

Chapter 571

2017 EDITION

Nursery Stock; Licensed Agricultural Crops

NURSERY STOCK GROWERS, DEALERS AND AGENTS	
571.005	Definitions for ORS 571.005 to 571.230
571.015	Policy; department to maintain nursery service; duties
571.025	State Nursery Research and Regulatory Committee
571.038	Plant Pest and Disease Emergency Response Fund
571.045	Exemption from licensing requirements
571.055	License required to grow or deal in nursery stock; false representations or statements regarding licenses
571.057	License application; contents; fee; assessments
571.059	License fee surcharge
571.063	Temporary nursery sale license; application; fee; rules; conditions
571.075	Renewal of license; rules; forfeiture
571.095	Form of license; display required
571.105	Agent's license
571.115	License not transferable; moving place of business
571.125	Suspension, revocation or refusal of license
571.135	Shipping permits, shipping invoices and bills of lading; rules; retention; exceptions
571.145	Inspection of licensed and unlicensed nurseries; additional inspections and special services; fees
571.147	Department audit of books and records of licensees; suspension of license for failure to submit to audit
571.160	General prohibition
571.170	Substitution or transportation of uninspected nursery stock prohibited
571.180	Misrepresentation of nursery stock by grower, dealer or agent prohibited; tag or label required on fruit trees
571.190	Knowingly selling, advertising or displaying damaged, misrepresented or mislabeled nursery stock prohibited
571.200	Knowingly offering to sell, moving or storing infected or infested nursery stock prohibited
571.210	Hold order on defective nursery stock; condemnation
571.220	Imported nursery stock to bear certificate of origin; contents
571.230	Disposition and use of moneys received
571.250	Interagency agreement to ensure compliance
INDUSTRIAL HEMP GROWERS AND HANDLERS	
571.300	Definitions for ORS 571.300 to 571.348
571.303	Regulation by department; commodities
571.305	Grower and handler registration; applications; records; inspections; fees
571.315	Revocation or refusal of registration
571.318	Industrial hemp propagation
571.321	Crop location
571.324	Seed retention
571.327	Hemp seed sales; packaging; rules
571.330	Laboratory testing; rules
571.333	Concentration standards; test results
571.336	Delivery of industrial hemp to marijuana processor; processing and delivery of hemp marijuana supplements; fee; appropriation
571.339	Industrial hemp retail sales
571.348	Civil penalty; appropriation
GINSENG GROWERS AND DEALERS	
571.350	Definitions for ORS 571.350 to 571.360
571.355	License required; prohibitions
571.360	Rules; fees
571.365	Revocation, suspension or denial of or refusal to renew license; civil penalty; rules
571.370	Disposition of fee moneys
CHRISTMAS TREE GROWERS	
571.505	Definitions for ORS 571.510 to 571.580
571.510	Policy; department to maintain Christmas tree service; duties
571.515	State Christmas Tree Advisory Committee
571.520	Exemptions from licensing requirements
571.525	License required to operate as grower
571.530	License application; contents; license fee
571.535	Renewal of license; rules
571.540	Form of license; display required
571.545	License not transferable; notice of change of business organization; additional assessment for trees not subject to fee
571.550	Suspension, revocation or refusal of license
571.555	Issuance of shipping permit numbers
571.560	Inspections for pest, disease and weed control; additional inspections for special certificates
571.565	Department to determine accuracy of acreage reporting for fee calculations
571.570	Substitution or transportation of uninspected Christmas tree stock
571.575	Knowingly offering to sell infected or infested Christmas tree stock
571.580	Disposition and use of moneys received
WESTERN JUNIPER HARVESTING AND MANUFACTURING	
571.600	Definitions for ORS 571.605 to 571.620
571.605	Economic development assistance

AGRICULTURE

571.610	Technical business assistance			PENALTIES
571.615	Workforce training assistance	571.991	Penalties for ORS 571.005 to 571.230	
571.620	Identification and mapping of marketable stands	571.993	Penalty for violation of ORS 571.355	
571.625	Western Juniper Industry Fund	571.995	Penalties for ORS 571.525, 571.570 and 571.575	
		571.997	Civil penalties for ORS 571.055 and 571.525	

**NURSERY STOCK GROWERS,
DEALERS AND AGENTS**

571.005 Definitions for ORS 571.005 to 571.230. Unless the context requires otherwise, as used in ORS 571.005 to 571.230:

(1) "Agent" means any person only soliciting orders in this state for the purchase or sale of nursery stock for any principal who is not licensed under ORS 571.005 to 571.230 and 571.991.

(2) "Dealer":

(a) Means any person who deals in, sells, handles, consigns or accepts on consignment, imports, stores, displays or advertises nursery stock which the person has not grown.

(b) Does not mean a person whose business is located out of state and who imports and sells such nursery stock not grown in Oregon into this state and who only solicits such nursery stock sales through salesmen or representatives or by mail or advertisement. Such person to be exempt as a dealer must not own, lease, control or maintain buildings, warehouses or any location or place in Oregon in which or through which such nursery stock is stored, sold, offered for sale or held for sale or delivered therefrom. The nursery stock must be shipped direct from the out-of-state location or place of business to the grower, wholesaler, retailer or ultimate consumer or user in Oregon.

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

(4) "Grower" means any person who grows nursery stock.

(5) "Nursery stock" includes all botanically classified plants or any part thereof, such as floral stock, herbaceous plants, bulbs, buds, corms, culms, roots, scions, grafts, cuttings, fruit pits, seeds of fruits, forest and ornamental trees and shrubs, berry plants, and all trees, shrubs and vines and plants collected in the wild that are grown or kept for propagation or sale. "Nursery stock" does not include:

(a) Field and forage crops.

(b) The seeds of grasses, cereal grains, vegetable crops and flowers.

(c) The bulbs and tubers of vegetable crops.

(d) Any vegetable or fruit used for food or feed.

(e) Cut flowers, unless stems or other portions thereof are intended for propagation.

(6) "Person" includes but is not limited to each branch store or place of business in which or at which the business of the dealer or grower is conducted and each member of a cooperative association.

(7) "Sell" or "sale" means to offer, expose or hold for sale, have for the purpose of sale, or to solicit orders for sale, or to deliver, distribute, exchange, furnish or supply. [1963 c.461 §1; 1977 c.638 §1]

571.010 [Repealed by 1963 c.461 §34]

571.015 Policy; department to maintain nursery service; duties. (1) The Legislative Assembly finds and declares that the propagation and raising of nursery stock is an agricultural pursuit that should be regulated and assisted by the State Department of Agriculture. A nursery service shall be maintained within the department for the purpose of carrying out and enforcing the provisions of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991.

(2) The department may:

(a) Inspect the nursery stock of growers, dealers and other persons and places of business provided for under ORS 564.040, 564.991, 571.005 to 571.230 and 571.991.

(b) Establish certification standards, issue certificates and permits and check the license and licensing of persons affected by ORS 564.040, 564.991, 571.005 to 571.230 and 571.991. In establishing certification standards under this paragraph, the department shall give consideration to any certification standards adopted by the federal government, another state or a national association for nurseries.

(c) Establish an expedited permitting process for persons affected by ORS 564.040, 564.991, 571.005 to 571.230 and 571.991 that participate in a department certification program and meet department certification standards.

(d) Investigate violations of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991.

(e) Disseminate information among growers relative to treatment of nursery stock for both prevention and elimination of attacks by plant pests and diseases.

(f) Carry out any other duties or responsibilities that are of service to the nursery industry or that may be necessary for the protection of the nursery industry. [1953 c.461 §4; 1983 c.730 §4; 2015 c.533 §1]

571.020 [Repealed by 1963 c.461 §34]

571.025 State Nursery Research and Regulatory Committee. (1) In order that there may be the closest contact between the State Department of Agriculture and the problems of the nursery industry, there hereby is created a State Nursery Research and Regulatory Committee which shall consist of seven members appointed by the Director of Agriculture. The director, as far as practicable, shall make appointments so that all segments of the nursery industry are represented on the committee.

(2) The term of each member shall be for three years, beginning on July 1 of the year of appointment. Vacancies in office shall be filled by appointment for the unexpired term. At the first meeting after July 1 in each year, the committee shall elect a chairperson.

(3) The functions of the committee shall be to advise and counsel with the department in the administration of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991 and review the nursery inspection program.

(4) The committee shall meet at the call of the chairperson or the director of the State Department of Agriculture. A majority of the members present at any meeting shall constitute a quorum, and a majority vote of the quorum at any meeting shall constitute an official act of the committee. [1963 c.461 §3; 1967 c.208 §3; 1979 c.309 §1; 1993 c.683 §1]

571.030 [Repealed by 1963 c.461 §34]

571.035 [1963 c.461 §2; repealed by 2009 c.98 §31]

571.038 Plant Pest and Disease Emergency Response Fund. (1) The Plant Pest and Disease Emergency Response Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Plant Pest and Disease Emergency Response Fund shall be credited to the fund.

(2) The fund shall consist of all moneys deposited to the fund under ORS 571.059. Moneys deposited to the fund are continuously appropriated to the State Department of Agriculture for use as provided in subsection (3) of this section. Expenditures from the fund are not subject to state expenditure limitations. The fund is not subject to allotment of moneys under ORS 291.234 to 291.260.

(3) The department, after consultation with the State Nursery Research and Regulatory Committee, may use fund moneys for responding to pest and disease emergencies. The department may use fund moneys only to the extent necessary to protect the industries represented by persons licensed under ORS 571.057. [2005 c.540 §1]

Note: 571.038 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 571 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

571.040 [Repealed by 1963 c.461 §34]

571.045 Exemption from licensing requirements. ORS 571.055 (1) and 571.057 do not apply to:

(1) Any person whose business consists only of retail sales to the ultimate consumer and the total of such sales of nursery stock does not exceed \$250 during a fiscal year. Except as provided in subsection (2) of this

section, the provisions of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991 apply at any time the sales of nursery stock exceed \$250 during a fiscal year.

(2) A person licensed as a landscape contracting business under ORS 671.560 and 671.565 who does not grow plants, does not store plants except as provided by the State Department of Agriculture by rule, and acquires all plants from a nursery licensed under this chapter. [1963 c.461 §15; 1971 c.756 §1; 1975 c.110 §1; 1977 c.638 §2; 1999 c.535 §1; 2007 c.541 §6]

571.050 [Repealed by 1963 c.461 §34]

571.055 License required to grow or deal in nursery stock; false representations or statements regarding licenses. (1) No person, without first obtaining a license from the State Department of Agriculture, shall:

(a) Operate as a grower, dealer or agent.

(b) Advertise or display nursery stock for sale on any stand, market stall, store or other place of business.

(c) Advertise nursery stock for sale by the use of signboards, placards, public communications media, newspapers, business letterhead stationery or other circulating medium.

(d) Transport, move, store or warehouse nursery stock grown or held for sale. However, this paragraph does not apply to common carriers.

(2) No person shall:

(a) Falsely represent that the person is a licensed grower, dealer or agent.

(b) Willfully make a false statement when making an application for a license. [1963 c.461 §§5,9]

571.057 License application; contents; fee; assessments. (1) Each person required to be licensed by ORS 571.055 shall apply for a license, or for renewal of a license, on a form furnished by the State Department of Agriculture, that contains:

(a) The name and address of the applicant, the number of locations to be operated by the applicant and the addresses of those locations, and the assumed business name of the applicant;

(b) If other than an individual, a statement whether the applicant is a partnership, corporation or other organization;

(c) The gross dollar volume of sales or purchases of nursery stock by the applicant within Oregon during the prior calendar year or, if the applicant maintains sales records on a fiscal basis, the prior fiscal year; and

(d) The type of business to be operated and, if applicant is an agent, the principals the applicant represents.

(2) Each application for a license must be accompanied by a license fee as provided for by this section and any amounts required by ORS 571.075 (3). An application is not a public record but is subject to audit and review by the department. An applicant for an original license or for a renewal license, without a full calendar year of prior nursery stock sales or purchase experience upon which to base the fees, shall base the fees on an estimated annual gross dollar volume of sales or purchases of nursery stock by the applicant. Notwithstanding the provisions of ORS 571.075, upon application by the person for a renewal of license for a subsequent year, the fees for the previous license year shall be adjusted to reflect the actual annual gross dollar volume of sales or purchases of nursery stock by the applicant. Any additional fees found to be due must be paid to the department at the time of application for renewal of license. The department shall refund any overpayment found to be due the applicant.

(3)(a) The department shall establish the license fees for growers and dealers after consulting with the State Nursery Research and Regulatory Committee and after public hearing in accordance with ORS chapter 183. The department shall establish the fees on the basis of annual gross dollar volume of sales or purchases of nursery stock within Oregon for the calendar year immediately preceding the license period.

(b) The license fees may not be less than \$65 or more than \$40,000. The millage rate may not be less than one-tenth mill or more than 10 mills. The department shall establish the fees in an amount sufficient to allow the department to administer and enforce the provisions of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991.

(c) In addition to and at the time of payment of the annual license fee, growers and dealers shall pay assessments for the expenses of carrying out the provisions of ORS 571.230 (2) and (3). Dealers shall pay 0.0002 times the gross dollar purchases in the previous license year. Growers shall pay 0.0002 times the gross dollar sales in the previous license year. The assessment may not be less than \$10.

(4) For florists and landscape contracting businesses, dealer and agent fees must be computed on the basis of gross purchases of plants. For greenhouse operators and growers, including persons collecting native plants, fees must be computed on the basis of gross sales of plants or sales value of plants produced in Oregon.

(5) Each grower or dealer is entitled to one sales location under the license of the grower or dealer. Each additional sales lo-

cation, yard, branch store, stall or peddling vehicle maintained by the grower or dealer requires the payment of the full license fee for each of the additional sales outlets. A grower who is also a dealer shall be licensed only as a grower. [1971 c.756 §6; 1977 c.638 §3; 1985 c.659 §1; 1993 c.683 §3; 2007 c.71 §178; 2007 c.541 §7; 2015 c.533 §2]

571.059 License fee surcharge. (1) As used in this section, “dealer” and “grower” have the meanings given those terms in ORS 571.005.

(2) The State Department of Agriculture shall make a yearly determination of the additional amount, if any, required to achieve a principal balance of \$250,000 in the Plant Pest and Disease Emergency Response Fund. If the department determines that an additional amount is required to achieve a principal balance of \$250,000, the department shall determine an assessment rate based on the additional amount required to achieve the \$250,000 fund balance and the total in the previous license year of gross dollar purchases by dealers, gross dollar sales by growers and sales value of plants produced in Oregon by licensees under ORS 571.057 other than dealers or growers.

(3) The department may impose a surcharge on license fees established pursuant to ORS 571.057. The surcharge for a licensee shall be calculated based on the assessment rate determined under subsection (2) of this section and the purchase, sales or sales value volume that is the basis for the license fee assessed to the licensee under ORS 571.057. Surcharges imposed under this subsection shall be deposited to the fund.

(4) The department shall apply for any federal funding available and may seek gifts, grants and donations for the purpose of increasing or replenishing the fund balance or avoiding expenditures from the fund. [2005 c.540 §2]

Note: 571.059 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 571 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

571.060 [Repealed by 1963 c.461 §34]

571.063 Temporary nursery sale license; application; fee; rules; conditions.

(1) Upon receipt of a fee established by the State Department of Agriculture, the department may issue a temporary nursery sale license for the holding of a nursery stock sale conducted by, or for the benefit of, a duly registered nonprofit organization, where such sale does not exceed seven consecutive days.

(2) Application for a temporary nursery sale license shall be made on a form furnished by the department, and shall be accompanied by the license fee. A separate

application and license fee is required for each sale.

(3) The department may prescribe the conditions of such temporary nursery sales license, which conditions shall be stated in the license. Any such license may be revoked or suspended by the department for violation of any of the conditions stated therein. ORS 571.005 to 571.230 and 571.991 shall not be applicable to such temporary nursery sales except as provided in this section.

(4) The department shall establish the fee described in subsection (1) of this section by rule. The department shall establish the fee at a level sufficient to cover the costs to the department associated with issuing the temporary nursery sale license, but not more than \$50. [1971 c.756 §8; 2009 c.98 §25]

571.065 [1963 c.463 §6; repealed by 1971 c.756 §9]

571.070 [Repealed by 1963 c.461 §34]

571.075 Renewal of license; rules; forfeiture. (1) The fees for the renewal of the annual licenses and the fees for inspections required by ORS 571.005 to 571.230 and 571.991 shall be paid with the application for license renewal and before July 1 of each year or before such date as may be specified by rule of the State Department of Agriculture.

(2) Failure to pay the fees when due forfeits the right to operate as a grower, dealer or agent.

(3) Any person who has been previously licensed to grow or sell nursery stock and whose right to grow or sell has been forfeited shall not be issued a renewal license except upon written application to the department accompanied by a sum of money equal to the regular license fee, as provided in ORS 571.057. [1963 c.461 §12; 1971 c.756 §2; 1977 c.638 §4; 1985 c.659 §3; 2007 c.768 §13]

571.080 [Repealed by 1963 c.461 §34]

571.085 [1963 c.461 §13; repealed by 1971 c.756 §9]

571.090 [Repealed by 1963 c.461 §34]

571.095 Form of license; display required. All licenses issued under ORS 571.005 to 571.230 and 571.991 shall:

(1) Include the date of issue.

(2) Expire on June 30, next following the date of issue, unless sooner revoked by the State Department of Agriculture.

(3) Be in the form of a certificate.

(4) Be numbered serially under the direction of the department.

(5) Be posted in a conspicuous place on the premises of the licensee and a copy at each location where the licensee is doing business, where they can be easily seen by the general public. A duplicate copy of the license shall be issued by the department for

each sales location of the licensee. [1963 c.461 §10; 1971 c.756 §3]

571.100 [Repealed by 1963 c.461 §34]

571.105 Agent's license. (1) No agent's license shall be issued or valid unless the agent's principal has given the State Department of Agriculture written authorization to issue the license.

(2) An agent's license shall be automatically suspended during any period when the agent is not acting as an agent or the principal has withdrawn or canceled the authorization.

(3) If the license has not expired, an agent may revive the license by giving notice to the department that the agent is again acting as an agent. If the agent represents a principal other than the one who gave written authorization to issue the license, subsection (1) of this section applies. [1963 c.461 §8]

571.110 [Repealed by 1963 c.461 §34]

571.115 License not transferable; moving place of business. (1) A license is personal to the applicant and may not be transferred. A new license is necessary if the business entity of the licensee is changed or if the membership of a partnership is changed, irrespective of whether or not the business name is changed.

(2) The license issued to a grower or dealer applies to the particular premises named in the license. However, if prior approval is obtained from the State Department of Agriculture, the place of business may be moved to other premises or location without the necessity of relicensing. [1963 c.461 §7]

571.120 [Repealed by 1963 c.461 §34]

571.125 Suspension, revocation or refusal of license. The State Department of Agriculture may, as provided in ORS chapter 183, suspend, revoke or refuse to issue or renew the license of any person when it is satisfied that:

(1) The applicant or licensee has been guilty of fraud, deception or misrepresentation in the handling or sale of nursery stock.

(2) The licensee was guilty of fraud, deception or misrepresentation in the procurement of a license.

(3) The licensee has violated any provision of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991. [1963 c.461 §11]

571.130 [Repealed by 1963 c.461 §34]

571.135 Shipping permits, shipping invoices and bills of lading; rules; retention; exceptions. (1) The State Department of Agriculture may issue a shipping permit number to any licensee who requests or requires one. The shipping permit

number shall be the same as the license number and so designated on the license.

(2) When authorized or required by the department, the shipping permit number shall accompany all shipments and deliveries of nursery stock.

(3) The Director of Agriculture may suspend or revoke a shipping permit issued to a nursery if the nursery has nursery stock that in whole or in part does not meet interstate shipment cleanliness standards adopted by the department by rule.

(4) A shipping invoice or bill of lading shall accompany a commercial shipment or delivery of nursery stock to be offered for sale. If a shipping invoice accompanies the shipment or delivery, the shipping invoice shall include the following:

(a) The name and address of the owner of the nursery stock.

(b) The nursery license number of the owner of the nursery stock.

(c) The point of origin of the nursery stock.

(d) The specific destination to which the nursery stock is being shipped or delivered.

(e) A description or inventory of the nursery stock in sufficient detail to allow identification of the nursery stock being shipped or delivered. The description or inventory shall include, at a minimum, the numbers, sizes and varieties of plants included in the shipment or delivery.

(f) The signature of the nursery stock carrier or the carrier's agent.

(5) The department, by rule, may develop a standard form for shipping invoices described in subsection (4) of this section and may make the form available at cost to licensees upon request.

(6) Each of the following persons shall retain a copy of the signed shipping invoice or the bill of lading for a commercial shipment or delivery of nursery stock to be offered for sale:

(a) The owner of the nursery stock.

(b) The carrier or carrier's agent transporting the nursery stock.

(c) The person taking delivery of the nursery stock at the shipment or delivery destination.

(7) Subsections (4) and (6) of this section do not apply to:

(a) A commercial shipment or delivery between two points owned, rented or leased by the owner of the nursery stock; or

(b) A commercial shipment or delivery of nursery stock in the possession of a business

licensed by the State Landscape Contractors Board. [1963 c.461 §16; 2005 c.390 §1; 2015 c.533 §3]

571.140 [Repealed by 1963 c.461 §34]

571.145 Inspection of licensed and unlicensed nurseries; additional inspections and special services; fees. (1) The State Department of Agriculture shall inspect each licensed nursery at least once and as often thereafter as the department considers necessary to determine and control pest, disease and noxious weed conditions.

(2) The department may make additional inspections as necessary for the issuance of phytosanitary and other certificates. Such additional inspections are in addition to normal inspections as provided by subsection (1) of this section. The department may charge for such inspections requested by nurseries in order to issue state or federal phytosanitary certificates and any other certificate that requires inspection prior to issuance of such certificates. Such charge shall not be less than \$10 per requested certificate or greater than \$50 per such certificate. However, for license years after June 30, 1995, the department may establish the certificate fee without regard to the limitations provided in this subsection after consulting with the State Nursery Research and Regulatory Committee and after holding public hearings in accordance with ORS chapter 183.

(3) The department may establish a schedule of fees for nursery stock inspections and special services which may be performed by the department for persons who are not required to obtain a license pursuant to ORS 571.005 to 571.230 and 571.991. The fees shall be established in such amounts as are reasonably necessary to recover all costs incurred by the department in the performance of such inspections and special services. Payment for such inspections and special services shall be made to the department at the time the inspections or special services are performed. [1963 c.461 §17; 1977 c.638 §5; 1985 c.659 §4; 1993 c.683 §6; 2009 c.98 §26]

571.147 Department audit of books and records of licensees; suspension of license for failure to submit to audit. (1)

The State Department of Agriculture is authorized to audit the books and records of applicants or licensees, as it deems necessary, in order to insure compliance with ORS 571.057. Such audit may be made at the applicant's or licensee's place of business during normal business hours, upon three days' notice from the department.

(2) Notwithstanding the provisions of ORS chapter 183, failure by a licensee to allow such audit shall automatically suspend the license of the licensee until the audit is performed and any additional fee and penalty

found to be due is paid to the department.
[1971 c.756 §7]

571.150 [Repealed by 1963 c.461 §34]

571.160 General prohibition. No person, individually or acting for another person, such as an official or employee acting for a corporation, shall violate ORS 564.040, 564.991, 571.005 to 571.230 and 571.991. [1963 c.461 §27]

571.170 Substitution or transportation of uninspected nursery stock prohibited. No person shall:

(1) Substitute other nursery stock for nursery stock covered by an inspection certificate.

(2) Transport or accept for transportation nursery stock that does not carry the official inspection tag authorized by the State Department of Agriculture. [1963 c.461 §18]

571.180 Misrepresentation of nursery stock by grower, dealer or agent prohibited; tag or label required on fruit trees.

(1) No grower, dealer or agent shall:

(a) Sell nursery stock representing it to be a name, age or variety different from what the nursery stock actually is.

(b) Represent that any nursery stock is a new variety, when in fact it is a standard variety and has been given a new name.

(c) Sell or represent cormels as corms or bulblets as bulbs.

(2) In addition to the provisions of ORS 632.450 to 632.490 and 632.900 to 632.985, all other laws relating to labeling and the provisions of subsection (1) of this section, the grower, dealer or agent shall attach to every bundle of fruit-bearing trees sold or shipped within this state a tag or label specifying the name of the variety of trees contained therein. If the bundle shall contain trees of different varieties, such label or tag shall be attached to each tree or group of trees of the same variety. The purchaser of any fruit-bearing tree or trees not true to name as specified on such tag or label, shall have a remedy at law in a civil action to recover the damages sustained. Such action may be brought at any time prior to the third bearing year. [1963 c.461 §19; 2001 c.104 §232]

571.190 Knowingly selling, advertising or displaying damaged, misrepresented or mislabeled nursery stock prohibited. No person shall knowingly offer to sell, advertise or display nursery stock:

(1) That is dead, in a dying condition, seriously broken, desiccated, frozen or damaged by freezing, or materially damaged in any way.

(2) By any methods which have the capacity and tendency or effect of deceiving

any purchaser or prospective purchaser as to the quantity, size, grade, kind, species, name, age, variety, maturity, condition, vigor, hardiness, number of times transplanted, growth ability, growth characteristics, rate of growth or time required before flowering or fruiting, price, origin or place where grown, or in any other material respect.

(3) That fails to meet the grade with which it is labeled.

(4) By making other false or fraudulent representations in connection with the sale of nursery stock. [1963 c.461 §20]

571.200 Knowingly offering to sell, moving or storing infected or infested nursery stock prohibited. (1)(a) No person shall knowingly offer to sell nursery stock that is infected or infested.

(b) Unless the nursery stock is held for separation or treatment under the supervision of an officer, employee or inspector of the State Department of Agriculture, no person shall advertise, display, transport, move, store or warehouse nursery stock that is infected or infested.

(c) Any infected or infested nursery stock may be seized in accordance with the procedures provided for in ORS 561.605 to 561.630.

(2) As used in subsection (1) of this section:

(a) "Infected" means any appearance of a disease symptom or causal agent that may, in the opinion of the department, be a menace to other nursery stock or any products or properties.

(b) "Infested" means when the mature or immature form of any plant pest, including noxious weeds as defined by the department, is found in such numbers as, in the opinion of the department, to be a menace to other nursery stock or any product or properties. [1963 c.461 §§21,22; 1985 c.565 §84a]

571.210 Hold order on defective nursery stock; condemnation. (1) When the State Department of Agriculture has cause to presume that any nursery stock will not perform in a normal manner, the officials, employees or inspectors of the department may issue a hold order for a period not to exceed 10 days. No person shall sell or dispose of in any manner such nursery stock within the 10-day period without written permission from the department.

(2) If a person displays or sells nursery stock that is dead, in a dying condition, seriously broken, frozen or damaged by freezing or materially damaged in any way, any officer, employee or inspector of the department may condemn such nursery stock and order it destroyed. [1963 c.461 §23]

571.220 Imported nursery stock to bear certificate of origin; contents. Nursery stock imported into Oregon must be accompanied by a certificate from the place of origin, signed by an authorized agent or representative of the agency supervising and responsible for carrying out the nursery stock laws of such originating state or country. The certificates shall contain additional information as may be required by the State Department of Agriculture to carry out and enforce the provisions of ORS 564.040, 564.991, 571.005 to 571.230 and 571.991. [1963 c.461 §24]

571.230 Disposition and use of moneys received. (1) Except for fees paid under ORS 571.057, 571.063 and 571.145 (3), the State Department of Agriculture shall deposit all fees paid to it under ORS 571.005 to 571.230 and 571.991 in the General Fund in the State Treasury to the credit of the Department of Agriculture Account. Such fees are continuously appropriated to the department for the purpose of administering and enforcing ORS 564.040, 564.991, 571.005 to 571.230 and 571.991. The fees paid to the department under ORS 571.057, 571.063 and 571.145 (3) shall be deposited by the State Treasurer in the Department of Agriculture Service Fund, and such funds are continuously appropriated to the department for the purposes of administering and enforcing ORS 571.005 to 571.230 and 571.991.

(2) The amount of revenue generated for nursery research pursuant to ORS 571.057 (3)(c) shall be used by the department only for the purposes set forth in subsection (3) of this section. With the advice of the State Nursery Research and Regulatory Committee, the director shall identify research needs of the Oregon nursery industry and shall obtain services of researchers for the purposes set forth in subsection (3) of this section.

(3) The amounts provided for in ORS 571.057 (3)(c) shall be used in carrying on experimental and research projects and investigations directed toward the prevention and elimination of plant diseases, insect pests and the development and improvement of cultural methods that are beneficial to the nursery industry. [1963 c.461 §25; 1971 c.756 §4; 1979 c.499 §5; 1985 c.659 §2; 1993 c.683 §7]

571.240 [1963 c.461 §14; 1967 c.637 §12; repealed by 1971 c.756 §9]

571.250 Interagency agreement to ensure compliance. The State Landscape Contractors Board and the State Department of Agriculture shall enter into an interagency agreement to address how the board and the department shall ensure that licensed landscape contracting businesses comply with the provisions of this chapter. [1999 c.535 §3; 2007 c.541 §8]

INDUSTRIAL HEMP GROWERS AND HANDLERS

571.300 Definitions for ORS 571.300 to 571.348. As used in ORS 571.300 to 571.348:

(1) “Agricultural hemp seed” means Cannabis seed:

(a) That is sold to or intended to be sold to registered growers for planting; or

(b) That remains in an unprocessed or partially processed condition that is capable of germination.

(2) “Crop” means industrial hemp grown under a single registration.

(3) “Grower” means a person, joint venture or cooperative that produces industrial hemp.

(4) “Handler” means a person, joint venture or cooperative that receives industrial hemp for processing into commodities, products or agricultural hemp seed.

(5) “Industrial hemp”:

(a) Means all nonseed parts and varieties of the Cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(b) Means any Cannabis seed:

(A) That is part of a crop;

(B) That is retained by a grower for future planting;

(C) That is agricultural hemp seed;

(D) That is for processing into or for use as agricultural hemp seed; or

(E) That has been processed in a manner or to an extent that the Cannabis seed is incapable of germination.

(c) Does not mean industrial hemp commodities or products.

(6) “Industrial hemp concentrate” means an industrial hemp product obtained by separating cannabinoids from industrial hemp by:

(a) A mechanical process;

(b) A chemical extraction process using a nonhydrocarbon-based solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

(c) A chemical extraction process using carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

(d) Any other process identified by the State Department of Agriculture by rule.

(7) “Industrial hemp extract” means an industrial hemp product obtained by separating cannabinoids from industrial hemp by:

(a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;

(b) A chemical extraction process using carbon dioxide, if the process uses high heat or pressure; or

(c) Any other process identified by the department by rule. [2009 c.897 §1; 2015 c.503 §1; 2016 c.71 §1; 2017 c.531 §1]

Note: 571.300 to 571.348 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 571 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

571.303 Regulation by department; commodities. (1) Industrial hemp is an agricultural product that is subject to regulation by the State Department of Agriculture.

(2) For purposes of ORS chapter 616, the department may not consider industrial hemp or industrial hemp commodities or products to be an adulterant. [2016 c.71 §4]

Note: See note under 571.300.

571.305 Grower and handler registration; applications; records; inspections; fees. (1) To grow or handle industrial hemp, a person must be registered with the State Department of Agriculture as a grower or handler.

(2)(a) Only a grower or handler registered under this section may produce agricultural hemp seed. For a grower or handler to produce agricultural hemp seed, the grower or handler must be registered with the department as an agricultural hemp seed producer.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A grower registered under this section that retains agricultural hemp seed as described in ORS 571.324 is not required to register with the department as an agricultural hemp seed producer; and

(B) A grower or handler registered under this section that produces Cannabis seeds that are incapable of germination, or a handler registered under this section that processes Cannabis seeds that are incapable of germination into commodities or products, is not required to register with the department as an agricultural hemp seed producer.

(3) An applicant for registration under this section must submit to the department, in a form and manner prescribed by the department, the following information:

(a) The name and address of the applicant;

(b) The name and address of the industrial hemp operation of the applicant; and

(c) Any other information required by the department by rule.

(4) Registration under this section is valid for a one-year term, beginning on January 1. A grower, handler or agricultural hemp seed producer may renew a registration under this section in a form and manner prescribed by the department.

(5) A registration under this section is a personal privilege and is not transferable.

(6) A grower or handler registered under this section must keep records as required by the department by rule. Upon not less than three days' notice, the department may subject the records to inspection or audit during normal business hours. The department may make an inspection or audit for the purpose of ensuring compliance with:

(a) A provision of ORS 571.300 to 571.348;

(b) A rule adopted under a provision of ORS 571.300 to 571.348; or

(c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.348 or a rule adopted under a provision of ORS 571.300 to 571.348.

(7) In addition to any inspection conducted pursuant to ORS 561.275, the department may inspect any crop during the crop's growth phase and take a representative composite sample for field analysis. If a crop contains an average tetrahydrocannabinol concentration exceeding 0.3 percent on a dry weight basis, the department may detain, seize or embargo the crop as provided under ORS 561.605 to 561.620.

(8) The department may charge growers, handlers and agricultural hemp seed producers application, registration and renewal of registration fees reasonably calculated by the department to pay the cost of administering ORS 571.300 to 571.348. Moneys from fees charged under this subsection shall be deposited in the Department of Agriculture Service Fund and are continuously appropriated to the department for purposes of carrying out the duties of the department under ORS 571.300 to 571.348. [2009 c.897 §2; 2015 c.503 §2; 2016 c.71 §2]

Note: See note under 571.300.

571.315 Revocation or refusal of registration. (1) Subject to the provisions of ORS chapter 183, the State Department of Agriculture may revoke the registration of a grower, handler or agricultural hemp seed producer or refuse to register or renew the registration if a grower, handler or agricultural hemp seed producer violates:

(a) A provision of ORS 571.300 to 571.348;

(b) A rule adopted under a provision of ORS 571.300 to 571.348;

(c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.348 or a rule adopted under a provision of ORS 571.300 to 571.348; or

(d) Any statutory law or department rule related to agricultural activities other than industrial hemp operations.

(2) The department may not discipline a grower, handler or agricultural hemp seed producer under this section on the basis that possessing, delivering and manufacturing industrial hemp are prohibited by federal law. [2009 c.897 §3; 2015 c.1 §80; 2016 c.71 §10]

Note: See note under 571.300.

571.318 Industrial hemp propagation.

A grower registered under ORS 571.305 may use any propagation method, including planting seeds or starts or the use of clones or cuttings, to produce industrial hemp. [2016 c.71 §5]

Note: See note under 571.300.

571.321 Crop location. A grower shall provide the State Department of Agriculture, in a time, form and manner prescribed by the department, with an accurate description and global positioning system coordinates of the property on which the grower's crop is or will be located. [2016 c.71 §6]

Note: See note under 571.300.

571.324 Seed retention. (1) A grower registered under ORS 571.305 may retain agricultural hemp seed for the purpose of propagating industrial hemp in future years.

(2) A grower registered under ORS 571.305 that produces agricultural hemp seed only for the purpose of retaining the agricultural hemp seed as described in subsection (1) of this section:

(a) Does not need to register with the State Department of Agriculture under ORS 571.305 as an agricultural hemp seed producer; and

(b) Does not need to comply with any rule adopted by the department under ORS 571.327. [2016 c.71 §7]

Note: See note under 571.300.

571.327 Hemp seed sales; packaging; rules. (1) An agricultural hemp seed producer registered under ORS 571.305:

(a) Must sell agricultural hemp seed in a manner that complies with any standard established by the Director of Agriculture under ORS 633.511 to 633.750; and

(b) May sell agricultural hemp seed only if the agricultural hemp seed meets any packaging or labeling requirement, or any quality standard, adopted by the director under subsection (2) of this section.

(2) The director may adopt rules establishing packaging requirements, labeling re-

quirements and quality standards for agricultural hemp seed.

(3) The State Department of Agriculture shall make available to growers registered under ORS 571.305 information that identifies agricultural hemp seed producers registered under ORS 571.305 from whom the growers may purchase agricultural hemp seed. [2016 c.71 §8]

Note: See note under 571.300.

571.330 Laboratory testing; rules. (1) For purposes of this section, "consumption" means to ingest, inhale or topically apply to the skin or hair.

(2) A laboratory licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority pursuant to ORS 475B.565 may test industrial hemp and industrial hemp commodities and products produced or processed by a grower, handler or agricultural hemp seed producer registered under ORS 571.305.

(3) A handler registered under ORS 571.305 may not sell an industrial hemp commodity or product that is intended for human consumption unless the commodity or product is tested by a laboratory described in subsection (2) of this section to ensure that the commodity or product meets the requirements adopted by the Oregon Health Authority under ORS 475B.555 (1)(a) and (b) and (2) for testing marijuana items.

(4) For purposes of this section, the State Department of Agriculture shall adopt rules:

(a) Establishing protocols for the testing of industrial hemp commodities and products; and

(b) Establishing procedures for determining batch sizes and for sampling industrial hemp commodities and products. [2016 c.71 §9]

Note: See note under 571.300.

571.333 Concentration standards; test results. (1) The State Department of Agriculture may enter into an agreement with the Oregon Health Authority for the purpose of developing standards for investigating and testing an industrial hemp crop to ensure that the crop contains an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(2) In accordance with standards developed under subsection (1) of this section, a laboratory licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the authority pursuant to ORS 475B.565 may test an industrial hemp crop for the purpose of determining the average tetrahydrocannabinol concentration of the crop.

(3) A laboratory described in subsection (2) of this section must provide the test results to the department in a form and manner prescribed by the department. [2016 c.71 §9a]

Note: See note under 571.300.

571.336 Delivery of industrial hemp to marijuana processor; processing and delivery of hemp marijuana supplements; fee; appropriation. (1) As used in this section, “licensee,” “marijuana,” “marijuana item” and “marijuana processor” have the meanings given those terms in ORS 475B.015.

(2) A grower registered under ORS 571.305 may deliver industrial hemp, and a handler registered under ORS 571.305 may deliver industrial hemp concentrates and industrial hemp extracts, to a marijuana processor that holds a license issued under ORS 475B.090, if:

(a) The grower or handler and the marijuana processor are registered with the Oregon Liquor Control Commission, in a form and manner prescribed by the commission, for the purpose of processing industrial hemp, industrial hemp concentrates and industrial hemp extracts;

(b) The marijuana processor is provided with the results of any test conducted on the industrial hemp, industrial hemp concentrate or industrial hemp extract pursuant to ORS 571.300 to 571.348 as a condition of the marijuana processor’s receiving the industrial hemp, industrial hemp concentrate or industrial hemp extract;

(c) The marijuana processor keeps the results of any test that the marijuana processor receives pursuant to paragraph (b) of this subsection in a form and manner prescribed by the commission;

(d) The industrial hemp, industrial hemp concentrate or industrial hemp extract is tracked using the system developed and maintained under ORS 475B.177 when the industrial hemp, industrial hemp concentrate or industrial hemp extract is delivered to the premises of the marijuana processor; and

(e) The grower or handler and the marijuana processor meet any other requirement established by the commission by rule.

(3) Industrial hemp, industrial hemp concentrates and industrial hemp extracts may be processed by a marijuana processor registered under this section into any industrial hemp commodity or product or used by a marijuana processor registered under this section to supplement the processing of any marijuana item.

(4) An industrial hemp concentrate, industrial hemp extract, industrial hemp commodity or product or marijuana item

processed pursuant to this section may be delivered by a marijuana processor registered under this section to a licensee as described in ORS 475B.206, provided that the industrial hemp concentrate, industrial hemp extract, industrial hemp commodity or product or marijuana item meets any applicable requirement for marijuana items set forth in ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted under ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655.

(5) The commission may impose an annual fee reasonably calculated to not exceed the cost of administering this section on growers registered under this section, handlers registered under this section and marijuana processors registered under this section. Fees collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296. Moneys deposited in the fund pursuant to this subsection are continuously appropriated to the commission for the purpose of administering this section. [2017 c.531 §3]

Note: See note under 571.300.

571.339 Industrial hemp retail sales. A person may not make a retail sale of industrial hemp commodities or products in this state unless the industrial hemp commodities or products and the industrial hemp used to process the industrial hemp commodities or products meet the same or substantially the same requirements for processing industrial hemp commodities or products or growing industrial hemp set forth in ORS 571.300 to 571.348 and rules adopted under ORS 571.300 to 571.348. This section does not apply to the retail sale of industrial hemp commodities or products by a marijuana retailer, as defined in ORS 475B.015, that holds a license issued under ORS 475B.105. [2017 c.531 §4]

Note: See note under 571.300.

571.348 Civil penalty; appropriation. (1) Subject to the provisions of ORS chapter 183, the State Department of Agriculture may impose a civil penalty not to exceed \$2,500 on a grower, handler or agricultural hemp seed producer for violating:

(a) A provision of ORS 571.300 to 571.348;

(b) A rule adopted under a provision of ORS 571.300 to 571.348; or

(c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.348 or a rule adopted under a provision of ORS 571.300 to 571.348.

(2) The department may not discipline a grower, handler or agricultural hemp seed producer under this section on the basis that possessing, delivering and manufacturing industrial hemp are prohibited by federal law.

(3) All moneys collected by the department under this section shall be deposited in the General Fund in the State Treasury to the credit of the Department of Agriculture Account. All moneys deposited in the account pursuant to this section are continuously appropriated to the department for the purpose of administering ORS 571.300 to 571.348. [2016 c.71 §12]

Note: See note under 571.300.

GINSENG GROWERS AND DEALERS

571.350 Definitions for ORS 571.350 to 571.360. As used in ORS 571.350 to 571.360:

(1) “Cultivated ginseng” means ginseng that is growing or has been grown in tilled beds under the shade of artificial structures or under natural shade, and that is cultivated by a person.

(2) “Dealer” means a person who buys cultivated ginseng for the purpose of resale, but does not include a person who buys root of cultivated ginseng for the purpose of retail sale to consumers in the United States.

(3) “Ginseng” means any part of the plant known as American Ginseng (*Panax quinquefolius* L.), including plants, whole roots, essentially intact roots and root chunks and slices, but excluding root hairs, extracts, derivatives, leaves, stems, flowers and seeds.

(4) “Grower” means any person who grows and sells cultivated ginseng. [Formerly 576.800]

Note: 571.350 to 571.365 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 571 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

571.355 License required; prohibitions.

(1) No person shall engage in the activity of a grower or dealer of ginseng without first having obtained a license therefor from the State Department of Agriculture.

(2) No person required by subsection (1) of this section to obtain a license shall fail to comply with this section and ORS 571.360 or any rule adopted pursuant thereto. [Formerly 576.805]

Note: See note under 571.350.

571.360 Rules; fees. In accordance with any applicable provision of ORS chapter 183, the State Department of Agriculture, by rule, shall establish a licensing system for persons who act as ginseng growers or dealers. The system shall include, but not be limited to, provisions:

(1) Prescribing the form and content of, and the times and procedures for submitting,

an application for license issuance or renewal.

(2) Prescribing the term of the license and the fee for original issuance and renewal of the license in an amount that does not exceed the cost of administering the licensing system.

(3) Prescribing such certification requirements as may be necessary to promote or allow the sale of ginseng in interstate or international commerce.

(4) Establishing an advisory committee to provide assistance to the department in the administration of ORS 571.350 to 571.360. [Formerly 576.810]

Note: See note under 571.350.

571.365 Revocation, suspension or denial of or refusal to renew license; civil penalty; rules. (1) The State Department of Agriculture may revoke, suspend, deny or refuse to renew any grower or dealer a license if the department finds the person has violated any provision of ORS 571.355 or 571.360 or any rule adopted pursuant thereto.

(2) In addition to any other liability or penalty provided by law, the Director of Agriculture may impose a civil penalty on a person for violation of any provision of ORS 571.355 or 571.360 or any rule adopted pursuant thereto. The civil penalty for a first violation shall be not more than \$1,000. Upon a second violation, the department may impose a civil penalty of not more than \$2,000.

(3) The department shall adopt by rule a schedule establishing the amount of civil penalty that may be imposed for a particular violation.

(4) All penalties recovered under this section shall be deposited by the State Treasurer in the Department of Agriculture Service Fund. The moneys are continuously appropriated to the department for the purpose of carrying out ORS 571.355 and 571.360. [Formerly 576.815; 2011 c.597 §234]

Note: See note under 571.350.

571.370 Disposition of fee moneys. The State Treasurer shall deposit all moneys received by the State Department of Agriculture under ORS 571.355 and 571.360 into the Department of Agriculture Service Fund. The moneys are continuously appropriated to the department for the purpose of carrying out the provisions of ORS 571.355 and 571.360. [Formerly 576.821]

Note: 571.370 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 571 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

CHRISTMAS TREE GROWERS

571.505 Definitions for ORS 571.510 to 571.580. As used in ORS 571.510 to 571.580, unless the context requires otherwise:

(1) "Acre of Christmas trees" means an acre of land upon which Christmas trees are growing at the time of application for the license required by ORS 571.525.

(2) "Christmas tree" means a cut evergreen tree:

(a) Of a marketable species;

(b) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agricultural Marketing Service of the United States Department of Agriculture; and

(c) Evidencing periodic maintenance practices of shearing or culturing, or both, for all Christmas tree species; weed and bush control and one or more of the following practices: Basal pruning, fertilization, insect and disease control, stump culture, soil cultivation and irrigation.

(3) "Dealer" means a person who purchases Christmas trees for resale.

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

(5) "Grower" means any person who grows Christmas trees for sale.

(6) "Natural timber stand" means any site where Christmas trees are growing with a spacing greater than 9.5 feet by 9 feet.

(7) "Sell" or "sale" means to offer or hold for the purpose of sale, or to solicit orders for sale or to deliver, distribute, exchange, furnish or supply. [1985 c.197 §1; 1989 c.561 §1]

571.510 Policy; department to maintain Christmas tree service; duties. (1) The Legislative Assembly finds and declares that the propagation and raising of Christmas trees is a silvicultural and agricultural pursuit that should be regulated and assisted by the State Department of Agriculture. A Christmas tree service shall be maintained within the department for the purpose of carrying out and enforcing the provisions of ORS 571.505 to 571.580.

(2) The department is authorized to:

(a) Inspect the Christmas tree stock of growers.

(b) Issue certificates and permits and check the license and licensing of persons required to be licensed by ORS 571.505 to 571.580.

(c) Investigate violations of ORS 571.505 to 571.580.

(d) Disseminate information among growers relative to treatment of Christmas tree

stock for both prevention and elimination of attacks by plant pests and diseases.

(e) Carry out any other duties or responsibilities which are of service to the Christmas tree industry or which may be necessary for the protection thereof. [1985 c.197 §2; 1989 c.561 §2]

571.515 State Christmas Tree Advisory Committee. (1) In order that there may be the closest contact between the State Department of Agriculture and the problems of the Christmas tree industry, there hereby is created a State Christmas Tree Advisory Committee, which shall consist of six members appointed by the Director of Agriculture. The director, as far as practicable, shall make appointments so that all areas of the state are represented on the committee.

(2) The term of each member shall be for three years, from the date of appointment. A member shall continue to serve until a successor is appointed and qualifies. Vacancies in office shall be filled by appointment for the unexpired term. An individual is not eligible to serve more than two consecutive terms as a member.

(3) The members of the committee are eligible for compensation and expenses as provided in ORS 292.495, to be paid from funds provided by ORS 571.580.

(4) The functions of the committee are to advise and counsel with the department in the administration of ORS 571.505 to 571.580.

(5) The committee shall meet at the call of the chairperson or the director of the State Department of Agriculture. A majority of the members present at any meeting constitutes a quorum, and a majority vote of the quorum at any meeting constitutes an official act of the committee.

(6) At the first meeting in each year the committee shall select a chairperson. The Dean of the College of Agricultural Sciences, Oregon State University, and the director of the State Department of Agriculture, or their representatives, shall be ex officio members without the right to vote. [1985 c.197 §3; 1995 c.79 §310; 2005 c.22 §389]

571.520 Exemptions from licensing requirements. ORS 571.525 and 571.530 do not apply to:

(1) Any grower owning one acre or less of Christmas trees and whose business consists only of retail sales to the ultimate consumer.

(2) Any dealer. [1985 c.197 §4; 1989 c.561 §3]

571.525 License required to operate as grower. No person shall operate as a grower without first obtaining a license therefor from the State Department of Agriculture. [1985 c.197 §5]

571.530 License application; contents; license fee. (1) Each person required to be licensed by ORS 571.525 shall apply for a license or for renewal of a license on a form furnished by the State Department of Agriculture that contains:

(a) The name and address of the applicant, the number of locations to be operated by the applicant and the addresses of those locations, and the assumed business name of the applicant;

(b) If other than an individual, a statement whether the applicant is a partnership, corporation or other organization;

(c) The total number of acres of Christmas trees grown by the applicant; and

(d) The type of business to be operated and, if the applicant is an agent, the principals the applicant represents.

(2) Each application for a license must be accompanied by a license fee as provided for by this section. An application is not a public record but is subject to audit and review by the department.

(3)(a) The department shall establish license fees for growers on the basis of the total number of acres of Christmas trees being grown in this state by the applicant. For the purpose of calculating the license fee, four acres of Christmas trees growing in a natural timber stand is considered the equivalent of one acre of planted Christmas trees.

(b) The department shall establish an annual license fee schedule after consultation with the State Christmas Tree Advisory Committee and after a public hearing in accordance with ORS chapter 183. The annual license fee may not exceed \$110 as a basic charge and \$4.50 per acre as an acreage assessment. The total license fee established pursuant to this paragraph may not exceed \$7,000. [1985 c.197 §6; 1989 c.561 §4; 1999 c.59 §180; 2015 c.533 §4]

571.535 Renewal of license; rules. (1) The fees for the renewal of the annual licenses required by ORS 571.505 to 571.580 shall be paid with the application for license renewal and before July 1 of each year or before such date as may be specified by rule of the State Department of Agriculture.

(2) Failure to pay the fees when due forfeits the right to operate as a grower.

(3) Any person who has been previously licensed to grow Christmas tree stock and whose right to grow has been forfeited shall not be issued a renewal license except upon written application to the department accompanied by a sum of money equal to the regular license fee. [1985 c.197 §7; 2007 c.768 §14]

571.540 Form of license; display required. All licenses issued under ORS 571.505 to 571.580 shall:

(1) Include the date of issue.

(2) Expire on June 30, next following the date of issue, unless sooner revoked by the State Department of Agriculture.

(3) Be in the form of a certificate.

(4) Be numbered serially under the direction of the department.

(5) Be posted in a conspicuous place on the premises of the licensee and a copy at each location where the licensee is doing business, where they can be easily seen by the general public. [1985 c.197 §8]

571.545 License not transferable; notice of change of business organization; additional assessment for trees not subject to fee. (1) A license is personal to the applicant and may not be transferred. The licensee shall notify the State Department of Agriculture in writing if the business entity of the licensee is changed or if the members of a partnership change, whether or not the business entity name is changed.

(2) The license issued to a grower applies to the particular premises named in the license. However, if prior approval is obtained from the department, the place of business may be moved to other premises or location without the necessity of relicensing. An additional acreage assessment in accordance with ORS 571.530 shall be paid for any acres of Christmas trees not included in the license fee paid at the previous location and will be added when the business changes location. [1985 c.197 §9; 1989 c.561 §5]

571.550 Suspension, revocation or refusal of license. As provided in ORS chapter 183, the State Department of Agriculture may suspend, revoke or refuse to issue or renew the license of any person when it is satisfied that:

(1) The applicant or licensee has been guilty of fraud, deception or misrepresentation in the handling or sale of Christmas tree stock.

(2) The licensee was guilty of fraud, deception or misrepresentation in the procurement of a license.

(3) The licensee has violated any provision of ORS 571.505 to 571.580. [1985 c.197 §10]

571.555 Issuance of shipping permit numbers. (1) The State Department of Agriculture shall issue a shipping permit number to any qualified licensee who requests or requires one. Such number shall be the same as the license number and so designated on the license.

(2) The shipping permit number shall accompany all shipments and deliveries of Christmas tree stock. [1985 c.197 §11; 1989 c.561 §6]

571.560 Inspections for pest, disease and weed control; additional inspections for special certificates. (1) The State Department of Agriculture shall inspect licensed grower's operations as often as the department considers necessary to determine and control pest, disease and noxious weed conditions.

(2) In addition to the inspections provided in subsection (1) of this section, the department shall make such inspections as are necessary for the issuance of phytosanitary and other certificates. [1985 c.197 §12; 1989 c.561 §7]

571.565 Department to determine accuracy of acreage reporting for fee calculations. The State Department of Agriculture shall use all appropriate methods to determine the accuracy of acreage reporting to determine the license fee prescribed by ORS 571.530. [1985 c.197 §13; 1989 c.561 §8]

571.570 Substitution or transportation of uninspected Christmas tree stock. No person shall:

(1) Substitute other Christmas tree stock for Christmas tree stock covered by an inspection certificate.

(2) Transport or accept for transportation Christmas tree stock that does not carry the official inspection tag authorized by the State Department of Agriculture. [1985 c.197 §14]

571.575 Knowingly offering to sell infected or infested Christmas tree stock. (1)(a) No person shall knowingly offer to sell Christmas tree stock that is infected or infested.

(b) Unless the Christmas tree stock is held for separation or treatment under the supervision of an officer, employee or inspector of the State Department of Agriculture, no person shall advertise, display, transport, move, store or warehouse Christmas tree stock that is infected or infested.

(c) Any infected or infested Christmas tree stock may be seized in accordance with the procedures provided for in ORS 561.605 to 561.630.

(2) As used in subsection (1) of this section:

(a) "Infected" means any appearance of a disease symptom or causal agent that may, in the opinion of the department, be a menace to other Christmas tree stock or any products or properties.

(b) "Infested" means when the mature or immature form of any plant pest, including

noxious weeds as defined by the department, is found in such numbers as, in the opinion of the department, to be a menace to other Christmas tree stock or any product or properties. [1985 c.197 §15]

571.580 Disposition and use of moneys received. The State Department of Agriculture shall deposit all fees paid to it under ORS 571.505 to 571.580 in the Department of Agriculture Service Fund, and such moneys are continuously appropriated to the department for the purposes of administering and enforcing ORS 571.505 to 571.580. [1985 c.197 §16]

WESTERN JUNIPER HARVESTING AND MANUFACTURING

571.600 Definitions for ORS 571.605 to 571.620. As used in ORS 571.605 to 571.620:

(1) "Business development project" has the meaning given that term in ORS 285B.050.

(2) "Western juniper" means trees of the species *Juniperus occidentalis*. [2015 c.636 §1]

Note: 571.600 to 571.625 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 571 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

571.605 Economic development assistance. (1) The Oregon Business Development Department shall provide economic development assistance to persons engaged in the business of western juniper harvesting or of manufacturing products from western juniper. The department may provide the economic development assistance for any western juniper harvesting or related manufacturing business development project that the department deems reasonable, including but not limited to the provision of moneys for business or infrastructure expansion and the hiring or retention of workers.

(2) The department shall provide economic development assistance under this section as either a loan or a grant. If the department provides the economic development assistance as a loan, the department shall make the loan subject to partial or full forgiveness if the borrower meets detailed performance measures. Subject to subsection (5) of this section, the department may provide both loans and grants to a person to meet business development project needs for the western juniper harvesting or related manufacturing business of the person.

(3) An application for economic development assistance under this section must:

(a) Be submitted as a loan application in a form acceptable to the department; and

(b) Contain a business development project plan.

(4)(a) The department may issue a loan under this section only if the business development project plan contained in the loan application demonstrates to the satisfaction of the department that:

(A) The project is feasible and reasonable from a practical and economic standpoint;

(B) The project is unlikely to be developed without economic development assistance from the department; and

(C) The western juniper harvesting or related manufacturing business will have a reasonable prospect of meeting performance measures required by the department.

(b) A loan made under this section may be interest-bearing or interest-free and may be secured by any assets or revenues agreed to by the department and the borrower.

(c) The department may establish detailed performance measures that, if met by the borrower, may result in all or part of the loan being forgiven. The performance measures may include, but need not be limited to, employment figures, payroll amounts, sales, limitations on expenses and the amounts of western juniper harvested or otherwise removed from lands in this state due to the business. A loan made under this section must require the borrower to repay the loan if the western juniper harvesting or related manufacturing business fails to meet required performance measures.

(5) The department may issue a grant under this section only if a loan application is submitted under subsection (3) of this section and the department determines that the repayment of a loan for a needed business development project would create an undue hardship that would impair the viability of the western juniper harvesting or related manufacturing business. The department may use a grant issued in accordance with this subsection to supplement or replace economic development assistance that the department provides as a loan under this section.

(6) Loans and grants authorized under this section shall be made from the Western Juniper Industry Fund established under ORS 571.625. Any principal and interest paid to the department by a borrower on a loan made under this section shall be deposited in the fund. [2015 c.636 §2]

Note: See note under 571.600.

571.610 Technical business assistance.

The Oregon Business Development Department shall make technical business assistance available to persons engaged in, or proposing to engage in, the business of western juniper harvesting or of manufacturing products from western juniper. The department shall make the assistance available to

support the creation, growth or development of a western juniper harvesting or related manufacturing business, including but not limited to assistance designed to improve business efficiency, stability, transparency and profitability. The assistance may be in standardized or customized form. The department may provide technical business assistance directly or may enter into personal service contracts for qualified providers to render the assistance. [2015 c.636 §3]

Note: See note under 571.600.

571.615 Workforce training assistance.

(1) The Oregon Business Development Department shall provide, or shall partially or fully fund the provision of, workforce training assistance to persons engaged in the business of western juniper harvesting or of manufacturing products from western juniper. The department shall provide or fund the training assistance to support the growth and development of a western juniper harvesting or related manufacturing business, including but not limited to supporting business by qualifying workers in harvesting, commercial driving and milling. The training assistance may be in standardized or customized form. If the department provides training assistance under this subsection or as part of a cooperative agreement under subsection (2) of this section, the department may provide the assistance directly or may enter into personal service contracts for qualified providers to render the assistance.

(2) The department shall give preference to creating basic worker skills, but may also provide or fund training to assist in the maintenance or advancement of worker skills to ensure the viability of western juniper harvesting or related manufacturing businesses in this state. The department, the Employment Department, local governments as defined in ORS 174.116, nonprofit organizations and private associations may enter into cooperative agreements for:

(a) Identifying the projected workforce needs of western juniper harvesting or related manufacturing businesses, potential workers for those businesses and the training needs of those potential workers; and

(b) Providing workforce training assistance to meet the needs described in paragraph (a) of this subsection.

(3) Workforce training assistance described in this section must be designed to increase the likelihood that individuals in the local areas near western juniper harvesting or related manufacturing businesses will have the necessary skill sets to obtain work in those businesses. The Oregon Business Development Department may give training assistance preference to individuals

in the local areas who are unemployed. [2015 c.636 §4]

Note: See note under 571.600.

571.620 Identification and mapping of marketable stands. The Institute for Natural Resources, in consultation with the State Forestry Department, the State Department of Agriculture and the State Department of Fish and Wildlife and individuals and organizations interested in management, marketing or research matters related to western juniper harvesting, shall identify and map high quality marketable stands of western juniper that can be harvested in a commercially and environmentally reasonable manner for use in manufacturing. The institute shall maximize the use of remote sensing technology to carry out the mapping and identification. To the extent practicable, the institute shall make use of information developed from other state efforts to map western juniper and associated landscape scale restoration and wildlife initiatives. The institute shall make the mapping and identification information available without charge for use by persons engaged in the business of western juniper harvesting or of manufacturing products from western juniper. The institute may periodically review and update the information. [2015 c.636 §5]

Note: See note under 571.600.

571.625 Western Juniper Industry Fund. The Western Juniper Industry Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Western Juniper Industry Fund shall be credited to the fund. The fund shall consist of any moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise. Moneys in the fund are continuously appropriated to the Oregon Business Development Department for the purpose of carrying out activities under ORS 571.605, 571.610 and 571.615. Any moneys deposited in the fund for the purpose of carrying out a particular activity shall be kept in a separate subaccount of the fund and accounted for separately. [2015 c.636 §6]

Note: See note under 571.600.

571.990 [Repealed by 1963 c.461 §34]

PENALTIES

571.991 Penalties for ORS 571.005 to 571.230. Subject to ORS 153.022, violation of ORS 571.005 to 571.230 or rules adopted thereunder is punishable, upon conviction, by a fine of not more than \$5,000. [1963 c.461 §32; 1985 c.659 §5; 1999 c.1051 §318]

571.993 Penalty for violation of ORS 571.355. Violation of ORS 571.355 is a misdemeanor. [Formerly subsection (4) of 576.991]

Note: 571.993 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 571 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

571.995 Penalties for ORS 571.525, 571.570 and 571.575. Violation of ORS 571.525, 571.570 or 571.575, or of any rules adopted pursuant thereto, is a misdemeanor. [1985 c.197 §17]

571.997 Civil penalties for ORS 571.055 and 571.525. (1) In addition to any applicable criminal penalty under ORS 571.991 or 571.995 or any other penalty, a person who violates ORS 571.055 or 571.525 is subject to a civil penalty imposed by the State Department of Agriculture. The civil penalty shall not exceed \$10,000.

(2) Every violation of ORS 571.055 or 571.525 is a separate offense subject to a separate civil penalty.

(3) The department shall consult with, and seek the advice of, the State Christmas Tree Advisory Committee and the State Nursery Research and Regulatory Committee in order to:

(a) Develop one or more schedules setting the amounts of civil penalties that may be imposed for particular types of violations;

(b) Develop guidelines and policies regarding the circumstances under which civil penalties should be imposed; and

(c) At least biannually review cases to ensure that guidelines and policies developed under paragraph (b) of this subsection are being followed.

(4) The imposition of a civil penalty under this section is subject to ORS 183.745.

(5) The State Treasurer shall deposit all moneys from civil penalties recovered under this section into the Department of Agriculture Account.

(6) Moneys from civil penalties recovered under this section for a violation of ORS 571.055 are continuously appropriated to the department for the administration of nursery laws and industry projects under ORS 571.005 to 571.230.

(7) Moneys from civil penalties recovered under this section for a violation of ORS 571.525 are continuously appropriated to the department for the administration of Christmas tree laws and industry projects under ORS 571.510 to 571.580. [1999 c.390 §6]