

Chapter 698

1977 REPLACEMENT PART

Auctions and Auctioneers

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CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183	698.710
Extension of licensing or certification period, 670.410	Director of Department of Commerce as ex officio board member, 184.545
Legislative review of need for agency, 182.615	State agencies generally, Ch. 182
Licensing of occupations and professions by agencies in Department of Commerce, 370.300 to 370.350	Traveling expenses, 292.210 to 292.288
Livestock auction markets, 599.205 to 599.495	
Livestock auctions, 599.510 to 599.560	698.755
Sale by auction, 72.3280	Disposition of fines collected in district court, 156.650
Varying renewal dates of licenses and certificates, 1977 c.873 §28	

- 698.010 [Repealed by 1967 c.344 §10]
 698.020 [Repealed by 1967 c.344 §10]
 698.030 [Repealed by 1967 c.344 §10]
 698.040 [Repealed by 1967 c.344 §10]
 698.050 [Repealed by 1967 c.344 §10]
 698.060 [Repealed by 1967 c.344 §10]
 698.070 [Repealed by 1967 c.344 §10]
 698.080 [Repealed by 1967 c.344 §10]
 698.090 [Repealed by 1967 c.344 §10]
 698.210 [Amended by 1975 c.452 §1; repealed by 1975 c.453 §1]
 698.220 [Repealed by 1975 c.453 §1]
 698.230 [Repealed by 1975 c.453 §1]
 698.240 [Repealed by 1975 c.453 §1]
 698.250 [Repealed by 1975 c.453 §1]
 698.260 [Repealed by 1975 c.453 §1]
 698.270 [Repealed by 1975 c.453 §1]
 698.280 [Repealed by 1975 c.453 §1]
 698.290 [Amended by 1975 c.452 §2; repealed by 1975 c.453 §1]
 698.300 [Repealed by 1975 c.453 §1]
 698.310 [Amended by 1975 c.452 §3; repealed by 1975 c.453 §1]
 698.320 [Amended by 1975 c.452 §4; repealed by 1975 c.453 §1]
 698.330 [Repealed by 1975 c.453 §1]
 698.410 [1955 c.659 §1; repealed by 1967 c.344 §10]
 698.420 [1955 c.659 §2; 1965 c.340 §1; repealed by 1967 c.344 §10]
 698.430 [1955 c.659 §3; repealed by 1967 c.344 §10]
 698.440 [1955 c.659 §§4, 5; repealed by 1967 c.344 §10]
 698.450 [1955 c.659 §6; repealed by 1967 c.344 §10]
 698.460 [1955 c.659 §7; repealed by 1967 c.344 §10]
- Note: Section 5, chapter 842, Oregon Laws 1977, is operative July 1, 1980, and provides:
- Sec. 5. ORS 698.510, 698.520, 698.525, 698.530, 698.535, 698.540, 698.550, 698.560, 698.570, 698.585, 698.590, 698.600, 698.610, 698.620, 698.630, 698.710, 698.730, 698.755, 698.770 and 698.990 relating to auctioneering are repealed.

AUCTIONEERS AND AUCTION MARKET OPERATORS

698.510 Definitions for ORS 698.510 to 698.770. As used in ORS 698.510 to 698.770, unless the context requires otherwise:

(1) "Auction" or "auction sale" means the sale or offer to sell of property by public

outcry or to the highest bidders.

(2) "Auctioneer" means any person who sells or offers to sell property at auction, either for himself or for another person.

(3) "Auction mart" means any fixed or established place designed, intended or used for the conduct of auction sales.

(4) "Board" means the State Board of Auctioneers created by ORS 698.710. [1957 c.722 §1; 1959 c.308 §1]

698.520 License required to operate auction mart or act as auctioneer or trainee. (1) No person shall operate an auction mart in this state unless he is licensed and bonded under ORS 698.510 to 698.770 to operate an auction mart and otherwise complies with the provisions of ORS 698.510 to 698.770.

(2) No person shall act as an auctioneer in this state unless he is licensed and bonded under ORS 698.510 to 698.770 as an auctioneer and otherwise complies with the provisions of ORS 698.510 to 698.770 except auctioneers who are, on July 1, 1957, 65 years of age or older and who have been practicing auctioneers of the State of Oregon for five years preceding July 1, 1957, or trainees licensed under subsection (1) of ORS 698.630.

(3) The license requirements under ORS 698.510 to 698.770 shall be in addition to, and not in lieu of, any license requirements of counties or cities. [1957 c.722 §3; 1959 c.308 §2; 1965 c.313 §5]

698.525 Remedies for violation of ORS 698.520. The board may maintain a suit for an injunction against any person violating ORS 698.520. Any person who has been so enjoined may be punished for contempt by the court issuing the injunction. An injunction may be issued without proof of actual damage sustained by any person. An injunction shall not relieve a person from criminal prosecution for violation of ORS 698.520. [1969 c.510 §2]

698.530 Persons and practices not affected. ORS 698.510 to 698.770 do not apply to:

(1) Persons selling property owned by them where such sales are not in the regular course of the business of such persons.

(2) The selling of the property of decedents' estates by the executors or administrators of such estates.

(3) Public officials selling property in the performance of their official functions.

(4) Persons selling property by order of any court.

(5) Persons selling property for civic, community, charitable or benevolent purposes or for political fund-raising purposes.

(6) Auction sales by common carriers pursuant to federal or state laws or other public authority.

(7) Auction sales conducted by or under the auspices of national, state or county livestock breeder or producer associations.

(8) Auction sales conducted by or under the auspices of the Future Farmers of America, 4-H Club or a county or district fair.

(9) Auction sales of livestock by a person licensed under the provisions of ORS chapter 599.

[1957 c.722 §2; 1969 c.510 §4; 1971 c.578 §19; 1975 c.453 §2]

698.535 Effect of mart being in violation of ORS 698.520. (1) Except as provided in ORS 698.530, no licensed auctioneer shall cry any auction or conduct any auction sale at any auction mart operated by any person in violation of subsection (1) of ORS 698.520.

(2) Except as provided by ORS 698.530, no person licensed to operate an auction mart shall allow any person to cry any auction or conduct any auction sale within such mart in violation of subsection (2) of ORS 698.520.

[1969 c.510 §3]

698.540 Application for and issuance of license. (1) Each applicant for a license to operate an auction mart or to act as an auctioneer shall make application for such license to the board upon forms furnished by the board. The application shall contain all information which the board determines to be necessary or advisable, and shall show with particularity that the applicant is a person of good moral character, is a citizen of the United States or has declared his intention to become a citizen prior to August 22, 1969, and that the applicant is 21 years of age or older.

(2) A license shall be issued if the board finds that:

(a) The application is in proper form and the applicant meets the requirements of subsection (1) of this section;

(b) The applicant has paid to the board the license fee provided for in ORS 698.550;

(c) The applicant has filed with the board a bond as provided in ORS 698.590; and

(d) All the requirements of ORS 698.510 to 698.770 and of the rules and regulations of

the board under ORS 698.510 to 698.770 have been complied with by the applicant.

[1957 c.722 §4; 1959 c.308 §3; 1965 c.313 §6; 1969 c.510 §5]

698.550 License fees; expiration date; transferability. (1) Every person required by ORS 698.520 or subsection (1) of 698.630 to obtain a license shall pay to the board an annual license fee as follows:

(a) Auctioneers, \$50.

(b) Auction marts, \$25.

(c) Trainees, \$15.

(2) All licenses shall be issued for a period of one year and shall be renewed on or before the anniversary of issuance of the license. The licenses shall be nontransferable. However, the holder of an auction mart license may change the location of his business upon the approval of the board.

[1957 c.722 §5; 1959 c.308 §4; 1965 c.313 §7; 1975 c.429 §17; 1977 c.873 §23]

698.560 Grounds for suspension or revocation of licenses. Any license issued under the provisions of ORS 698.510 to 698.770 may be suspended or revoked by the board if the licensee:

(1) Has made any false or misleading statement regarding a material matter in his application for a license.

(2) Has violated any provision of ORS 698.510 to 698.770 or any rule or regulation of the board under ORS 698.510 to 698.770 governing the conduct of auction sales or auction marts.

(3) Has committed any act with the intent and purpose of defrauding any person for whom property was sold or offered for sale at an auction.

(4) Is convicted of a felony.

[1957 c.722 §6]

698.570 Investigating violations of ORS 698.510 to 698.770. Upon the verified complaint of any person, or upon its own initiative, the board may investigate any alleged violation of ORS 698.510 to 698.770.

[1957 c.722 §7; 1969 c.510 §6; 1971 c.734 §164]

698.580 [1957 c.722 §8; repealed by 1971 c.734 §21]

698.585 License denial procedure; review of orders. (1) Where the board proposes to refuse to issue a license, or proposes to revoke or suspend a license or declare forfeiture of bond, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.500.

[1971 c.734 §166]

Note: 698.585 was enacted into law by the Legislative Assembly and was added to ORS chapter 698, but not to any series therein, by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

698.590 Bonds of auction mart operator and auctioneers; action on bond. (1) Each person applying for a license to operate an auction mart or to act as an auctioneer shall file with the board a bond, payable to the State of Oregon, in the principal sum of not more than \$2,500; however, if such person is employed by a partnership or corporation bonded pursuant to this section, that partnership or corporation bond, if it covers such person in a manner sufficient to meet the requirements of this section, shall be in lieu of the bond otherwise required of such person. Such bond shall be in a form required by the rules and regulations of the board and shall be conditioned that the auction mart operator or auctioneer shall pay all legal claims which may accrue in favor of any person arising out of auction business transacted with such auction mart operator or auctioneer.

(2) The surety on such bond shall be a surety company licensed to do business in this state.

(3) In lieu of the bond described in subsection (1) of this section, the applicant may deposit cash or United States Government securities with the board in the sum of not less than \$2,500. Such deposit shall be conditioned in the same manner as provided for bonds in subsection (1) of this section.

(4) The securities or bond required by this section shall be continuously on file with the board and upon termination or cancellation of the bond or withdrawal of the securities, the licensee shall immediately surrender his license to the board and cease conducting auction sales or operating an auction mart.

(5) A person having a claim against an auction mart operator, auctioneer or trainee shall give the secretary of the board notice of the claim by registered or certified mail within one year after the date on which the claim accrued. A person who has given such notice may enforce the claim by an action on the bond, in his own name and for his own benefit.

[1957 c.722 §9; 1959 c.308 §9; 1963 c.439 §1; 1965 c.313 §8]

698.600 Property sold on auction mart premises to be sold in compliance with ORS 698.510 to 698.770. All property sold at an auction mart, or around and adjacent to an auction mart on premises owned or controlled by the operator of the auction mart, shall be handled and sold through the facilities of the auction mart and in compliance with the requirements of ORS 698.510 to 698.770 and any rules and regulations of the board.

[1957 c.722 §10]

698.610 Licensees to keep records. Every operator of an auction mart shall keep a record of the name and address of every person bringing property to the licensee for sale, the signature of such person and a general description of the property delivered by such person for sale. In addition, all licensees shall keep such records as are required by the rules and regulations of the board. All records kept as required by this section shall be preserved by the licensee required to keep them for not less than one year and shall be available for inspection during the business day by law enforcement officers, board members or duly authorized inspectors of the board.

[1957 c.722 §11]

698.620 Licensees exempt from certain requirements of other statutes. Persons licensed under ORS 698.510 to 698.770 may sell at auction upholstered furniture and bedding, as defined by ORS 433.410, without obtaining an auctioneer's certificate under ORS 433.405 to 433.680.

[1957 c.722 §12; 1959 c.308 §5; 1959 c.406 §33; 1963 c.461 §28]

698.630 Auctioneer trainee license; limitation on use. (1) Upon application therefor by a person under the age of 21 years, accompanied by a fee of \$15, the board shall issue a trainee license to the applicant if the board finds that:

(a) The applicant meets all the qualifications and requirements for an applicant for a license as an auctioneer, except that of age;

(b) An auctioneer licensed and bonded under ORS 698.510 to 698.770 has given written notice to the board upon forms furnished by the board that he has agreed to employ the applicant as a trainee auctioneer, that he will assume responsibility for all acts of the applicant in the conduct of auction business and of auction sales by the applicant, and that he will be present and supervise any auction sale conducted by the applicant; and

(c) The applicant has furnished security in the form of a bond or deposit of securities as required by ORS 698.590 of an applicant for an auctioneer license or that the bond of the employer auctioneer is conditioned that the auctioneer shall pay all legal claims which may accrue in favor of any person arising out of auction business transacted with either the auctioneer or the applicant.

(2) No trainee, licensed under provisions of subsection (1) of this section, shall sell his own property at an auction sale conducted by him nor shall he sell any property by auction sale unless the employer auctioneer is present at the time of the auction sale.

[1965 c.313 §§2, 3]

698.640 Required content of advertisement of auction sale. Any advertisement of an auction sale shall include the name of the auctioneer who will conduct the auction sale or the person responsible for the conduct of the auction sale.

[1965 c.313 §4]

STATE BOARD OF AUCTIONEERS

698.710 State Board of Auctioneers.

There is established within the Department of Commerce the State Board of Auctioneers, which shall consist of five members appointed by the Director of Commerce, with the approval of the Governor. Each member shall have engaged in the business of selling property at auction in this state for not less than five years prior to his appointment. In making appointments to the board, the director shall give due consideration to representation of all types of auctions conducted in the state and to representation of the economic areas of the state.

[1957 c.722 §13; 1963 c.580 §65; 1967 c.401 §7; 1969 c.314 §99; 1969 c.510 §7; 1971 c.753 §40]

698.720 [1957 c.722 §14; repealed by 1971 c.753 §74]

698.730 Duties of board. The board shall:

(1) Promulgate necessary rules and regulations governing auction marts, auction sales and auctioneers, and print and distribute copies of such rules and regulations to all persons licensed under ORS 698.510 to 698.770 at least 20 days before they are effective.

(2) Consider all matters that may be submitted to it by persons interested in auction marts and auction sales.

(3) Prescribe standards for the construction and equipment necessary or advisable for sanitation or safety in auction marts, in addition to all other requirements of law.

(4) Enter upon and inspect, or cause to be entered upon and inspected, the auction marts and auction records of licensees under ORS 698.510 to 698.770.

[1957 c.722 §18; 1959 c.308 §6]

698.740 [1957 c.722 §15; repealed by 1971 c.753 §74]

698.750 [1957 c.722 §16; 1967 c.637 §36; repealed by 1971 c.753 §74]

698.755 Disposition of fines imposed.

All fines imposed under ORS 698.510 to 698.770 shall be paid to the treasurer of the county in which the proceedings were begun. One-half of all such money shall be paid to the board by the county treasurer within 30 days after he receives the money, together with an itemized statement thereof. The board shall deposit this money in the General Fund in the State Treasury to the credit of the State Auctioneer's Account under ORS 698.750. The other half of the fine shall be retained by the county treasurer, who shall deposit it in the general fund of the county in which the fine was imposed.

[1959 c.308 §8]

698.760 [1957 c.722 §17; repealed by 1971 c.753 §74]

698.770 Jurisdiction of courts. Justice courts and district courts have concurrent jurisdiction with the circuit courts of violations of ORS 698.510 to 698.770.

[1957 c.722 §19]

PENALTIES

698.990 Penalties. Violation of any provision of ORS 698.510 to 698.770 is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than one year, or both.

[Subsection (3) of 1965 Replacement Part enacted as 1955 c.659 §8; subsection (2) enacted as part of 1957 c.722 §19, 1967 c.344 §9; 1975 c.453 §3]

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,
October 1, 1977.

Thomas G. Clifford
Legislative Counsel

