

Chapter 602

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Bees

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ANIMALS

GENERALLY

602.010 Definitions. As used in this chapter, the term:

(1) "Apiary" and "apiary property" includes bees, honey, beeswax, bee comb, hives, frames and other equipment, appliances and material used in connection with an apiary.

(2) "Apiarist" means any person, firm or corporation who owns bees or is a keeper of bees.

(3) "Appliances" means any implement or device used in the manipulating of bees or their brood or hives, which may be used in any apiary.

(4) "Bees" means honey-producing insects of the genus *Apis* and includes the adults, eggs, larvae, pupae and other immature stages thereof, together with such materials as are deposited into hives by their adults, except honey and beeswax in rendered form.

(5) "Colony" or "colonies of bees" refers to any hive occupied by bees.

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

(7) "Disease" means pests, disease or any condition affecting bees or their brood.

(8) "Hive" means any receptacle or container made or prepared for use of bees, or box or similar container taken possession of by bees.

(9) "Inspector" means any person authorized to enforce the provisions of this chapter.

(10) "Location" means the premises upon which an apiary is located.

(11) "Person" includes any individual, partnership, association or corporation, but does not include any common carrier when engaged in the business of transporting bees, hives, appliances, bee cages or other commodities which are the subject of this chapter, in the regular course of business.

(12) "Treatment" means application of chemicals or medication in whatever form and by whatever means to honey bees or beekeeping equipment. [Amended by 1961 c.177 §1; 1963 c.65 §1; 1989 c.738 §5]

602.020 Chief Apiary Inspector. The department is authorized to appoint a Chief Apiary Inspector and such deputy apiary inspectors as may be necessary to carry out this chapter. The administration of such sections by the Chief Apiary Inspector shall be under the direction and control of the Director of Agriculture. [Amended by 1961 c.177 §2]

602.030 Inspection of apiaries; notice to eradicate disease; eradication; quarantine. (1) The Chief Apiary Inspector shall make, or cause to be made, whenever necessary, inspections of all apiaries.

(2) Whenever a disease exists in any apiary, the inspector shall, in writing, notify the owner or person in charge of such apiary, stating in the notice the nature of the disease found. When the person in charge of any apiary is not known, the notice shall be served by posting in a conspicuous place in the apiary or mailing a copy to the owner's registered address. The notice shall set forth the specified methods and conditions for treatment, and the time within which it must take place.

(3) Any apiary which is found to contain two percent or more colonies of bees infected with disease may be summarily quarantined by the department. Colonies of bees which have died because of such infection shall be counted in computing the percentage of colonies infected. Notice of the quarantine shall be posted prominently on the apiary, and the owner notified of such quarantine. During the quarantine no bees, honey, equipment or other materials may be removed from the apiary, except under the supervision of an inspector, and for the purpose of treating the disease. The quarantine shall be removed when an inspection by the department made at least 30 days after the last previous inspection shows the apiary apparently free from disease. [Amended by 1953 c.400 §7; 1981 c.164 §1; 1989 c.738 §6]

602.040 Diseased apiary as public nuisance; abatement or treatment; limit on movement of hives or contents. Every apiary in which diseased bees are found is declared to be a public nuisance. Whenever any such nuisance exists and the owner refuses or neglects, after notice by an inspector to abate or treat it within the time specified in the notice issued under ORS 602.030, the inspector shall abate it at the owner's expense by burning the condemned hives and their contents, including bodies, bottom boards, covers and supers, within 48 hours after the expiration of the time specified in the notice. During the period of time specified in such notice and during any extended time permitted under the provisions relative to an appeal for diagnosis as provided by ORS 602.050, no person shall remove any of the hives or their contents, except that the hive or its contents may be removed by the owner or bailee for the purpose of destroying it under the supervision of an inspector. [Amended by 1953 c.400 §7; 1989 c.738 §7]

602.050 Laboratory test for disease. The inspector may take a sample of material from any hive suspected of containing disease. Such sample shall be submitted to the department or to a laboratory designated by the department to test for the presence of disease. The findings of the department or

the designated laboratory shall be deemed prima facie correct. [Amended by 1989 c.738 §8]

602.060 Prohibited conduct. (1) No person shall:

(a) Possess any bees which have not been registered as provided by ORS 602.090;

(b) Interfere with any inspector engaged in the performance of duties pursuant to this chapter;

(c) Keep bees in hives with immovable combs;

(d) Damage or destroy bees or their equipment by poison, by moving them a short distance or by any other means. Any person violating this provision is liable for the damages, which may be recovered in an action at law; or

(e) Place in any combless package of bees offered for sale or distribution in this state any food, article or substance containing honey.

(2) No person in possession of an appliance, hive or equipment contaminated with any disease shall negligently or wilfully expose or handle such appliance, hive or equipment in a manner which will permit bees to become infected with such disease.

(3) No person shall carelessly or negligently expose combs wet with honey or combs containing honey or pollen to bees. [Amended by 1953 c 400 §7, 1961 c 177 §3]

602.070 Movement of bees; notice; inspection. (1) No person shall move bees from one location to another within this state without notifying the department, in writing, of such movement within five days after moving the bees. The written notice shall state the number of colonies moved, the location from which and to which the bees were moved and proper directions for locating the bees.

(2) When the department receives notice of a movement of bees it shall, if it deems it necessary, make an inspection of such bees for the presence of disease.

(3) When an inspection is requested by any person for the purpose of obtaining a certificate of inspection for out of state movement of bees or appliances, the applicant for such certificate shall pay the cost of inspection, including per diem and traveling expenses of the inspector. [Amended by 1953 c.400 §7]

602.080 [Repealed by 1953 c 400 §7]

602.081 Importation of bees or used apiary equipment or appliances. No person shall bring or cause to be brought into the State of Oregon bees or used apiary equipment or appliances, excepting used

packaged bee cages returned empty to this state, without an accompanying certificate of health as approved by the department, made within 60 days prior to such movement, by an authorized inspector or other officer of the state or country in which the movement originated, stating that such bees, equipment and appliances are free from disease. [1961 c 177 §5]

602.083 Quarantine of imported bees, appliances. (1) All bees and appliances imported into this state may be placed in quarantine not to exceed 30 days in a location or place designated and approved by the department. Any person importing bees or appliances shall obtain approval from the department prior to importation.

(2) The department shall establish reasonable provisions relating to and covering bees and appliances in quarantine. Bees or appliances, including those in quarantine, are subject to the provisions of this chapter.

(3) If the department verifies that a person owning or possessing imported bees has violated any provision of this chapter, it may, notwithstanding other provisions of law, suspend for a period not to exceed two years the right of such person to again import bees or appliances. [1967 c.123 §2; 1989 c.738 §9]

602.085 Exceptions to quarantine of bees, appliances. The provisions of ORS 602.083 do not apply to:

(1) Bees and appliances registered with the department, which, after being moved or transported out of state, are moved or transported back into Oregon within five months, if they are accompanied into Oregon by a health certificate issued by an authorized official of the other state approved by the department.

(2) Oregon registered bees absent from this state for two months or less. A health certificate for Oregon registered bees and appliances described in subsection (1) of this section is not necessary when they are returned or moved or transported back into Oregon if, during their absence from Oregon they have not been brought into contact with or commingled with bees or appliances in the other state that are not covered by a health certificate. [1967 c.123 §4; 1989 c 738 §10]

602.087 Diseased bees discovered during quarantine; embargo; disposition. If at any time during the quarantine as authorized in ORS 602.083 the department determines that two percent or more of the colonies of bees under quarantine are infected with disease, the department shall embargo said bees and shall notify the owner or person in possession of the bees in writing that:

(1) The department has embargoed the infected colonies of bees, that they are declared to be a public nuisance and they shall be destroyed and the nuisance abated as authorized or required under ORS 602.040, and

(2) The department has embargoed the remaining colonies of bees under quarantine and all such colonies are to be removed from Oregon within 10 days of the date of such notice, and that if they are not removed within such period, the colonies will be disposed of by the department as authorized and required by ORS 602.210 to 602.260. [1967 c 123 §3, 1989 c 738 §11]

602.090 Registration of apiaries. (1) Every person who owns or is in charge of any apiary located within this state, shall cause such apiary to be registered with the department as in this section provided.

(2) Application for registration shall be made on a form furnished by the department. The registration shall cover each colony of bees owned by the applicant, and shall give the locations of such colonies and the name, address and telephone number of the owner and the name, address and telephone number of the person in charge if the person in charge is not the owner. The registration shall be made before June 1 of each year for all colonies. Each registrant shall furnish an address to which any notice required by this chapter to be given may be sent, and shall agree that any notice sent by the department to such address shall be deemed to be notice in fact.

(3) The application for registration shall be accompanied by a fee of \$5. The application shall also be accompanied by a colony registration fee of 30 cents for each colony of bees owned by the applicant over six in number. For each registration after July 1, the fee shall be \$10 plus 60 cents per colony over six in number.

(4) When the ownership of bees which have been subject to the charge provided in this section is changed, the department shall transfer the registration to the new owner without charges. However, if the bees have not been previously registered, the new owner shall pay the registration and colony fees without penalty. [Amended by 1953 c.400 §7, 1961 c 177 §6; 1963 c.65 §2, 1989 c 354 §1]

602.100 Establishing standards of colony strength; certification of hives. (1) The department shall, after public hearing, establish standards of colony strength for apiaries used in the commercial pollenization of agricultural and horticultural crops.

(2) For purposes of this section "colony strength" has reference to the potential of a hive of bees to pollenize horticultural or ag-

ricultural crops. Standards of colony strength shall be based upon, among other things:

(a) The number of bees per hive.

(b) The number of cells containing brood per hive.

(c) The health of the bees and the brood.

(d) Such other factors as may relate to the ability of the colony to pollenize horticultural and agricultural crops.

(3) The department may at such places as the volume of business is found to warrant the furnishing of such work, provide qualified inspectors who shall carry on colony strength certification work. The department may identify and certify hives of bees used in commercial pollenization on the basis of colony strength. The department shall establish a schedule of fees to cover the cost of inspection and certification of hives for colony strength.

602.110 Registration of apiary equipment. (1) Upon receipt of an application of any person therefor, accompanied by a fee of \$1, the State Department of Agriculture shall register, in a registration book kept in its office for that purpose, the apiary equipment identifying brand of such applicant, if a certificate for such brand has not been previously issued. Any person owning apiary equipment who, prior to July 5, 1947, was not in possession of any established apiary equipment identifying brand, may make application to the department for a serial-number brand therefor.

(2) Upon receipt of any application for the issuance of a serial-number brand, accompanied by a fee of \$1, the department shall issue to the applicant, an exclusive apiary equipment serial number and shall register it as provided by this section.

(3) Every application for the registration of an apiary equipment brand or for an apiary equipment serial number shall contain the name and address of the applicant and the name of the county in Oregon in which such applicant regularly keeps the greatest number of bee colonies. Such information shall be registered, together with the brand or apiary equipment serial number of such applicant.

602.120 Issuance of brand or serial number certificate. Upon the registration of the brand or the issuance of an apiary equipment serial number as provided by ORS 602.110, the State Department of Agriculture shall issue to the applicant a certificate setting forth a concise description of the brand or the serial number. The possession of this certificate entitles the person in whose name it is issued to the exclusive and sole use of

the brand or apiary equipment serial number described or set forth in it.

602.130 Identification of hive bodies, supers and frames. Every person who is in possession of an apiary equipment brand or apiary equipment serial number, as provided by ORS 602.110, shall identify all hive bodies and supers by burning a replica of the apiary equipment brand or apiary equipment serial number on both ends of all hive bodies and supers. Such replica shall be not less than one-half inch in height. Such persons may identify frames with the replica of the brand or serial number permanently on the top bars thereof. A replica of the brand or serial number may be permanently placed on any other equipment in any manner or position desired.

602.140 Transfer of ownership of apiary equipment. (1) In case of a transfer of ownership of any apiary equipment by the possessor of a registered and certified brand or serial number, a copy of the bill of sale specifying the equipment transferred, as to identification and amount, shall be forwarded by registered mail to the State Department of Agriculture. The department shall record such bill of sale in a book kept in its office for that purpose.

(2) In no case, after any such transfer of apiary equipment, shall the replica of the original brand or serial number be defaced or obliterated. The brand or serial number, if any, of the new owner, shall be placed below the original brand or, if that is not possible, then as near to the original brand as can conveniently be done.

602.150 Prohibited conduct relating to brands and serial numbers. No person shall:

(1) Alter, deface, remove or obliterate the replica of a registered brand or serial number which appears on any apiary equipment, with the intent to steal it or prevent the identification thereof.

(2) Have in possession of the person any apiary equipment upon which appears a replica of any registered brand or serial number, unless such person is the possessor of a certificate of registration for such brand or serial number issued by the State Department of Agriculture, if a bill of sale for such apiary equipment has not been previously forwarded to the department as provided by ORS 602.140.

(3) Have in possession of the person any apiary equipment which has previously borne the replica of a registered brand or serial number, but which brand or serial number has been altered, defaced, obliterated or removed.

602.160 Posting registration number or statement of ownership. Any owner or possessor of an apiary in which there are hives that are not marked with a registered brand or apiary equipment serial number, shall, unless such apiary is located at the owner's place of residence or beekeeping headquarters, post and keep posted in a prominent place at each apiary, in figures at least one inch high, the registration number issued by the State Department of Agriculture which currently applies to the colonies of bees in such apiary. In lieu of posting such registration number, such owner or person in possession may post a statement of the ownership of the apiary giving on it the name and address of the owner.

602.170 Jurisdiction of courts. The district courts and circuit courts have concurrent jurisdiction with justice courts in the enforcement of ORS 602.010 to 602.100.

602.180 Disposition of fees. The department shall deposit all fees paid to it under this chapter into the Department of Agriculture Service Fund. Such fees are continuously appropriated to the department for the purpose of administering and enforcing this chapter, including release and publication of information and material to better acquaint the bee industry with the law and regulations promulgated thereunder. [Amended by 1961 c 177 §7; 1979 c 499 §16]

602.190 Designation of diseases; eradication and control programs; regulation of commercial use of diseased wax. In order to prevent and control apiary diseases, the department:

(1) May designate diseases and conditions, after consultation with the Apiary Advisory Committee, which threaten the honey bee population in this state.

(2) Shall establish by rule treatment programs designed to eradicate or control the disease or condition.

(3) Shall establish rules regulating commercial facilities which render diseased wax. [1989 c.738 §2]

DISEASE CONTROL

602.200 Inspection to determine efficacy of disease treatment; certification upon successful treatment; destruction of property if treatment fails. When a disease or condition which threatens honey bees is found by the department, the department shall establish a system of inspections to determine the progress of treatment programs prescribed by the department. If the department determines that the disease or condition has been controlled or eradicated, the department shall issue to the apiary owner a certificate so stating. If the department

determines that the treatment program is unsuccessful or that the owner has failed to implement the program, the department may order the diseased equipment and bees destroyed, as provided in ORS 602.030 and 602.040, at the owner's expense. [1989 c 738 §3]

602.210 Authority to embargo apiary property. In order to control and eradicate diseases which could cause irreparable damage to the bee industry and to all segments of agriculture of this state, any apiary property within the state which exists in violation of ORS 602.081 or 602.090 may be embargoed by the department. [1963 c 65 §4; 1989 c 738 §12]

602.220 Notice of embargo. (1) Whenever apiary property is embargoed under ORS 602.210, the department shall give notice of such embargo to the owner of the apiary; or, after reasonable effort to ascertain the owner or the address of the owner if such owner remains unknown or cannot be located, notice shall be given to the person in possession of the apiary.

(2) Notice of embargo shall:

(a) Be in writing.

(b) Describe the property embargoed.

(c) Describe the violation involved.

(d) State the time within which the violation must be corrected, which time shall be not less than 15 days from notice of embargo.

(3) A warning to all persons that the apiary property may not be removed, together with a copy of the written notice of embargo, shall be posted in a conspicuous place in the apiary. [1963 c.65 §5; 1989 c 738 §13]

602.230 Disposition of embargoed property. If the violation charged is not corrected within the time prescribed by the notice of embargo, the department may dispose of the apiary property in the following manner:

(1) The department shall give written notice to the owner or to the person in possession of the apiary that the embargoed property will be disposed of by public sale at a stated time and place not less than 10 days from date of such disposal notice.

(2) If the owner remains unknown or cannot be located, the department shall also, not less than 10 days before the sale, cause a notice of such disposal sale to be published in a newspaper of general circulation in the county where the apiary is located.

(3) The apiary property shall be sold to the highest bidder, taking into consideration written bids received before the time of sale and oral bids at the sale. However, any person submitting a bid must agree to comply

with the provisions of this chapter before the bid of the person will be acknowledged.

(4) If there is no acknowledged bid and if the apiary property is not otherwise disposed of under the provisions of ORS 602.270, the department may dispose of such property in any other manner it deems necessary including destruction without indemnity to any person. [1963 c.65 §6, 1989 c 738 §14]

602.240 Department not responsible for loss or damage. The department shall not be responsible for any loss or damage to the apiary property during seizure or disposal. [1963 c 65 §7]

602.250 Claim by owner; reimbursement. If the owner appears and files a written claim with the department for the apiary property before the time of sale, the owner must, within 24 hours before the scheduled time of sale, reimburse the department for its actual costs already incurred and comply with the notice of the department before the owner is given control and custody of the apiary property. If the owner fails so to reimburse and comply, the sale shall be carried out as in cases where the owner does not appear. [1963 c 65 §8]

602.260 Title of apiary property sold by department. The purchaser of the sold apiary property shall have clear and absolute title to the apiary property upon receiving a bill of sale from the department. [1963 c 65 §9]

602.270 Temporary custody of apiary property; notice; reimbursement. (1) Notwithstanding ORS 602.210 and 602.220, when it is necessary for the department, or persons under its supervision, to feed bees in order to maintain colony strength or to prevent them from dying, the department may, without charge therefor, give temporary custody of the seized apiary property to any person who will maintain it in compliance with this chapter.

(2) Within 10 days after such emergency disposal the department shall notify in writing the owner or person in possession of the apiary of such disposal. If the owner is unknown or cannot be located, the department also shall cause a notice of such disposal to be published in a newspaper of general circulation through the area where the apiary was located within 10 days after disposal.

(3) If the owner appears and files a written claim with the department within 30 days after such disposal, the owner must within such 30-day period reimburse the person maintaining the apiary property for costs actually incurred before such owner is given control and custody of the apiary property.

(4) If the owner does not comply with the provisions of subsection (3) of this section,

the person maintaining the apiary property shall have clear and absolute title thereto upon receiving a bill of sale from the department. [1963 c 65 §10]

602.280 Costs to be paid from sale proceeds; disposition of balance. (1) All costs incurred by the department in the seizure and sale of the apiary property, including salary and mileage of department personnel, shall be paid from the proceeds of the sale.

(2) If the proceeds of the sale are inadequate to pay all of the costs incurred by the department, the department shall pay the deficiency from funds available under this chapter.

(3) Any balance remaining from the proceeds of the sale shall be paid to the owner of the apiary property. If the owner is unknown or cannot be located, the balance shall be held by the department for a period of two years.

(4) If the owner fails to establish the right of the owner to the proceeds within two years after the date of sale of the apiary property, all right, title and claim thereto shall vest in the department to use in carrying out this chapter. [1963 c 65 §11; 1967 c 637 §20]

APIARY ADVISORY COMMITTEE

602.300 Apiary Advisory Committee; members; term; expenses. (1) The Director of Agriculture shall appoint an apiary advisory committee to advise the director on all matters relating to this chapter.

(2) The committee shall consist of seven members who broadly represent the beekeeping industry of this state. In addition thereto, the following persons shall serve as ex-officio members without the right to vote:

(a) The president of each state-wide organization dedicated to the advancement and promotion of beekeeping in this state.

(b) A representative of the department.

(c) The administrator of the apiary program at Oregon State University.

(3) Except for ex-officio members, the term of office of a member is two years. A member is eligible for reappointment but may not serve more than four consecutive terms.

(4) Members of the committee are not entitled to compensation as a member of the committee, but are entitled to expenses incurred in performance of official duties as provided in ORS 292.495. [1989 c 61 §2]

PENALTIES

602.900 Civil penalty. (1) Any person who violates any provision of this chapter, a rule adopted pursuant thereto or the terms or conditions of any order issued by the department under ORS chapter 602 shall be subject to a civil penalty not to exceed \$25 per violation per day of violation.

(2) Each violation may be a separate and distinct offense, and in the case of a continuing violation, each day's continuance thereof may be deemed a separate and distinct offense.

(3) The department shall adopt a schedule or schedules establishing the amount of civil penalty that may be imposed for a particular violation. No civil penalty shall exceed \$2,500 per violation.

(4) Any civil penalty imposed under this section shall become due and payable when the person incurring the penalty receives a notice in writing of the imposition of the penalty. The notice shall be sent by registered or certified mail.

(5) The person to whom the notice is addressed shall have 20 days from the date of mailing of the notice in which to make written application for a hearing.

(6) Any person who makes application as provided for in subsection (5) of this section shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(7) Judicial review of an order made after a hearing under subsection (6) of this section shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases.

(8) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, unless the amount of penalty is paid within 10 days after the order becomes final, it may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(9) Any civil penalty received by the State Treasurer under this section shall be deposited in the General Fund to the credit of the Department of Agriculture Account and is continuously appropriated to the department for the administration and enforcement of the laws and rules under which the penalty was assessed. [1989 c.738 §§4, 17]

602.990 Criminal penalties. (1) Violation of any of the provisions of ORS 602.010 to 602.100 is punishable, upon conviction, by a fine not exceeding \$500 or imprisonment in

the county jail not exceeding six months, or both.

(2) Violation of any of the provisions of ORS 602.110 to 602.160 is punishable, upon conviction, by a fine not exceeding \$100 or

imprisonment in the county jail for not less than 10 days nor exceeding six months, or both.
