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Chapter 561

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DEFINITIONS

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

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

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

(3) "Director" means the Director of Agriculture. [1959 c.639 §2]

ORGANIZATION; GENERAL FUNCTIONS AND ENFORCEMENT PROVISIONS

561.010 Department created; director, appointment, confirmation and term. There is created a department of the government of this state to be known as the State Department of Agriculture. The executive officer of the department shall be the Director of Agriculture who shall execute all matters pertaining to the department, subject to policy direction by the board. The director shall be appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570, and shall serve during the pleasure of the Governor. [Amended by 1959 c.639 §3; 1973 c.792 §24; 1977 c.198 §1]

561.020 Responsibility of department as to inspectional, regulatory and development work. (1) The department shall have full responsibility and authority for all the inspectional, regulatory and market development work provided for under the provisions of all statutes which the department is empowered and directed to enforce.

(2) The department shall encourage and work toward long-range planning to develop and promote the agricultural resources of Oregon that they may contribute as greatly as possible to the future economy of the state. [Amended by 1955 c.572 §8; 1959 c.639 §4]

561.030 Seal of department; principal office. The department shall adopt an official seal. It shall maintain its principal office in the state capital at Salem. [Amended by 1959 c.639 §5]

561.040 Organization of department. Subject to policy direction by the board, the director shall organize and reorganize the work of the department. [Amended by 1955 c.572 §9; 1959 c.639 §6; 1977 c.198 §2]

561.050 Division chiefs. Subject to any applicable provisions of the State Merit System Law, the chiefs of the divisions shall be appointed by the director. [Amended by 1959 c.639 §7]

561.060 Salaries and bonds of department employes. (1) The director shall execute bonds to the State of Oregon in the penal sum of $20,000, conditioned upon the faithful performance of his duties.

(2) Subject to any applicable provisions of the State Merit System Law, the chiefs of divisions and other employes of the department shall receive such salaries and wages as the director determines.

(3) The chiefs of divisions and other employes of the department designated by the director shall execute bonds to the state, conditioned upon the faithful performance of their duties, in such amounts as the director determines. [Amended by 1959 c.639 §8]

561.070 Assistants and employes; appointment, classification and duties. (1) The director may employ veterinarians, chemists, bacteriologists and other experts, inspectors, accountants, stenographers, clerks or other help necessary to carry out efficiently the work of the department. The director may assign duties and responsibilities to each officer and employe of the department.

(2) The director may at any time designate or appoint any officer or employe of the department to act as assistant director of agriculture and may terminate such designation or appointment at any time, with or without cause. The assistant director of agriculture may perform such duties of the director as may be prescribed by the director.

(3) If the director appoints any research analysts pursuant to subsection (1) of this section, two of such research analysts may be members of unclassified service as provided in ORS chapter 240. [Amended by 1957 c.451 §1; 1967 c.208 §8]

561.080 Activities of Oregon State University. Oregon State University shall have full authority and responsibility:

(1) For resident instruction in all branches of agriculture.

(2) For research and experimentation in all branches and phases of agriculture as set forth in federal and state laws creating, maintaining and defining the work of the agricultural experiment stations.

(3) For educational and demonstrational work in all branches and phases of agriculture under authority of all federal and state laws creating, maintaining and defining the work of the Agricultural Extension Service.

(4) For collection and dissemination of statistical information bearing upon crop and market conditions and trends of agricultural production, including agricultural outlook reports and market news reports.

(5) To conduct educational work in the field of marketing, which includes information, advice and assistance relative to organizing and operating cooperative associations and marketing agencies, in accordance with the division of functions set forth in this chapter.

561.090 Cooperation with Oregon State University. (1) In order to eliminate unnecessary duplication of effort and expense, there shall be the fullest cooperation between Oregon State University and the department, including the interchange of statistical information between the university and the department.

(2) If, in the interest of economy and efficiency, either temporary or permanent, it appears advisable to have any of the laboratory or statistical work of the department performed by Oregon State University, the director and the director of the experiment station shall work out a cooperative plan of operation and shall agree upon such a division of the funds available for such work as may meet with the approval of the Governor and the State Board of Higher Education.

561.100 Conferences to coordinate work. The director, the director of the agricultural experiment station and the director of the agricultural extension service of Oregon State University shall meet in conference at such times as may be necessary to eliminate any causes of overlapping and friction which may arise in connection with the conduct of their work; and they are authorized to invite representatives of collaborating federal agencies to participate in such conferences.

561.110 Conferences between director and division chiefs; action by director. In conference with his chiefs there shall be full and free discussion of the agricultural policies of the department, the administrative problems of divisions, the coordination of the departmental activities and methods for increasing the efficiency and reducing the cost of operation of the department. On the basis of these conferences the director may take such steps as in his judgment will increase the economy and efficiency of the department. He shall give especial attention to the full utilization of stenographic, office and laboratory forces, automobiles and other equipment. He may require that deputies and other employes do work for more than one division of the department and shall take such measures as may be necessary to avoid duplication of costs of transportation and maintenance.

561.120 [Repealed by 1959 c.639 §14]

561.130 State Board of Agriculture created; appointment and term. (1) In order that there may be the closest contact between the department, consumer interests and the practical agricultural problems of the state, there is created the State Board of Agriculture, which shall consist of nine members appointed by the Governor.

(2) The members shall be citizens of Oregon seven of whom are actively engaged in the production of agricultural commodities and two of whom are representative of consumer interests of the state.

(3) The term of each member shall be four years. A member shall continue to serve until a successor is appointed and qualifies. Before a member's term expires, the Governor shall appoint a successor. Vacancies in office shall be filled by appointment for the unexpired term.

(4) At the time of appointment, no two of the seven members actively engaged in the production of agricultural commodities shall have the same main commodity interest.

(5) No person shall be eligible for reappointment to the board until at least one year has elapsed from the expiration of his second consecutive term. A member may be removed only for cause.

(6) Not more than five members shall belong to one political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

[Amended by 1957 c.479 §1; 1959 c.639 §9; 1971 c 281 §1; 1977 c.198 §3]

561.140 Compensation and expenses; functions; organization; ex officio members; meetings; quorum. (1) Each member of the State Board of Agriculture is entitled to compensation and expenses as provided in ORS 292.495, which shall be charged to the Department of Agriculture Account.

(2) It is the function of the board to establish policies for the administration of the department in accordance with all applicable provisions of law.

(3) The board shall meet at least four times each year on a quarterly basis. The board shall meet at the call of the chairman or the director. The chairman or director may call a meeting at his pleasure, and shall call a meeting at the request of five or more members. The chairman shall designate the place of each meeting.

(4) The board shall select a chairman from among its members to serve for a term of one year. The director shall act as secretary and shall be an ex officio member of the board without the right to vote. The Dean of Agriculture, or his appointed representative, of Oregon State University shall be an ex officio member of the board without the right to vote.

(5) By arrangement with the chairman, the director shall review with the board the activities of the department and shall proceed in conference with the board, and subject to policy direction by the board, to outline the methods, policies and program of work for the department.

(6) A majority of the board present at any meeting shall constitute a quorum, and an act by a majority of such quorum at any meeting shall constitute an official act of the board.
[Amended by 1957 c.479 §2; 1959 c.639 §10; 1967 c.208 §1, 1969 c.314 §64; 1971 c 281 §2; 1977 c.198 §4]

561.144 Department of Agriculture Service Fund as separate trust fund; sources; investment. (1) The State Treasurer shall establish a Department of Agriculture Service Fund which shall be a trust fund separate from the General Fund and included under subsection (5) of ORS 293.115, and which shall not be subject to ORS 293.105 and 293.110. The department shall deposit all license and service fees paid to it under the provisions of the statutes identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State Treasurer is the custodian of this trust fund which shall be deposited by him in such depositories as are authorized to receive deposits of the General Fund, and which may be invested by him in the same manner as authorized by ORS 293.701 to 293.776.

(2) Notwithstanding ORS 293.140, interest received on deposits credited to the Department of Agriculture Service Fund shall accrue to and become a part of the Department of Agriculture Service Fund.

(3) The license and service fees subject to this section are those described in ORS 571.057, 571.063, 571.145, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050, 586.270, 586.580, 586.650, 596.030, 596.311, 599.235, 599.269, 599.406, 599.610, 600.030, 601.040, 602.090, 602.110, 603.025, 603.075, 604.100, 604.140, 604.150, 604.160, 604.390, 616.706, 618.115, 618.136, 619.031, 621.072, 621.081, 621.166, 621.266, 621.297, 621.335, 621.730, 625.180, 628.240, 628.380, 632.211, 632.336, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015, 633.029, 633.361, 633.460, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126, 634.132, 634.136, 634.212 and 635.030. [1979 c.499 §4]

561.145 [1965 c.276 §1; repealed by 1979 c.499 §1]

561.150 Department of Agriculture Account. (1) Except for:

(a) Funds to be expended for the extermination of predatory animals under the provisions of ORS chapter 610;

(b) Moneys received by the department from the sale of skins of predatory animals as provided in ORS 610.040;

(c) Moneys received by the department that are subject to ORS 561.144;

all unexpended funds which are available to the department for its use in carrying out its duties as prescribed by law and for any other purpose shall be a part of the General Fund of the state and shall be credited to a fund to be known as the Department of Agriculture Account.

(2) All appropriations, fines, fees, penalties and other moneys received by the department or credited to its use from the State Treasury, except the funds named in paragraphs (a) and (b) of subsection (1) and money required by law to be placed therein, shall be placed in the General Fund and credited to the Department of Agriculture Account.

(3) All fines, fees, penalties and other moneys received by the department shall be turned over to the State Treasurer not later than the 10th day of the calendar month next succeeding their receipt by the department.

(4) All moneys without respect to their sources, credited to either the Department of Agriculture Account or the Department of Agriculture Service Fund shall be available for the payment of any and all the expenses of

the department, excepting those incurred in connection with the extermination of predatory animals.

(5) The director shall keep a record of all moneys deposited in the Department of Agriculture Account and the Department of Agriculture Service Fund. Such record shall indicate the source from which the moneys are derived and name the individual departmental activity against which each withdrawal is charged. [Amended by 1979 c.499 §2]

561.155 Cash and revolving fund. The State Department of Agriculture shall establish a cash and revolving fund under ORS 293.180, for the purpose of making immediate cash payments of travel and subsistence advances authorized by ORS 292.280, salary advances authorized by ORS 292.150 and other miscellaneous demand obligations authorized by law, in an amount not to exceed $45,000 from moneys in the Department of Agriculture Account. [1959 c.682 §3; 1967 c.208 §2; 1973 c.275 §1; 1979 c 183 §1]

561.160 Approval of vouchers required before withdrawing money from State Treasury. All moneys drawn from the State Treasury by the department shall be drawn only after the approval of vouchers by the director or by some person in his department authorized by him to approve such vouchers, which authorization shall be in writing and filed with the Secretary of State.

561.161 [1953 c 96 §1; repealed by 1959 c.682 §4]

561.163 [1953 c.96 §4; repealed by 1959 c.682 §4]

561.165 [1953 c.96 §2, repealed by 1959 c.682 §4]

561.167 [1953 c 96 §3; repealed by 1959 c.682 §4]

561.169 [1953 c.96 §5, repealed by 1959 c.682 §4]

561.170 Prohibited financial interests of officers or employes. It shall be unlawful for the director or any deputy or other employe of the department to be interested directly or indirectly as owner, agent or solicitor in the manufacture, purchase or sale of any article, commodity or product over which he may have supervision in his official capacity. It shall not be a violation of this section for the director, any deputy or other employe to own, lease or operate a ranch or farm. [Amended by 1959 c 229 §12, 1967 c 208 §9]

561.180 Reports to director; publications. (1) The director may call for such reports, statistics and information as he may desire, from time to time, from any division chief or employe of the department.

(2) The director may, from time to time, cause to be published and distributed to the public in pamphlet form, or such other form as he may deem best, such information as he may judge to be of assistance in carrying on any of the work or purposes for the administration or for the carrying on of which the department is established.

(3) All printing of such reports, pamphlets or other literature shall be done by the State Printer.

(4) Unless otherwise provided by law, the department may establish charges for any publication produced by it as authorized by subsection (2) of this section. Such charges shall be in amounts sufficient to cover the costs of preparation, printing, mailing and handling of each publication. [Amended by 1969 c.131 §3, 1975 c.432 §2; 1975 c 605 §29]

561.190 Rules and regulations; publication; effect of violation. The department is authorized and directed to make any and all rules and regulations necessary for the administration or enforcement of any law with the administration or enforcement of which the department is charged, and not inconsistent with the authority with which the department is vested or with any such law. Such rules and regulations shall be compiled and printed in pamphlet form for distribution. The violation of any rule or regulation made by the department pursuant to this section shall be a violation of the law to which such rule or regulation applies and shall be punishable in the manner provided for violations of such law.

561.192 Code of regulations of the department; compilation and publication. (1) The State Department of Agriculture may from time to time revise and compile, in a code of regulations, all rules and regulations of a general character promulgated by the department.

(2) No substantive change may be made in revising the rules and regulations unless the department complies with the procedures required by law for the adoption or amendment of the particular rule or regulation. However, changes that are not of a substantive nature may be made without the procedures required by law for the adoption or amendment of rules and regulations by the department.

(3) The department shall print, publish and distribute the code of regulations in a

convenient form. The code of regulations as published is prima facie evidence of the current rules and regulations of the department. [1955 c.76 §1; 1971 c.734 §26]

561.194 Distribution of code of regulations. (1) The State Department of Agriculture may distribute the code of regulations published under ORS 561.192 free of charge to such state agencies as are designated by the department.

(2) The department shall sell the other copies at such prices as the department finds sufficient to recover the cost of printing.

(3) All moneys received by the department under this section, in addition to any other appropriation of funds available for the purposes of ORS 561.192 and 561.194, hereby are continuously appropriated to the department for the purpose of paying the cost of publication of the code of regulations. [1955 c.76 §2]

561.200 Prohibitions against the obstruction of officers, agents or employes of department. (1) No person, firm or corporation shall refuse to allow any authorized officer, agent or employe of the department to enter upon his or its premises or to inspect any of his or its books, records, plant, equipment, apparatus, vehicles or any other thing or place which it is such officer's, agent's or employe's duty to inspect.

(2) No person, firm or corporation shall refuse to produce his or its books, records, apparatus and equipment for the inspection of such officer, agent or employe upon demand, or refuse to allow samples to be taken by such officer, agent or employe, when they are by law authorized so to do.

(3) No person, firm or corporation shall otherwise interfere with such officer, agent or employe in the lawful exercise of his duties, either by active or passive resistance or by refusal to cooperate in every reasonable manner with him in the carrying out of his lawful duties.

561.210 [Repealed by 1971 c.743 §432]

561.220 Prohibitions against altering or removing seal, sign, stamp or similar object used by department and against selling products from used containers bearing such markings. (1) Except as hereafter provided in subsections (2) and (3) of this section, no person shall alter, deface or remove any seal, sign, tag, stamp, placard, mark, brand or similar object used by the State Department of Agriculture pursuant to any law of this state.

(2) Subsection (1) of this section does not apply to:

(a) Employes or agents of the State Department of Agriculture engaged in the regular discharge of their duties.

(b) The alteration, defacement or removal of markings on any type of food or other agricultural product in the normal course of sale and distribution thereof.

(3) No person shall sell food or other agricultural products in or from a used container bearing any of the markings referred to in subsection (1) of this section unless such person first removes or defaces such markings. [1955 c.11 §1]

561.230 Prohibition against reusing, imitating or counterfeiting markings used by department. No person shall reuse, imitate or counterfeit any seal, sign, tag, stamp, placard, mark, brand or similar object used by the State Department of Agriculture pursuant to any law of this state. [1955 c.11 §2]

561.240 Contracts and agreements with other agencies, governmental units and private persons; payment and receipt of funds. (1) The State Department of Agriculture is authorized to enter into contracts and agreements with, and to receive funds from, any department or agency of the United States. The department may enter into agreements with authorized departments and agencies of this state and other states, and with counties, municipal corporations, other public and private corporations and persons of this state, in connection with the administration of laws of this state, including but not limited to legislation relating to the inspection, production, processing and marketing of agricultural products and to the control or eradication of plant and animal diseases and pests. The department may exchange information and services with any public or private body or person described in this subsection, in order to minimize duplication of public services, investigations, inspections and audits. The department may receive compensation, and make payment, for services rendered in performance of agreements authorized by this subsection.

(2) Before entering into any contract or agreement with a person or a private corporation authorized by subsection (1) of this section, the director, or persons designated by him, shall conduct a public hearing on such

contract or agreement if the amount involved is in excess of $500, at which time any interested person may appear and present his views on any appropriate matter. Notice of the public hearing shall be in accordance with the provisions of ORS 183.310 to 183.500.

(3) In the performance of services required by any contract or agreement authorized by subsection (1) of this section, public agencies that are parties to the contract or agreement shall have the authority and powers of the department.

(4) Funds received by the department as provided in subsection (1) of this section shall be deposited with the State Treasurer. Such funds are continuously appropriated for the use of the department in carrying out the purposes of the respective agreements, contracts, state laws and Acts of Congress in relation to which the money is received. [1957 c.478 §2; 1963 c.251 §1; 1967 c.437 §1; 1967 c.637 §§10, 10a]

Note: As indicated in the source note to 561.240, that section was amended by two 1967 Acts. Section 1 of chapter 437, which was signed by the Governor on June 20, 1967, amended subsection (1) to authorize the department to enter into agreements "including but not limited to the *inspection, production, processing,* marketing *and distribution* of agricultural products." Section 10a of chapter 637, which was signed by the Governor on July 6, 1967, also amended subsection (1), to become operative on July 1, 1969, but this later amendment did not include the words "and distribution" which had been inserted by the earlier amendment. Both amendments have been compiled.

561.250 Services by department for commodity commissions and Oregon Beef Council. (1) Notwithstanding the provisions of ORS 577.110 to 577.605 and ORS chapters 576, 578 and 579, upon request of a commodity commission created and established as provided by such chapters or the Oregon Beef Council created by ORS 577.210, the State Department of Agriculture may if facilities and services are available:

(a) Provide centralized accounting, data processing, data recording, clerical, secretarial, business management, office and all other similar or related facilities and services. This shall not include the furnishing of executive secretary services.

(b) Provide and furnish office space, telephone and other similar or related facilities and services.

(c) Provide for the collection and receiving of assessment or other moneys due a commodity commission or the beef council. Any person authorized or required to pay assessment or other moneys to a commodity commission or the beef council hereby is required after notice to pay such moneys to the department in behalf of and in the name of the commodity commission or beef council. Such moneys received by the department shall be paid to the commodity commission or beef council.

(2) Any person authorized or required to carry out any act or to perform any service to or for a commodity commission or the beef council including the filing of reports, after notice, hereby is authorized and required to carry out such act, perform such service or file reports with the department in behalf of and in the name of the commodity commission or beef council. All services performed or carried out by the department as authorized by this section shall be done in behalf of and in the name of the appropriate commodity commission or beef council.

(3) Notwithstanding the provisions of ORS 577.110 to 577.605 and ORS chapters 576, 578 and 579, commodity commissions and the beef council hereby are authorized to request the department to furnish facilities and services and to use such services as authorized by this section. Such commodity commissions and beef council hereby are authorized to and shall pay for facilities or services so received. [1957 c.480 §§2, 3, 4; 1959 c.596 §69; 1959 c.685 §30]

561.260 Furnishing lists of names and other information at cost. The department may make a reasonable charge to cover the actual cost of accumulating and furnishing a list of names or other similar records which are by law declared to be public writings or records. Moneys collected shall be placed in the General Fund, credited to the Department of Agriculture Account and shall be available for payment of all expenses of the department. [1959 c.229 §8]

561.265 Inspecting records of persons required to pay fees to department. (1) The department upon not less than three days' notice in writing is authorized to inspect and audit, during regular business hours, necessary and applicable books and records of any person required by law to report or pay fees or moneys to the department. Such inspection is for the purpose of determining whether proper fees have been paid.

(2) "Fees" as used in this section includes fees due the department by a person, each month, year, or other fixed time or period, the amount of which is based upon the quantity,

volume, weight or other measurement of some article, product or commodity and such fees to be used by the department in carrying out or enforcing a law under its jurisdiction. "Fees" does not include a license fee, the exact amount of which is fixed by law. [1961 c.425 §2; 1973 c.794 §26]

561.270 [1959 c.229 §7; repealed by 1965 c.448 §4]

561.275 Inspecting premises and facilities of department licensees. In so far as it is necessary for the department in the enforcement and carrying out of the laws under its supervision or jurisdiction, the department may, during the normal business hours of the business being inspected, inspect premises, machinery, equipment and facilities of the places or businesses subject to or required to be licensed under such laws. [1967 c.437 §5]

561.279 Issuance of subpenas by department for investigations, hearings and audits. The department is authorized to issue subpenas to compel the attendance of witnesses and to require the production of pertinent books, records and documents in:

(1) Conducting an investigation of a matter with which the department specifically is charged with responsibility and which seriously affects the health of persons or animals, or

(2) Making an audit authorized or required by ORS chapter 583, or

(3) Holding a hearing pursuant to the provisions of ORS 183.310 to 183.500. [1967 c.437 §6]

561.280 Enjoining violations of law. In addition to the other remedies provided by law, the department may apply to the circuit court for, and such court shall have jurisdiction upon a summary hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of a law under the jurisdiction of the department. [1959 c.229 §9]

561.290 Jurisdiction over prosecutions. Justice courts and district courts have concurrent jurisdiction with circuit courts of all prosecutions arising under any law under the jurisdiction of the department. [1959 c.229 §10]

561.300 Unpaid license fees; notice required; collection procedure. (1) Any unpaid license fee required by law under the jurisdiction of the department for a prior licensing period or year continues to be owing to the department. Before taking any action or procedure against a person who should have paid a prior license fee, the department shall forward a written notice to him by certified mail at his last-known address on the records of the department advising of the amount owing. The notice shall give such person 20 days after the mailing date to pay the amount due or to present written or oral information or argument as to why he believes the license fee is not owing. If after such period the department is of the opinion the license fee for the prior period is owing, it may then initiate such actions or procedures authorized under the applicable licensing law to collect the amount due.

(2) The provisions of subsection (1) of this section do not apply to a statute under the jurisdiction of the department if specific provisions cover collection of delinquent license fees thereunder. [1967 c.437 §4]

561.303 Refund of excess fees or penalties; conditions; refusal to refund. (1) Notwithstanding the provisions of subsection (2) of ORS 293.445, the department may, upon application therefor, make refunds and determine that moneys received by it are not due or are in excess of amounts due as fees or penalties relating to the issuance or renewal of licenses, permits, registrations, or certificates under its jurisdiction, whenever:

(a) The amount received is in excess of the prescribed fee or penalty;

(b) The applicant has not or will not engage in the activity requiring the license, permit, registration, or certificate or use the same during the time period requiring the same, and has:

(A) Died, or otherwise involuntarily become incapable of engaging in such activity; or

(B) Applied for a license under a mistake of fact as to the need therefor; or

(c) The applicant, as a condition to the issuance of a license, permit, registration, or certificate, is required to meet certain personal qualifications, submit a bond, insurance certificate or other indemnity document to the department, or submit to a departmental examination, and due to causes beyond his control cannot do so.

(2) The department may refuse refunds and determine that moneys received by it are due as fees or penalties relating to the is-

suance or renewal of licenses, permits, registrations, or certificates under its jurisdiction whenever:

(a) The applicant, as a condition to the issuance of a license, permit, registration, or certificate, is required to submit to a departmental examination, analysis or inspection, and fails to voluntarily submit to the same, fails to complete the same, or fails to satisfactorily pass the same;

(b) The applicant voluntarily determines not to engage in the activity requiring the license, permit, registration, or certificate;

(c) The applicant has engaged in the activity requiring a license, permit, registration, or certificate without having obtained the same, whether or not he thereafter qualified with any of the provisions of subsection (1) of this section;

(d) Other than costs of clerical processing of the application, the department has incurred costs for services performed in connection with the license, permit, registration or certificate, or application therefor;

(e) The moneys subject to refund in accordance with the provisions of subsection (1) of this section are less than $5; or

(f) The application for refund is not submitted to the department during the time period of the license, permit, registration, or certificate. [1975 c.758 §2]

561.305 Department authorized to revoke, suspend or refuse license. The department may refuse to issue, revoke or suspend any license or application for license issued or which may be issued pursuant to any law under its jurisdiction where it finds that the licensee has violated any provision of such law or regulations promulgated thereunder. [1959 c.229 §11]

561.310 [Repealed by 1961 c 425 §20]

561.315 Publication of product test reports. (1) For the purpose of this section:

(a) "Product" means any animal, agricultural product or commodity, or any article of human or animal food, chemical or other matter that is under the supervision or jurisdiction of the department.

(b) "Test" means an analytical, chemical or microbiological test, or any other similar test or analysis performed by the department laboratories.

(2) Unless otherwise specifically provided by law, the department at least quarterly shall publish or distribute information, statistics, reports or the results of its tests of products, which show a violation of or noncompliance with a law, standard or regulation.

(3) The department shall make available a copy of the results of any test performed on a product to the owner or the person in possession of the tested product. [1969 c 131 §2]

561.320 [Repealed by 1961 c.425 §20]

561.330 [Repealed by 1961 c.425 §20]

561.340 [Repealed by 1961 c.425 §20]

561.350 [Repealed by 1961 c.425 §20]

561.360 [Repealed by 1961 c.425 §20]

561.370 [Repealed by 1961 c.425 §20]

561.380 [Repealed by 1961 c.425 §20]

561.390 [Repealed by 1961 c.425 §20]

FURNISHING SERVICES AND MATERIALS ON CREDIT

561.410 Department authorized to grant credit. (1) The department, in its discretion, may grant credit for services and materials furnished pursuant to the provisions of all laws under its jurisdiction.

(2) Except where due dates or other credit procedures are otherwise established by law, the department shall establish a uniform monthly date on which the department shall forward to the person responsible for payment of services and materials, an itemized statement thereof. The amount owing by such person is due and payable to the department within 15 days after the date established under this subsection. [1959 c.229 §2; 1963 c.373 §1]

561.420 [1959 c.229 §3; repealed by 1963 c.373 §2]

561.430 Deposit or bond to secure payment. (1) The department may require any person to whom it has furnished or may furnish services or materials on credit to deposit and keep on deposit with the department a sum equal to an amount which the department estimates may be due for services or materials to be rendered for a period of three months.

(2) The department may, in lieu of such deposit, accept a bond to secure payment for services or materials to be furnished. The deposit or posting of the bond shall not relieve the person from making payments as required by law or by ORS 561.410.

(3) If such person files a written statement with the department that services or materials of the department are no longer required, the department, upon receipt of all payments due, shall refund to the person all deposits remaining to the person's credit and shall cancel any bond given under this section. [1959 c.229 §5]

561.440 [1959 c 229 §4, repealed by 1961 c 425 §20]

561.450 Lien. (1) A lien hereby is created in favor of the department upon all real and personal property belonging to any person who fails to pay the department for services or materials furnished within 60 days after the due date in a sum equal to the amount due.

(2) The lien, which shall be valid until paid in full, attaches upon the filing of a Notice of Claim of Lien with the county clerk of the county in which the property is located. The notice of lien claim shall contain a true statement of the amount due. The county clerk shall record the claim of lien and shall receive the same fees as are allowed by law for recording other lien instruments.

(3) The lien created by this section may be foreclosed in the circuit court in the same manner provided by law for the foreclosure of other liens on real or personal property.

(4) The lien created by this section is prior to all liens and encumbrances recorded subsequent to the filing of claim of lien, except taxes and labor liens. [1959 c 229 §6; 1961 c.425 §3]

QUARANTINE POWERS

561.510 Quarantines; establishment by Director of Agriculture. Whenever, in the opinion of the director any animals, fowls, bees, fruits, vegetables, plants, parts of plants or seeds within any area or section are diseased or infected with any infestation, or any area or section is infested with any kind of weed, which disease, infestation or weed is liable to spread and become detrimental to the plant or animal life of this state or is liable to injuriously affect the health of citizens of the state, with reference to any of which the Secretary of Agriculture of the United States has not determined that a quarantine is necessary and established a quarantine, the director is authorized, with the consent of the Governor, to declare a quarantine against the movement of any such animals, fowls, bees, fruits, vegetables, plants, parts of plants or seeds, or against the movement of any articles which may contain such weeds or the seeds thereof, or which may be liable to spread such disease or infestation into the state, if such area or section be outside the boundaries of this state, or against the movement from such area or section of such animals, bees, fowls, fruits, vegetables, plants, parts of plants or seeds, or against the movement within the state of articles liable to spread such weeds or weed seeds, or which may be liable to spread such disease or infestation, if such area or section is within the state.

561.520 Quarantine areas; notice, hearing and orders. (1) Before the director declares a quarantine relating to any area or section within the state, he shall, if the quarantine involves the control, eradication or destruction of any disease, infestation or weeds within such area, file a copy of the proposed order of quarantine and a copy of any rules and regulations in connection with such quarantine in the office of the county clerk of the county in which such area is situated, or a copy thereof in the office of the county clerk of each of the several counties included in such area or within which a part of such area is located, and shall publish such order as provided by ORS 561.585 in a newspaper of general circulation in the area sought to be quarantined. The director, in the publication, shall give notice that a hearing will be held by the department of agriculture for the consideration of remonstrances against the proposed quarantine:

(a) At the courthouse in the county seat in the county in which the area is proposed to be created; or

(b) At a courthouse in one of the counties in each congressional district in which the area is proposed to be created, if such area includes more than one county in such congressional district.

No time of hearing shall be less than 15 nor more than 30 days from the date of publication of the notice.

(2) If no remonstrances are presented at such hearing or hearings, or if the remonstrances presented are deemed by the director to be without merit or insufficient, the director shall make the order of quarantine as proposed; but if the director is of the opinion that any change or changes in the proposed quarantine order, or in the rules and regulations in connection therewith, should be made, he may, in his discretion, alter, amend or

revoke the proposed order of quarantine or any such rule or regulation.

(3) Such order of quarantine shall be filed and published as authorized by ORS 561.585. Proof of publication of the notice of hearing or hearings shall be filed with the county clerk of each county within which the quarantine area or a part thereof is situated.

(4) Orders relating to the quarantine of areas located outside of Oregon or of the movement of animals, fowls, bees, fruits, vegetables, plants, parts of plants or seeds, or of the movement of any article which may contain such weeds or seeds or other materials which may be liable to spread disease or infestation into Oregon, as provided by ORS 561.510 or 561.560, shall not be promulgated until at least one public hearing has been held within the state. If an emergency exists and postponement of the effective date would result in serious prejudice to the public interest, or the interest, health or economy of the parties directly or indirectly affected thereby, the quarantine may be made effective immediately as authorized by paragraph (b) of subsection (2) of ORS 183.355. [Amended by 1961 c.118 §1; 1971 c.734 §27]

561.530 Quarantine order; filing, posting and publication. (1) Whenever a quarantine of any kind or nature is declared pursuant to any law with the administration of which law the department is charged, such quarantine shall be declared by written order signed by the director and containing the approval of the Governor over the Governor's signature. The order shall be filed in the department.

(2) If the quarantine is on area or areas within this state, two copies thereof certified by the director, together with two copies of the rules and regulations governing such quarantine, shall be delivered to the county clerk of each county included in or within which any quarantined area or part thereof is situated.

(3) It shall be the duty of the county clerk immediately to post one each of such copies in a conspicuous place in the county courthouse and to file one each of such copies in the county records. Any such order of quarantine shall give notice of the date that such quarantine takes effect, which shall be not less than 10 nor more than 30 days from the date of the first publication thereof.

(4) The order of quarantine, together with any rules and regulations governing the same, shall be published at least once in some publication of general circulation throughout the state.

561.540 Rules and regulations governing quarantines, the movement of articles subject to quarantine and the eradication of disease, infestation or weeds. (1) A quarantine authorized by ORS 561.510 shall be subject to such rules and regulations as the director deems necessary for the protection of the public welfare.

(2) The movement of any animals, bees, fruits, vegetables, plants, parts of plants, fowls, seeds or articles liable to contain weeds or weed seeds or to spread disease or infestation, which are subject to quarantine, may be permitted subject to such regulations as the director may prescribe.

(3) Any such diseased or infested animals, fowls, bees, fruits, vegetables, plants, parts of plants, seeds, weeds, weed seeds and any articles, structures or lands within any quarantine area or section within this state shall be subject to such regulations for the eradication of such disease, infestation or weeds as the director may prescribe.

561.550 Removal of quarantine. (1) When in the opinion of the director any quarantine authorized by ORS 561.510 is no longer necessary to protect the public welfare of the state, he may by written order, approved in writing by the Governor, declare such quarantine removed.

(2) Whenever a quarantine of any kind or nature, declared pursuant to any law with the administration of which the department is charged, is removed, the fact of its removal shall be published and filed in the same manner as the order declaring the quarantine.

561.560 Emergency quarantine; publication of notice; powers of Governor; duration. (1) Notwithstanding ORS 183.310 to 183.500, whenever the director determines the fact that a dangerous plant, animal, fowl or bee disease or insect infestation new to, or not theretofore widely prevalent or distributed within and throughout the state, exists in any state, territory, country or locality outside of this state, or in any locality within this state, which disease or infestation is of such nature that it will be impossible to follow the procedure provided for in ORS 561.510 to 561.530 without serious danger of the wide spread within the state of such disease or infestation during the time required by such procedure, the director is authorized and directed to

declare, by written order, a quarantine against the movement into or within the state from such state, territory, country or locality, of any plants, animals, fowls, bees or articles which are liable to spread such disease or infestation. A written order may be amended as the director determines is necessary. A written order and any subsequent amendments thereto shall be signed by the director.

(2) The director shall file all quarantine orders and any amendments thereto with the Secretary of State and shall publish a notice of such quarantine and of any amendments to a quarantine order in a newspaper of general circulation throughout the state. The director shall take such other action as he considers reasonable to insure that persons affected by a quarantine have knowledge thereof. From and after the filing of a quarantine order, or amendment thereto, with the Secretary of State it shall be unlawful for any person, firm or corporation to carry, move or transport any plants, animals, fowls, bees or articles specified in a quarantine order, or amendment thereto, from the quarantined area into or through any part of the state, except as provided in the order, or amendment thereto. Proofs of the publication of the notices provided for in this section shall be filed in the office of the department.

(3) No such emergency quarantine, as provided for in this section, shall be effective for more than 90 days after the date of the first publication of notice thereof. However, a quarantine for a longer period may be declared under the provisions of ORS 561.510 to 561.550, to take effect at or before the expiration of such 90-day period.

(4) The Governor by filing an order with the Secretary of State may terminate such department order. Thereafter and relating only to that particular subject matter and emergency, the department shall be required to obtain the approval of the Governor before any additional quarantine or amendments thereto are issued under this statute. [Amended by 1969 c.150 §1; 1971 c.734 §85]

561.570 [Renumbered 561.810]

561.580 Cooperation with United States and other states with respect to quarantines. (1) In order to prevent unnecessary and conflicting regulations on commerce, the department shall cooperate with the United States and other states in establishing a uniform system of quarantine and laws and rules and regulations governing quarantines, both as to animals, fowls, plants, weeds, insects and seeds, subject to quarantine, manner of enforcing quarantine and manner of treating diseased or infested animals, fowls, plants, seeds and articles containing weeds and weed seeds.

(2) The director shall suggest to the Governor, from time to time, any changes in the laws of this state or any additional laws which will tend to unify the quarantine laws of the United States and this and other states of the United States.

(3) Whenever the director deems it to be of advantage toward carrying out the purpose of this section, he may forward to the United States Department of Agriculture copies of proposed rules and regulations to govern quarantines in this state and request suggestions from the United States Department of Agriculture tending toward uniform provisions governing quarantines throughout the several states.

561.585 Summary, rather than text, of quarantine order or regulations may be published. When the department is required to publish an order of quarantine or rules or regulations promulgated thereunder in a newspaper, it may in its discretion publish only a brief concise summary statement of the contents of such order or regulations and notice that complete copies thereof are on file and can be obtained from the department, certain county clerks and the Secretary of State. [1961 c.118 §3]

561.590 Violation of quarantine prohibited. From and after the time that any quarantine order of the director becomes effective it shall be unlawful for any person, firm or corporation to violate, either in whole or in part, any of the provisions of such order, or of any rule or regulation promulgated in connection therewith.

561.600 Procedure for review of orders and regulations. Judicial review of orders including emergency orders and regulations issued in accordance with ORS 561.510 to 561.590 shall be as provided in ORS 183.310 to 183.500. [1971 c.734 §87]

SEIZURE, DETENTION AND EMBARGO POWERS

561.605 Detention, seizure or embargo of agricultural products; labeling; notification. (1) In order that the rights of consumers, property owners or other affected persons may be protected and procedures made uniform the department, its agents, employes or officials, shall observe the procedure prescribed by ORS 561.605 to 561.620 whenever it becomes necessary for the department to detain, seize or embargo any food, article or product under any law the administration of which is vested in the department.

(2) The department shall cause to be affixed to the products being detained, seized or embargoed, a notice that the products are being detained, seized or embargoed by the department and warning all persons that they may not be removed from the place at which they are being held without written permission from the department.

(3) The department shall notify in writing the owner or person in possession of the products that the products are being detained, seized or embargoed by the department. If the person in possession of the products is not the owner, the department shall make a reasonable effort to notify the owner. Such notice shall state the reason for the department's action, and shall notify the owner or person in possession of the right to be heard before the department in opposition to the action. [Formerly part of 616 095]

561.610 Request for hearing; when held. (1) A request of the department for a hearing on the propriety of the detention, seizure or embargo and related matters must be filed with the department in writing within 10 days of receiving actual notice of such action. The request may be filed either by the owner or the person in possession but the time limited for filing such request is to be computed from the time the required notice is first received by either of such persons. When the department receives a request for a hearing, it shall designate the time and place of hearing.

(2) The hearing shall not be held sooner than 10 days after the request for a hearing has been received by the department. However, if the subject matter of the department's action is perishable goods, or if, in the opinion of the department, other good and sufficient reason appears, the hearing may, at the request of the owner or person in possession of such goods, be held at an earlier date. [Formerly part of 616.095]

561.615 Conduct of hearing; decision and action by department. (1) The hearing shall be conducted by the director of the department, or by a person appointed by the director for that purpose, as a contested case in accordance with ORS 183.310 to 183.500. The department shall make an order pursuant to such hearing and serve the order on the owner or person in possession of the products within 10 days after the hearing.

(2) If it appears that the products are not being stored, sold, kept, offered or exposed for sale in violation of law, the products shall be released to the owner or person in possession. If it appears that all or part of such products may be reconditioned or relabeled or segregated in such a way as to comply with state laws, the owner or person in possession may cause them to be reconditioned, relabeled or segregated at his own expense, after which the department shall release them. If it appears that all or a part of the products may not be reconditioned, relabeled or segregated in such a way as to comply with state laws, that portion of the products which may not be so treated shall be destroyed, unless the owner or person in possession executes and delivers to the department a good and sufficient bond to the effect that the products shall not be sold, disposed of or used contrary to the laws of Oregon and the rules, regulations or orders thereunder promulgated. If any food products are found to be unfit for human consumption but suitable for animal feeding, such food products may be used for animal feeding as permitted by the department. [Formerly part of 616.095, 1971 c.734 §88]

561.620 Procedure when products disposed of; salvage. (1) In the event that the owner or person in possession does not request a hearing on the propriety of the seizure, detention or embargo within the time limited for making such request, the department may summarily destroy or otherwise dispose of the subject matter of the action, or, if the owner or person in possession of such products does not within 30 days after the hearing either comply with the orders of the department as to reconditioning, relabeling or segregating or perfect an appeal to the circuit court, the department may summarily destroy or otherwise dispose of the subject matter of the action.

(2) If it appears to the department that there is a reasonable possibility that a product is capable of salvage and the owner or person in possession does not seek to regain custody within the time and in the manner provided in ORS 561.605 to 561.620, the department may dispose of the product so as to obtain such salvage. Any salvage so recovered shall, after paying the costs of sale or disposition and including storage, if any, be remitted to the true owner, if known, or if not known, then to the person in possession. A sale or disposition for salvage shall be upon such conditions as to labeling, reconditioning or segregation as the department deems necessary to comply with the law relating to such product. [Formerly part of 616.095]

561.625 When hearing not required. Nothing in ORS 561.605 to 561.630, 616.225, 632.485 and 633.670 shall be construed as requiring that a hearing be held in connection with the seizure or embargoing of illegal or suspected products or as prohibiting the release, destruction or other disposition of such products by agreement between the department and the owner or person in possession of such products. [Subsection (1) of 1965 Replacement Part formerly 616.100; subsection (2) of 1965 Replacement Part formerly part of 616.095; 1967 c.437 §2]

561.630 Removing or defacing seizure or embargo notice unlawful. No person shall remove or deface any notice placed upon products seized or embargoed by the department, or move any such products from the place designated in the notice without written permission from the department. [Formerly 616.110]

561.810 [Formerly 561.570; repealed by 1961 c.425 §20]

PENALTIES

561.990 Penalties. (1) Violation of ORS 561.170 is punishable, upon conviction, by a fine of not to exceed $200.

(2) Violation of ORS 561.200 is punishable, upon conviction, by a fine of not to exceed $100 or by imprisonment for not more than 30 days, or both.

(3) Violation of ORS 561.220 or 561.230 is a misdemeanor.

(4) Violation of ORS 561.590 is punishable, upon conviction, by a fine of not less than $500 nor more than $5,000.

(5) Violation of any of the provisions of ORS 561.605 to 561.630 is punishable, upon conviction, by a fine of not less than $10 nor more than $100. [Subsection (3) enacted as 1955 c.11 §3; subsection (5) formerly part of 616 990; 1971 c.743 §399; 1973 c.10 §1]

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, 1979.

Thomas G. Clifford
Legislative Counsel