

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 42
ALFALFA AND CLOVER SEED INDUSTRIES

22-4201. TITLE OF ACT. This act shall be known as the "Alfalfa and Clover Seed Industries Act."

[22-4201, added 1974, ch. 184, sec. 1, p. 1481; am. 2000, ch. 201, sec. 2, p. 497.]

22-4202. PURPOSE. It is hereby declared, as a matter of legislative determination, that it is to the best interests of all the people of the state of Idaho that the abundant and natural resources of Idaho be protected, fully developed and uniformly distributed; that economic waste threatens the alfalfa seed and clover seed industries in the state of Idaho by the lack of facilities and funds for research to develop and improve control measures for diseases and pests which attack alfalfa seed and clover seed pollinators, to improve alfalfa seed and clover seed growing culture and to disseminate information to the growers, and by lack of proper advertising and dissemination of information necessary for the development and promotion of alfalfa seed and clover seed grown in the state of Idaho; and that it is in the interests of the people, welfare and general prosperity of the state of Idaho that this avoidable economic waste be eliminated by the growers having at their disposal all available information on the best and most advanced methods of culture, growing, harvesting and marketing of alfalfa seed and clover seed. The purpose of this act is to promote the general welfare of our people by improving the culture and production of and expanding the market for alfalfa seed and clover seed grown in the state of Idaho.

[22-4202, added 1974, ch. 184, sec. 2, p. 1481; am. 2000, ch. 201, sec. 3, p. 498.]

22-4203. DEFINITIONS. Wherever used or referred to in this act, unless the context requires otherwise:

- (1) "Commission" means the Idaho alfalfa and clover commission.
- (2) "Grower" means any landowner personally engaged in growing alfalfa seed or clover seed, a tenant personally engaged in growing alfalfa seed or clover seed, or both the owner and the tenant jointly, and includes a person, partnership, association, corporation, cooperative organization, trust, sharecropper or any and all other business units, devices and arrangements that grow alfalfa seed or clover seed.
- (3) "Dealer" means any person, partnership, association, corporation, cooperative or other business unit or device that first handles, packs, ships, buys and sells alfalfa seed or clover seed, or who acts as sales or purchasing agent, broker or factor of alfalfa seed or clover seed.
- (4) "Handled in the primary channels of trade" means the time when any alfalfa seed or clover seed is delivered under a sales contract, sold, or delivered for shipment and sale.
- (5) "Ship" means to load alfalfa seed or clover seed into any mode of conveyance for transport in the channels of trade or to market.
- (6) "Processor" and "processing plant" mean every person, partnership, association, corporation, cooperative or other business unit or device to

whom and every place to which alfalfa seed or clover seed is delivered for cleaning, packing and blending.

[22-4203, added 1974, ch. 184, sec. 3, p. 1481; am. 2000, ch. 201, sec. 4, p. 498; am. 2006, ch. 365, sec. 1, p. 1103.]

22-4204. CREATION OF COMMISSION -- MEMBERS -- QUALIFICATIONS -- COMPENSATION. There is hereby created and established in the department of self-governing agencies an alfalfa and clover seed commission to be thus known and designated. The commission shall be composed of six (6) alfalfa seed or clover seed growers and one (1) alfalfa seed or clover seed dealer.

The six (6) grower members shall be citizens and residents of the state of Idaho, each of whom is and has been actively engaged in the growing and producing of alfalfa seed or clover seed within the state of Idaho, and a substantial portion of whose income has been derived from growing alfalfa seed or clover seed.

The one (1) dealer member shall be a person who, individually or as executive officer of a corporation, firm, partnership, association or cooperative organization, is and has been actively engaged as a dealer in alfalfa seed or clover seed within the state of Idaho, is a citizen and resident of this state, and a substantial portion of his income shall have been derived from handling, packing, shipping, buying and selling alfalfa seed or clover seed, or acting as sales or purchasing agent, broker or factor of alfalfa seed or clover seed.

The qualifications of members of the commission as herein set forth must continue during their term of office. Each member of the commission shall be compensated as provided by section [59-509](#) (n), Idaho Code.

[22-4204, added 1974, ch. 184, sec. 4, p. 1481; am. 1980, ch. 247, sec. 20, p. 597; am. 1998, ch. 121, sec. 1, p. 451; am. 2000, ch. 201, sec. 5, p. 499; am. 2011, ch. 181, sec. 1, p. 513.]

22-4205. NOMINATIONS FOR GROWER MEMBERS OF COMMISSION -- QUALIFICATIONS. (1) For the purpose of nominating grower members of the commission, at a meeting of the Idaho alfalfa and clover seed growers association, the board of directors shall review the names of active growers in Idaho that meet the qualifications as provided in this section. By June 1 of each year, the names of two (2) grower members nominated by the association for each vacancy occurring on the commission shall be submitted to the governor for his consideration. Each member nominated for the commission shall be a resident citizen of the state of Idaho for a period of four (4) years prior to his election or selection, shall have active experience in growing alfalfa seed or clover seed and shall be now actually engaged in growing alfalfa seed or clover seed in Idaho and shall derive a substantial portion of his income from growing alfalfa seed or clover seed 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 alfalfa seed or clover seed. To continue holding office, each member must remain qualified. The governor may remove any member who becomes disqualified during his term of office or who is unable to carry out his duties. The term of office of each member of the commission shall terminate on the last day of June 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. From such

list of nominees, the governor shall designate and appoint one (1) as a member of the commission.

(2) A general meeting of the Idaho Eastern Oregon Seed Association shall nominate two (2) dealers, one (1) of whom shall be appointed as provided for in this act by June 30 of each year, and one (1) of whom shall be designated as alternate.

[22-4205, added 1974, ch. 184, sec. 5, p. 1481; am. 1998, ch. 121, sec. 2, p. 452; am. 2000, ch. 201, sec. 6, p. 499; am. 2006, ch. 365, sec. 2, p. 1103; am. 2011, ch. 181, sec. 2, p. 513.]

22-4206. VACANCIES -- TERMS. Any office which becomes vacant before expiration of the member's term shall be filled by appointment in the manner provided for regular appointments.

The term of office of the members of the commission shall be three (3) years.

Members of the commission may not serve more than two (2) consecutive terms, provided, upon serving two (2) consecutive terms, and the lapse of one (1) full term, such member may again be nominated and appointed to the commission.

[22-4206, added 1974, ch. 184, sec. 6, p. 1481; am. 2011, ch. 181, sec. 3, p. 514.]

22-4207. 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 research director, research staff, a secretary, advertising manager, advertising agents, agents, 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/or 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 a research program to improve the quality of alfalfa seed and clover seed, to develop and improve control measures for disease and pests which attack alfalfa and alfalfa seed pollinators and clover and clover seed pollinators and to improve alfalfa and clover growing culture and to disseminate such information among the growers and dealers of the state and to make such research contracts and other agreements as may be necessary.
- (8) To plan and conduct a publicity and sales promotion campaign to increase the sale and use of Idaho alfalfa seed and clover seed and to make such publicity and sales promotion contracts and other agreements as may be necessary.

(9) To establish and maintain the executive offices of the commission at any place within the state of Idaho, which designated place may be changed at the discretion of the commission.

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

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

(12) To investigate and prosecute in the name of the state of Idaho violations of this act; to investigate and prosecute in the name of the state of Idaho any suit or action for the collection of assessments as hereinafter provided, or to protect brands, marks, packages, brand names or trademarks being promoted by the commission.

(13) To promote the sale and use of Idaho alfalfa seed and clover seed.

(14) To provide for and conduct a comprehensive and extensive research, promotion and educational campaign as continuous as the crop, sales and market conditions reasonably require.

[22-4207, added 1974, ch. 184, sec. 7, p. 1481; am. 1994, ch. 180, sec. 35, p. 449; am. 2000, ch. 201, sec. 7, p. 500.]

22-4208. RECEIPT OF GIFTS -- PAYABLE TO COMMISSION. The commission may accept grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this act, which may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this act shall be paid to the Idaho alfalfa and clover seed commission.

[22-4208, added 1974, ch. 184, sec. 8, p. 1481; am. 2000, ch. 201, sec. 8, p. 501.]

22-4209. LIABILITY OF STATE FOR COMMISSION. 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.

[22-4209, added 1974, ch. 184, sec. 9, p. 1481.]

22-4210. ASSESSMENT ON ALFALFA SEED AND CLOVER SEED. There is hereby levied upon all alfalfa seed and clover seed grown annually in this state, all alfalfa seed sold as Idaho alfalfa seed and all clover seed sold as Idaho clover seed, an assessment of one-fourth cent (1/4¢) per pound of clean seed. All moneys collected hereunder shall be expended to effectuate the purposes and objects of this act.

[22-4210, added 1974, ch. 184, sec. 10, p. 1481; am. 2000, ch. 201, sec. 9, p. 501.]

22-4211. TIME FOR PAYMENT OF ASSESSMENTS -- RECOVERY OF PAYMENT FROM GROWER. 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 alfalfa seed or clover seed is first handled in the primary channels of trade and shall be paid at such times as the commission may by rule prescribe, but not later than sixty (60) days from the date on which the grower received payment for the alfalfa seed or clover seed. If the party first handling the alfalfa seed or clover seed in the primary channels of trade is a person other than the grower he may charge against or recover from the grower of such alfalfa seed or clover seed the full amount of any assessment levied and imposed under this chapter.

[22-4211, added 1974, ch. 184, sec. 11, p. 1481; am. 2000, ch. 201, sec. 10, p. 501.]

22-4212. REQUEST FOR REFUND OF ASSESSMENT -- MANNER OF FILING REQUEST. Any person who has paid assessments to the commission herein shall have the right to require such commission to refund all or any portion of the assessment levied under the laws of such commission and paid by the producer. All such requests shall be in writing, filed not later than the first of August of each calendar year, and shall be on forms to be provided without cost to all producers who pay assessments to such commission.

[22-4212, added 1974, ch. 184, sec. 12, p. 1481.]

22-4213. FAILURE TO PAY ASSESSMENT -- PENALTY. Any grower or dealer who fails to make collection or 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 percent (5%) of the amount of the assessment determined to be due, as provided in this act, plus one percent (1%) of such amount for each month of delay or fraction thereof after the expiration of the 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 assessment levied and imposed by this act.

[22-4213, added 1974, ch. 184, sec. 13, p. 1481.]

22-4214. DEALER'S RECORDS OF SEED HANDLED -- OPEN TO INSPECTION BY COMMISSIONER. Every dealer shall maintain accurate records of all alfalfa seed and clover seed handled, packed, shipped or processed by him. The record shall be in such form and contain such information as the commission may by rule prescribe, and shall be preserved for a period of two (2) years, and be subject to inspection at any time upon request of the commission or its agents.

[22-4214, added 1974, ch. 184, sec. 14, p. 1481; am. 2000, ch. 201, sec. 11, p. 502.]

22-4215. DEPOSIT OF ASSESSMENTS -- WITHDRAWAL METHOD -- EXPENSES -- BOND REQUIRED -- AUDIT. (1) All receipts for the commission will be deposited within five (5) working days of being received, all moneys received by the commission from the assessment levied under section [22-4210](#), Idaho Code, and all other moneys received by the commission shall be deposited in one (1) or more separate accounts in the name of the commission in one (1) or more banks or trust companies approved under [chapter 27, title 67](#), Idaho Code, as state

depositories. The commission shall designate such accounts at such banks or trust companies.

(2) (a) No moneys shall be withdrawn 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. The commission shall establish and maintain an adequate and reasonable system of internal accounting controls. The internal accounting controls shall be written, approved and periodically reviewed by the commission. 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.

(c) The commission may require any commission member or agent or employee appointed by the commission to give a bond payable to the commission in the amount and with the security and containing the terms and conditions the commission may prescribe. The cost of such bond is an administrative cost under this act.

(3) All moneys received or expended by the commission shall be audited every second year, but shall address each year separately, 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 agricultural affairs committee and the house agricultural affairs committee. The audit shall be completed within ninety (90) days following the close of the fiscal year. The right is reserved to the state of Idaho to audit all funds of the commission at any time.

[22-4215, added 1974, ch. 184, sec. 15, p. 1481; am. 1998, ch. 121, sec. 3, p. 453; am. 2003, ch. 32, sec. 13, p. 125; am. 2006, ch. 361, sec. 1, p. 1098.]

22-4216. INCREASE IN ASSESSMENT. If it appears from an investigation that the revenue from the assessment levied under this act is inadequate to accomplish the purposes of this act, the commission shall file with the director of the department of agriculture a report showing the necessity of the industry, extent and probable cost of the required research, market promotion and advertising, extent of public convenience, interest and necessity, and probable revenue from the assessment desired to be levied. It may thereupon increase the assessment to a sum not to exceed one-half cent (1/2¢) per pound of clean seed; but no increase shall be made prior to filing of said report and favorable finding.

[22-4216, added 1974, ch. 184, sec. 16, p. 1481.]

22-4217. VIOLATION -- PENALTY. 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 order 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 three hundred dollars (\$300) or by imprisonment for a period 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 [22-4215](#).

[22-4217, added 1974, ch. 184, sec. 17, p. 1481.]

22-4218. LIBERAL CONSTRUCTION. This act shall be liberally construed, and if any part or portion thereof be declared invalid, or the application thereof to any person, circumstance or thing is declared invalid, the validity of the remainder of this act and/or the applicability thereof to any persons, circumstance or thing shall not be affected thereby, and it is the intention of the legislature to preserve any and all parts of this act if possible.

[22-4218, added 1974, ch. 184, sec. 18, p. 1481.]