

Enrolled Senate Bill 195

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of John A. Kitzhaber, M.D., for State Department of Agriculture)

CHAPTER

AN ACT

Relating to the repeal of the Milk Audit and Stabilization Act; amending ORS 305.410, 561.144, 561.279, 621.740 and 621.750; and repealing ORS 583.001, 583.004, 583.007, 583.016, 583.021, 583.028, 583.046, 583.056, 583.076, 583.086, 583.096, 583.106, 583.116, 583.126, 583.136, 583.146, 583.156, 583.166, 583.410, 583.415, 583.425, 583.430, 583.440, 583.445, 583.447, 583.450, 583.455, 583.457, 583.463, 583.465, 583.470, 583.475, 583.480, 583.485, 583.490, 583.500, 583.505, 583.507, 583.510, 583.515, 583.516, 583.517, 583.518, 583.520, 583.525, 583.530, 583.540, 583.545, 583.560, 583.565, 583.600, 583.610, 583.620, 583.630 and 583.993.

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

SECTION 1. ORS 583.001, 583.004, 583.007, 583.016, 583.021, 583.028, 583.046, 583.056, 583.076, 583.086, 583.096, 583.106, 583.116, 583.126, 583.136, 583.146, 583.156, 583.166, 583.410, 583.415, 583.425, 583.430, 583.440, 583.445, 583.447, 583.450, 583.455, 583.457, 583.463, 583.465, 583.470, 583.475, 583.480, 583.485, 583.490, 583.500, 583.505, 583.507, 583.510, 583.515, 583.516, 583.517, 583.518, 583.520, 583.525, 583.530, 583.540, 583.545, 583.560, 583.565, 583.600, 583.610, 583.620, 583.630 and 583.993 are repealed.

SECTION 2. ORS 305.410 is amended to read:

305.410. (1) Subject only to the provisions of ORS 305.445 relating to judicial review by the Supreme Court and to subsection (2) of this section, the tax court shall be the sole, exclusive and final judicial authority for the hearing and determination of all questions of law and fact arising under the tax laws of this state. For the purposes of this section, and except to the extent that they preclude the imposition of other taxes, the following are not tax laws of this state:

- (a) ORS chapter 577 relating to Oregon Beef Council contributions.
- (b) ORS 576.051 to 576.455 relating to commodity commission assessments.
- (c) ORS chapter 477 relating to fire protection assessments.
- (d) ORS chapters 731, 732, 733, 734, 737, 742, 743, 743A, 744, 746, 748 and 750 relating to insurance company fees and taxes.
- (e) ORS chapter 473 relating to liquor taxes.
- [(f) ORS chapter 583 relating to milk marketing, production or distribution fees.]
- [(g)] (f) ORS chapter 825 relating to motor carrier taxes.
- [(h)] (g) ORS chapter 319 relating to motor vehicle and aircraft fuel taxes.
- [(i)] (h) ORS title 59 relating to motor vehicle and motor vehicle operators' license fees and ORS title 39 relating to boat licenses.
- [(j)] (i) ORS chapter 578 relating to Oregon Wheat Commission assessments.

[(k)] (j) ORS chapter 462 relating to racing taxes.

[(L)] (k) ORS chapter 657 relating to unemployment insurance taxes.

[(m)] (L) ORS chapter 656 relating to workers' compensation contributions, assessments or fees.

[(n)] (m) ORS 311.420, 311.425, 311.455, 311.650, 311.655 and ORS chapter 312 relating to foreclosure of real and personal property tax liens.

[(o)] (n) Sections 15 to 22, 24 and 29, chapter 736, Oregon Laws 2003, relating to long term care facility assessments.

(2) The tax court and the circuit courts shall have concurrent jurisdiction to try actions or suits to determine:

(a) The priority of property tax liens in relation to other liens.

(b) The validity of any deed, conveyance, transfer or assignment of real or personal property under ORS 95.060 and 95.070 (1983 Replacement Part) or 95.200 to 95.310 where the Department of Revenue has or claims a lien or other interest in the property.

(3) Subject only to the provisions of ORS 305.445 relating to judicial review by the Supreme Court, the tax court shall be the sole, exclusive and final judicial authority for the hearing and determination of all questions of law and fact concerning the authorized uses of the proceeds of bonded indebtedness described in section 11 (11)(d), Article XI of the Oregon Constitution.

(4) Except as permitted under section 2, amended Article VII, Oregon Constitution, this section and ORS 305.445, no person shall contest, in any action, suit or proceeding in the circuit court or any other court, any matter within the jurisdiction of the tax court.

SECTION 3. 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 4. ORS 561.279 is amended to read:

561.279. The State Department of Agriculture is authorized to issue subpoenas to compel the attendance of witnesses and to require the production of pertinent books, records and documents in:

(1) Conducting an investigation of a matter with which the department specifically is charged with responsibility and [which] **that** seriously affects the health of persons or animals; **or**

[(2) Making an audit authorized or required by ORS chapter 583; or]

[(3)] (2) Holding a hearing pursuant to the provisions of ORS chapter 183.

SECTION 5. ORS 621.740 is amended to read:

621.740. (1) The producer or person requesting official testing and related testing services from the State Department of Agriculture, as authorized under ORS 621.730 and 621.750 shall pay the fees established under ORS 621.730 as provided by rule of the department.

(2) If the producer or person requesting the services is selling milk to a first handler, [as defined and prescribed in ORS chapter 583, or to a] distributor, producer-distributor or dairy products plant licensee, the department may forward an itemized statement for services rendered to the person requesting the services and also to the first handler, distributor, producer-distributor or licensee.

The first handler, distributor, producer-distributor or licensee shall pay the itemized amount to the department and shall deduct that amount from the amount paid to the producer or other person selling milk [in the same manner and under the same procedures as set forth in ORS 583.046]. Any first handler, distributor, producer-distributor or licensee who refuses to make the deduction shall pay the itemized amount to the department.

(3) Subsection (2) of this section does not relieve the producer or person requesting the services from being primarily responsible for payment to the department. The department may take all actions necessary to collect the amount due against the producer or person requesting the services.

SECTION 6. ORS 621.750 is amended to read:

621.750. (1) The State Department of Agriculture shall promulgate rules including but not limited to [the following:]

[(1)] **rules providing that** any producer may request the department to make an official milk fat content test of the milk the producer is selling to a dealer, milk handler or purchaser of milk. Official sample test periods used by the department shall correspond to the testing periods used by the dealer, handler or purchaser. At the time that the grader samples the milk, each sample shall be split. One portion of the split sample shall be placed in a separate container furnished and approved by the department. The container shall be sealed as required by the department and signed or initialed by both the producer and the grader. The split sample shall be forwarded by the dealer, handler or purchaser to the department at the expense of the producer and as prescribed by rules of the department. The department shall combine the samples for the period involved and make the official test requested of the composite group of samples. The department shall forward a copy of the test to the producer and a copy shall be mailed to the dealer, handler or purchaser submitting the sample. If the test performed and carried out by the department varies by more than one-tenth of one percent from the test made by the dealer, handler or purchaser, within the time prescribed by the department the dealer, handler or purchaser shall adjust and make proper payments to the producer based upon the official tests made by the department.

(2) The department shall [allow similar] **make** official testing for milk fat [to be made] **similar to the testing described in subsection (1) of this section** available to any other person subject to this chapter [and ORS chapter 583].

Passed by Senate February 14, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House April 29, 2013

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Tina Kotek, Speaker of House

Received by Governor:

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

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