

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 31
HOPS -- PROMOTION OF INDUSTRY

22-3101. SHORT TITLE. This act shall be known as the Hop Industry Act.

[22-3101, added 1955, ch. 224, sec. 1, p. 489.]

22-3102. DECLARATION OF POLICY AND PURPOSE OF ACT. It is hereby declared, as a matter of legislative determination, that economic waste is being fostered in the hop industry of the state of Idaho by the lack of proper advertising and dissemination of information necessary for the development and promotion of the sale of hops grown in the state of Idaho and by the lack of facilities and funds for research on marketing of and markets for hops and for research to improve the quality of hops, to develop and improve control of measures for diseases and pests which attack hops, to improve hop growing culture and to disseminate information to the growers; that hop producing areas in other states are promulgating advertising and promotion campaigns for their products throughout the United States and foreign countries to the extent that hops of this state must be advertised to be able to retain their place on the markets of the United States and foreign countries; and that it is in the interest of the public welfare and general prosperity of the state of Idaho that this avoidable and unnecessary loss of markets to other producing areas be eliminated by the advertising of hops grown in the state of Idaho and that the growers have at their disposal all available information on the best and most advanced methods of growing, harvesting and marketing hops. The purpose of this act is to promote the general welfare of our people by increasing the production of and expanding the market for hops grown in the state of Idaho.

[22-3102, added 1955, ch. 224, sec. 2, p. 489.]

22-3103. DEFINITIONS. Wherever used or referred to in this act:

1. The term "commission" means the Idaho hop grower's commission.
2. The term "person" means individual, partnership, corporation, association, growers or any other business unit.
3. The term "hops" means all hops grown, picked, dried and baled in the state of Idaho and all oils or extracts or lupulin derived therefrom but does not include hops, or any oils or extracts or lupulin derived therefrom which are grown in the state of Idaho but which are picked, or dried or baled outside of the state of Idaho and hops, or any oils, extracts or lupulin derived therefrom, which are grown outside of the state of Idaho but are picked, or dried or baled in the state of Idaho.
4. The term "grower" means the actual producer of hops.
5. The term "bale" means 200 pounds of hops net.
6. The term "handled in the primary channels of trade," means the time when any hops are delivered under a sales contract or delivered for shipment or delivered for processing or consumption.
7. The term "dealer" means and includes any person engaged in the business of buying, receiving, handling or selling hops for profit or remuneration.

[22-3103, added 1955, ch. 224, sec. 3, p. 489; am. 1963, ch. 335, sec. 1, p. 959.]

22-3104. IDAHO HOP GROWER'S COMMISSION CREATED -- QUALIFICATIONS. There is hereby created and established within the department of agriculture an Idaho hop grower's commission to be known and designated as such which shall be composed of five (5) practical growers, elected as provided in section [22-3113](#), Idaho Code. Each member of the commission shall be a resident citizen of the state of Idaho for a period of four (4) years prior to his election, shall have had active experience and be now actually engaged in growing hops in Idaho and shall derive a substantial portion of his income from growing hops or be the directing or managing head of a corporation, firm, partnership or other business unit which derives a substantial portion of its income from growing hops. To continue holding office, each member must remain qualified. The governor may remove a member if he becomes disqualified during his term of office or for inability to carry out his duties as commissioner. Upon the establishment of the commission, one (1) member shall serve for a term of one (1) year, two (2) members shall serve for a term of two (2) years, two (2) members shall serve for a term of three (3) years and thereafter all terms of office shall be for a term of three (3) years. The term of office of each member of the commission shall terminate on the third Monday of January of the year in which the term for which the member was elected ends, but each member of the commission shall serve until his respective successor is elected and has qualified. Before entering on the discharge of their duties as members of the commission, each member shall take and subscribe to the oath of office prescribed by law. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of all duties of the commission. The commission shall annually elect a chairman from among its members. Members of the commission shall receive no salary except upon the unanimous vote of the commission; however, members, officers and employees of the commission shall be compensated as provided by section [59-509\(b\)](#), Idaho Code. The commission shall adopt uniform and reasonable regulations governing the incurring and paying of such expenses.

[22-3104, added 1955, ch. 224, sec. 4, p. 489; am. 1967, ch. 216, sec. 1, p. 650; am. 1974, ch. 18, sec. 74, p. 364; am. 1980, ch. 247, sec. 14, p. 593; am. 1983, ch. 34, sec. 1, p. 84.]

22-3105. POWERS AND DUTIES OF COMMISSION. The powers and duties of the commission shall include the following:

1. To administer and enforce this act.
2. To contract in the name of the commission and be contracted with.
3. To employ and at pleasure discharge a secretary, advertising manager, advertising agents, agents, research director, research staff, attorneys and such clerical and other help as it deems necessary and to control their powers and duties and to fix their compensation.
4. To keep books, records and accounts of all its dealings, which books, records and accounts of all its dealings shall be open to inspection by the state controller at all times.
5. To purchase or authorize the purchase of all office equipment and supplies and incur all other reasonable and necessary expenses and obligations in connection with and required for the proper carrying out of the provisions of this act.

6. To become a member of and purchase membership in trade organizations and to subscribe to and purchase trade bulletins, journals, and other trade publications.

7. To plan and conduct an advertising, publicity and sales promotion campaign to increase the sales of hops and to make such advertising, publicity and sales promotion contracts and other agreements as may be necessary.

8. To plan and conduct a research program on marketing of and markets for hops and a research program to improve the quality of hops, to develop and improve control measures for disease and pests which attack hops and to improve hop growing culture and to disseminate such information among the growers and to make such research contracts and other agreements as may be necessary.

9. To define and designate the character of the brands, labels, stencils or other distinctive marks under which hops may be marketed and to patent, copyright or otherwise protect such identifying distinctive mark, all for the purposes of securing the greatest returns to the grower and of meeting requirements of the advertising campaign of the commission and of protecting the identity of the hops as Idaho hops as near to the final consumer as possible.

10. To prevent any substitution of other hops for Idaho hops and to prevent the misrepresentation or the misbranding of Idaho hops at any and all times and at any and all points.

11. To establish and maintain the executive office of the commission at any place within the state of Idaho which designated place may be changed at the discretion of the commission.

12. To adopt and from time to time alter, rescind, modify or amend all proper and necessary rules, regulations, and orders for the exercise of its powers and the performance of its duties under this act.

13. To cooperate with the director of the department of agriculture in and to pay all or any portion of the costs incurred in the creation, administration and enforcement of any quarantine and inspection affecting hops and hop plants established pursuant to the laws of the state of Idaho.

14. To plan and conduct a research program for improving old varieties and developing new varieties of hops; to propagate any such improved old varieties or such new varieties of hops; to patent any such improved old varieties or such new varieties of hops and to license the propagation, growing and sale thereof; to adopt such trade names or trademarks in relation to any such improved old varieties or such new varieties of hops and to patent, copyright, or otherwise protect such names; to buy, contract to buy, receive by gift or otherwise acquire, hold, or retain legal title to such improved old varieties or such new varieties of hops including the root stock thereof and the hops produced therefrom; to sell, lease, consign, trade, exchange, or give away or otherwise dispose of any such improved old varieties or such new varieties of hops including the root stock thereof and the hops produced therefrom; to advertise and promote the commercial use of such improved old varieties and new varieties of hops; and to impose, by contract or regulation or otherwise, such conditions and restrictions as may be determined by the commission pertaining to such improved old varieties and such new varieties of hops including the root stock thereof including but not limited to conditions and restrictions limiting, restricting, prohibiting or affecting the use, distribution, acreage, production, geographical areas of planting, cultural practices used in propagation, leasing, assigning, selling, sale price, and the use of trade names and trademarks relating to such improved

old varieties or such new varieties of hops including the root stock thereof and the increase thereof and the use of trade names and trademarks to designate hops produced from any such old varieties or such new varieties of hops.

15. To prosecute in the name of the state of Idaho any suit or action for collection of the assessment provided for in this chapter.

[22-3105, added 1955, ch. 224, sec. 5, p. 489; am. 1963, ch. 335, sec. 2, p. 959; am. 1967, ch. 216, sec. 2, p. 650; am. 1974, ch. 18, sec. 75, p. 364; am. 1977, ch. 302, sec. 1, p. 846; am. 1994, ch. 180, sec. 24, p. 438.]

22-3106. MARKINGS REQUIRED. In addition to any other brands, labels, stencils, or other marks approved by the commission to be placed upon hops, all hops shall be branded, labeled, stenciled or marked with one (1) identifying distinctive mark defined or designated by the commission which shall identify the hops as having been grown in Idaho. This identifying distinctive mark shall be affixed in such position and manner as the commission may by rule or regulation prescribe to each container of hops or bale at the time such hops are first handled in the primary channels of trade by the person who first handled such hops in the primary channels of trade. No person shall brand, label, stencil or mark any hops, except hops as defined in this act, with such identifying distinctive mark defined or designated by the commission as herein provided.

[22-3106, added 1955, ch. 224, sec. 6, p. 489; am. 1963, ch. 335, sec. 3, p. 959.]

22-3107. HOP ASSESSMENT LEVY. (1) There is hereby levied an initial assessment of twenty (20) cents per bale on each bale of hops handled in the primary channels of trade.

(2) In addition to such initial assessment, there is hereby levied an additional assessment of not exceeding four dollars and eighty cents (\$4.80) per bale on each bale of hops handled in the primary channels of trade. The amount of such additional assessment, if any, shall be determined by resolution of the commission after February first but before July first of each year and shall be submitted to the growers by referendum. The term "production" for the purposes of this subsection means the number of pounds of hops produced by a grower during the calendar year immediately next preceding each annual registration of growers as herein provided. Each grower, whether an individual, a partnership, a corporation, an association or other business unit, shall have one (1) vote at such referendum. No grower shall vote at any such referendum during any year unless such grower has, after January first but prior to January fifteenth of such year, registered with the commission on forms to be supplied by the commission giving such grower's name, mailing address and production, except that for the calendar year in which this subsection takes effect, the period for the registration of growers shall be the fifteen (15) days immediately succeeding the effective date of this subsection. The qualifications of any grower to vote or the amount of such grower's production as shown by such grower's registration may be challenged by any other grower qualified to vote or any member of the commission. All such challenges shall be presented to the commission in writing within ten (10) days after the close of registration and shall be heard and determined by the commission prior to canvassing the returns of any such referendum. After the adoption of a resolution by the commission fixing the amount

of the additional assessment to be submitted to a referendum of the growers, the commission shall cause to be mailed by United States registered mail to each grower so registered, at the address appearing on such grower's registration, a ballot setting forth the name of such grower, the grower's production, a copy of the resolution so adopted, and the words, "For additional assessment as provided in the foregoing resolution" followed by a circle and the words "Against the additional assessment as provided in the foregoing resolution" followed by a circle and such ballot shall provide a space at the bottom thereof for the grower's signature. A grower desiring to vote upon the amount of the additional assessment shall mark the ballot received to express the grower's vote, shall sign the ballot and shall return the ballot to the commission within twenty (20) days after the date on which the ballot was mailed to the grower by the commission. Any ballot which is not returned within such time limit, or which is not voted, or which is not signed, or which is marked both for and against the question submitted, shall be deemed not to have been voted and shall not be counted for any purpose. The commission shall meet and canvass all ballots cast at any such referendum within ten (10) days after the date by which all ballots are herein required to be returned to the commission. Upon the canvass, if the commission finds that two-thirds (2/3) or more of the growers voting at such referendum have voted in favor of the amount of such additional assessment and that growers representing two-thirds (2/3) or more of the production of all growers voting at such referendum have voted in favor of the amount of such additional assessment, then the amount of such additional assessment shall have been approved, but if the commission finds otherwise, then the amount of such additional assessment shall have failed. The commission shall record the results of each canvass in its official records and shall retain all election records, grower registrations and ballots for one (1) year after the date of such canvass when it may cause the same to be destroyed. If the canvass shows that the amount of such additional assessment shall have been approved, the commission shall immediately adopt a resolution levying the amount thereof. Such additional assessment when so levied shall apply only to the bales of hops grown during the calendar year in which the referendum approving the same was held, but shall so apply regardless of the calendar year in which such bales of hops are first handled in the primary channels of trade. If the canvass shows that the amount of such additional assessment shall have failed, the commission shall not levy the amount thereof, but the commission may re-submit the same or another amount for such additional assessment to the growers by referendum as herein provided as often as the commission deems necessary.

(3) All assessments levied under this act shall be due on or before the time when such hops are first handled in the primary channels of trade and shall be paid at such time or times as the commission may by rule or regulation prescribe, but not later than the last day of the month next succeeding the month in which such hops were first handled in the primary channels of trade.

(4) The assessment constitutes a lien prior to all other liens and encumbrances upon such hops except liens which are declared prior by operation of a statute of this state.

(5) The commission by order may cancel an assessment which has been delinquent for five (5) years or more, if it determines that:

- (a) The amount of the assessment is less than one dollar (\$1.00), and that further collection effort or expense does not justify the collection thereof, or
- (b) The assessment is wholly uncollectible.

[22-3107, added 1955, ch. 224, sec. 7, p. 489; am. 1957, ch. 12, sec. 1, p. 14; am. 1967, ch. 216, sec. 3, p. 650; am. 1992, ch. 40, sec. 1, p. 138.]

22-3108. PAYMENT OF ASSESSMENT. All assessments levied and imposed under and pursuant to the provisions of this chapter shall be paid to the commission by the person, either grower or dealer, by whom the hops are first handled in the primary channels of trade.

[22-3108, added 1955, ch. 224, sec. 8, p. 489; am. 1967, ch. 216, sec. 4, p. 650.]

22-3109. ASSESSMENT RETURN. Every grower and dealer shall at such times as the commission may by rule or regulation prescribed, file with the commission a return under oath on forms to be prescribed by and furnished by the commission, stating the number of bales handled in the primary channels of trade during the period or periods of time prescribed by the commission and such other information as the commission may require.

[22-3109, added 1955, ch. 224, sec. 9, p. 489; am. 1967, ch. 216, sec. 5, p. 650.]

22-3110. PENALTY FOR ASSESSMENT DEFAULTS. Any grower or dealer who fails to make collection or to file return or to pay any assessment within the time required pursuant to this act shall thereby forfeit to the commission a penalty of five per cent (5%) of the amount of the assessment determined to be due, as provided in this act, plus one per cent (1%) of such amount for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such assessment became due. The commission, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the commission and disposed of as provided with respect to moneys derived from the assessments levied and imposed by this act.

[22-3110, added 1955, ch. 224, sec. 10, p. 489; am. 1967, ch. 216, sec. 6, p. 650.]

22-3111. ENFORCEMENT OF ACT. The commission shall have the power by its duly authorized agent or representative to enter upon the premises of any grower or dealer to examine any books, papers, records or memorandum [memoranda] bearing on the amount of assessments or license fees payable and to secure other information directly or indirectly concerned in the enforcement of this act. No person who is required to pay the assessments or license fees levied and imposed by this act shall by any practice or evasion make it difficult to enforce the provisions of this act by inspection, nor shall such person after demand by the commission, or any agent or representative designated by it for that purpose, refuse to allow full inspection of the premises or any part thereof or any books, records, documents or other instruments in any way relative to the liability of such person for the assessment or li-

cense fee herein imposed nor shall such person hinder or in any manner delay or prevent such inspection.

[22-3111, added 1955, ch. 224, sec. 11, p. 489; am. 1967, ch. 216, sec. 7, p. 650.]

22-3112. DISPOSITION OF RECEIPTS -- USE OF MONEYS BY COMMISSION -- TRANSFER OF FUND. 1. As soon as possible after receipt, all moneys received by the commission from the assessment levied under section [22-3107](#), Idaho Code, and all other moneys received by the commission shall be deposited in one or more separate accounts in the name of the commission in one or more banks or trust companies approved under [chapter 27, title 67](#), Idaho Code, as state depositories. The commission shall designate such accounts and such banks or trust companies. All funds so deposited in said institutions are hereby appropriated for the purpose of carrying out the provisions of this act.

2. (a) No moneys shall be withdrawn from or paid out of such accounts except upon order of the commission, and upon checks or other orders upon such accounts signed by such member of the commission as the commission designates and countersigned by such other member, officer or employee of the commission as the commission designates. A receipt, voucher or other written record, showing clearly the nature and items covered by each check or other order, shall be kept.

(b) All moneys referred to in subsection 1 of this section shall be used by the commission only for the payment of expenses of the commission in carrying out the powers conferred on the commission.

3. Funds presently held by the state of Idaho in the Idaho hop grower's commission fund shall be, and hereby are, transferred therefrom to the depository or depositories selected under this act by the commission, and the treasurer of the state of Idaho is hereby directed to transfer such funds.

4. The right is reserved to the state of Idaho to audit all funds of the commission at any time.

[I.C., sec. 22-3112, reen. 1967, ch. 216, sec. 8, p. 650.]

22-3113. ELECTION OF COMMISSION MEMBERS BY GROWERS -- PROCEDURES FOR SAID ELECTIONS -- VACANCY. 1. The members of the commission shall be elected by secret mail ballot under the supervision of the director of the department of agriculture. Members of the commission shall be elected by a majority of the votes cast by the grower members, each grower being entitled to one (1) vote. If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two (2) candidates for such position receiving the largest number of votes. The cost of said election shall be paid by the commission although it is supervised by the department of agriculture.

2. Any office which becomes vacant before expiration of the member's term shall be filled by election in the manner provided for regular elections, except that such office may remain vacant until the next regular election if the vacancy is for less than one (1) year. The term of the new director [commissioner] under this subsection shall be only for the unexpired term for which he was elected.

[I.C., sec. 22-3113, reen. 1967, ch. 216, sec. 9, p. 650; am. 1974, ch. 18, sec. 76, p. 364.]

22-3114. DEALER'S LICENSE REQUIRED -- APPLICATION -- FEES -- SURETY BOND -- REVOCATION OF LICENSE -- FORFEITURE OF BOND. No person shall act as dealer in hops without having obtained a license as provided in this act. Every person acting as a dealer shall file a written application with the commission for a license as such which application shall state the applicant's name, principal business addresses within and without the state of Idaho, the name of the person authorized to receive and accept service of summons and legal notices of all kinds for the applicant within the state of Idaho and such other information as the commission may require. Each application shall be accompanied with a license fee of fifty dollars (\$50.00) and by a good and sufficient surety bond in the penal sum of two thousand dollars (\$2,000) executed by the applicant as principal and by a surety company authorized to do business in the state of Idaho as surety and conditioned upon the applicant's full and complete compliance with the provisions of this act and all of the rules and orders of the commission. The commission shall investigate each applicant thoroughly and if the commission is satisfied that the applicant is of good character and reputation and is financially responsible, a license shall be issued for the period ending on the next succeeding first Monday of January, otherwise the application shall be denied. The commission may revoke a license after thirty (30) days' written notice of its intention so to do, and after providing the licensee with an opportunity for an appropriate contested case in accordance with the provisions of [chapter 52, title 67](#), Idaho Code, if the licensee shall wilfully fail to fully and completely comply with the provisions of this act and all of the rules and orders of the commission. Upon the revocation of such license the full amount of the bond shall be forfeited and damages in that sum shall be conclusively presumed to have been incurred by the commission. All license fees and all bond forfeitures shall be deposited as provided in section [22-3112](#), Idaho Code. Any person aggrieved by the final action of the commission is entitled to judicial review thereof in accordance with the provisions of [chapter 52, title 67](#), Idaho Code.

[22-3114, added 1955, ch. 224, sec. 14, p. 489; am. 1967, ch. 216, sec. 10, p. 650; am. 1993, ch. 216, sec. 4, p. 590.]

22-3115. PENALTY FOR VIOLATION. Every person who shall violate or aid in the violation of any of the provisions of this act or any of the rules, regulations or orders of the commission adopted pursuant to the authority conferred by this act, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500) or by imprisonment for not exceeding ninety (90) days or by both such fine and imprisonment and all fines collected for violation of this act shall be deposited as provided in section [22-3112](#).

[22-3115, added 1955, ch. 224, sec. 15, p. 489; am. 1967, ch. 216, sec. 11, p. 650.]

22-3116. REFERENDUM ON CONTINUANCE OF COMMISSION -- PROCEDURES. After five (5) years from the date the commission was created, a referendum may be held at the petition of the growers or at the request of the commission. The question shall be submitted by secret mail ballots upon which the words "For continuance of the Idaho Hop Grower's Commission" and "Against continuance of the Idaho Hop Grower's Commission" are printed, with a square before each proposition and a direction to insert an "X" mark in the square before the

proposition which the voter favors. In the event a referendum is held as provided in this section, no further referendum on the question of discontinuance of such commission shall be held within five (5) years from the date the results of the previous referendum was declared.

The referendum must be held and supervised by the department of agriculture upon its receiving either of the following:

1. A petition signed by 20% of the growers, or 200 growers, whichever is less. The petitioners shall pay the cost of such referendum if the commission continues but the commission must bear the cost if the majority vote is in favor of discontinuance.

2. A written request from the commission. The commission shall pay the cost of such referendum.

The referendum shall be held, notice thereof given, expenses thereof paid and the result determined, declared and recorded in the office of the secretary of state. No hearing or district meetings of the grower members shall be made prior to the referendum upon the question of determining whether such referendum should be held.

Notice of such referendum must be given by the commission in a manner determined by them. The ballots must also be prepared by the commission and forwarded to the grower members, who shall return them within 20 days after mailing by the commission.

[I.C., sec. 22-3116, as added by 1967, ch. 216, sec. 12, p. 650.]

22-3117. WINDING UP OF COMMISSION'S AFFAIRS IF VOTE IS IN FAVOR OF DISCONTINUANCE. If the vote at the referendum provided in section [22-3114 \[22-3116\]](#), Idaho Code, is in favor of discontinuation, the commission shall as rapidly as possible terminate its activities, convert its assets to cash and do all other things necessary to terminate its activities. At the termination of such activities, any funds remaining in possession of the commission shall be paid to the University of Idaho for research regarding hops.

[I.C., sec. 22-3117, as added by 1967, ch. 216, sec. 13, p. 650.]