Chapter 579

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Oregon Potato Commission

579.010 Definitions
579.020 Purpose of chapter
579.030 Potato commission created; members
579.040 Qualifications of members
579.050 Term of members
579.060 Removal of members
579.070 Travel and other expenses of members
579.080 Chairman and secretary of commission
579.090 Meetings of commission
579.100 Powers and duties of the commission
579.110 Expending moneys to promote production and marketing of potatoes
579.120 Commission accepting grants, donations and gifts
579.130 Bond required of person authorized to receive or disburse moneys
579.140 Appointment of administrator; duties; salary
579.150 Establishment of commission office
579.160 State not liable for acts of commission or its agents
579.165 Budget and expenditure control
579.170 Services, facilities and materials furnished to and received from other state agencies
579.175 Commission exempt from certain financial administration laws
579.180 Cancellation of uncollectible assessments
579.185 Records and accounts of commission
579.210 Imposition of assessment
579.220 Payment of assessment when first purchaser is in another state or is a governmental agency
579.230 Purchaser to make reports to commission
579.240 Payment of assessment by purchasers; disposition of receipts
579.250 First purchaser penalized for delay in transmittal of funds
579.270 Disposition and use of moneys
579.280 Records of person required to pay assessment
579.990 Penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, 183.310 to 183.500
Enjoining violations of law, 561.280
Mediation services for producers and handlers, 576.620
Services by State Department of Agriculture for commodity commissions, 561.250
State agencies generally, Ch. 182

579.020
Facilities for seed potato testing, 567.005 to 567.020

579.100
Merit system for state employes, Ch. 240

579.150
Leasing or renting office space, 276.426, 276.428

579.990
Jurisdiction over prosecutions, 561.290

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

(1) "Commercial channels" means the sale of potatoes for use as food, seed, industrial or chemurgic use, when sold to any commercial buyer or to any person who resells potatoes or any product derived therefrom. Such term also means and includes sales of seed potatoes by the grower to another grower, for planting by such other grower, when such sales in the aggregate for any one year amount to more than 20 hundredweight.

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

(3) "Director" means the Director of Agriculture.

(4) "First purchaser" means any person, partnership, association or corporation, whether such association or corporation is private or public, that buys potatoes from the grower in the first instance.

(5) "Grower" means any landowner personally engaged in growing potatoes; a tenant personally engaged in growing potatoes; both the owner and the tenant jointly; and includes any person, partnership, association, corporation, cooperative, trust sharecropper, and any and all other business units, devices or arrangements. [Amended by 1977 c.198 §29]

579.020 Purpose of chapter. It is to the interest of all the people of the state that the soil resources of Oregon be developed to the fullest extent consistent with available market outlets for the products of the soil. It is also to the interest of all the people that consumers of the state be provided with an abundant supply of food of the best quality obtainable and that prices for that food are reasonable. The potato crop of the state is one of the leading cash crops, is grown to some extent in every county, makes up a large part of the total diet of virtually every consumer, and hence is of utmost importance to both farmers and consumers. The crop is peculiarly dependent upon seed supplies because potato diseases spread with such rapidity that good seed stocks may become worthless in one season. Commercial growers are suffering tremendous losses due to inability to locate dependable seed and through lack of facilities for determining seed value. Poor quality of too high a percentage of the various table stock lots, due to net necrosis caused by leaf roll, is directly traceable in most instances to high percentage of leaf roll in seed stock. Consumers of the state are often given a poor product with undue waste in food preparation because of the lack of facilities for determining seed value. Oregon potatoes are in a poor competitive position in the markets of the coast due to large advertising campaigns by producers in other states. Well-organized, well-timed and well-placed advertising on the part of the Oregon potato industry is indicated as a need. The extremely perishable nature of potatoes, especially early potatoes, raises numerous unsolved problems in marketing. It is the purpose of this chapter to provide a means for the protection of the potato industry and the protection of potato consumers.

579.030 Potato commission created; members. (1) There hereby is created the Oregon Potato Commission. The commission shall consist of nine members to be appointed by the director for a term of five years, each to continue in office until his successor is appointed and qualified. In making appointments of members of the commission the director shall take into consideration any nominations or recommendations made to him by growers or growers' organizations. The appointments shall be made so that each major potato-producing area of the state is represented as follows:

(a) Two from the area comprised of Malheur and Harney Counties.

(b) Two from central Oregon, comprised of the Counties of Crook, Deschutes, Gilliam, Sherman, Wasco, Wheeler and Jefferson.

(c) Two from the area comprised of Klamath, Coos, Curry, Douglas, Jackson, Josephine and Lake Counties.

(d) Two from the Blue Mountain area, comprised of the Counties of Baker, Union, Wallowa, Grant, Morrow and Umatilla.

(e) One from the Willamette Valley area, comprised of the Counties of Benton, Clackamas, Clatsop, Columbia, Hood River, Lincoln, Lane, Linn, Marion, Multnomah, Polk, Tillamook, Yamhill and Washington.

(2) The director, or his official representative, and the Dean of the School of Agriculture of Oregon State University, or his official representative, are ex officio members of the commission, without right to vote. Subsection (1) of this section and ORS 579.040 to 579.060 do not apply to ex officio members. [Amended by 1959 c.596 §51; 1971 c.20 §1; 1977 c.198 §30]

579.040 Qualifications of members. Each member of the commission shall have the following qualifications:

(1) Each shall be a citizen of the United States.

(2) Each shall be a bona fide resident of this state.

(3) Each shall be over 25 years of age.

(4) Each shall be a grower in this state, shall have been actively engaged in growing potatoes for a period of at least five years, and shall derive a substantial proportion of his income from the sale of potatoes.

(5) Each shall have demonstrated, through membership in growers' organizations, public service or otherwise, a profound interest in the development of Oregon's potato industry.

579.050 Term of members. Each member of the commission shall be appointed for a term ending five years from the date of the expiration of the term for which his predecessor was appointed, except in case of a vacancy when the appointee shall serve the unexpired part of the term of the member whom he replaced. [Amended by 1977 c.198 §31]

579.060 Removal of members. (1) The director shall immediately declare the office of any member of the commission vacant whenever the member ceases to be an active potato grower in this state, becomes a resident of another state, or is unable to perform the duties of his office.

(2) The director may remove any member of the commission for inefficiency, neglect of duty, or misconduct in office, but not until after a public hearing thereon and service upon such member of a copy of the charges against him, together with a notice of the time and place of such hearing. Service shall be made not less than 10 days prior to the hearing. At the hearing the member shall be given an opportunity to be heard in person or by counsel and shall be permitted to present evidence to answer the charges and explain the facts alleged against him.

(3) In every case of removal, the director shall file in the office of the Secretary of State a complete statement of all charges against the member, and his findings thereon, together with a record of the entire proceedings had in connection therewith. [Amended by 1977 c.198 §32]

579.070 Travel and other expenses of members. Members, officers and employes of the commission shall receive their actual and necessary travel and other expenses incurred in the performance of their official duties. The commission shall adopt uniform and reasonable rules governing the incurring and paying of such expenses. [Amended by 1959 c.596 §52; 1971 c.20 §2; 1977 c.198 §33]

579.080 Chairman and secretary of commission. The commission shall elect a chairman and may employ a secretary, not a member of the commission.

579.090 Meetings of commission. The commission shall meet regularly once each quarter, and at such other times as called by the chairman. The chairman may call special meetings at any time, and shall call a special meeting when requested by two or more members of the commission.

579.100 Powers and duties of the commission. The commission has the following duties, authorities and powers:

(1) To conduct advertising and publicity campaigns in this and other states, designed to promote Oregon potatoes, to educate consumers in their use, and to educate retailers in methods of handling and sale of potatoes.

(2) To find and open up new markets for Oregon potatoes.

(3) To investigate and participate in studies of problems of Oregon growers.

(4) To establish and maintain facilities for the housing of seasonal labor, to recruit labor and to administer the distribution of such labor among potato producers.

(5) To take such action as it deems advisable to stabilize and protect the potato industry and to safeguard the interests of potato consumers.

(6) To sue and be sued.

(7) To enter into such contracts as may be advisable in carrying out the purposes of this chapter.

(8) To borrow money, not in excess of the estimated revenue from the current year's crop, so that the crop which is responsible for accumulation of funds may receive the benefits of the promotion efforts for which funds are used. Expenditures may be necessary for special promotion efforts in the case of surplus or distressed production or when the commission determines necessity for research or seed

testing facilities prior to accumulation of funds.

(9) To make grants to research agencies for financing special or emergency studies or to build greenhouses, laboratories, storage houses, or other facilities necessary to safeguard the potato industry.

(10) To appoint and employ officers, agent or other personnel, including agricultural or publicity experts, and to prescribe their duties and fix their salaries.

(11) To make use of all advertising means and methods and make such advertising contracts as it deems advisable for publicity and advertising within and without this state.

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

(13) To act jointly and in cooperation with the Federal Government or any agency thereof in the administration of any program of the government or a governmental agency deemed by the commission to be beneficial to the potato industry of this state, and to expend funds in connection therewith.

(14) To aid in financing local quarantine districts when such quarantines are manifestly for the good of Oregon's potato industry.

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

(16) To prosecute, in the name of the State of Oregon, any suit or action for the collection of the assessment provided for in ORS 579.210.

(17) To adopt, rescind, modify or amend all proper regulations, orders and resolutions for the exercise of its powers and duties.

(18) To establish a reasonable per diem allowance, in addition to expenses under ORS 579.070, to members of the commission while actually engaged in the performance of their official duties, including necessary travel time. [Amended by 1959 c.596 §53; 1977 c.198 §34]

579.110 Expending moneys to promote production and marketing of potatoes. (1) The commission may expend moneys in or out of this state, but, due to the widely different markets, production problems and seed needs of the various areas, the commission shall, so far as practicable, promote production and marketing of potatoes within the different areas of the state with the income from such areas, after deduction of administrative costs.

(2) The decision of the commission to expend funds for the promotion shall be governed by recommendation of members from the area for which such promotion is intended.

579.120 Commission accepting grants, donations and gifts. The commission may accept grants, donations or gifts, from any source for expenditures for any purposes consistent with the purposes of this chapter. All funds so received shall be handled as specified in this chapter for other moneys received by the commission.

579.130 Bond required of person authorized to receive or disburse moneys. The administrator and any person authorized to receive or disburse moneys received by the commission shall file with the commission a fidelity bond executed by a surety company authorized to do business in this state in favor of the commission and the State of Oregon, in such amount equal to the maximum amount of moneys the commission determines such person will have subject to his control at any one time and upon such conditions as the commission shall prescribe. The cost of the bond shall be paid by the commission. [Amended by 1959 c.596 §54]

579.140 Appointment of administrator; duties; salary. The commission shall adopt a general statement of policy for guidance in employing an administrator. The commission shall select an administrator who shall devote his entire time to the administration of this chapter. He shall be an ex officio member of the commission, without vote. He immediately shall prepare a program and plans for carrying out all policies of the commission. He shall be paid such salary as is determined by the commission. [Amended by 1953 c.128 §2; 1959 c.596 §55]

579.150 Establishment of commission office. The commission shall establish an office at any place in the state it selects, but the selection of the location shall be guided by consideration for the convenience of the majority of those most likely to have business with the commission or to be affected by its acts.

579.160 State not liable for acts of commission or its agents. The State of Oregon is not liable for the acts or omissions of the commission or agents or officers thereof.

579.165 Budget and expenditure control. No expenditures of moneys for a fiscal year may be made or incurred by or under the authority of the commission under this chapter unless ORS 576.425 and 576.430 are complied with. ORS 576.410 and 576.425 to 576.445 are applicable to the commission, and for such purpose references to ORS 576.051 to 576.584 in such sections are considered to be references to this chapter. [1959 c.596 §63]

579.170 Services, facilities and materials furnished to and received from other state agencies. ORS 576.307 and 576.309 are applicable to the commission. [1959 c.596 §65]

579.175 Commission exempt from certain financial administration laws. Except as otherwise provided in this chapter, ORS 291.026, 291.202 to 291.222, 291.232 to 291.260, 291.322 to 291.336, 292.210 to 292.250, 293.260 to 293.280, 293.295 to 293.346 and 293.590 to 293.640 do not apply to the commission or to the administration and enforcement of this chapter. [1959 c 596 §66]

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

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

(b) The assessment is wholly uncollectible.

(2) The order shall contain adequate information as to why the assessment cannot be collected. [1959 c 596 §87]

579.185 Records and accounts of commission. The commission shall keep accurate books, records and accounts of all its dealings which shall be open to inspection and audit by the Secretary of State. [1959 c 596 §§62, 88, 1973 c.794 §33]

579.210 Imposition of assessment. The commission shall assess, levy and collect an assessment of one and one-half cents per hundredweight upon all potatoes grown in this state and sold through commercial channels. Such assessment shall be levied and assessed to the grower at the time of sale and shall be deducted by the first purchaser from the price paid to the grower, whether the potatoes are stored in this state or in another state or country. The assessment provided by this section shall not be levied or assessed to any grower whose entire potato crop for any one year is grown on no more than one acre. [Amended by 1959 c 596 §56; 1971 c.20 §3]

579.220 Payment of assessment when first purchaser is in another state or is a governmental agency. (1) In all cases where a first purchaser lives or has his office in another state, it is the duty of the grower to report all sales made to such first purchaser on forms provided by, and pay the assessment moneys directly to, the commission, unless such first purchaser voluntarily makes the proper deduction and remits the proceeds to the commission.

(2) Where the first purchaser is a federal or governmental agency, the grower shall likewise report to, and pay the assessment moneys directly to the commission. [Amended by 1959 c.596 §57]

579.230 Purchaser to make reports to commission. The purchaser shall make reports to the commission on forms as prescribed by the commission. No purchaser shall fail to make any such report, or shall falsely make any such report.

579.240 Payment of assessment by purchasers; disposition of receipts. The commission shall fix dates upon which reports shall be made by all regular first purchasers. Upon such dates all assessment moneys collected by any purchaser shall be turned over to the commission which shall issue receipts therefor and make suitable records thereof. [Amended by 1959 c 596 §58]

579.250 First purchaser penalized for delay in transmittal of funds. In addition to any other penalties prescribed by this chapter, any first purchaser who delays transmittal of funds beyond the time set by the commission shall pay five percent of the amount due for the first month of delay and one percent of the amount due for each month of delay thereafter.

579.260 [Repealed by 1959 c.596 §90]

579.270 Disposition and use of moneys. (1) As soon as possible after such moneys are received, all moneys received by the commission shall be deposited in one or more

separate accounts in the name of the commission. The commission shall designate such accounts and such banks or trust companies.

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

(3) All moneys referred to in subsection (1) of this section shall be used by the commission only for the payment of the expenses of the commission in carrying out the powers conferred on the commission. [1959 c.596 §60; 1967 c.451 §28]

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

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

(3) No person shall refuse to permit an inspection and audit under subsection (2) of this section during business hours. [1959 c.596 §89]

579.990 Penalties. Violation of any of the provisions of this chapter is punishable, upon conviction, by a fine of not less than $25 nor more than $500, or by imprisonment in the county jail for not less than 30 nor more than 90 days, or by both; except that if any first purchaser wilfully refuses to turn over assessment moneys collected under the provisions of this chapter, he shall pay an additional fine equal to twice the amount of the assessment moneys so withheld. District and justices' courts shall have concurrent jurisdiction with circuit courts in all prosecutions under this chapter. [Amended by 1959 c.596 §67]

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