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Chapter 596

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GENERAL PROVISIONS

596.010 Definitions. As used in this chapter, except as provided in ORS 596.615 to 596.681:

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

(2) "Disease" means any disease of livestock which may be transmitted or communicated through direct or indirect contact from one animal to another, including those diseases transmitted by or through livestock to humans.

(3) "Livestock" includes, but is not limited to, horses, mules, jennies, jackasses, cattle, sheep, dogs, hogs, goats, domesticated fowl and domesticated fur-bearing animals. [Amended by 1955 c.557 §1; 1981 c.334 §8]

596.020 Duties of the State Department of Agriculture in protection of people, livestock, fur-bearing animals and poultry. (1) The department shall:

(a) Exercise general sanitary and disease control supervision over the livestock of this state, and as far as possible, protect the livestock of this state from disease.

(b) Take all measures necessary and proper, in its judgment, to control diseases within this state and to eradicate and prevent the spread of infectious, contagious and communicable diseases that may exist among livestock and to prevent the entry into this state of animals or materials liable to convey infectious, contagious and communicable diseases to the livestock or people of this state.

(c) Prohibit and prevent the sale or use of products dangerous to the health of livestock.

(2) The breeding, raising, producing in captivity and marketing of foxes, mink, chinchilla, rabbit or caracul is an agricultural pursuit. All such animals raised in captivity are domestic fur-bearing animals within the meaning of ORS 596.010 and are subject to the provisions of this chapter. Such animals are not within the purview of the state game laws. All other animals in captivity are subject to the provisions of this chapter for purposes of disease control only.

(3) The department may, to the extent of its professional ability and at the request of a governmental body, assist them in the performance of their prescribed duties. [Amended by 1955 c.557 §2; 1965 c.217 §1; 1971 c.483 §1; 1975 c.399 §1]

596.030 Administration of national plans relating to poultry; disposition of fees; suspension of participants. (1) The department is designated as the official agency in Oregon for cooperation with the United States Department of Agriculture and other states of the United States in the administration of the National Poultry Improvement Plan and the National Turkey Improvement Plan, relating to eradication and control of poultry and fowl diseases and the improvement of breeding and production qualities of such fowl.

(2) All fees collected by the department from participants in either of such plans shall be deposited in the State Treasury and credited to the Department of Agriculture Service Fund, and such fees are continuously appropriated to the department for administration and enforcement of such plans.

(3) A civil action may be maintained by the department on relation of its director for the collection of any unpaid fees charged to participants for services rendered or materials furnished by the department in connection with the administration of either plan.

(4) Nonpayment of fees due the department, as required by law, or failure or refusal to comply with the provisions of the plans or rules thereunder, suspends the right of a person to participate therein and to use any of the material thereunder. The department shall forward a written notice of suspension to the last-known address of the participant, by certified mail, at least 15 days prior to the date of suspension. Prior to the effective date of the suspension, the participant may present information and data to the department showing there has been compliance with the law and the department shall grant such participant an immediate hearing in accordance with ORS 183.310 to 183.550. The order of suspension shall be effective as provided in the order issued pursuant to such hearing. [Amended by 1965 c.217 §2; 1971 c.734 §90; 1979 c.499 §11]

596.040 Cooperative agreements with U. S. Department of Agriculture or other federal agency for livestock disease control; receipt and use of funds. (1) Whenever the Director of Agriculture deems it necessary, the director may enter into cooperative and reciprocal agreements with the United States Department of Agriculture or any other federal agency for the purpose of controlling and eradicating any disease that may exist among the livestock of this state, and may receive and expend funds pursuant to such agreements in furtherance of such purpose.

(2) Whenever any federal department or agency, through its authorized veterinary officers, agents or employees is thus engaged, each of them shall have the full power and authority of a deputy state veterinarian, but is not entitled to pay from this state for services the veterinary officer, agent or employee performs. [Amended by 1955 c.557 §3; 1971 c.483 §2]

596.050 Production of bacteriological or biological products for department; use of proceeds. The Oregon agricultural experiment station, the School of Veterinary Medicine, Oregon State University or the department may make, produce or furnish bacteriological or biological products to be used by the department for the treatment, prevention or detection of animal disease. If either the experiment station or the School of Veterinary Medicine furnishes the products, the station or the school may do so directly to the department and shall produce and furnish such products at actual or approximate cost. Such cost shall be paid by the department out of funds available for that purpose. All money obtained by the department from the sale of such biological or bacteriological products shall be used by the department to pay such costs and for making, producing or furnishing such products, and is continuously appropriated to the department for that purpose. [Amended by 1981 c.681 §1]

596.060 Peace officers to assist the department. The department or any of its officers, employees or deputies may at any time call upon any peace officer for assistance in the discharge of duties, and such peace officer shall give the assistance requested.

596.065 Vaccines harmful to livestock health; written permits authorizing use, purchase, sale or distribution of vaccines. (1)(a) The following vaccines, bacteriological or biological products are deemed to be vaccines or products that are a hazard to the livestock in this state:

(A) Brucella Abortus Vaccine;

(B) Hog Cholera Vaccine;

(C) Rabies Vaccine; and

(D) Any biologic not approved for general use by the United States Department of Agriculture.

(b) In addition to the vaccines or products set forth in paragraph (a) of this subsection, the department, after consultation with the Oregon Veterinary Medical Association, may from time to time enact and amend rules containing a list of additional vaccines or other bacteriological or biological products used or intended to be used for the detection, prevention, mitigation, control, treatment or curing of livestock diseases, whenever such vaccines or products are or might become a hazard to the livestock in this state.

(c) The biological product Brucella Abortus Antigen may only be used by state veterinarians, federal veterinarians and deputy state veterinarians, and may only be used for programs approved by the State Veterinarian.

(d) The biological product Equine Infectious Anemia Antigen may only be used by the department's animal health division laboratory personnel.

(2) The department, when establishing a list under subsection (1)(b) of this section, shall consider:

(a) The possibility of dissemination of disease in this state through the use of the vaccines or products.

(b) The known effectiveness of the vaccines or products for the purpose for which they are sold or recommended.

(c) The existence of alternative vaccines or products constituting a lesser or no hazard to livestock.

(d) Whether or not the disease for which a particular vaccine or product is used or intended to be used is present in this state and to what extent it is present.

(e) Any other factor which, having due regard for the properties of the vaccine or product, may constitute a hazard to the health of livestock in this state.

(3) The use, purchase, sale or distribution of vaccines or products which is prohibited under subsection (1) of this section or under ORS 596.075, may be authorized by written permit of the department to:

(a) Deputy state veterinarians, assistant state veterinarians, federal veterinarians, veterinarians duly licensed by the State of Oregon and veterinarians employed by a community college or university in the State of Oregon.

(b) Recognized research agencies. [1955 c.557 §5 (596.065 and 596.075 enacted in lieu of 596.070); 1975 c.399 §2; 1977 c.224 §1; 1983 c.101 §1; 1993 c.742 §58]

596.070 [Repealed by 1955 c.557 §4 (596.065 and 596.075 enacted in lieu of 596.070)]

596.075 Prohibition against use of listed harmful vaccines; exceptions. Except as otherwise provided in ORS 596.065 (3), no person shall use, vaccinate with or inject into any livestock in this state, sell, offer for sale, dispose of or distribute any vaccine, bacteriological or biological product declared to be a hazard to livestock health under ORS 596.065. [1955 c.557 §6 (596.065 and 596.075 enacted in lieu of 596.070)]

596.080 [Repealed by 1955 c.557 §36]

596.090 [Repealed by 1955 c.557 §36]

STATE VETERINARIAN AND DEPUTY STATE VETERINARIANS

596.210 Establishing office of State Veterinarian; qualifications and duties. (1) There hereby is created within the department the office of State Veterinarian of the State of Oregon. The State Veterinarian

shall be appointed by the Director of Agriculture. The State Veterinarian shall be the chief livestock sanitary official of the state. The department may also employ such assistant state veterinarians as may be necessary to carry out its functions.

(2) The State Veterinarian and all assistant veterinarians employed by the department shall be graduates of a school of veterinary medicine accredited or approved by the Oregon State Veterinary Medical Examining Board. [Amended by 1955 c.557 §7; 1959 c.639 §11; 1967 c.276 §1]

596.220 Deputy state veterinarians. (1) The department may deputize certain veterinarians throughout the state to assist the department in carrying out its duties. Such veterinarians shall be known as deputy state veterinarians. They shall be in the unclassified service of the state or may furnish professional services to the department as provided by ORS 596.225. To be eligible for appointment as a deputy state veterinarian a person shall be licensed to practice veterinary medicine in Oregon or hold a valid temporary permit issued by the Oregon State Veterinary Medical Examining Board as authorized by the provisions of ORS 686.065 or 686.085.

(2) A person desiring an appointment as deputy state veterinarian shall apply to the department on forms provided by it. The department may require on the application all pertinent information it deems necessary. In the discretion of the department, veterinarians employed by the United States Department of Agriculture, Bureau of Animal Industry, may be appointed deputy state veterinarians without further requirement if it appears to the department that any communicable or contagious disease of livestock may be more effectively controlled or eradicated by joint federal and state action. [Amended by 1959 c.639 §12; 1961 c.219 §1]

596.225 Contracting for services of deputy state veterinarian; Veterinary Medical Fee Schedule. (1) Notwithstanding other laws to the contrary, the department is authorized to enter into a contract with a deputy state veterinarian to obtain and pay for professional services in assisting the department in administering and carrying out its laws, including but not limited to testing and vaccination of livestock. The department may agree to pay deputy state veterinarians on a fair and equitable basis which may include the establishment of a Veterinary Medical Fee Schedule. Such schedule may include, but not be limited to:

(a) Overtime fees or rates;

(b) Minimum or maximum fees;

(c) Amounts to be paid during certain periods of time or for certain types of service;

(d) Fees based on the number of calls or the number of animals involved; or

(e) Special fees for certain areas of the state or particular problems. However, as far as practical, fees shall be uniform throughout the state.

(2) Notwithstanding other laws to the contrary, if a deputy state veterinarian is employed by another veterinarian, or by another firm of veterinarians, is a member of a partnership of veterinarians, or is an employee of the School of Veterinary Medicine, Oregon State University, the department may enter into a contract with the employing entity or partnership for the furnishing of professional veterinary services to the department. The department may pay the employing entity or partnership for professional services furnished in conformity with the contract.

(3) Professional services furnished to the department as provided by this section, shall only be furnished by a deputy state veterinarian. The deputy state veterinarian shall not be an employee of the department. The self-employer, employer, or partnership entity, as the case may be, shall:

(a) Be responsible for and shall make all withholdings and shall pay all taxes and other deductions due governmental agencies for deputy state veterinarians.

(b) Be responsible for and shall carry liability, compensation and other types of insurance covering deputy state veterinarians.

(4) Deputy state veterinarians furnishing professional services as provided by this section, shall:

(a) Comply with all applicable laws, rules and regulations promulgated thereunder and general instructions of the department.

(b) Complete and sign all forms required by the department.

(c) Be responsible to the department for the final results of their work and services.

(5) The contract may be terminated by written notice to the other parties to the agreement at any time by the deputy state veterinarian, the employer or partnership, or the department. [1961 c.219 §3; 1971 c.483 §3; 1983 c.101 §2]

596.230 Duties of deputy veterinarians. (1) Deputy state veterinarians shall assist the department in carrying out the duties imposed upon it by any law of this state when requested to do so by the State Veterinarian. Within the scope of the authority delegated to them by the State Veterinarian, deputy

state veterinarians shall possess the powers and authority conferred upon regularly employed state veterinarians by any law of this state. Deputy state veterinarians, when carrying out the duties assigned to them, are subject to the direction and control of the State Veterinarian.

(2) Only deputy state veterinarians are eligible for approval by the department for the performance of duties requiring the services of a veterinarian by any law of this state, the administration of which is vested in the department.

596.240 [Repealed by 1961 c.219 §4]

596.250 Termination of appointment of deputy veterinarian. (1) The appointment of a person as deputy state veterinarian shall be effective until such person's written resignation is submitted to the department or until the appointment is revoked by the department for one of the following causes:

(a) The revocation of such veterinarian's license to practice veterinary medicine in this state.

(b) An unwarranted refusal to carry out reasonable requests by the department to perform specific duties.

(c) By reason of the withdrawal by any person as surety for a deputy state veterinarian.

(d) In the case of a veterinarian employed by the United States Department of Agriculture, by reason of a termination of the employment of the veterinarian by that agency or of the removal of the veterinarian from the state.

(e) By reason of failure to use reasonable diligence in the execution of duties imposed upon the deputy state veterinarian by any law of this state which the deputy state veterinarian has been directed to perform by the State Veterinarian, or after having accepted an appointment pursuant to the provisions of any law requiring the appointment of a veterinarian and the administration of which law is vested in the department, the deputy state veterinarian fails to exercise reasonable diligence in the discharge of the duties imposed upon the deputy state veterinarian by such law.

(f) The fraudulent use or misuse of any health certificate, shipping certificate or other blank forms used in practice that might lead to the dissemination of disease or the transportation of diseased livestock or the sale of inedible food products of animal origin for human consumption.

(g) Dilatory methods, willful neglect or misrepresentation in the inspection of meat.

(h) Misrepresentation of services rendered.

(i) Failure to report or the negligent handling of any disease of livestock which is required to be reported under ORS 596.321.

(j) Sale or other unauthorized disposal by the veterinarian of any material, product or medicine furnished to the veterinarian by the department for use in the performance of duties as employee or officer of the department.

(k) Violation of ORS 596.075.

(2) No appointment shall be revoked without a hearing as provided in ORS chapter 561, except that in case of revocation for causes specified in subsection (1)(a), (c), (d) or (k) of this section, it is sufficient to give notice in writing of the revocation of appointment. [Amended by 1955 c.557 §8]

CONTROL AND ERADICATION OF CONTAGIOUS DISEASES

596.310 [Repealed by 1955 c.557 §9 (596.311 enacted in lieu of 596.310)]

596.311 Examination, testing or treatment of livestock at owner's request before shipment; issuance of health certificates; collection and disposition of fees. (1) Deputy state veterinarians may:

(a) Examine, test or treat livestock for intrastate or interstate shipment, when requested so to do by the owner or shipper for a fee payable to the veterinarian by the person requesting the examination, testing or treatment.

(b) Issue official health certificates on forms and subject to the rules and regulations of the department with reference thereto.

(2) If a deputy state veterinarian is not available for the purpose of subsection (1) of this section, assistant state veterinarians may examine, test or treat livestock at the request of the owner or shipper. The department shall be paid a reasonable fee to compensate it for all costs incurred in furnishing this service.

(3) The department shall prepare and cause to have printed health certificate forms or blanks which shall be distributed without charge to deputy state veterinarians.

(4) All moneys received by the department under this section shall be deposited in the State Treasury and credited to the Department of Agriculture Service Fund, and such funds are appropriated continuously to the department for administering and enforcing the provisions of this chapter. [1955 c.557 §10 (enacted in lieu of 596.310); 1979 c.499 §12]

596.320 [Repealed by 1955 c.557 §11 (596.321 enacted in lieu of 596.320)]

596.321 Department to make list of livestock diseases which must be reported and to specify manner of brucellosis vaccinations; reporting governed by rules and regulations. (1) The department shall enact rules and regulations:

(a) Containing a list of livestock diseases which must be reported to the department by any person practicing veterinary medicine in this state.

(b) Concerning the time and manner of reporting livestock diseases and any other information considered reasonably necessary by the department.

(c) Regarding the time and manner of vaccinating bovine female animals against brucellosis.

(2) Any person practicing veterinary medicine in this state, having knowledge of the existence of any livestock disease listed pursuant to subsection (1) of this section, shall forthwith report thereon to the department in the manner provided by rule or regulation.

(3) For the purposes of ORS 596.331 (3) and 596.341 (2)(d), the department may inspect and determine what is a "normal and usual feeding facility." [1955 c.557 §12 (enacted in lieu of 596.320); 1983 c.79 §1; 1991 c.420 §1]

596.330 [Repealed by 1955 c.557 §36]

596.331 Prohibition against disposing of diseased livestock, parts of quarantined livestock or unvaccinated female bovine; exceptions. (1) No person shall sell, offer to sell or dispose of any livestock which the person knows to be exposed to, a carrier of or infected with any disease required to be reported under ORS 596.321, except:

(a) To a slaughterer or to a rendering plant; or

(b) Pursuant to and as authorized by a quarantine order.

(2) No person shall sell, offer to sell or dispose of the meat, milk or other parts of any livestock, quarantined by the department, for food or other purposes, except as authorized by the quarantine order.

(3) No person shall sell or offer for sale, for any purpose other than slaughter or to a feedlot or other normal and usual feeding facility for slaughter within 12 months of sale, any female bovine animal of a beef breed that has not been vaccinated against brucellosis when more than four months of age and less than 10 months of age, as evidenced by an official vaccination tattoo and an official vaccination ear tag in the right ear of the animal.

(4) No person shall sell or offer for sale for any purpose other than slaughter, any female bovine animal of a dairy breed that has not been vaccinated against brucellosis when more than four months and less than eight months of age as evidenced by an official vaccination tattoo and an official vaccination ear tag in the right ear of the animal. [1955 c.557 §14 (enacted in lieu of 596.340); 1983 c.79 §2; 1985 c.91 §1; 1987 c.909 §1; 1991 c.420 §2]

596.340 [Repealed by 1955 c.557 §13 (596.331 enacted in lieu of 596.340)]

596.341 Examination, testing or treatment of livestock before entry into state; permit requirements; conditions and exemptions. (1) The department, in addition to the permit required by subsection (2) of this section, may cause livestock to be tested, treated or examined as a condition of entry into this state and may, as evidence of such test, treatment or examination, require the presentation of a certificate of an official of the state of origin designated by the department or of a veterinary inspector of the Federal Government.

(2) The department shall require a written permit, authorizing entry into this state of any livestock or other animals subject to the disease control law. Such permit shall be issued upon condition that:

(a) The consignee, owner or purchaser hold the imported livestock upon their arrival in this state subject to direction of the department pending completion of the testing, treatment or examination of the livestock;

(b) The livestock be disposed of in accordance with the laws of this state and the rules of the department, if the livestock is found to be infected with, exposed to, or a carrier of, a disease;

(c) The consignee, owner or purchaser complies with such rules promulgated by the department to enforce the intent of this chapter; and

(d) If the imported livestock is a female bovine animal more than four months of age that is being imported for any purpose other than slaughter or to a feedlot, the animal has been vaccinated against brucellosis as evidenced by an official vaccination tattoo and an official vaccination ear tag in the right ear of the animal.

(3) The department may exempt the following classes of livestock from the requirements of this section:

(a) Livestock that is consigned to and will be slaughtered by a licensed slaughterer within eight days after entry into this state.

(b) Livestock in uninterrupted transit through the state; provided that stops may be made for feed, water and rest.

(c) Except for the requirements of subsection (2)(d) of this section, livestock con-

signed to an Oregon auction market licensed under ORS chapter 599 where approved veterinary inspection is in force.

(d) Dogs, cats or small caged birds traveling in a family vehicle as part of that social entity. [1955 c.557 §16 (596.341, 596.351 and 596.361 enacted in lieu of 596.350); 1973 c.2 §1; 1975 c.572 §1; 1983 c.101 §3; 1985 c.91 §2; 1987 c.909 §2; 1991 c.420 §3]

596.343 Testing sheep for Akabane Virus. In carrying out the provisions of this chapter, unless the department determines, upon the advice of appropriate federal animal health authorities, that no significant threat to the health of the livestock of this state exists, the department shall cause all sheep entering this state that are not exempt pursuant to ORS 596.341 (3) to be examined or tested for Akabane Virus. [1987 c.909 §6]

596.346 Permit requirements and application form; material to be submitted with application. Application for permits shall be made to the department on forms prescribed by the department. Should there be insufficient time to use United States mail, permits may be applied for by telegram or by telephone. No livestock shall be transported into this state without a permit having been issued by the department. At the time of application for a permit, the department may require a health certificate, or other transportation document, which shall have the permit numbers entered thereon prior to shipment of the livestock into this state. [1973 c.2 §4]

596.350 [Repealed by 1955 c.557 §15 (596.341, 596.351 and 596.361 enacted in lieu of 596.350)]

596.351 Prohibited acts relating to livestock importation. No person shall:

(1) Knowingly import or cause to be imported into this state any livestock exposed to, infected with or a carrier of disease.

(2) Bring any livestock into this state unless the bill of lading, health certificate or other document of shipment is accompanied by the permit required under ORS 596.341 or permit number entered thereon.

(3) Fail to test, treat, examine or otherwise comply with the conditions of a permit under ORS 596.341.

(4) Import or bring into this state any female bovine animal unless the animal has been vaccinated as required by ORS 596.341 (2)(d). [1955 c.557 §17 (596.341, 596.351 and 596.361 enacted in lieu of 596.350); 1973 c.2 §2; 1985 c.91 §3]

596.355 Prohibition against importation of livestock from quarantined area. No person shall import into this state any livestock from an area of any other state, territory or country which has been placed under quarantine by the United States Department of Agriculture or by the state, territory or country of origin in violation of the rules of the United States Department of Agriculture or of the state, territory or country of origin. [1955 c.557 §34]

596.360 [Repealed by 1955 c.557 §36]

596.361 Summary quarantine of livestock imported in violation of ORS 596.351; disposal of diseased livestock. (1) The department may summarily quarantine any livestock imported into this state in violation of ORS 596.351 or any rules of the department under that section. The department may require as a condition preceding the release of livestock from quarantine, that the livestock be tested, treated or examined in accordance with the rules of the department.

(2) Imported livestock which is exposed to, infected with or a carrier of disease shall be disposed of as provided by law. [1955 c.557 §18 (596.341, 596.351 and 596.361 enacted in lieu of 596.350)]

596.370 [Repealed by 1955 c.557 §19 (596.371 enacted in lieu of 596.370)]

596.371 Treatment of diseased livestock by owner; notice; treatment by department; lien for treatment. (1) Whenever the owner or person having control of livestock receives notice from the department that the livestock must be treated for disease, the owner or person having control shall, within the time prescribed in the notice, cause the livestock to be treated in the manner prescribed by the department.

(2) If any person fails to comply with the notice, the department may cause the livestock to be treated and, where necessary to carry out the treatment, cause its removal to a more convenient location.

(3) No person shall fail to treat livestock owned or controlled by the person in the manner prescribed by rule of the department.

(4) The department shall have a lien on any livestock treated under this section for the value of the labor, materials, medicines or services furnished in connection with the treatment. The lien shall be perfected and enforced as provided in ORS 87.216 to 87.346, except that:

(a) The notice provided in ORS 87.242 shall be filed within 30 days from the date of furnishing the labor, materials, medicines or services.

(b) The lien created by this subsection shall have priority over all other liens upon such livestock, except tax liens.

(5) The department shall not charge as an item of expense in connection with such treatment for any services rendered by an assistant state veterinarian or the State Veterinarian relative thereto, nor shall the department have a lien for such services

upon any livestock as provided in this section. [1955 c.557 §20 (enacted in lieu of 596.370); 1983 c.740 §228]

596.380 [Repealed by 1955 c.557 §36]

596.384 [1953 c.689 §2; repealed by 1955 c.557 §36]

596.388 Department to investigate cases of disease; authority of agents to enter premises. The department shall, when necessary to control or eradicate disease, investigate all cases or suspected cases of disease in livestock in this state. Employees or agents of the department in carrying out their official duties may enter any place or premises, including vehicles, to make such inspections or investigation as may be reasonably necessary to eradicate and control disease in this state. [1953 c.689 §4; 1955 c.557 §21]

596.390 [Repealed by 1953 c.689 §13]

596.392 Authority of department relating to disease control. The department may order and compel:

(1) The destruction or treatment of any livestock that may be infected with, exposed to or may be a carrier of a disease.

(2) The destruction of feed, bedding and watering and feeding troughs or receptacles, feed racks, bins, sheds or any similar property which is or may have been contaminated with a disease and may be capable of causing the transmission of the disease to other livestock, if such property cannot be disinfected or otherwise treated to adequately and effectively destroy the causative disease agent.

(3) The disposal of the carcasses of livestock which have been ordered destroyed by the department in a manner which will effectively prevent the further spread of a disease.

(4) The summary quarantine of any livestock which may be infected with, exposed to or the carrier of a disease and may subject such livestock to any test, treatment or other action as the department orders as a condition for release from quarantine.

(5) The summary quarantine of any premises or vehicles where any livestock infected with, exposed to or a carrier of a disease are or have been confined.

(6) The thorough cleaning and disinfecting of all premises or property that may be contaminated with a disease and which may be capable of causing its transmission to other livestock. The department shall prescribe the method and procedures by which such cleaning and disinfecting shall be accomplished. [1953 c.689 §5; 1955 c.557 §22]

596.394 Summary quarantine of livestock and contaminated property imported into state from quarantined area; release thereof. (1) The department may order summary quarantine of any livestock and any property contaminated with disease or capable of transmitting the disease to other livestock or humans which have been imported into this state from any area under quarantine by the United States Department of Agriculture or by the state or territory of origin, if such livestock or property was removed from such area in violation of the rules of the United States Department of Agriculture or of the state or territory of origin.

(2) The department shall impose such conditions for release of quarantined livestock or property, not inconsistent with the rules of the United States Department of Agriculture, as are necessary to prevent the entry and spread of disease in this state.

(3) The department may also release quarantined livestock and property which were imported to the custody of the United States Department of Agriculture. [1955 c.557 §24]

596.396 Length of quarantine; payment of expense of cleaning and disinfecting. (1) Any quarantine imposed by the department pursuant to ORS 596.392, 596.394, 596.402 or 596.404 shall be for such period of time as will reasonably insure that the quarantined livestock, property, premises or place are no longer capable of transmitting or causing the transmission of the disease.

(2) All expenses of cleaning, treatment and disinfecting required by the department pursuant to ORS 596.371, 596.392, 596.394 and 596.404 shall be paid by the owner or person in possession of the livestock, property or premises. [1953 c.689 §6; 1955 c.557 §26]

596.400 [Repealed by 1953 c.689 §13]

596.402 Authority to summarily quarantine areas. (1) The department may also summarily quarantine any legally described area of this state and prohibit or otherwise restrict any movement of livestock, vehicles, persons or things into or out of such area as the department deems necessary for the eradication or control of a disease in the area, or for the prevention of the spread of such disease into other areas of this state.

(2) When the department imposes a quarantine under this section, it shall forthwith but not later than seven days thereafter give notice of the quarantine in a newspaper of general circulation in the quarantined area. A copy of the order of quarantine and any regulations relating thereto shall be filed in the office of the county clerk in each county in which quarantined property is located. The published notice of quarantine shall contain a description of the boundaries of the quarantined area and a notice that copies of the regulations applicable to the quarantine

are filed with the county clerk or may be obtained from the department.

(3) The provisions of ORS 561.510 to 561.560 shall not apply to quarantines imposed under this section. [1953 c.689 §7; 1955 c.557 §27]

596.404 Department may seize part or product of slaughtered diseased livestock; release thereof. The department may seize meat, hides, offal or any other part or product of livestock slaughtered anywhere which is infected with, exposed to, or a carrier of, disease and impose any conditions upon release from seizure reasonably necessary to prevent the entry or spread of disease in this state. [1955 c.557 §25]

596.406 Department to prescribe methods of destruction of property; indemnity. When any real or personal property is ordered destroyed, the department shall prescribe the methods and procedures by which the destruction shall be effectuated and shall supervise any destruction so ordered. Indemnity shall be paid to the owner of such property as otherwise provided by law. However, no indemnity will be paid if the livestock that created the condition requiring the property destruction were imported into this state without a permit. [1953 c.689 §8; 1955 c.557 §28; 1973 c.2 §5]

596.410 [Repealed by 1953 c.689 §13]

596.412 Factors to be considered by department in exercise of disease control powers. When exercising the powers conferred by ORS 596.388 to 596.412, the department shall give appropriate weight and consideration to the following:

(1) The previous existence of the disease in this state.

(2) The action taken by the United States Government in respect to the eradication and control of such disease.

(3) The economic consequences to the citizens of this state which might result from the spread of the disease.

(4) The extent to which the disease is endemic or epidemic through neighboring states, the United States and this state.

(5) The extent to which livestock other than those which are infected or carriers of the disease may be adversely affected by it.

(6) Any other factors which may reasonably be found to affect the welfare of the livestock industry specifically or the people of the State of Oregon generally if such disease is not eradicated or controlled. [1953 c.689 §3]

596.416 Application to court to compel owner or person in charge of property to cooperate. (1) In the event the department or any of its employees or agents meet with any resistance or lack of cooperation by the owner or person in charge of any livestock or property in the performance of their duties, the department may apply to the circuit court of the county in which such livestock or property is located or, if livestock or property is located in two or more counties, in the circuit court of any of those counties, for an order requiring such owner or person to cease and desist such resistance or otherwise comply with the orders of the department.

(2) The order of the court shall be based upon a duly verified petition filed by the department setting forth the facts relative to such resistance or lack of cooperation. A copy of the petition may be served either by registered mail or by certified mail with return receipt upon the owner or person in charge of the livestock or in the manner provided for service of summons in civil actions. Such owner or person in charge shall appear and answer the allegations of the petition within 10 days from the date the petition was served.

(3) If the owner or person in charge of any livestock or property fails to appear or the court either with or without such appearance finds the allegations of the petition are true and the action by the department necessary for the eradication and control of diseases of livestock in this state, the court shall enter its order requiring the owner or person in charge to cease and desist from such resistance or to comply with the lawful orders of the department, as the case may be. However, the court may enter its order without a hearing, if it satisfactorily appears to the court that a delay in answering would jeopardize disease eradication and control. A request by the department for a summary order by the court relative to any lack of cooperation or resistance by the owner or person in charge shall be supported by an affidavit showing the necessity for summary action.

(4) The sheriff of the county in which such livestock or property is located shall execute such order by serving upon the owners or person in charge of such livestock or property a copy thereof duly certified to by the clerk of the circuit court, and by enforcing the provisions thereof. [1953 c.689 §9; 1955 c.557 §29; 1991 c.249 §59]

596.420 [Repealed by 1953 c.689 §13]

596.430 [Repealed by 1955 c.557 §36]

596.440 [Repealed by 1955 c.557 §36]

596.450 [Repealed by 1955 c.557 §36]

596.460 Duty to separate and confine diseased animals; vaccination; evidence of vaccination. (1) No person owning, possessing or controlling any livestock affected

by any disease, shall fail to keep it within an enclosure, or herd it in some place where it is secure from contact with other livestock not so affected. Nor shall the person permit such infected livestock to range where they will be likely to come in contact with other livestock not so affected.

(2) No person shall maintain or control a female bovine animal of a beef breed for breeding purposes, that was born after January 1, 1987, unless the animal has been vaccinated against brucellosis when more than four months of age and less than 12 months of age, as evidenced by an official vaccination tattoo and an official vaccination ear tag in the right ear of the animal.

(3) No person shall maintain or control a female bovine animal of a dairy breed for breeding or dairy purposes that was born after January 1, 1987, unless the animal has been vaccinated against brucellosis when more than four months of age and less than eight months of age, as evidenced by an official vaccination tattoo and an official vaccination ear tag in the right ear of the animal.

(4) Notwithstanding subsection (2) or (3) of this section, if a person sells a bovine animal referred to in those subsections for breeding purposes, the tattoo or an official vaccination ear tag and evidence of a tattoo shall be considered satisfactory evidence that the animal has been vaccinated. [Amended by 1955 c.557 §30; 1987 c.909 §3]

596.470 Health certificates for disease-free animals. Whenever any official examination is made by any person authorized so to do by the department, of any livestock and such livestock is found free from contagious, infectious and communicable disease, the person making such examination shall make and deliver to the owner or person in possession of such livestock, a certificate to that effect, under such rules and regulations and in such form as the department may prescribe. Whenever an examination or test is made as to any particular disease and the livestock is found free therefrom, a certificate of that fact shall be given to the owner. [Amended by 1955 c.557 §31]

596.480 [1955 c.637 §1; repealed by 1983 c.101 §6]

596.500 [1971 c.483 §§6, 7; 1975 c.220 §1; repealed by 1977 c.214 §10; repealed by 1983 c.101 §6]

INDEMNIFICATION FOR LIVESTOCK OR PROPERTY ORDERED DESTROYED

596.610 [1953 c.633 §1; repealed by 1955 c.557 §36]

596.615 "Livestock" defined. As used in ORS 596.615 to 596.681, "livestock" means animals raised for the production of food for human consumption and those animals carrying diseases that threaten animals raised for the production of food for human consumption. [1981 c.334 §7; 1987 c.909 §4]

596.620 Indemnification of owners of livestock or property slaughtered or destroyed by order of department. The owner of any livestock or property which is slaughtered or otherwise destroyed at the order of the department in the performance of its duty to eradicate and control the contagious and communicable diseases of livestock in this state is entitled to indemnity as provided in ORS 596.640 to 596.681. [1953 c.633 §3]

596.625 Approval of indemnification required. No application, contract or agreement for the payment of indemnity under ORS 596.615 to 596.681 is enforceable unless approved and signed by the Director of Agriculture. [1981 c.334 §6]

596.630 [1953 c.633 §2; 1955 c.557 §32; repealed by 1963 c.208 §4]

596.640 Livestock and property not eligible for indemnity. (1) The owner of livestock or property destroyed at the order of the department shall not be paid indemnity by the State of Oregon for:

(a) Livestock or property owned by the Federal Government or the State of Oregon, or any governmental subdivision, agency or instrumentality of such governments.

(b) Livestock or property if the owner thereof has failed to comply with any of the provisions of ORS 596.075, 596.331, 596.351, 596.355, 596.371 or 596.460 or with any rules promulgated under ORS 596.321 or has acted in contravention to department authority under ORS 596.311, 596.341, 596.361, 596.388, 596.392 to 596.416 and 596.470 as to any of such livestock or property.

(c) Livestock which has been brought into this state contrary to any law of this state or rule promulgated thereunder or contrary to the conditions of any permit issued under ORS 596.341.

(d) Livestock or property which has been negligently or willfully exposed to or contaminated by a disease.

(e) Livestock which were imported from a county or defined area which is under quarantine at the order of the Federal Government, the State of Oregon or the state of origin, for the disease with which such livestock is affected.

(f) Livestock which were known by the owner to be infected with a disease at the time of entry into the state.

(g) Livestock which had been imported into this state within five days prior to the date that the disease condition was officially diagnosed.

(h) Livestock if there is evidence that the owner or agent of the owner has in any way been responsible for any attempt to unlawfully or improperly obtain indemnity funds for any such livestock.

(i) Livestock which has been brought into this state pursuant to a permit issued under ORS 596.341 and which after entry is moved, transferred or disposed of in violation of this chapter or any rule promulgated pursuant thereto.

(j) Female bovine animals of a beef breed over 10 months of age or female bovine animals of a dairy breed over eight months of age which have not been officially vaccinated for brucellosis as required by this chapter.

(2) Any transaction referred to in subsection (1)(c) or (i) of this section with regard to any livestock animal disqualifies the owner of such livestock from receiving indemnity for all livestock or property owned by that person for which indemnity would otherwise be payable.

(3) For the purposes of this section:

(a) Failure to demonstrate that female bovine animals of a beef breed over 10 months of age or female bovine animals of a dairy breed over eight months of age brought into this state were officially vaccinated for brucellosis prior to entry and that male livestock brought into this state had a negative brucellosis test finding prior to entry shall be prima facie evidence that the owner had knowledge that the livestock were infected with brucellosis.

(b) Evidence of an official vaccination for brucellosis shall be a tattoo in the right ear of the bovine animal in such manner as the department may prescribe. [1953 c.633 §8; 1971 c.483 §4; 1981 c.334 §1; 1983 c.101 §7; 1985 c.91 §4; 1991 c.420 §4]

596.650 Indemnity; appraisal of animal or property prior to destruction. (1) An owner may claim indemnity on any animal or property ordered destroyed by the department. Each animal or article of property which is eligible for indemnity shall be appraised prior to its destruction. The department shall provide forms on which claims for indemnity can be made, to the owner of livestock or property ordered destroyed at the time the order of destruction is given to the owner. The claim for indemnity, order of destruction and appraisal may be included in one form at the discretion of the department. In order to qualify for indemnity, the owner shall submit a claim to the department within seven days after receiving such claim form from the department. The appraisal shall be performed by two appraisers, one of whom shall be selected by the department and one of whom shall be selected by the owner. If they cannot agree on the appraised value, a third appraiser shall be immediately appointed by the two appraisers selected by the department and the owner and the department and owner advised of the appointment. If the owner fails to select an appraiser within 10 days after the department's request therefor, the department shall appoint two appraisers to evaluate the livestock or property. The appraisers shall view each animal or article of property to be appraised and inspect documents, premises or any other items deemed necessary to perform the appraisal. Upon completion of the appraisal, the appraisers shall record the evaluations on a form supplied by the department and shall submit the completed appraisal form to the department within 10 days after completion of the appraisal. The department shall then notify the owner of the results of the appraisal.

(2) The livestock or property shall be appraised on the basis of current market value of animals or property of like kind, quality and physical condition at the time the destruction was ordered. As used in this subsection, "market value" means the average selling price of animals or property of like kind and quality in the locality where the animals or property are situated, during the 30 days immediately preceding the appraisal, and if no such average selling price can be determined in the locality, then the average selling price in the next nearest locality where it can be determined.

(3) If the livestock condemned by the department are registered and the owner claims enhanced value by such fact, a certified copy of the certificate of registry shall accompany the appraisal report. [1953 c.633 §4; 1965 c.217 §3; 1981 c.334 §2]

596.660 Method of destruction used to permit salvage if possible. When in the opinion of the department livestock or property which is condemned can be destroyed in a manner which will permit some salvage to be realized, without prejudice to adequate disease control or eradication measures or to human health and welfare, the department may authorize such methods of destruction and prescribe the conditions upon which it may be carried out. In no case shall a method of destruction be authorized merely because it permits salvage, unless it may be accomplished within seven days from the date the destruction order is delivered.

596.670 [1953 c.633 §6; repealed by 1965 c.217 §4 (596.671 enacted in lieu of 596.670)]

596.671 Amount of indemnity. The indemnity shall be a sum, which added to the salvage, shall not exceed 80 percent of the appraised value of each animal or article of

property. [1965 c.217 §5 (enacted in lieu of 596.670); 1971 c.705 §1; 1981 c.334 §3]

596.680 [1953 c.633 §7; repealed by 1965 c.217 §6 (596.681 enacted in lieu of 596.680)]

596.681 Limit of state indemnity to livestock owner also receiving federal indemnity. If the owner of livestock destroyed at the order of the department is eligible for indemnity payable by the Federal Government, the owner may also be indemnified by the State of Oregon. However, the State of Oregon shall only pay the difference between the maximum amounts set forth in ORS 596.671 and the amount payable by the Federal Government. [1965 c.217 §7 (enacted in lieu of 596.680); 1981 c.334 §4]

PENALTIES

596.990 Penalties. (1) Violation of any of the provisions of ORS 596.075, 596.321, 596.331 (1) or (3), 596.351, 596.388, 596.392 (1) to (3) or (6), 596.404 to 596.416 or 596.460, or of any lawful order of the department issued pursuant to ORS chapter 596, is punishable, upon conviction, by a fine not exceeding $500.

(2) Violation of any of the quarantine provisions of ORS 596.331 (2), 596.355, 596.392 (4) or (5) or 596.394 to 596.402 is punishable, upon conviction, by a fine of not less than $500 nor more than $5,000. [Amended by 1953 c.689 §13; former subsection (4) enacted as 1953 c.689 §10; 1955 c.557 §35; subsection (2) enacted as 1955 c.637 §2; 1975 c.304 §4; 1983 c.79 §3; 1983 c.101 §5]