Chapter 599

1989 EDITION

Livestock Auction Markets; Stockyards; Auction Sales

DEFINITIONS

599.205 Definitions

LIVESTOCK AUCTION MARKETS

599.215 Prohibitions

599.235 License fee; appropriation of moneys; separate licenses for each facility; posting license and names of owners

599.245 Licensee's bond

599.251 Procedure on licensee's default as to condition of bond

599.255 Suspension or revocation or refusal to issue or renew licenses

599.265 Market zone; livestock entering market zone to be sold through auction facilities

599.269 Brand inspection required prior to public auction; minimum fee; application of section; exemptions

599.273 Questions of livestock ownership and possession

599.275 Cattle in market zone to be kept in clean, disinfected and segregated pens

599.285 Floors in pens; drainage; cleaning pens, alleyways and equipment

599.295 Pens for diseased animals

599.305 Pens and facilities for handling, testing, treating or examining livestock

599.315 Regulation by department of the testing, treating and examining of livestock

599.335 Employment of veterinarian by licensee; authority; revocation of market operator's license for failing to correct insanitary conditions

599.345 Weighing by licensed weighmasters; scale tickets in triplicate

599.355 Records to be kept by licensee

599.385 Enforcement procedures

599.395 Joint federal-state administration of chapter

599.401 Livestock auction market license required; moving location of market

599.406 License application; contents; expiration of license; renewal

599.411 Status of previously issued licenses

599.416 Hearing on license application; notice record of proceedings

599.421 Matters to be considered in granting licenses; forms for market change of ownership

599.426 Denial of license; procedure

599.431 Renewal of license without hearing

STATE LIVESTOCK AND MARKETING BOARD

599.440 State Livestock and Marketing Board created; members

599.445 Members' terms

599.450 Vacancies on board; director as ex officio member of board

599.465 Qualifications of board members

599.470 Officers; quorum; compensation and expenses; duties of board

STOCKYARDS

599.485 Definitions for ORS 599.490 and 599.495

599.490 Department may impose stockyard requirements to prevent spread of disease or to enable Oregon or areas thereof to obtain brucellosis-free or tuberculosis-free status

599.495 Cooperative agreements with Federal Government under which state department carries out federal programs in livestock auction markets and stockyards

MISCELLANEOUS PROVISIONS RELATING TO AUCTIONS

599.510 Prevention of competitive bidding prohibited

599.520 By-bids and fraudulent bids made to deceive bidders; minimum or reserve bids

599.530 Prohibited practices in sales of purebreds

599.540 Withdrawal of purebred livestock from a sale

599.550 Milking dairy cows prior to sale

599.560 Affidavits as to time of milking

TEMPORARY HORSE SALES

599.610 Temporary horse sale license

599.620 Enforcement and regulations

599.630 Revocation, suspension or refusal to issue license

599.640 Compliance with ORS 599.610 and 599.620 required

SECURITY INTERESTS IN LIVESTOCK

599.700 Financing statement; notice to department; fees

599.710 Registration with Secretary of State; information on livestock filings furnished at livestock sales

599.720 Report form prescribed by Secretary of State

599.730 Restriction on department liability

599.740 Application of filing system for farm products to ORS 599.700 to 599.730

PENALTIES

599.991 Penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, 183.310 to 183.550

Auction, sale, 72.3280

Brands and marks, Ch. 604

Enjoining violations of law, 561.280

Licensing auction market operators, 698.520

Offenses against animals, 167.310 to 167.355

Water, storage for livestock, 537.400

599.345

Oregon Beef Council:
- Contributions may be made at livestock auction market, 577 511
- Expansion of beef market, 577.120
- Procedures for contributions, 577.520

599.485 to 599.495

Pollution from stockyards, 448.265

599.495

Approval of requests and budgets to be submitted to Federal Government, 291 260

599.620

Animal disease control, Ch. 596

599.991

Jurisdiction over prosecutions, 561.290

599.010 [Amended by 1953 c.678 §3; repealed by 1955 c.542 §1]

599.020 [Repealed by 1955 c.542 §1]

599.030 [Amended by 1953 c.678 §3, repealed by 1955 c 542 §1]

599.040 [Repealed by 1955 c 542 §1]

599.050 [Repealed by 1955 c 542 §1]

599.060 [Repealed by 1955 c 542 §1]

599.070 [Repealed by 1955 c.542 §1]

599.080 [Repealed by 1955 c.542 §1]

599.090 [Repealed by 1955 c.542 §1]

599.100 [Repealed by 1955 c.542 §1]

599.110 [Repealed by 1955 c.542 §1]

599.120 [Repealed by 1955 c 542 §1]

599.130 [Repealed by 1955 c.542 §1]

DEFINITIONS

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

(1) "Dairy cattle" includes the recognized breeds of bovine animals used primarily for the production of milk, such as, but not limited to, Jersey, Guernsey, Brown Swiss, Ayrshire, Milking Shorthorn, Holstein and Red Polled, whether or not such animals are purebred or grade, and crosses of such breeds, including crosses of such breeds with beef type animals.

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

(3) "Director" means the director of the department.

(4) "Licensee" means any person who operates a livestock auction market, either as owner or lessee, and who holds a license to conduct such market issued by the department pursuant to the provisions of this chapter.

(5) "Livestock" includes horses, mules, asses, cattle, sheep, swine, goats and poultry, including turkeys, of any age or sex.

(6) "Livestock auction market" means a place of business to which the public may consign livestock for sale by auction open to public bidding or sold on a commission basis, but, specifically, it does not include breed or livestock associations operating subject to and in compliance with the provisions of the Oregon Nonprofit Corporation Act, ORS chapter 61, Future Farmer and 4-H groups, auction sales conducted in conjunction with county, state or private fairs or auction sales conducted by or for a person at which livestock of such person's ownership are sold on premises of the person.

(7) "Meat dealer" means a person licensed to slaughter meat food animals pursuant to the applicable provisions of this section and ORS chapter 603. [1953 c.677 §1; 1955 c.724 §15; 1957 c.390 §1; 1967 c.368 §1; 1971 c.578 §9; 1973 c 175 §13; 1981 c.248 §25; 1983 c.417 §1, 1989 c.1010 §178]

599.210 [Repealed by 1953 c.677 §22]

LIVESTOCK AUCTION MARKETS

599.215 Prohibitions. (1) No person shall operate a livestock auction market without a valid license to operate such market issued pursuant to the provisions of this chapter.

(2) No person shall interfere with the performance by any veterinarian of duties and responsibilities imposed by the provisions of this chapter.

(3) No licensee, or the managing agent of the licensee, shall operate a livestock auction market at which the sanitary practices or conditions prescribed by the provisions of this chapter or regulations promulgated thereunder have not been complied with.

(4) No licensee shall sell or offer for sale any livestock which has not been examined, tested or treated as required by the provisions of this chapter or regulations promulgated thereunder.

(5) No person other than a meat dealer shall remove from the market zone an animal which has been sold or purchased for immediate slaughter pursuant to the provisions of this chapter; provided, however, that a person may remove from the market zone any such animal if it is to be transported directly out of this state.

(6) No meat dealer who removes from the market zone an animal sold or purchased for immediate slaughter pursuant to the provisions of this chapter shall fail, refuse or neglect to slaughter such animal within eight days from the date the animal is so removed. [1953 c.677 §17; 1971 c.578 §10]

599.220 [Repealed by 1953 c.677 §22]

599.225 [1953 c.677 §4; 1967 c.368 §6, repealed by 1971 c.578 §20]

599.230 [Repealed by 1953 c.677 §22]

599.235 License fee; appropriation of moneys; separate licenses for each facility; posting license and names of owners. (1) Subject to the provisions of subsection (2) of this section, every person operating a livestock auction market in this state shall be required to pay on or before June 30, annually, a fee of $100 to the department for a license to operate such market for the year beginning July 1 next following. If a person operates a livestock auction market facility in more than one location, a separate license must be obtained for each such facility. Except for fees paid under ORS 599.269, all fees provided for under the provisions of this chapter shall be paid into the Department of Agriculture Service Fund and hereby are

continuously appropriated for use in the administration of this chapter.

(2) In the case of an application for a license made after September 30 of a license year, and only in such cases, the license fee submitted with the application shall be prorated on the basis of the number of quarters of three months each or portions of a quarter remaining in the license year. The fee accompanying such applications shall be $25 for each such quarter or portion thereof. For the purposes of this section, the license year shall be the period July 1 to June 30 next following. Nothing in this section shall be construed to authorize a refund of license fees in any case.

(3) The licensee shall at all times have posted in a conspicuous place in the main business office of such market the full names and addresses of the legal owners of the market. The livestock auction market operator's license shall also be posted conspicuously in the main business office of the market. [1953 c.677 §5, 1971 c.578 §11; 1979 c.499 §13]

599.240 [Repealed by 1953 c.677 §22]

599.245 Licensee's bond. (1) Each person licensed to operate a livestock auction market shall maintain a bond approved by the department to secure the performance of statutory duties and private obligations incurred as the operator of such market. The bond shall be filed with the department and shall be renewed whenever the license is renewed. The bond shall be conditioned that the licensee shall pay all legal claims which may accrue against the licensee in favor of any seller or buyer of livestock, arising from the conduct of the licensee's market.

(2) The surety on each bond shall be a corporate surety licensed to do business as a surety within the State of Oregon.

(3) The surety shall not cancel the bond until 60 days after its written notice of such cancellation is received by the department, which notice shall be sent to the department and to the principal by registered or certified mail.

(4) The amount of the bond, after public hearing under ORS 183.310 to 183.550, shall be determined by reference by the department to a schedule which it shall establish. Such schedule which may vary depending on the type of livestock auction market operation, the estimated or actual volume of sales or other standards which the department deems necessary, in so far as is reasonable and practicable, shall conform to the bonding law and rules of the federal Packers and Stockyards Act prescribed in subsection (5) of this section. The department in addition may require before it gives its approval to a bond or renewal thereof that the applicant submit a financial statement or other information to assist the department in determining the necessary size or type of bond which may be necessary for the protection of persons who may be covered or affected thereby.

(5) Any livestock auction market licensee or applicant for license who presents to the department satisfactory evidence of compliance with the bonding provisions of the federal Packers and Stockyards Act of 1921, 7 U.S.C. §§181 to 228, as amended, and effective June 29, 1971, shall be deemed in compliance with the bonding requirements of this section during such time as the licensee or applicant complies with the bonding provisions of such federal statute. If a federal bond which has been deemed to be in compliance with the provisions of this section is canceled or terminated, the licensee shall immediately stop all operations of such market until another state or federal bond has been obtained by the licensee and approved by the appropriate agency, as required by law. Until another such bond has been obtained, the license of the market operator shall be deemed suspended and shall be surrendered to the department.

(6) If two or more persons have claims, either fixed or contingent, against a licensee's bond maintained pursuant to subsection (1) of this section, they shall, subject to the provisions of ORS 599.251, share pro rata in the proceeds of the bond to the extent of their actual damages except that the claims of the State of Oregon and the department referred to in paragraph (a) of subsection (1) of this section shall have priority over, and shall be paid to the department prior to, all other claims or creditors. [1953 c 677 §6; 1957 c.390 §2; 1959 c.596 §70; 1959 c 685 §31; 1961 c.283 §1; 1963 c.15 §1; 1967 c.368 §4; 1971 c.578 §12]

599.250 [Repealed by 1953 c 677 §22]

599.251 Procedure on licensee's default as to condition of bond. (1) Upon default of a licensee as to any condition of the bond required by ORS 599.245, the department shall:

(a) Give reasonable notice to persons to file claims with the department.

(b) Fix a reasonable time within which such filing shall be done.

(c) Investigate each claim so filed and reasonably verify the circumstances under which the claims accrued and the good faith of the claimants.

(2) With the approval of the claimants who filed claims, the department may settle such claims with the surety, without filing legal action. Such settlement unless appealed to the circuit court within 30 days as provided by law, is final between the surety and all claimants covered by the bond.

(3) If any claimant, or the surety, does not agree with the findings of the department, the department shall file a declaratory judgment action without right to jury trial in the circuit court in the name of the State of Oregon for the benefit of the claimants as authorized by ORS chapter 28. Unless appealed as prescribed by law, the order of the court shall be final between the surety and all claimants covered by the bond. [1961 c.283 §3; 1979 c.284 §178]

599.255 Suspension or revocation or refusal to issue or renew licenses. The department may revoke or suspend, or refuse to issue or renew the license of any person who does not or has not complied with the provisions of this chapter or the regulations promulgated thereunder. [1953 c.677 §18, 1961 c.425 §8, 1971 c 578 §13]

599.260 [Repealed by 1953 c 677 §22]

599.265 Market zone; livestock entering market zone to be sold through auction facilities. (1) All property owned or controlled by a person licensed to operate a livestock auction market which is contiguous to, and used in conjunction with the operation of, the market shall be the market zone of such market.

(2) All livestock entering the market zone must be handled and sold through the facilities of the market and must comply with the provisions of this chapter and the regulations promulgated thereunder. [1953 c.677 §7; 1971 c 578 §14]

599.269 Brand inspection required prior to public auction; minimum fee; application of section; exemptions. Before any livestock auction market can sell cattle, horses or other livestock as designated by the department, at an auction open to public bidding, or on consignment or commission basis, a brand inspector shall be present to carry out the brand inspection provisions of ORS chapter 604 and this chapter. It is necessary therefor that the department recover at least in part its actual costs of maintaining such inspection and related services. During any 24-hour period if the brand inspection fees which the department is authorized to collect through and in a livestock auction market under ORS chapter 604 do not total $50, the livestock auction market licensee shall include and at the same time pay to the department the difference between the actual brand inspection total fees collected and $50. This section also applies to sales by breed or livestock associations, fairs or other groups, but does not apply to sales by Future Farmer or 4-H groups. [1967 c 368 §5, 1973 c.151 §1; 1981 c 248 §16]

599.270 [Repealed by 1953 c 677 §22]

599.273 Questions of livestock ownership and possession. After livestock enter the premises of a livestock auction market, if a question of the right of ownership or possession arises, the livestock shall be subject to the provisions of ORS 604.056. [1967 c.368 §3, 1981 c.248 §17]

599.275 Cattle in market zone to be kept in clean, disinfected and segregated pens. All dairy cattle over six months of age, except steers, spayed females and dairy cattle which by reason of age, disease or other conditions will be purchased for slaughter purposes, and all hogs entering the market zone of a livestock auction market shall be placed and retained, before and after sale, in clean, disinfected and segregated pens kept solely for that purpose. [1953 c 677 §8, 1957 c 390 §14, 1969 c 33 §1]

599.280 [Repealed by 1953 c.677 §22]

599.285 Floors in pens; drainage; cleaning pens, alleyways and equipment. All pens used in livestock auction markets for holding dairy cattle and hogs and all alleyways between such pens shall be floored with concrete or some other impervious material. All such pens and alleys shall be sloped or otherwise constructed to permit adequate drainage. Such pens and alleyways and also fences, food racks and watering troughs shall be constructed so as to allow proper cleaning and sanitation. All such pens, alleyways, fences, food racks and watering troughs or other equipment shall be cleaned and disinfected after each sale or, in the case of a continuous sale, as often as may be prescribed by the department. [1953 c.677 §9]

599.290 [Repealed by 1953 c.677 §22]

599.295 Pens for diseased animals. (1) The licensee shall provide separate pens of suitable size which shall be designated as quarantine pens which shall be floored with concrete or some other impervious material and constructed so as to allow for efficient drainage and cleaning. These pens shall be used for all animals coming into the market zone which are found to be infected with brucellosis or other contagious, infectious or communicable diseases. These pens shall be used only for the detention of diseased animals and shall be constructed and maintained in accordance with the regulations of the department.

(2) The fact that an animal is placed in a quarantine pen under subsection (1) of this section does not entitle the owner to be paid indemnity for the animal; but this subsection is not intended to affect the payment of indemnity where the owner is entitled to indemnity payments as otherwise provided by law. [1953 c.677 §10; 1957 c.390 §3]

599.300 [Repealed by 1953 c.677 §22]

599.305 Pens and facilities for handling, testing, treating or examining livestock. Each licensee shall provide pens with suitable catching chutes and other facilities for testing, treating, examining, or handling livestock in accordance with the regulations of the department. [1953 c.677 §11; 1967 c.368 §2]

599.310 [Repealed by 1953 c 677 §22]

599.315 Regulation by department of the testing, treating and examining of livestock. The department may require such testing, treating and examining of livestock sold, traded, exchanged or handled at or through livestock auction markets as in its judgment may be necessary to prevent the spread of brucellosis, tuberculosis or paratuberculosis, hog cholera and other infectious, contagious or communicable diseases among the livestock of this state. [1953 c.677 §12; 1957 c.390 §4; 1959 c.63 §6]

599.320 [Repealed by 1953 c 677 §22]

599.325 [1953 c.677 §14; repealed by 1957 c.390 §23]

599.330 [Repealed by 1953 c 677 §22]

599.335 Employment of veterinarian by licensee; authority; revocation of market operator's license for failing to correct insanitary conditions. (1) The licensee shall employ a veterinarian to perform all tests and make all examinations of animals required to be performed, carried out or made by the provisions of this chapter or the regulations promulgated thereunder.

(2) Every assistant state veterinarian shall have authority and responsibility for the direction and control of the sanitary practices at such livestock auction market. The veterinarian shall notify in writing the licensee or managing agent of the licensee of insanitary conditions or practices. If the improper conditions or practices are not corrected in the time specified, the department shall take appropriate steps to revoke the market operator's license.

(3) If in the event of an emergency situation any licensee is unable to procure the services of a veterinarian under subsection (1) of this section, the licensee may apply to the department, and the department may furnish a person the department deems qualified to make the examinations required at a livestock auction market. In the event the services of such qualified person are utilized, and the person determines any animal shows any abnormality or sign of ill health, such person at once shall contact an assistant state veterinarian or deputy state veterinarian for further examinations. The licensee shall reimburse the department for the actual expenses incurred by the qualified person and the assistant state veterinarian or deputy state veterinarian for the further examinations. All animals determined by the qualified person to require further examinations by a veterinarian shall be detained in the pens described in ORS 599.295 until released by the assistant state veterinarian or deputy state veterinarian.

(4) If upon investigation the department finds that any veterinarian employed by the licensee is not discharging duties and responsibilities in compliance with the provisions of this chapter and the regulations promulgated thereunder, the department may, after notice and opportunity for hearing, disqualify such veterinarian from performing any further official functions in connection with such market. [1953 c.677 §13, 1971 c 578 §15, 1975 c.573 §1, 1979 c.807 §1, 1983 c.101 §4]

599.340 [Repealed by 1953 c.677 §22]

599.345 Weighing by licensed weighmasters; scale tickets in triplicate. (1) Each licensee maintaining and operating any weighing facilities for the weighing of livestock at the livestock auction market operated by the licensee shall provide for the weighing to be done by a weighmaster.

(2) Scale tickets shall be executed in triplicate for all livestock weighed at the auction market and a copy of such ticket shall be issued to the buyer and seller of the livestock weighed. [1953 c.677 §15, 1983 c.740 §229]

599.350 [Repealed by 1953 c.677 §22]

599.355 Records to be kept by licensee. The licensee shall keep on file an accurate record of:

(1) The date on which each consignment of animals was received and sold.

(2) The name and address of the buyer and seller of such animals.

(3) The number and species of the animals received and sold.

(4) The marks and brands on each such animals as furnished by an Oregon brand inspector.

(5) Such records containing any and all statements of warranty or representations of title material to, or upon which, any such sale is consummated, together with the gross selling price, commission and other proper care, handling and sales charges on each consignment of livestock shall be available for inspection by the department or other persons having a legitimate interest therein. A copy thereof and the net proceeds shall be delivered to the buyer and the seller of such livestock or the duly authorized agent of the buyer or seller. All records of sales during the preceding 12 months shall be kept accessible during business hours for examination by the department or other persons having a legitimate interest in them. [1953 c.677 §16]

599.360 [Repealed by 1953 c.677 §22]

599.365 [1953 c.677 §2; 1957 c.390 §15; renumbered 599.455]

599.370 [Repealed by 1953 c.677 §22]

599.375 [1953 c.677 §3, 1957 c.390 §17, renumbered 599.460]

599.380 [Repealed by 1953 c.677 §22]

599.385 Enforcement procedures. If the operator of a livestock auction market violates any of the provisions of this chapter, or regulations promulgated by the department under this chapter, the department may:

(1) Summarily quarantine the livestock or the premises, or both, as provided in ORS 596.361 to 596.402.

(2) Apply to the circuit court of the county in which the livestock auction market is located for a court order as provided in ORS 596.416. [1957 c.390 §13]

599.390 [Repealed by 1953 c.677 §22]

599.395 Joint federal-state administration of chapter. (1) In the discretion of the State Department of Agriculture, a federal department or agency may be authorized by the State Department of Agriculture to act as its agent in carrying out all or part of the provisions of this chapter and regulations promulgated under this chapter without further requirement if it appears to the State Department of Agriculture that this chapter may be more effectively administered by joint federal and state action.

(2) When a federal department or agency is engaged in carrying out all or part of the provisions of this chapter and the regulations promulgated under this chapter pursuant to subsection (1) of this section:

(a) The authorized veterinary officers of the federal department or agency have the same power and authority as a deputy state veterinarian.

(b) The agents and other employees of the federal department or agency have the same power and authority as employees of the State Department of Agriculture engaged in a similar capacity or type of work. [1957 c.390 §22]

599.400 [Repealed by 1953 c.677 §22]

599.401 Livestock auction market license required; moving location of market. (1) No person shall operate a livestock auction market within this state without first having been licensed by the department as provided in this chapter. Any license to operate a livestock auction market is personal to the holder thereof and is not transferable.

(2)(a) Upon prior written application approved by the department, the licensee may move the location of the auction market facility within the boundaries of the trade area served. Such application shall contain the information required by ORS 599.406 (1)(a), (b), (d), (f) and (g).

(b) The department shall notify the applicant by certified mail within 30 days of receipt of an application submitted under paragraph (a) of this subsection whether the application has been approved or denied. If the department shall fail to act on the application within the 30-day period, it shall be deemed approved. If the application is denied, the applicant may at any time thereafter during the current licensing year or by indorsement on a renewal application request a hearing, in which case a hearing on the application for permission to move shall be held within 30 days thereafter pursuant to the provisions of ORS 599.416, limited to the question of the suitability and adequacy of the proposed new location and facilities. If a hearing is held pursuant to this paragraph, ORS 599.421 and 599.426 shall also be applicable.

(c) If the department finds that moving the location of the auction market facility would result in a substantial extension of the trading area served, it shall consider the application to be an application for a new license pursuant to ORS 599.406 and shall not consider it unless all requirements for such an application are met. The department may by rule establish criteria for determining whether an extension of trading area is substantial. [1971 c.578 §2]

599.405 [1957 c.390 §6; repealed by 1969 c.33 §2]

599.406 License application; contents; expiration of license; renewal. (1) Application for a license required by ORS 599.401 (1) shall be made upon forms furnished by the department, and shall contain:

(a) The name and address of the applicant, the name under which the applicant will operate, if different, the name and address of the manager, if different; and, if other than an individual, whether a partnership, corporation or other organization, and the names and addresses of all partners, shareholders, officers, principals, or other persons having a proprietary or membership interest in the applicant. The department may establish rules permitting listing of less than all such persons in cases of applicants having multiple ownership or membership.

(b) The exact location and place where the applicant proposes to operate the livestock auction market, including the legal description of the premises proposed to be used in connection therewith.

(c) A statement of financial condition of the applicant, and also of such partners, guarantors, or other persons liable for the

debts of the applicant, if any, as the department may require.

(d) Pictures and scale plans of existing facilities and, for proposed new or remodeled facilities, plans, blueprints and specifications, and pictures of work completed at the time of the application, together with a statement of the expected completion date or dates of such new or remodeled facilities.

(e) Anticipated source, type and quantity of livestock to be handled by the applicant.

(f) A statement setting forth the general boundaries of the trade area proposed to be served, the services proposed to be rendered, and the benefits to be derived by the livestock industry and public within such trade area.

(g) Such further information as the department may require or which the applicant believes would assist the department in its consideration of the application.

(2)(a) Except as provided in paragraph (d) of this subsection, any livestock auction market license shall expire on the June 30 next succeeding the date of grant of the license, provided that at any time during the quarter preceding June 30 the department may receive, consider and grant an application for a renewal license (including a renewal application filed concurrently with an application for a new license) effective on July 1 and expiring on the next succeeding June 30.

(b) Application for renewal of a license required by ORS 599.401 shall be filed upon forms provided by the department and shall contain the information required in paragraphs (a), (b), (c) and (g) of subsection (1) of this section, and if applicant has altered or remodeled facilities of the applicant or plans to do so, the application shall also contain the information required in paragraph (d) of subsection (1) of this section.

(c) If an application for a renewal license has been duly filed with the department, together with the fee required by ORS 599.235, at least 15 days prior to the expiration date of a license required by ORS 599.401, but has not been finally acted upon by the department, and if the license is in all other respects valid and in force it shall remain in effect beyond its expiration date until a renewal license is granted, or until 30 days after it has been denied if no request for reconsideration has been made pursuant to ORS 599.426 (2), or until the date of affirmation of the denial pursuant to ORS 599.426 (3) if a request for reconsideration has been made. Nothing in this paragraph shall be deemed to limit the authority of the department to revoke or suspend a license pursuant to ORS 599.255.

(d) In its consideration of the application for a renewal license, the department shall consider those matters set forth in ORS 599.421 (1) but only as they relate to whether the applicant has served the trading area in as satisfactory a manner as contemplated in the original application for license (or in as satisfactory a manner as prior to June 29, 1971), and to the applicant's ability to continue such satisfactory service, and shall also consider whether the applicant has complied with the provisions of this chapter and regulations promulgated under it.

(3) An application required by subsection (1) or (2) of this section shall be accompanied by the fee required by ORS 599.235. In addition, an application required by subsection (1) of this section shall be accompanied by an application processing fee of $200, which fee shall be used by the department for expenses of reviewing and investigating the application, holding hearings and all other required procedures relating to the application for license. [1971 c.578 §3]

599.410 [Repealed by 1953 c 677 §22]

599.411 Status of previously issued licenses. Any livestock auction market license duly issued pursuant to the provisions of ORS chapter 599 and in effect at June 29, 1971, shall continue in effect until June 30, 1972, without meeting the application requirements of ORS 599.205 to 599.265, 599.335, 599.401 to 599.431, 599.610, 599.640, 599.991 and 698.530, but subject to all provisions of ORS chapter 599 in effect prior to June 29, 1971, including payment of the fee required by ORS 599.235. Such license shall expire on June 30, 1972, but may be renewed in accordance with the provisions of ORS 599.406 (2) and shall thereafter be subject to all the provisions of ORS 599.205 to 599.265, 599.335, 599.401 to 599.431, 599.610, 599.640, 599.991 and 698.530. [1971 c.578 §4; 1977 c.214 §7]

599.415 [1957 c.390 §§7, 8, 9, repealed by 1969 c.33 §2]

599.416 Hearing on license application; notice record of proceedings. (1) Upon receipt of an application for license as provided in ORS 599.406 (1) and the fees prescribed in ORS 599.406 (3), the department shall establish a time, date and place for a public hearing on the application. The hearing shall be held not later than 30 days after receipt by the department of the application for license, but may be delayed upon request by the applicant, and shall be held in a city within the trade area proposed to be served by the applicant or, if requested by the applicant, at the department's location in Salem, Oregon.

(2) The hearing provided for in subsection (1) of this section shall be held in accordance with the provisions of ORS

183.310 to 183.550 and in addition the department shall:

(a) Publish notice of the hearing in a newspaper of general circulation in the trade area proposed to be served by the applicant at least 10 days prior to such hearing.

(b) Forward notice of the hearing to all known interested persons and to all known incorporated livestock associations and livestock auction market associations in Oregon.

(3) The record of hearing shall contain proof of publication and notice required by subsection (2) of this section. [1971 c 578 §5; 1977 c 214 §8]

599.421 Matters to be considered in granting licenses; forms for market change of ownership. (1) In its consideration of the application for license, the department shall consider:

(a) The ability of the applicant to qualify with the provisions of the federal Packers and Stockyards Act of 1921, 7 U.S.C. §§181 to 228, as amended, and effective June 29, 1971.

(b) The testimony and evidence adduced at the hearing provided for in ORS 599.416 and the data and information contained in the application required by ORS 599.406.

(c) The nature and extent of livestock auction market services already available in the trade area proposed to be served by the applicant, and whether the granting of a license to the applicant would be beneficial or detrimental to the livestock industry and economy in the trade area, or would impair the ability of any other livestock auction market license holders to continue unimpaired service to the trade area.

(d) Any record or information relating to the applicant's prior experience in the operation of a livestock auction market and apparent ability to permanently and continuously serve the trade area in such capacity.

(2) An application for license at an existing licensed livestock auction market location which is occasioned solely by a change of ownership, shall be made upon forms furnished by the department which need only contain the information required in ORS 599.406 (1)(a), (b), (c) and (g), but if applicant's transferor has altered or remodeled the facilities or if applicant proposes to do so, the application shall also contain the information required in ORS 599.406 (1)(d). The application processing fee required by ORS 599.406 (3) shall not be applicable to an application filed pursuant to this subsection. [1971 c 578 §6]

599.425 [1957 c.390 §§10, 11; 1963 c.15 §2; repealed by 1969 c.33 §2]

599.426 Denial of license; procedure. (1) If the department determines the application for license should be granted it shall issue a license. Any order of the department denying the application for license shall be in writing and forwarded to the applicant by certified mail and shall set forth the basis for such denial.

(2) Within 30 days of the date of any order of denial of an application the applicant may file a request for reconsideration with the department, supported by any additional facts, information or material which the applicant believes may justify reconsideration of the denial.

(3) If a request for reconsideration is filed with the department as provided in subsection (2) of this section, the department shall reconsider the denial and may grant the application, modify or affirm the order of denial, or may order a rehearing. Notice of such departmental action shall be rendered to the applicant within 30 days of receipt of such additional facts, information or data. [1971 c.578 §7]

599.430 [1957 c.390 §12; 1967 c.637 §18; repealed by 1969 c.33 §2]

599.431 Renewal of license without hearing. An application for renewal of a license may be granted by the department without a hearing. If in the judgment of the department it would be in the public interest to hold a hearing to determine whether a renewal license should be granted, or upon written request by a member of the board, or if in the judgment of the department the renewal license should not be granted, a hearing shall be held pursuant to ORS 599.416, and in that case the provisions of ORS 599.421 and 599.426 shall also be applicable. [1971 c.578 §8]

STATE LIVESTOCK AND MARKETING BOARD

599.440 State Livestock and Marketing Board created; members. There is created a State Livestock and Marketing Board consisting of seven regular members appointed by the Governor for the following terms of office:

(1) One member whose name was submitted by the Oregon Cattlemen's Association for three years.

(2) One member whose name was submitted by the Western Oregon Livestock Association for two years.

(3) One member whose name was submitted by the Oregon Dairymen's Association for one year.

(4) One member whose name was submitted by the Oregon Sheep Growers' Association for three years.

(5) One member whose name was submitted by the Oregon Horseman's Association for one year.

(6) One member whose name was submitted by the Oregon Auction Yard Owner's Association for two years.

(7) One member, engaged in large animal practice, whose name was submitted by the Oregon Veterinary Medical Association for one year. [1977 c 214 §2]

599.445 Members' terms. After initial terms of appointment, all future appointments shall be for a period of three years. No member may serve for more than two consecutive full three-year terms. Except for the initial three-year appointments under ORS 599.440 (1) and (4), initial appointments shall not be counted for the purpose of maximum number of consecutive terms. Members shall serve until their successors have been appointed and qualified. [1977 c.214 §3]

599.450 Vacancies on board; director as ex officio member of board. If a vacancy occurs in such board, a successor to the member whose position has become vacant shall be appointed by the Governor to serve for the unexpired term of such member. If within 20 days from the date of occurrence of a vacancy, the association from which such member was appointed has not submitted the names of two persons from whom a successor may be chosen, the Governor shall appoint such qualified person as the Governor deems proper to fill such vacancy. A vacancy shall be deemed to exist when a member of the board dies, resigns, fails to meet the qualifications of the original appointment or, without excuse deemed adequate by the Governor, fails to attend two successive meetings of the committee. The director shall be an ex officio member of the board. The director may designate an employee of the department as the representative of the director at any meeting. [1977 c.214 §4]

599.455 [Formerly 599.365, 1967 c.208 §5; 1971 c.578 §16; repealed by 1977 c.214 §10]

599.460 [Formerly 599 375, repealed by 1977 c.214 §10]

599.465 Qualifications of board members. Each member of the board shall continue during the term of office of the member to have the following qualifications:

(1) Be a bona fide resident of the state.

(2) Shall be and have been actively engaged in the industry or profession that nominates the member for a period of at least five years and derives a substantial proportion of the income of the member from following that industry or profession.

(3) Shall be a citizen of the United States.

(4) Shall have demonstrated an active interest in the industry or profession of the member by participating in the association's activities.

(5) Indicated to the association nominating the member that the member has a full understanding of the achievements expected of the member in fulfilling the position. [1977 c.214 §5]

599.470 Officers; quorum; compensation and expenses; duties of board. (1) The board shall elect a chairman and secretary from its membership. It shall meet upon call of the director or the chairman or upon written request to the director by a majority of the members of the board. A majority of the members of the board present at any meeting shall constitute a quorum and a majority vote of the quorum, but in no event less than four votes, at any meeting shall constitute an official act of the board. Members of the board shall be paid as prescribed in ORS 292.495.

(2) The powers and duties of the board are to advise and counsel with the department in the administration of ORS chapters 596, 604 and this chapter. [1977 c.214 §6]

STOCKYARDS

599.485 Definitions for ORS 599.490 and 599.495. As used in ORS 599.490 and 599.495, "stockyards" means any place, establishment or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live livestock are received, held or kept for sale or shipment. [1957 c 390 §19]

599.490 Department may impose stockyard requirements to prevent spread of disease or to enable Oregon or areas thereof to obtain brucellosis-free or tuberculosis-free status. In order to carry out the provisions of ORS 596.020, the department may require such testing, treating and examining of livestock sold, traded, exchanged or handled at or through any stockyard as in its judgment may be necessary to prevent the spread of brucellosis, tuberculosis or paratuberculosis, hog cholera and other infectious, contagious or communicable diseases among the livestock of this state. [1957 c.390 §20; 1959 c.63 §7]

599.495 Cooperative agreements with Federal Government under which state department carries out federal programs

in livestock auction markets and stockyards. (1) The State Department of Agriculture may enter into cooperative agreements or contracts with any agency or department of the Federal Government whereby the State Department of Agriculture may:

(a) Assume authority and administrative responsibility over the operations of livestock auction markets or stockyards, including but not limited to federal posted yards which are under the authority and responsibility of the Federal Government.

(b) Assume and carry out the program, procedures, services and work being done or to be done by the federal agency or federal department in Oregon to eradicate and to prevent the spread of brucellosis, tuberculosis, paratuberculosis or other infectious, contagious, communicable or dangerous diseases in livestock auction markets or stockyards or the animals handled by such markets or yards.

(2) The State Department of Agriculture may contract with or enter into agreements with the agencies or departments of the Federal Government referred to in subsection (1) of this section to receive funds which shall be deposited with the State Treasurer to be paid out and used by the State Department of Agriculture in carrying out the provisions of any Oregon law and of the Act of Congress under which the money is paid in accordance with the terms of the contract or agreement. Such funds are continuously appropriated for the purpose of carrying out this chapter in accordance with the terms of the contract or agreement. [1957 c.390 §21; 1967 c.637 §19]

MISCELLANEOUS PROVISIONS RELATING TO AUCTIONS

599.510 Prevention of competitive bidding prohibited. No person shall enter or offer or attempt to enter into any agreement or arrangement with another person for the purpose of preventing competitive bidding upon any horses, mules, cattle, sheep, swine or other livestock shipped to a wholesale or central stockyards market for sale.

599.520 By-bids and fraudulent bids made to deceive bidders; minimum or reserve bids. (1) No person shall make any by-bids or other false or fraudulent bids designed to stimulate bona fide bidding at any auction sale of livestock.

(2) No person shall conspire with any other person for the purpose of making such a bid or make any false statement relative to any such livestock being sold, with intent to deceive any bidder or with intent to influence any bid therefor. Any false statement relative to such livestock, made by the owner thereof or the agent of the owner, shall prima facie be presumed to have been made with intent to deceive any such bidder.

(3) However, this section does not prohibit the owner or consignor of livestock offered at public auction from announcing a minimum or reserve bid, which shall either be noted in the catalog of such auction or announced by the auctioneer.

599.530 Prohibited practices in sales of purebreds. No person shall include in any public auction or sale of purebred livestock any animal which is not offered for bona fide sale, or which is placed in the sale for the purpose, or with the intent, of creating, or attempting to create, any fictitious value for any other animal offered at such sale by by-bidding, offering fictitious bids, making fictitious sales or otherwise.

599.540 Withdrawal of purebred livestock from a sale. (1) In cases where there is an animal listed in the printed catalogue or other advertisements of any auction sale of purebred livestock and is withdrawn prior to the sale, the reason for such withdrawal shall be publicly stated by the owner or consignor or the agents of the owner or consignor, or by the auctioneer, prior to the commencement of such sale.

(2) As used in ORS 599.530 and 599.540, the term "purebred livestock" includes all animals registered or eligible to registration in the various breed associations organized and maintained for the registration of cattle, horses, swine, sheep or goats, and having jurisdiction over the registration of such animals in the United States.

599.550 Milking dairy cows prior to sale. No person shall sell or offer for sale for dairy purposes at public auction, any cows giving milk and intended to be used for dairy purposes, that have not been milked out entirely dry within not more than 12 hours preceding the opening of the sale at which such cows are offered for sale or sold.

599.560 Affidavits as to time of milking. Any person selling or offering for sale any cows in milk at public auction, intended to be used for dairy purposes, shall file with the auctioneer of the sale the affidavits of two freeholders to the effect that they have knowledge that such cows have been milked entirely dry within the time specified by ORS 599.550.

TEMPORARY HORSE SALES

599.610 Temporary horse sale license. (1) Notwithstanding other laws to the contrary, any person desiring to conduct a temporary horse sale to which the public may

consign horses for sale by auction open to public bidding and where such sale shall not exceed one calendar day may make application to the department for a temporary horse sale license.

(2) A temporary horse sale license shall be issued when the department finds:

(a) That an application as approved by the department has been received.

(b) That the applicant has filed with the department a bond as required by ORS 599.245, or a cash deposit with the department in lieu thereof, except that such bond or deposit may be limited to the period of operation of the temporary horse sale as approved by the department, and except that the bond or deposit shall be at least $25,000.

(c) That a license fee of $25 has been paid.

(d) That the requirements of ORS 599.610 to 599.640 and the rules promulgated thereunder are complied with.

(3) A separate application, license fee and adequate bond, as required by subsection (2) of this section, is necessary for each day upon which horses are sold.

(4) A license shall not be required for the sale of horses by nonprofit breed or livestock associations or clubs, Future Farmer and 4-H groups, auction sales conducted in conjunction with county, state or private fairs or auction sales conducted by or for a person at which horses of such person's ownership are sold on premises of the person or by a person licensed pursuant to the provisions of ORS 599.235 and 599.401. [1959 c.63 §2; 1971 c 578 §17; 1981 c 248 §18]

599.620 Enforcement and regulations. Except as provided by ORS 599.245, the provisions of this chapter shall not apply to a person licensed pursuant to ORS 599.610. In lieu thereof, the department shall promulgate regulations relating to the time, place, manner and method of the temporary sale of horses as authorized by ORS 599.610. In the enforcement of such provisions or the promulgation of regulations thereunder, the department shall take into consideration the following factors:

(1) The measures necessary to establish and maintain the same standards and purposes as are contained in the laws and regulations relating to livestock auction markets and stockyards licensed under and subject to the provisions of this chapter and ORS chapter 596 and yet at the same time to provide a practical and reasonable procedure to permit the holding of such temporary sale of horses.

(2) Those measures necessary to control or eradicate contagious or infectious diseases of horses.

(3) The employment of a veterinarian by the licensee as provided by ORS 599.335.

(4) The economic consequences to the citizens of this state which may result from the spread of all diseases of horses.

(5) The extent to which certain diseases of horses are endemic or epidemic through neighboring states, the United States or this state.

(6) The extent to which livestock other than horses which are infected with or are carriers of the diseases may be adversely affected by reason thereof.

(7) The laws and regulations of the United States and other states.

(8) The laws relating to brands, as provided by this chapter. [1959 c.63 §3]

599.630 Revocation, suspension or refusal to issue license. The department may revoke or suspend or refuse to issue the temporary horse sale license of any person who does not or has not complied with the provisions of ORS 599.610, 599.620 and 599.640 or regulations promulgated thereunder. [1959 c 63 §4]

599.640 Compliance with ORS 599.610 and 599.620 required. No person shall violate the provisions of ORS 599.610 and 599.620 or the regulations promulgated thereunder. No person other than a licensee of a livestock auction market or stockyard as provided by ORS 599.235 and 599.401 shall operate an establishment, place of business, or conduct a sale to which the public may consign or permit horses to be sold by auction open to public bidding, without first obtaining a temporary horse sale license as authorized by ORS 599.610. [1959 c.63 §5; 1971 c 578 §18]

SECURITY INTERESTS IN LIVESTOCK

599.700 Financing statement; notice to department; fees. (1) In addition to the requirements of ORS chapter 79 regarding the filing of effective financing statements, a person who files an effective financing statement with the Secretary of State's central filing system for farm products on cattle, horses or sheep shall notify the State Department of Agriculture of the filing. The notification shall be in a form prescribed by the department.

(2) The notification to the department of the filing of an effective financing statement shall be accompanied by a fee of $5. The department shall deposit all fees received pursuant to this section to the credit of the Department of Agriculture Service Fund. All

such moneys are subject to ORS 561.144 and are appropriated continuously to the department to carry out the provisions of this section. [1987 c 239 §2]

599.710 Registration with Secretary of State; information on livestock filings furnished at livestock sales. (1) The department shall register with the Secretary of State's central filing system for farm products.

(2) The department shall request from the Secretary of State those portions of the farm products master list arranged on the subject of cattle, horses or sheep.

(3) The department's brand inspectors shall furnish this information at sales of cattle, horses or sheep at locations other than licensed livestock auction markets by notations on brand inspection certificates or other appropriate means. [1987 c.239 §3]

599.720 Report form prescribed by Secretary of State. Reports provided to the department shall be in a form prescribed by the Secretary of State. [1987 c.239 §4]

599.730 Restriction on department liability. The department and its employees are not liable to debtors, secured parties, livestock sales operators or agents or other persons for administration of ORS 599.700 to 599.730 except as provided in ORS 30.260 to 30.300. [1987 c.239 §5; 1989 c.171 §73]

599.740 Application of filing system for farm products to ORS 599.700 to 599.730. No provision of ORS 79.6020 to 79.7010 shall affect or supersede any provision of ORS 599.700 to 599.730. [1987 c.239 §6]

PENALTIES

599.990 [Amended by 1953 c 677 §22; subsection (2) enacted as 1953 c.677 §§19, 20; 1955 c 542 §2; subsection (6) of 1959 Replacement Part enacted as 1959 c 63 §8, 1961 c.283 §4; repealed by 1971 c.578 §20]

599.991 Penalties. Violation of any of the provisions of ORS chapter 599 is a misdemeanor. [1971 c.578 §21]