

TITLE 22
AGRICULTURE AND HORTICULTURE
CHAPTER 28
HONEY INDUSTRY

22-2801. SHORT TITLE. This act may be known as the Honey Industry Act.

22-2802. DECLARATION OF POLICY AND PURPOSE OF CHAPTER. It is hereby declared, as a matter of legislative determination, that the honey industry of Idaho is in dire need of concentrated state and national advertising and promotion to increase the consumption of honey; that other states are promulgating advertising and promotion campaigns for the betterment of the honey industry; that honey is an essential food and its use should be placed in name and fact before the people of America; that in the interest of public welfare and general prosperity of the people of the state of Idaho, the honey industry and beekeeping in general should be maintained and encouraged so that the many food values and quality of honey and the many pollinating values of the domesticated honey bees may be better understood, protected and greater use thereof made.

22-2803. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

(1) "Commission" means the Idaho honey advertising commission.

(2) "Honey producer" or "beekeeper" means a person, firm or corporation engaged in the art of raising, harboring, keeping or breeding domesticated honey bees either for the purpose of gathering honey or the production of queens and/or packaged bees.

(3) "Honey by-products" means items using honey as a base such as creamed honey, whipped honey, or the like.

(4) "Packer" means any honey producer or beekeeper or person who processes and packs honey for commercial retail sales.

(5) "Person" includes an individual, partnership, corporation, firm, association and agent.

(6) "Director" means the director of the Idaho state department of agriculture or his designated representative.

(7) "Official sample" means a sample of honey taken by the director or an authorized agent in accordance with the provisions of section 22-2810, Idaho Code.

22-2804. COMMISSION, MEMBERS, APPOINTMENT AND COMPENSATION. There is hereby created and established in the

department of agriculture an Idaho honey advertising commission to be known and designated as such, and shall be composed of the director of the department and three (3) members, who shall be practical honey producers or beekeepers, appointed by the governor, at the recommendation of a representative group of beekeepers of the state of Idaho. Each member so appointed shall be a resident citizen of the state of Idaho and from the district from which appointed, for a period of five (5) years prior to his appointment, and shall have had active experience in raising honey bees and each member shall have derived the major portion of his income from the production and sale of honey. One (1) member shall be chosen from the district north of the Salmon River; one (1) from the district south of the Salmon River and west of a north-south line bisecting the city of Shoshone and extending from the south boundary of the state of Idaho to the Salmon River; one (1) from the district south of the Salmon River and east of a north-south line bisecting the city of Shoshone and extending from the south boundary of the state of Idaho to the Salmon River. Commission members shall be appointed and serve for a term of three (3) years and until their respective successors are appointed and qualified. The commission shall elect its chairman.

The chairman of the commission may delegate the function of the honey advertising commission to an executive secretary whose function will be subject to the approval of the honey advertising commission. The executive secretary must be a member of the Idaho honey industry association, inc., or its successor organization but need not be a member of the honey advertising commission.

A majority of the members of said commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission. Before entering on the discharge of their duties as members of said commission, each member shall take and subscribe to the oath of office prescribed by the statutes of Idaho.

Each member of the commission shall be compensated as provided by section 59-509(n), Idaho Code. The commission shall meet regularly once each fiscal year at a date established by said commission in its designated business office, and it shall fix the time and place of special meetings as may be deemed necessary by the chairman of the commission.

22-2805. POWER TO CONTRACT. The said commission shall have power to contract and be contracted with.

22-2806. ADMINISTRATION, WHERE VESTED. The administration of this act shall be vested in the Idaho honey advertising commission which shall administer the taxes levied and imposed by this act.

22-2807. DUTIES. The commission shall set honey quality, identity and labeling standards by rule, plan and conduct a

campaign for honey and honey by-product advertising, publicity, merchandising, sales promotion and research, including bee research, and public education of beekeeping and honey production, by contracting with a service of the hereinabove mentioned, or jointly with any university or other state agency or states of the United States and its territories, or individually.

22-2808. RULES, STANDARDS, DEFINITIONS. The commission is hereby charged with the enforcement of this chapter, and after due publicity and due public hearing is empowered to promulgate and adopt such reasonable rules as may be necessary to carry into effect the full intent and meaning of this chapter, including the establishment of fees for services. The commission is hereby empowered to adopt rules establishing definitions for honey including establishing standards of identity, quality and labeling and such other rules as may be necessary for the enforcement of any provision of this chapter. In establishing standards of identity, quality and labeling the commission shall give consideration to any definitions and standards used by a federal agency, another state or an organization administering a regional, multi-regional, national or international agreement on honey.

22-2809. LEVY AND COLLECTION OF TAXES -- CHANGE OF TAX BY REFERENDUM -- VIOLATIONS -- PENALTY. (1) There is hereby levied and imposed upon each colony or hive of bees within the state of Idaho on July 1 of each year a continuing annual tax of five cents (5¢) per hive or colony of bees beginning in the year 1970 for the purpose of carrying out the provisions of this chapter. Hobbyist beekeepers, as defined in chapter 25, title 22, Idaho Code, are exempt from taxation under this section. Provided however, that any hobbyist beekeeper who desires to support the efforts of the commission, as set forth in section 22-2807, Idaho Code, and desires to be included in registration lists distributed as authorized under section 22-2815, Idaho Code, may register with the commission for that purpose by remitting an annual registration fee of ten dollars (\$10.00).

(2) The tax may be decreased to not less than three cents (3¢) per hive or colony per year or it may be increased to not more than ten cents (10¢) per hive or colony per year, if approved by a majority of the beekeepers voting in a referendum held for the purpose of determining whether such levy of the tax shall or shall not be changed. If the levy of the tax is changed, the levy of the tax will continue annually at the changed rate until again changed by another referendum. Any resident of Idaho who is a registered Idaho beekeeper with the department of agriculture may vote at such referendum. Any referendum held for the purpose of changing the levy of such tax shall be held at the

annual meeting of the Idaho honey industry association or any successor organization to this group.

(3) Notice of the tax provided for in this section shall be mailed no later than June 1 and the tax shall be due and payable on or before July 1 of each year, and it shall be collected by the Idaho department of agriculture and shall forthwith be paid over by the Idaho department of agriculture to the Idaho honey advertising fund.

(4) Said tax shall be a lien upon all apicultural products, equipment, bees and property of the person owning or controlling such bees and shall be prior to all other liens or encumbrances except liens which are declared prior by operation of the statutes of this state.

(5) Hives brought into the state for indoor winter storage prior to moving to another state for pollination or honey production are exempt from paying fees and taxes as provided for in this section. Provided however, registration shall be required and a minimum of the following information shall be supplied: location of the storage, approximate dates the hive or hives will be brought into and leave the state, name, address and telephone number of the owner of the bees, and name, address and telephone number of an in-state contact who will have knowledge of the hive or hives being stored in the state.

22-2810. SAMPLING AND ANALYSIS. (1) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the director or commission upon presenting appropriate credentials, to the owner, operator, or agent in charge, are authorized upon written complaint:

(a) To enter, during normal business hours, any factory, warehouse, or establishment within the state in which honey is processed, packed, or held for distribution for retail sales, or to enter any vehicle being used to transport or hold such honey, and sample such honey that is packaged and labeled for retail sale.

(b) To inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein, related to retail sales. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice rules established under the provisions of this chapter. Each inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(2) Sampling and analysis shall be conducted in accordance with methods prescribed in rules, or in accordance with other generally recognized methods.

(3) The director or commission, in determining for administrative purposes whether a honey is adulterated, shall be guided by the official sample as defined in subsection (7) of section 22-2803, Idaho Code, and obtained and analyzed as provided for in this section.

(4) If the owner of any factory, warehouse, or establishment described in subsection (1) of this section, or authorized agent, refuses to admit the director, commission or an authorized agent to inspect in accordance with subsections (1) and (5) of this section, the director or commission is authorized to obtain from any state court of competent jurisdiction a warrant directing such owner or agent to submit the premises described in such warrant to inspection.

(5) For the enforcement of this chapter, the director, commission or a duly authorized agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine and make copies of records relating to distribution of honey packaged and labeled for retail sale to the public.

(6) The results of all analyses of official samples shall be forwarded by the director or commission to the packer and to the purchaser or retailer. When the inspection and analysis of an official sample indicate the honey has been adulterated or mislabeled, and upon request by the packer or purchaser or retailer within thirty (30) days following the receipt of the analysis, the director or commission shall furnish to the packer or purchaser or retailer a portion of the sample concerned.

22-2811. PENALTIES FOR VIOLATIONS. (1) Any person who violates any provision of this chapter, or of the rules promulgated hereunder for carrying out the provisions of this chapter, or who fails or refuses to comply with any requirements herein specified, or who interferes with the department, its agents or employees, in the execution, or on account of the execution of its or their duties under this chapter or rules promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than three thousand dollars (\$3,000) or be imprisoned in a county jail for not more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the department or its duly authorized agent of not more than ten thousand

dollars (\$10,000) for each offense and shall be liable for reasonable attorney's fees.

(a) Assessment of a civil penalty may be made in conjunction with any other department administrative action.

(b) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act.

(c) If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court.

(d) Any person against whom the department has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred.

(e) All civil penalties collected pursuant to this section shall be remitted to the commission.

(3) Nothing in this chapter shall be construed as requiring the commission to report minor violations for prosecution when it believes that the public interest will be best served by suitable warnings or other administrative action.

22-2812. "STOP SALE, USE, OR REMOVAL" ORDERS. (1) In the event the department finds that honey is being offered for sale in violation of this chapter or rules promulgated under this chapter, the department may issue and enforce a written or printed "stop sale, use, or removal" order to the distributor, owner or custodian of the honey and hold the honey, or order it held, at a designated place until the law has been complied with and the honey is released in writing by the department, or the violation has been otherwise legally disposed of by written authority. Unless the department grants a written extension, the owner or custodian of any honey that has been issued a "stop sale, use, or removal" order shall remedy the violation within thirty (30) days. The department shall release the honey so withdrawn when the requirements of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

(2) Any lot of honey not in compliance with the provisions of this chapter, or rules promulgated under this chapter, shall be subject to seizure on complaint of the commission to a court of competent jurisdiction in the area in which said honey is located. In the event the court finds the said honey to be in violation of the provisions of this chapter and orders the condemnation of said honey, it shall be disposed of in any manner consistent with the quality of the

honey and the laws of the state. Provided however, that in no instance shall the disposition of said honey be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said honey or for permission to process or relabel said honey to bring it into compliance with the provisions of this chapter.

22-2813. PAYMENT OF EXPENSES AND COSTS. All expenses and costs incurred in the administration of this chapter shall be paid out of the Idaho honey advertising fund. The commission shall keep an accurate record of all costs and expenditures and will report the same by publication on October 1st of each year. All expenses and costs incurred and contracted for by the commission in performing its duties under this chapter shall be paid out of such Idaho honey advertising fund in the following manner: vouchers shall be approved and submitted by the commission chairman to the director or his designated representative of the Idaho state department of agriculture for approval and subsequent issuance of a warrant by the state controller.

22-2814. CREDITING OF FUNDS. All moneys which have heretofore been credited to the general fund under the provisions of this chapter are hereby transferred to the Idaho honey advertising fund.

22-2815. PUBLICATION OF REGISTERED BEEKEEPERS. The commission shall make available to any pesticide applicator registered with the department, abatement or pest control district, or university of Idaho county agricultural extension office, a list of beekeepers registered with the commission. The list shall include the names and telephone numbers of the beekeepers, the counties in which they keep bees, and any other information the commission deems necessary to assist in the prevention of accidental poisoning of honeybees.