

**Enrolled**  
**House Bill 2444**

Sponsored by Representative P SMITH (at the request of Oregon Bartlett Pear Commission)

CHAPTER .....

AN ACT

Relating to the Oregon Bartlett Pear Commission; creating new provisions; amending ORS 576.062 and 576.325; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. (1) No later than 30 days after the effective date of this 2007 Act the chairperson of the Oregon Bartlett Pear Commission shall:**

- (a) Deliver all books, records and accounts of the commission to the State Archivist; and**
- (b) After ensuring the payment of any outstanding expenditures, close the account established by the commission under ORS 576.375 and deliver the account balance to the State Treasury.**

**(2) The State Treasurer shall credit the moneys delivered by the chairperson to the Department of Higher Education special checking account established under ORS 351.540 for use by Oregon State University as provided under ORS 576.455.**

**SECTION 2. The Oregon Bartlett Pear Commission is abolished.**

**SECTION 3. ORS 576.062 is amended to read:**

576.062. The following commodity commissions are established as state commissions:

- (1) The Oregon Dairy Products Commission.
- (2) The Oregon Hazelnut Commission.
- (3) The Oregon Dungeness Crab Commission.
- (4) The Oregon Salmon Commission.
- (5) The Oregon Albacore Commission.
- (6) The Oregon Grains Commission.
- (7) The Oregon Sheep Commission.
- (8) The Oregon Potato Commission.
- (9) The Oregon Alfalfa Seed Commission.
- [(10) The Oregon Bartlett Pear Commission.]*
- [(11)] (10) The Oregon Blueberry Commission.**
- [(12)] (11) The Oregon Clover Seed Commission.**
- [(13)] (12) The Oregon Fine Fescue Commission.**
- [(14)] (13) The Oregon Fryer Commission.**
- [(15)] (14) The Oregon Highland Bentgrass Commission.**
- [(16)] (15) The Oregon Hop Commission.**
- [(17)] (16) The Oregon Mint Commission.**
- [(18)] (17) The Oregon Orchardgrass Seed Producers Commission.**
- [(19)] (18) The Oregon Processed Vegetable Commission.**

[(20)] **(19)** The Oregon Raspberry and Blackberry Commission.

[(21)] **(20)** The Oregon Ryegrass Growers Seed Commission.

[(22)] **(21)** The Oregon Strawberry Commission.

[(23)] **(22)** The Oregon Sweet Cherry Commission.

[(24)] **(23)** The Oregon Tall Fescue Commission.

[(25)] **(24)** The Oregon Trawl Commission.

[(26)] **(25)** The Western Oregon Onion Commission.

**SECTION 4.** ORS 576.325 is amended to read:

576.325. (1) As used in this section, “industry average unit price” means the average unit price for the raw commodity within the industry. Unless provided otherwise, “industry average unit price” includes prices that are calculated using a one-year, two-year or three-year average and data from the most recent complete year or years preceding the year of determination.

(2)(a) A commodity commission may assess, levy and collect an assessment, the amount of which the commission shall determine, on all units or animals of the commodity grown or produced in this state, or procured from this state’s rivers or the offshore waters, but not the Columbia River, for handling within this state, and sold in commercial channels. A commission may not apply an assessment to a transaction that occurred prior to the effective date of the commission rule adopting the assessment.

(b) A commission may assess, levy and collect a differential assessment, the amount of which the commission shall determine, based on the intended use, type or variety of the commodity.

(c) All casual sales of the commodity made by the producer direct to the consumer are exempt from the assessment.

(d) A commission may, by rule, define and regulate handling, processing and casual sales.

(3) The amount of the assessment provided for in subsection (2) of this section is limited as follows:

(a) If a commission assesses on a unit basis, the assessment may not exceed one and one-half percent of the industry average unit price. The commission may determine the industry average unit price by considering data and estimates of the United States Department of Agriculture, Oregon State University or other reliable sources.

(b) If a commission assesses on a percentage of dollar value basis, the assessment may not exceed one and one-half percent of the dollar value received by a producer for the raw commodity. If the dollar value received by a producer is not otherwise determinable, the commission may establish the dollar value based on the industry average unit price for that year for the raw commodity.

(4) Notwithstanding subsection (3) of this section:

(a) The maximum assessment by the Oregon Clover Seed Commission may not exceed one and one-half percent of the industry average unit price for products within the same market category, if assessed on a unit basis.

(b) The maximum assessments by the Oregon Albacore Commission, the Oregon Orchardgrass Seed Producers Commission and the Oregon Tall Fescue Commission may not exceed three percent of the industry average unit price if assessed on a unit basis or three percent of the value received by a producer for the raw commodity if assessed on a percentage of dollar value basis.

(c) The maximum assessment by the Oregon Sweet Cherry Commission for fresh, brined, canned and frozen cherries may not exceed four percent of the respective industry average unit prices for fresh, brined, canned and frozen cherries if assessed on a unit basis.

[(d)] *The maximum assessment by the Oregon Bartlett Pear Commission may not exceed seven percent of the industry average unit price if assessed on a unit basis.*

[(e)] **(d)** The maximum assessment by the Oregon Processed Vegetable Commission on a commodity may not exceed 0.5 percent of the industry average unit price for that commodity if assessed on a unit basis or 0.5 percent of the dollar value received by a producer for the commodity if assessed on a percentage of dollar value basis.

[(f)] **(e)** The maximum assessment by the Oregon Hop Commission may not exceed two percent of the industry average unit price if assessed on a unit basis.

[(g)] (f) The maximum assessment by the Oregon Sheep Commission may not exceed five cents per pound on all wool, in the grease basis, sold through commercial channels. The commission may not adopt an assessment that is more than one-half cent per pound of wool, in the grease basis, above the assessment for the previous year.

(5) A commission shall assess and levy an assessment under subsections (2) to (4) of this section to the producer at the time and in the manner provided by the commission by rule. The commission is the owner of a collected assessment. A person who collects an assessment holds the assessment in trust for the benefit of the commission and the state and shall remit the assessment in the time and manner required by the commission under ORS 576.335.

(6) Notwithstanding subsection (5) of this section, a commission may assess, levy and collect an assessment from a first purchaser at the time and in the manner provided by the commission by rule. Except as provided in subsection (8) of this section, the assessment may not exceed the limits described in subsections (3) and (4) of this section.

(7) A regional commission may assess, levy and collect an assessment only on the commodity produced in the counties in which the regional commission functions.

(8) Notwithstanding subsections (3) and (4) of this section, a commodity commission may assess, levy and collect an assessment in excess of the limits described in subsections (3) and (4) of this section pursuant to a federal marketing order or agreement.

(9) A person who believes that the amount of an assessment is incorrect may apply to the commission for a refund not later than 60 days after the person pays the assessment.

**SECTION 5. Section 2 of this 2007 Act and the amendments to ORS 576.062 and 576.325 by sections 3 and 4 of this 2007 Act become operative 31 days after the effective date of this 2007 Act.**

**SECTION 6. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.**

Passed by House February 20, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate April 2, 2007

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President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State