 days after such emergency disposal the department shall notify in writing the owner or person in possession of the apiary of such disposal. If the owner is unknown or cannot be located, the department also shall cause a notice of such disposal to be published in a newspaper of general circulation through the area where the apiary was located within 10 days after disposal.

(3) If the owner appears and files a written claim with the department within 30 days after such disposal, he must within such 30-day period reimburse the person maintaining the apiary property for costs actually incurred before such owner is given control and custody of the apiary property.

(4) If the owner does not comply with the provisions of subsection (3) of this section, the person maintaining the apiary property shall have clear and absolute title thereto upon receiving a bill of sale from the department.
[1963 c.65 s 10]

602.280 Costs to be paid from sale proceeds; disposition of balance. (1) All costs incurred by the department in the seizure and sale of the apiary property, including salary and mileage of department personnel, shall be paid from the proceeds of the sale.

(2) If the proceeds of the sale are inadequate to pay all of the costs incurred by the department, the department shall pay the deficiency from funds available under this chapter.

(3) Any balance remaining from the proceeds of the sale shall be paid to the owner of the apiary property. If the owner is unknown or cannot be located, the balance shall be held by the department for a period of two years.

(4) If the owner fails to establish his right to the proceeds within two years after the date of sale of the apiary property, all right, title and claim thereto shall vest in the department to use in carrying out this chapter.
[1963 c 65 s.11; 1967 c.637 s 20]

PENALTIES

602.990 Penalties. (1) Violation of any of the provisions of ORS 602.010 to 602.100 is punishable, upon conviction, by a fine not exceeding $500 or imprisonment in the county jail not exceeding six months, or both.

(2) Violation of any of the provisions of ORS 602.110 to 602.160 is punishable, upon conviction, by a fine not exceeding $100 or imprisonment in the county jail for not less than 10 days nor exceeding six months, or both.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Robert W Lundy, 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,
December 1, 1967

Robert W Lundy
Legislative Counsel