

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 40
BARLEY -- PROMOTION OF MARKETING

22-4001. DECLARATION OF POLICY. It is to the interest of all the people that the abundant natural resources of Idaho be protected, fully developed and uniformly distributed. Among the agricultural industries of the state of Idaho that contribute to the economic welfare of the state is the barley industry. Because of a surplus of barley grown in this state, and because a surplus during recurrent years has become excessive and difficult to market in the available markets, it is necessary, in order to provide a profitable enterprise for the barley growers of the state and to promote employment of labor and to assist the barley growers and those in the various industries dependent upon the barley growers, that additional markets be found and developed. It is the purpose of this chapter to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho barley.

[22-4001, added 1988, ch. 194, sec. 1, p. 351.]

22-4002. BARLEY COMMISSION CREATED -- MEMBERS. There is hereby created and established in the department of self-governing agencies the Idaho barley commission to be composed of three (3) grower members appointed by, and serving at the pleasure of, the governor, one (1) from each of the three (3) commission districts referred to in section [22-4004](#), Idaho Code, who shall be appointed by the governor from a list of names with at least three (3) names for each appointive office for each district submitted to the governor by the Idaho grain producers association, inc., a grain growers' association representing barley growers throughout the state of Idaho, and each shall hold office for the term specified in section [22-4005](#), Idaho Code. The commissioners appointed by the governor may select a barley industry representative to serve a three (3) year term on the commission. The dean of the college of agriculture, university of Idaho, or his duly authorized representative, shall be an ex officio member of the commission without vote.

[22-4002, added 1988, ch. 194, sec. 1, p. 351; am. 2012, ch. 263, sec. 1, p. 731.]

22-4003. DEFINITIONS. As used in this chapter:

(1) "Commercial channels" means the sale of barley for use as food, feed, seed, or any industrial or chemurgic use, when sold to any commercial buyer, user, dealer, processor, cooperative, or to any person, public or private, who resells any barley or product produced from barley.

(2) "Commission" means the Idaho barley commission.

(3) "Crop reduction program" means an offer by an agency of the United States government to give growers an amount of barley as payment for reducing planted acreage of barley.

(4) "Delivery" means placing of barley into the primary channels of trade.

(5) "First purchaser" means any person, group, association or partnership that buys barley in this state in the first instance, or any lienholder,

public or private, including the commodity credit corporation, who may possess barley from the grower under any lien.

(6) "Grower" means any landowner personally engaged in growing barley, a tenant of the landowner personally engaged in growing barley, or both the owner and the tenant jointly, and includes a person, partnership, association, corporation, cooperative, trust, sharecropper or any and all other business units, devices and arrangements.

(7) "Sale" includes any pledge, mortgage or delivery of barley for sale after harvest to any person, public or private.

(8) "Seller" means any person or entity, including growers, who sells barley in the first instance.

[22-4003, added 1988, ch. 194, sec. 1, p. 352; am. 1997, ch. 157, sec. 1, p. 453.]

22-4004. QUALIFICATION OF MEMBERS. Members of the commission shall be selected and appointed because of their ability and disposition to serve the state's interest and for knowledge of the state's natural resources. Members appointed by the governor shall be citizens over twenty-five (25) years of age, residents of the state who have been actually engaged in growing barley in this state for at least five (5) years, and who derive a substantial portion of their income from growing barley in the state of Idaho. There shall be one (1) member from each of the following three (3) districts initially established as follows:

District 1. Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Lewis, Idaho, Adams, Valley and Washington Counties.

District 2. Payette, Gem, Boise, Custer, Canyon, Ada, Elmore, Camas, Blaine, Butte, Gooding, Lincoln, Jerome, Minidoka, Owyhee, Twin Falls and Cassia Counties.

District 3. Lemhi, Clark, Fremont, Jefferson, Madison, Teton, Bingham, Bonneville, Power, Bannock, Caribou, Oneida, Franklin and Bear Lake Counties.

[22-4004, added 1988, ch. 194, sec. 1, p. 352.]

22-4005. TERM OF MEMBERS. (1) Except as provided in subsection (3) of this section, the term of office of a member of the barley commission shall be three (3) years. Any member of the commission who has served for two (2) full consecutive terms shall not be eligible for reappointment until the expiration of a three (3) year period.

(2) Appointments to fill vacancies shall be for the balance of the unexpired term.

(3) (a) Beginning July 1, 1988, a member from district 1 will be appointed for a full four (4) year term ending in 1992. Subsequent terms will be for three (3) years.

(b) Beginning July 1, 1988, a member from district 2 will be appointed for a full three (3) year term ending in 1991. Subsequent terms will be for three (3) years.

(c) Beginning July 1, 1988, a member from district 3 will be appointed for a full two (2) year term ending in 1990. Subsequent terms will be for three (3) years.

(4) The executive committee of the Idaho state wheat growers association, doing business as the Idaho grain producers association, may request the removal of a commissioner, with or without cause, by a majority vote.

Upon receipt of the request, the governor may immediately withdraw the commissioner's appointment.

[22-4005, added 1988, ch. 194, sec. 1, p. 353; am. 2012, ch. 263, sec. 2, p. 731.]

22-4006. COMPENSATION OF MEMBERS. Members of the commission shall be compensated as provided in section [59-509](#) (h), Idaho Code.

[22-4006, added 1988, ch. 194, sec. 1, p. 353.]

22-4007. CHAIRMAN AND ADMINISTRATOR OF COMMISSION. The commission shall elect one of the governor's appointed members as chairman and may employ an administrator who is not a member of the commission, or may contract with the Idaho wheat commission or a similar agency for the administration of the barley commission's business.

[22-4007, added 1988, ch. 194, sec. 1, p. 353.]

22-4008. MEETINGS OF COMMISSION. The commission shall meet at least once every three (3) months regularly and at such other times as called by the chairman. The chairman may call special meetings of the commission at any time or place.

[22-4008, added 1988, ch. 194, sec. 1, p. 353.]

22-4009. DUTIES AND POWERS OF COMMISSION. (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.

(2) In the administration of the provisions of this chapter, the commission shall, in conjunction with the Idaho grain producers association, inc., have the following duties, authorities and powers:

(a) To conduct a campaign of research, education and publicity.

(b) To find new markets for barley and barley products.

(c) To give, publicize and promulgate reliable information showing the value of barley and barley products for any purpose for which it is found useful and profitable.

(d) To make public and encourage the widespread national and international use of the special kinds of barley and barley products produced from all varieties of barley grown in Idaho.

(e) To investigate and participate in studies of the problems peculiar to the producers of barley in Idaho.

(3) The commission shall have the duty, power and authority:

(a) To take such action as the commission deems necessary or advisable in order to stabilize and protect the barley industry of the state and the health and welfare of the public.

(b) To sue and be sued.

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

(d) To appoint and employ officers, agents and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.

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

(f) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity and reciprocal enforcement.

(g) To lease, purchase or own the real or personal property deemed necessary in the administration of the provisions of this chapter.

(h) To prosecute in the name of the state of Idaho any suit or action for collection of the tax or assessment provided for in the provisions of this chapter.

(i) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and rules for the procedure and exercise of its powers and the performance of its duties.

(j) To incur indebtedness and carry on all business activities.

(k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to inspection by the state controller and public at all times.

(l) To audit records of "first purchasers" of Idaho barley and otherwise to determine the time of proper collection amount or payment of the barley tax or any penalties thereto.

[22-4009, added 1988, ch. 194, sec. 1, p. 353; am. 1994, ch. 180, sec. 33, p. 447; am. 1997, ch. 157, sec. 2, p. 454.]

22-4010. DEPOSIT AND DISBURSEMENT OF FUNDS. (1) Immediately upon receipt, all grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which may be specified as a condition of any grant, donation or gift, and all of the revenues received under the provisions of section [22-4017](#), Idaho Code, 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 banks or trust companies. All funds so deposited are hereby continuously appropriated for the purpose of carrying out the provisions of this chapter.

(2) Funds can be withdrawn or paid out of such accounts only upon checks or other orders upon such accounts signed by two (2) officers designated by the commission.

(3) The right is reserved to the state of Idaho to audit the funds of the commission at any time.

(4) On or before January 15 of each year, the commission shall file with the senate agricultural affairs committee, the house agricultural affairs committee, the legislative services office, the state controller, and the division of financial management, a report showing the annual income to the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current fiscal year and a projection of anticipated expenses by category for the current fiscal year. From and after January 15, 1989, the report shall also include a reconciliation between the estimated income and expenses projected and the actual income and expenses of the preceding fiscal year.

(5) All moneys received or expended by the commission shall be audited every second year, but shall address every year distinctly, by a certified public accountant designated by the commission, who shall furnish a copy of such audit to the director of legislative services and to the senate agricul-

tural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year.

(6) The expenditures of the commission are expressly exempted from the provisions of sections [67-2007](#) and [67-2008](#), Idaho Code.

[22-4010, added 1988, ch. 194, sec. 1, p. 354; am. 1993, ch. 327, sec. 11, p. 1202; am. 1994, ch. 180, sec. 34, p. 449; am. 1996, ch. 159, sec. 12, p. 515; am. 1997, ch. 157, sec. 3, p. 455; am. 2003, ch. 32, sec. 12, p. 124.]

22-4011. BONDS OF AGENTS AND EMPLOYEES. The administrator, or any agent or employee appointed by the commission shall be bonded to the state of Idaho in the time, form and manner as prescribed by [chapter 8, title 59](#), Idaho Code. The cost of the bond is an administrative expense under this chapter.

[22-4011, added 1988, ch. 194, sec. 1, p. 355.]

22-4012. APPOINTMENT OF ADMINISTRATOR -- DUTIES -- SALARY. The commission may appoint an administrator who shall devote full time to the administration of the provisions of this chapter. He shall proceed immediately to prepare the plans and general program necessary and adequate to carry out the policies that are adopted by the commission. The administrator shall be paid a reasonable salary fixed by the commission, commensurate with his duties, and all necessary expenses.

[22-4012, added 1988, ch. 194, sec. 1, p. 355.]

22-4013. ESTABLISHMENT OF ADMINISTRATOR'S OFFICE. For the convenience of the majority of those most likely to be affected in the administration of the provisions of this chapter, the administrator, upon recommendation of the commission, shall establish and maintain an office for the administrator within the state of Idaho.

[22-4013, added 1988, ch. 194, sec. 1, p. 355.]

22-4014. STATE NOT LIABLE FOR ACTS OR OMISSIONS OF COMMISSION OR OF ITS EMPLOYEES. The state of Idaho is not liable for the acts or omissions of the commission or any member thereof or any officer, agent or employee thereof.

[22-4014, added 1988, ch. 194, sec. 1, p. 355.]

22-4015. IMPOSITION OF TAX. (1) There is hereby levied and imposed a tax of up to four cents (4¢) per hundredweight on all barley grown in the state of Idaho or given to Idaho growers under a crop reduction program, and sold or contracted in this state, and each and every crop grown or barley given to growers under a crop reduction program thereafter. The tax shall be due on barley given to growers under a crop reduction program and on barley sold or contracted through commercial channels in this state, regardless of any deduction of the tax on this same barley prior to it being given to the grower. The tax shall be due on or before the time when such barley is first sold or contracted in the commercial channels and shall be paid at such time or times as the commission may, by rule prescribe, as hereinafter provided, but not later than the 15th day of the month next succeeding the three (3) month pe-

riod in which such barley is sold or contracted in commercial channels. The commission shall designate the quarters (three (3) month periods) for the purpose of collection of this tax.

(2) The tax shall be levied and assessed to the seller at the time of delivery for sale and shall be deducted by the first purchaser from the price paid to the seller at the time of sale or in case of a lienholder who may possess such barley under his lien, the tax shall be deducted by the lienholder from the proceeds of the claim secured by such lien at the time the barley is pledged or mortgaged. The tax shall be deducted as provided in this section whether the barley is stored in this or any other state. The commission may, however, permit any federal corporation, such as the commodity credit corporation, to waive its responsibility for the collection of the tax, provided the amount of the tax is one dollar (\$1.00) or less.

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

(4) Any person may request from the commission in writing, within thirty (30) days after payment thereof, a refund of all or any portion of an assessment levied hereunder on barley and paid by him. The commission shall make the refund not later than thirty (30) days after the end of the fiscal year in which the request is made. Refunds shall cease to be available beginning on the first July 1 following completion of a referendum for the continuation or discontinuation of refunds as described in section [22-4019](#), Idaho Code.

(5) A sale shall be exempt from the tax if a substantially similar tax is imposed by and paid to another state or foreign country and used for similar purposes with respect to the same barley. The commission shall by rule identify what other taxes are substantially similar and used for similar purposes, and shall establish procedures for sellers to prove the payment of the other taxes.

[22-4015, added 1988, ch. 194, sec. 1, p. 355; am. 1997, ch. 157, sec. 4, p. 456; am. 2012, ch. 263, sec. 3, p. 731.]

22-4016. DELIVERY OF DOCUMENTS TO SELLERS. (1) The purchaser, at the time of settlement, shall make and deliver separate documents for each purchase to the sellers.

(2) The documents shall, at a minimum, contain the following information:

- (a) The name and address of the seller.
- (b) The name and address of the purchaser.
- (c) The number of hundredweights of barley sold.
- (d) The date of the purchase.

(3) The documents shall be legibly written and shall have no corrections or erasures on the face thereof.

(4) Unlawful or willful alteration of any document required under this chapter shall constitute a misdemeanor.

[22-4016, added 1988, ch. 194, sec. 1, p. 356; am. 1997, ch. 157, sec. 5, p. 457.]

22-4017. PAYMENT OF TAX -- DISPOSITION OF RECEIPTS. The tax imposed in this chapter shall be paid by the first purchaser to the commission. The commission shall receipt the purchaser thereof and promptly deposit the mon-

eyes in an account as provided in section [22-4010](#), Idaho Code. The commission may adopt, rescind, modify and amend regulations not inconsistent with this chapter, related to the payment and collection of the tax provided for in this chapter.

[22-4017, added 1988, ch. 194, sec. 1, p. 356.]

22-4018. PENALTIES. (1) Any person who shall violate or aid in the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than three hundred dollars (\$300) or imprisonment not to exceed ninety (90) days, or both. Fines collected for violation of the provisions of this chapter shall be paid into the Idaho barley commission account.

(2) Any person or firm who makes payment to the commission at a date later than that prescribed in section [22-4015](#), Idaho Code, shall be subject to a late payment penalty as set forth by the commission by rule and regulation. Such penalty shall not exceed the rate of fifteen percent (15%) per annum on the amount due.

[22-4018, added 1988, ch. 194, sec. 1, p. 357.]

22-4019. REFERENDUM FOR BARLEY GROWERS. (1) After five (5) years from the effective date of this section a referendum shall be held to determine if barley growers favor the continuation of the refund provisions prescribed in section [22-4015](#), Idaho Code. The question shall be submitted by secret ballots upon which the words "Do you favor a barley commission that is funded by all growers with no refund provision?" are printed with a square before each of the printed words "YES" and "NO" with directions to insert an "X" mark in the square before the proposition which the voter favors. If a majority of the referendum vote is in favor of continuing the refund provision, the provisions of subsection (4) of section [22-4015](#), Idaho Code, shall be extended indefinitely or until such time that the commission deems it necessary to hold another referendum on the issue.

(2) After five (5) years from the effective date of the referendum required by the provisions of subsection (1) above, and every five (5) years thereafter, a referendum on the continuation of the barley commission may be held at the petition of barley growers, or at the request of the barley commission. The question shall be submitted by secret ballots upon which the words "Do you favor continuation of the barley commission?" are printed with a square before each of the printed words "YES" and "NO" with directions to insert an "X" mark in the square before the question which the voter favors. If a majority of the referendum vote is in favor of continuing the barley commission, all of the provisions of [chapter 40, title 22](#), Idaho Code, shall continue. If a majority of the referendum vote is against continuing the barley commission, the assessment imposed by section [22-4015](#), Idaho Code, shall cease on the date the director of the department of agriculture announces the results of the referendum vote, and the commission shall prepare a plan for terminating all activities of the commission, effective as soon as possible, but not later than the close of the current fiscal year. If necessary, the director of the department of agriculture shall implement the provisions of the plan. The procedures necessary to initiate a referendum under the provisions of this subsection are as follows:

(a) A referendum shall be held if the Idaho department of agriculture receives a petition requesting such referendum signed by ten percent

(10%) or more of growers of barley in at least two (2) of the three (3) districts as outlined in section [22-4004](#), Idaho Code, as determined by the number of growers subject to the tax imposed by section [22-4015](#), Idaho Code, in either of the two (2) immediate past years; or

(b) A referendum shall be held if the Idaho department of agriculture receives a written request for such referendum from the barley commission.

(3) (a) Any referendum shall be conducted only among growers who paid a barley assessment during one (1) of the previous two (2) years, whether or not a refund of such assessment was requested or made.

(b) Any referendum must be held and supervised by the Idaho department of agriculture.

(c) Any referendum shall be held, and the result determined and declared by the director of the department of agriculture, and recorded in the office of the secretary of state.

(d) Notice of any referendum must be given by the commission in a manner determined by it. The ballots must be prepared by the commission and forwarded to eligible growers, who shall return them within twenty (20) days after mailing by the commission.

(e) The commission shall pay the costs of any referendum.

[22-4019, added 1988, ch. 194, sec. 1, p. 357.]

CHAPTER 41
AGRICULTURAL LABOR LAW [REPEALED]