

Enrolled House Bill 2246

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for State Department of Agriculture)

CHAPTER

AN ACT

Relating to the prune industry; creating new provisions; amending ORS 561.144, 570.010, 632.940, 632.990 and 632.995; and repealing ORS 632.410, 632.415, 632.420, 632.425, 632.430 and 632.440.

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

SECTION 1. ORS 632.410, 632.415, 632.420, 632.425, 632.430 and 632.440 are repealed.

SECTION 2. ORS 561.144 is amended to read:

561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund, which shall be a trust fund separate and distinct from the General Fund. The State Department of Agriculture shall deposit all license and service fees paid to it under the provisions of the statutes identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State Treasurer is the custodian of this trust fund, which shall be deposited by the treasurer in such depositories as are authorized to receive deposits of the General Fund, and which may be invested by the treasurer in the same manner as authorized by ORS 293.701 to 293.820.

(2) Interest received on deposits credited to the Department of Agriculture Service Fund shall accrue to and become a part of the Department of Agriculture Service Fund.

(3) The license and service fees subject to this section are those described in ORS 561.400, 561.740, 570.710, 571.057, 571.063, 571.145, 571.305, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050, 586.270, 586.580, 586.650, 596.030, 596.100, 596.311, 599.235, 599.269, 599.406, 599.610, 601.040, 602.090, 603.025, 603.075, 616.706, 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730, 622.080, 625.180, 628.240, 632.211, [632.425,] 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015, 633.029, 633.318, 633.362, 633.461, 633.471, 633.680, 633.700, 633.720, 634.016, 634.116, 634.122, 634.126, 634.132, 634.136, 634.212 and 635.030.

SECTION 3. ORS 570.010 is amended to read:

570.010. (1) Upon petition of not less than 25 resident fruit growers of any county of this state, the county court of such county may, subject to the approval of the Director of Agriculture, appoint a county horticultural inspector, whose duties are:

(a) To inspect orchards, nurseries, trees, shrubs, vines, fruits, vegetables, plants, packing houses, warehouses, storerooms, farms and other places within the county.

(b) To visit and inspect the fruit drying and packing plants while such plants are in operation.

(c) To enforce the regulations required by the State Department of Agriculture governing the handling, drying and packing of [*prunes,*] apples, loganberries or other fruits evaporated and packed for human consumption.

(d) To enforce all laws of the state relating to such insect pests and such diseases as affect trees, vines, plants of any kind, or fruit or vegetables of any kind and all other horticultural laws, rules and regulations of the state.

(2) The county horticultural inspector shall hold office during the pleasure of the county court.

SECTION 4. ORS 632.940 is amended to read:

632.940. (1) Except as provided in ORS 632.945, the State Department of Agriculture may designate an employee or agent of the department to inspect or classify horticultural and agricultural products, or the processes used in connection with those products, when those services are requested by persons having an interest in the products or processes.

(2) The department may ascertain and certify to the interested persons the grade, classification, quality, condition or amount of the products, the processes used in connection with the products or other pertinent facts relating to the products or processes that the persons may request.

(3) The department may fix, assess and collect, or cause to be collected, fees for the services performed by employees or agents of the department under this section. The fees must have a uniform basis and be in an amount reasonably necessary to cover the cost of the inspection and administration of this section. The department shall adjust the fees to be collected under this section to meet the expenses necessary to carry out the provisions of this section, and may prescribe a different scale of fees for different localities.

(4) The department may prescribe a reasonable charge for traveling expenses and services if performing the services described in this section involves unusual cost to the department.

(5) All fees and charges received by the department under this section and ORS 632.211, [632.425,] 632.600 and 632.945 must be deposited in the Department of Agriculture Service Fund, and are continuously appropriated to the department for the enforcement of this section and ORS 632.211, [632.425,] 632.600 and 632.945.

SECTION 5. ORS 632.990 is amended to read:

632.990. (1) Violation of ORS 632.216 or 632.226 is a Class C misdemeanor.

(2) Violation of any provision of ORS 632.275 to 632.290 or of any rule adopted under ORS 632.275 to 632.290 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense.

[3] *Violation of any provision of ORS 632.410 to 632.430 is a Class D violation.*]

[4] (3) Violation of any provision of ORS 632.450 to 632.490 or of any rule adopted under ORS 632.450 to 632.490 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense.

[5] (4) Violation of ORS 632.625 is a Class C misdemeanor.

[6] (5) Violation of any provision of ORS 632.705 to 632.815 is a Class D violation for a first offense, and a Class B violation for a second or subsequent offense.

[7] (6) Violation of any provision of ORS 632.900 to 632.985 or of any rule adopted under ORS 632.900 to 632.985 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense.

SECTION 6. ORS 632.995 is amended to read:

632.995. (1) In addition to any penalty available under ORS 561.190 or 632.990, the State Department of Agriculture may impose a civil penalty for a violation of ORS 632.216, 632.226, 632.275 to 632.290, [632.410 to 632.430,] 632.450 to 632.490, 632.625, 632.705 to 632.815 or 632.900 to 632.985 or of rules adopted under ORS 632.216, 632.226, 632.275 to 632.290, [632.410 to 632.430,] 632.450 to 632.490, 632.625, 632.705 to 632.815 or 632.900 to 632.985. For the purposes of this section, each day a violation continues after the period of time established for compliance shall be considered a separate violation unless the department finds that a different period of time is more appropriate to describe a specific violation event.

(2) The department may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed \$10,000 for each violation.

(3) When the department imposes a civil penalty under subsection (1) of this section, the department shall impose the penalty in the manner provided by ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the date of mailing or personal service of the notice of civil penalty.

(4) Moneys received by the department from civil penalties imposed under this section shall be deposited in the General Fund to the credit of the Department of Agriculture Account.

SECTION 7. The repeal of ORS 632.410, 632.415, 632.420, 632.425 and 632.430 by section 1 of this 2013 Act and the amendments to ORS 570.010, 632.990 and 632.995 by sections 3, 5 and 6 of this 2013 Act do not prevent the levying of a fine under ORS 570.990 or 632.990 or the imposition of a civil penalty under ORS 632.995 on or after the effective date of this 2013 Act for violations of ORS 570.010 or 632.410 to 632.430 occurring prior to the effective date of this 2013 Act.

Passed by House February 18, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 7, 2013

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State