

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 54
IDAHO PRODUCE SAFETY

22-5401. TITLE. This chapter shall be known and may be cited as the "Idaho Produce Safety Law."

[22-5401, added 2018, ch. 216, sec. 2, p. 487.]

22-5402. LEGISLATIVE INTENT. The legislative intent of this act is to authorize the Idaho state department of agriculture to administer and enforce this act, the produce safety rule, not to exceed the standards required by federal law. The Idaho state department of agriculture shall create a program capable of fulfilling a thorough and competent preventive food safety system through a collaborative and cooperative effort that will demonstrate movement toward the goal of improved produce safety. Such program shall ensure that fresh fruit and vegetables meet standards to provide the safest food to consumers and improve access to wholesome nutritious fresh produce across the state, the nation and the world.

[22-5402, added 2018, ch. 216, sec. 2, p. 487.]

22-5403. DEFINITIONS. As used in this chapter:

- (1) "Department" means the Idaho state department of agriculture.
- (2) "Director" means the director of the Idaho state department of agriculture or the director's designee.
- (3) "Facility" in this chapter also includes a "mixed-type facility" as defined in the produce safety rule.
- (4) "Farm" has the same meaning as provided in the produce safety rule.
- (5) "Produce safety rule" means the standards for growing, harvesting, packing and holding of produce for human consumption promulgated pursuant to the food and drug administration food, drug and cosmetic act.

[22-5403, added 2018, ch. 216, sec. 2, p. 487.]

22-5404. ADMINISTRATION -- ENFORCEMENT -- RULES AND COOPERATION. (1) The department is authorized to administer and enforce this chapter. The authority granted to the department under this chapter is in addition to, and not in lieu of, any other lawful authority granted to the department under state or federal law to administer and enforce requirements related to food safety. The director is authorized, in conformance with [chapter 52, title 67](#), Idaho Code, to promulgate rules necessary to administer the purpose and provisions of this chapter.

(2) The director shall administer and enforce the produce safety rule with moneys appropriated to the department by the federal government for the purpose of administering and enforcing the produce safety rule. Provided however, if the federal government does not appropriate moneys for this purpose or if the produce safety rule or its authorizing statute is repealed or made void, the director will cease enforcing the produce safety rule, this chapter and the rules promulgated under this chapter. Any exemption made to the requirements of the produce safety rule will also apply to this chapter and the rules promulgated under this chapter.

(3) The director may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, private associations, and regulated persons and entities in order to carry out the purpose and provisions of this chapter.

[22-5404, added 2018, ch. 216, sec. 2, p. 487.]

22-5405. INSPECTIONS. (1) The director, during normal business hours, may enter any farm or facility that grows, harvests, packs or holds produce for human consumption to:

(a) Inspect that farm or facility to determine whether this chapter and the rules promulgated under this chapter are being violated;

(b) Review and copy the farm or facility's records that are relevant to the enforcement of this chapter; and

(c) Secure and test samples needed to verify compliance with this chapter and the rules promulgated under this chapter. The director shall conduct inspections and sample collections and tests in a reasonable manner.

(2) If the owner or operator of any farm or facility described in subsection (1) of this section, or the owner or operator's authorized agent, refuses to admit the director to inspect pursuant to subsection (1) of this section, the director may obtain from any state court of competent jurisdiction an administrative warrant directing that owner, operator or agent to submit the premises described in the warrant to inspection.

[22-5405, added 2018, ch. 216, sec. 2, p. 487.]

22-5406. VIOLATIONS -- PENALTIES.

(1) (a) It is a violation for any person to:

(i) Fail to comply with any of the provisions of this chapter or any rules promulgated under this chapter; or

(ii) Interfere or attempt to interfere with the director in the performance of his duties under this chapter or rules promulgated under this chapter.

(b) The department may assess a civil penalty against a violator of not more than ten thousand dollars (\$10,000) for each violation or one thousand dollars (\$1,000) for each day of a continuing violation, in addition to reasonable attorney's fees in accordance with section [12-117](#), Idaho Code.

(2) The department may assess a civil penalty in conjunction with any other department administrative action.

(3) The department may not assess a civil penalty unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, [chapter 52, title 67](#), Idaho Code.

(4) 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. In addition to the assessed penalty, the department shall be entitled to recover, in accordance with section [12-117](#), Idaho Code, reasonable attorney's fees and costs incurred in such action or on appeal from such action.

(5) 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 department, appeal the assessment to the district court of

the county in which the violation is alleged by the department to have occurred.

(6) All civil penalties collected pursuant to this section shall be remitted to the produce safety account of the department.

[22-5406, added 2018, ch. 216, sec. 2, p. 488.]

22-5407. COORDINATION WITH DEPARTMENT OF HEALTH AND WELFARE. (1) In the event the department of health and welfare or the Idaho state department of agriculture finds or has probable cause to believe that any produce:

- (a) Is adulterated within the meaning of [chapter 1, title 37](#), Idaho Code;
- (b) Is so misbranded as to be dangerous or fraudulent within the meaning of [chapter 1, title 37](#), Idaho Code;
- (c) Is unsound;
- (d) Contains any filthy, decomposed or putrid substance;
- (e) May be poisonous or deleterious to health or otherwise unsafe; or
- (f) Is offered or exposed for sale or held in possession with intent to distribute or sell, or is intended for distribution or sale in violation of any provision of [chapter 1, title 37](#), Idaho Code, or the provisions of this chapter.

(2) In the event the Idaho state department of agriculture finds that produce is found to be in violation of this chapter or rules promulgated under this chapter, the department may issue and enforce a stop sale, use or removal order to the distributor, owner or custodian of the produce and hold the produce, or order it held, at a designated place until the law has been complied with and the produce is released in writing by the department, or the violation has been otherwise legally disposed of by written authority. Any person adversely affected by the department's determination may seek remedies as prescribed under the provisions of [chapter 52, title 67](#), Idaho Code.

[22-5407, added 2018, ch. 216, sec. 2, p. 488.]