

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 148

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO CHERRY COMMISSION; AMENDING SECTION 22-3701, IDAHO  
2 CODE, TO REVISE A DEFINITION; AMENDING SECTION 22-3703, IDAHO CODE,  
3 TO REMOVE CERTAIN DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; RE-  
4 PEALING SECTION 22-3704, IDAHO CODE, RELATING TO COMMISSION MEMBERS;  
5 AMENDING CHAPTER 37, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW  
6 SECTION 22-3704, IDAHO CODE, TO PROVIDE FOR COMMISSION MEMBERS, TO PRO-  
7 VIDE FOR TERMS, TO PROVIDE FOR MEETINGS FOR THE SELECTION OF COMMISSION  
8 NOMINEES, TO PROVIDE FOR NOTICE OF MEETINGS AND TO PROVIDE FOR VACAN-  
9 CIES; AMENDING SECTION 22-3705, IDAHO CODE, TO REVISE AND TO PROVIDE FOR  
10 POWERS AND DUTIES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN  
11 EMERGENCY.  
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section 22-3701, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 22-3701. POLICY AND PURPOSE. It is to the best interests of all the  
17 people of the state of Idaho that the abundant and natural resources of Idaho  
18 be protected, fully developed and uniformly distributed. It is in the public  
19 interest and within the exercise of the police power of the state to protect  
20 the public health; prevent fraudulent practices; provide the means for the  
21 development of markets; production research; and new product development  
22 and promotion of the cherry industry. Cherries as used in this ~~aet~~ chapter  
23 means Idaho sweet cherries.

24 SECTION 2. That Section 22-3703, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26 22-3703. DEFINITIONS. Definitions as used in this ~~aet~~ chapter, unless  
27 the context requires otherwise:

28 (1) "Commission" means the Idaho cherry commission.

29 (2) "Grower" means any landowner personally engaged in growing cher-  
30 ries, a tenant personally engaged in growing cherries or both the owner and  
31 tenant jointly, and includes a person, partnership, association, corpora-  
32 tion, cooperative organization, trust, sharecropper, or any and all other  
33 business units, devices and arrangements that grow cherries.

34 (3) "Dealer" means any person, partnership, association, corporation,  
35 cooperative or other business unit or device who first handles, packs,  
36 ships, buys or sells cherries or who acts as sales or purchasing agent, bro-  
37 ker or factor of cherries.

38 (4) "Ship" means to load cherries into any mode of conveyance for trans-  
39 port in the channels of trade or to market.

1 (5) "Processor" and "processing plant" means every person, partner-  
 2 ship, association, corporation, cooperative or other business unit or  
 3 device to whom and every place to which cherries are delivered for drying,  
 4 freezing, dehydrating, canning, pressing, powdering, extracting, cooking  
 5 and for use in producing a product or manufacturing a manufactured product.

6 (6) ~~"District No. 1" shall consist of the following counties: Gem,  
 7 Boise, Valley, Custer and Lemhi.~~

8 ~~(7) "District No. 2" shall consist of the following counties: Canyon,  
 9 Ada, Owyhee, Elmore, Camas, Blaine, Gooding, Lincoln, Minidoka, Jerome,  
 10 Twin Falls, Cassia, Power, Oneida, Bannock, Franklin, Bear Lake, Caribou,  
 11 Bonneville, Madison, Teton, Jefferson, Fremont, Butte, Clark, Bingham,  
 12 Payette, Washington, Adams, Idaho, Lewis, Nez Perce, Clearwater, Latah,  
 13 Benewah, Shoshone, Kootenai, Bonner and Boundary.~~

14 ~~(8) "Person" means any partnership, association, corporation, cooper-  
 15 ative or other business unit or device.~~

16 SECTION 3. That Section [22-3704](#), Idaho Code, be, and the same is hereby  
 17 repealed.

18 SECTION 4. That Chapter 37, Title 22, Idaho Code, be, and the same is  
 19 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 20 ignated as Section 22-3704, Idaho Code, and to read as follows:

21 22-3704. COMMISSION MEMBERS -- NOMINATION AND APPOINTMENT. (1) The  
 22 commission shall consist of five (5) members appointed by the governor fol-  
 23 lowing nomination. Three (3) members shall be growers and two (2) members  
 24 shall be dealers.

25 (2) Members shall serve for a term of three (3) years. On and after the  
 26 effective date of this act, terms that are currently held by the commission  
 27 members shall expire and be filled on the following schedule: one (1) dealer  
 28 term shall expire on July 1, 2015, one (1) dealer term shall expire on July 1,  
 29 2016, one (1) grower term shall expire on July 1, 2015, one (1) grower term  
 30 shall expire on July 1, 2016, and one (1) grower term shall expire on July 1,  
 31 2017.

32 (3) Members of the commission may not serve more than two (2) consecu-  
 33 tive terms. Upon serving two (2) consecutive terms and the lapse of one (1)  
 34 full term, such member may again be nominated and appointed to the commis-  
 35 sion.

36 (4) Meetings shall be held for the selection of member nominees prior to  
 37 expiration of a member's term and shall be held prior to March 31 of the year  
 38 an appointment is to be made. In seeking nominations for a grower member,  
 39 the commission shall conduct meetings at such times and places as determined  
 40 by the commission during which time growers shall nominate two (2) quali-  
 41 fied growers at large for each expiring member term. In seeking nominations  
 42 for a dealer member, the commission shall conduct meetings at such times and  
 43 places as determined by the commission, during which time dealers shall nom-  
 44 inate two (2) qualified dealers at large for each expiring member term. No-  
 45 tice of the meetings for the nominations of growers and dealers shall be by  
 46 publication in a newspaper of general circulation in any county in which a  
 47 meeting is to be held and shall be published in two (2) issues of such news-  
 48 paper, the first approximately thirty (30) days and the second approximately

1 ten (10) days before said meeting. The notice shall state the purpose, time  
2 and place of said meeting.

3 (5) In the event there are vacancies in the commission through death,  
4 resignation or removal, it shall be the duty of the growers and dealers as  
5 provided in this section to submit to the governor at least two (2) qualified  
6 names for each grower vacancy and two (2) qualified names for each dealer va-  
7 cancy. The governor shall make the appointment to fill the vacancy.

8 SECTION 5. That Section 22-3705, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 22-3705. POWERS AND DUTIES. The Idaho cherry commission shall have,  
11 but is not limited to, the following powers and duties:

12 (1) To elect a chairman and such other officers as it deems advisable.

13 (2) To appoint and employ, and at its pleasure discharge, all necessary  
14 agents, employees and professional and other personnel, including experts  
15 in agriculture and the publicizing of the products thereof, and to prescribe  
16 their duties and fix their compensation.

17 (3) To establish offices and incur expenses and enter into contracts  
18 and to create such liabilities as may be reasonable for the proper adminis-  
19 tration and enforcement of this ~~act~~ chapter.

20 (4) To ~~find aid in finding~~ new markets for cherries and cherry products.

21 (5) To give, publicize and promulgate reliable information showing  
22 the value of cherries and cherry products for any purpose for which they are  
23 found useful and profitable.

24 (6) To make public and encourage the widespread national and interna-  
25 tional use of cherries and cherry products.

26 (7) To investigate and participate in studies of the problems peculiar  
27 to the growers of cherries in the state of Idaho.

28 (8) To take such action as to the commission seems necessary or advis-  
29 able in order to promote the sale of cherries and to protect the cherry indus-  
30 try.

31 (9) To enter into such contracts as may be necessary or advisable.

32 (10) To make use of such advertising means and methods as the commission  
33 deems advisable and to enter into contracts and agreements for research and  
34 advertising within and without the state of Idaho.

35 (11) To cooperate with any local, state or national organization or  
36 agency, whether voluntary or created by the law of any state, or the United  
37 States, engaged in work or activity similar to the work and activities of the  
38 commission, and to enter into contracts and agreements with such organiza-  
39 tions or agencies for carrying on a joint campaign of research, education,  
40 product protection, publicity and reciprocal enforcement of these objec-  
41 tives.

42 (12) To investigate and prosecute in the name of the state of Idaho vi-  
43 olations of this ~~act~~ chapter; to investigate and prosecute in the name of  
44 the state of Idaho any suit or action for the collection of assessments as  
45 hereinafter provided, or to protect brands, marks, packages, brand names or  
46 trademarks being promoted by the commission.

47 (13) To do any and all things that will promote the sale of cherries.

48 (14) To keep an accurate record of all its dealings, which shall be open  
49 to inspection by the state controller.

1           (15) To sue and be sued.

2           (16) To adopt and from time to time alter, rescind, modify and/or amend  
3 all proper and necessary rules, regulations and orders for the exercise of  
4 its powers and performance of its duties under this ~~act~~ chapter.

5           (17) To, in its discretion, by rule create districts within the state  
6 for the purpose of carrying out the provisions of this chapter.

7           SECTION 6. An emergency existing therefor, which emergency is hereby  
8 declared to exist, this act shall be in full force and effect on and after its  
9 passage and approval.