

# Chapter 622

## 1979 REPLACEMENT PART

### Shellfish

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### CROSS REFERENCES

Administrative procedures and rules of state agencies, 183.310 to 183.500	Unlawful to destroy or waste shellfish taken in state, 509.112, 509.505, 509.510
Fish and shellfish, marketing names, 506.800	
Seafood products as agricultural commodity, 576.051	



**622.010 Definitions.** As used in this chapter:

(1) "Division" means the Health Division of the Department of Human Resources.

(2) "Assistant Director" means the Assistant Director for Health.

(3) "Dealer" means every person or peddler engaged in the business of growing, harvesting, processing or distributing shellfish for human consumption.

(4) "Peddler" means every person who for himself or as the agent of another goes from place to place, or house to house, carrying or offering shellfish for sale.

(5) "Person" includes city, county and state as well as those included within the definition of person in ORS 174.100.

(6) "Shellfish" means all fresh and frozen oysters, clams or mussels, either shucked or in the shell, and all fresh edible products thereof intended for human consumption. [1955 c.331 §1; 1969 c.283 §1; 1973 c.508 §1]

**622.020 Certificate of shellfish sanitation required to be dealer.** No person shall act as a dealer without the certificate or certificates of shellfish sanitation issued by the division. [1955 c.331 §3; 1973 c.508 §2]

**622.030 Exemptions.** This chapter shall not affect the following:

(1) Retail stores selling to the ultimate consumer.

(2) Operations subject to ORS chapters 616, 619, 620, 621, 625, 627, ORS 624.010 to 624.120, 632.275 to 632.290, 632.450 to 632.490 and 632.900 to 632.985 and to the rules pursuant thereto.

(3) Out-of-state dealers operating under a state shellfish program indorsed by the United States Public Health Service. [1955 c.331 §6; 1957 c.66 §1, 1969 c.283 §2; 1973 c.508 §1a]

**622.040 Certificate required for each area of operation.** A certificate of shellfish sanitation shall specify the area of operation to which it applies. A separate certificate validated for each area of operation as defined by ORS 622.080 and the division rules made under this chapter is required. [1955 c.331 §7 (3); 1973 c.508 §3]

**622.050 Application for certificate; inspections; expiration and renewal.** (1) A dealer shall make application to the division for a certificate or certificates of shellfish

sanitation. The application shall be accompanied by the required fee or fees.

(2) The division shall issue the initial certificate or certificates of shellfish sanitation, if on inspection the assistant director finds that the dealer has complied with all the provisions of this chapter and the rules of the division under this chapter.

(3) Every certificate of shellfish sanitation shall expire on December 31, following the date of issue. Any certificate of shellfish sanitation may be renewed on payment of the required fee. Inspection is not a condition precedent for renewal, but an inspection shall be made at some time within the renewal year. [1955 c.331 §7(1), (2), (4); 1973 c.508 §4]

**622.060** [1955 c.331 §9; repealed by 1973 c.508 §5; (622.065 enacted in lieu of 622.060)]

**622.065 Denial, suspension and revocation of license; procedure.** (1) The assistant director may suspend, deny or revoke any certificate of shellfish sanitation issued under this section for violation of any applicable provisions of ORS 622.010 to 622.180 or any rule promulgated under ORS 622.180.

(2) Procedures for denial, revocation or suspension of a certificate shall be as provided in ORS 183.310 to 183.500. [1973 c.508 §6 (enacted in lieu of 622.060 and 622 070)]

**622.070** [1955 c.331 §10; repealed by 1973 c.508 §5 (622.065 enacted in lieu of 622 070)]

**622.080 Fees; areas of operation.** The following is the schedule of annual fees to be paid to the division:

(1) Fifty-five dollars for a certificate of shellfish sanitation as a shucker-packer, for a person operating a shellfish shucking, packing or repacking plant for the distribution of shellfish.

(2) Forty dollars for a certificate of shellfish sanitation as a grower, for a person engaged in the business of growing shellfish.

(3) Fifteen dollars for a certificate of shellfish sanitation as a distributor, for any jobber or wholesaler who furnishes or sells shellfish to retail outlets. [1955 c.331 §8; 1969 c.283 §3; 1973 c.508 §7; 1979 c.696 §10]

**622.090 Disposition of fees.** The moneys received under ORS 622.050 shall be paid into the State Treasury and placed to the credit of the General Fund in the Health Division Account. Such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement

of this chapter. ORS 291.238 does not apply to the expenditure of such moneys. [1955 c.331 §7(1); 1973 c.427 §12]

**622.100 Certificate not transferable.** A certificate of shellfish sanitation issued under this chapter is not transferable from one dealer to another or from one area of operation to another. [1955 c.331 §7(6)]

**622.110 Display of certificates.** Every dealer shall display his certificate or certificates of shellfish sanitation in accordance with the rules made under this chapter. [1955 c.331 §7(5); 1973 c.508 §8]

**622.160 Signed statement to be attached to shellfish consignment.** No dealer shall send or accept any shellfish without a signed statement attached showing:

- (1) The name of the consignor.
- (2) The name of the consignee.
- (3) The number of the consignor's certificate of shellfish sanitation issued at the point of origin and the date of harvesting or packing, if the consignor is required by law to have a certificate of shellfish sanitation.
- (4) The source of the shellfish and the fact of certification of the source by the division or certification by a state whose shellfish program is indorsed by the United States Public Health Service, if such certification is required by law. [1955 c.331 §4; 1973 c.508 §9]

**622.170 Records of amount and source of shellfish.** Any dealer who gathers or receives shellfish from any source other than that designated in his certificate or certificates of shellfish sanitation shall keep accurate records of the amount and source of such shellfish, which records shall be retained for at least 90 days. The assistant director shall have access to these records for inspection. [1955 c.331 §5; 1973 c.508 §10]

**622.180 Powers of division; rules; inspections; samples; condemnation.** For the protection of the public health, the division shall have the following powers and all powers necessary and proper to insure sanitary conditions in the production and distribution of shellfish:

(1) The division shall have power to make rules necessary to enforce the provisions of this chapter. These rules shall at least include the water quality of growing areas, quality of market shellfish, water supply, sewage and waste disposal, drainage, plumbing, building construction, boat and barge sanitation, the handling, storage, construction and maintenance of equipment, lighting and ventilation, insect and rodent control, garbage and refuse disposal, shell disposal, cleanliness of premises, handling, storage and refrigeration of shellfish and the marking of certificate numbers and dating codes on all containers.

(2) The assistant director shall have power:

(a) To inspect any dealer in every phase and locale of operation.

(b) To take samples of any shellfish for bacteriological and toxicity study.

(c) To condemn or remove from sale and destroy any shellfish which are unfit for human consumption, or are from an uncertified source, or are improperly certified.

(d) To issue certificates of shellfish sanitation in accordance with the provisions of this chapter. [1955 c.331 §2; 1973 c.508 §11]

**622.990** [1955 c.331 §11; repealed by 1973 c.508 §12 (622.992 enacted in lieu of 622.990)]

**622.992 Penalties.** Violation of any provision of ORS 622.010 to 622.180 or the rules of the division promulgated under ORS 622.180 is a Class C misdemeanor. [1973 c.508 §13 (enacted in lieu of 622.990)]

#### 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

**CHAPTER 623**  
**[Reserved for expansion]**

