

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 38
MINT INDUSTRY ACT

22-3801. MINT INDUSTRY ACT. This act shall be known as the Mint Industry Act.

[22-3801, added 1969, ch. 49, sec. 1, p. 126.]

22-3802. LEGISLATIVE INTENT -- RESEARCH AND ADVERTISING. It is hereby declared, as a matter of legislative determination, that economic waste threatens the mint industry of 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 mint, to improve mint growing culture and to disseminate information to the growers, and by the lack of proper advertising and dissemination of information necessary for the development and promotion of mint and essential oils grown in the state of Idaho; and that it is in the interest 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 mint and essential oils. 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 mint and essential oils grown in the state of Idaho.

[22-3802, added 1969, ch. 49, sec. 2, p. 126.]

22-3803. DEFINITIONS. Wherever used or referred to in this act:

- (1) The term "commission" means the Idaho mint commission.
- (2) The term "person" means individual, partnership, corporation, association, growers or any other business unit.
- (3) The term "mint" means all the essential oils that are distilled from any variety of mint plant grown or extracted in the state of Idaho.
- (4) The term "grower" means the actual producer of mint and essential oils.
- (5) The term "handled in the primary channels of trade" means the time when any mint or essential oils are delivered under a sales contract or delivered for shipment or delivered for processing or consumption.
- (6) The term "dealer" means and includes any person engaged in the business of buying, receiving, handling or selling mint or essential oils for profit or remuneration.

[22-3803, added 1969, ch. 49, sec. 3, p. 126; am. 1996, ch. 91, sec. 1, p. 273.]

22-3804. IDAHO MINT COMMISSION -- ELECTION OF MEMBERS -- COMPENSATION AND TERMS. There is hereby created and established within the department of agriculture an Idaho mint commission to be known and designated as such which shall be composed of six (6) practical growers, elected as provided in section [22-3812](#), Idaho Code. The six (6) elected commissioner members shall select one (1) industry representative to sit on the commission, with full voting privileges and benefits of the other commissioner members. 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 or selection, shall have active experience and be now actually engaged in growing mint in Idaho and shall derive a substantial portion of his income from growing mint 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 mint. 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. 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 receive their actual and necessary travel and other expenses incurred in the performance of their official duties. The commission shall adopt uniform and reasonable regulations governing the incurring and paying of such expenses.

[22-3804, added 1969, ch. 49, sec. 4, p. 126; am. 1974, ch. 18, sec. 91, p. 364; am. 1983, ch. 35, sec. 1, p. 85; am. 1996, ch. 91, sec. 2, p. 274.]

22-3805. POWERS AND DUTIES -- ADMINISTRATION AND ENFORCEMENT. 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 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 mint, to develop and improve control measures for disease and pests which attack mint and to improve mint growing culture and to disseminate such infor-

mation among the growers and to make such research contracts and other agreements as may be necessary.

(8) To plan and conduct an advertising, publicity and sales promotion campaign to increase the sale and use of mint and to make such advertising, publicity and sales promotion contracts and other agreements as may be necessary.

(9) To prohibit the distillation of any mint not actually grown in the state of Idaho.

(10) 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.

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

(12) 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 mint and mint rootstock established pursuant to the laws of the state of Idaho.

(13) To plan and conduct a research program for improving old varieties and developing new varieties of mint; to propagate any such improved old varieties or such new varieties of mint; to patent any such improved old varieties or such new varieties of mint 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 mint and to patent, copyright, or otherwise protect such names; 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 mint including the rootstock thereof and the mint 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 mint, including the rootstock thereof and the mint produced therefrom; to advertise and promote the commercial use of such improved old varieties and new varieties of mint; 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 mint including the rootstock 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 mint including the rootstock thereof and the increase thereof and the use of trade names and trademarks to designate mint produced from any such improved old varieties or such new varieties of mint including the rootstock thereof and the mint 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 mint, including the rootstock thereof and the mint produced therefrom; to advertise and promote the commercial use of such improved old varieties and new varieties of mint; 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 mint including the rootstock 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 propa-

gation, leasing, assigning, selling, sale price, and the use of trade names and trademarks relating to such improved old varieties or such new varieties of mint including the rootstock thereof and the increase thereof and the use of trade names and trademarks to designate mint produced from any such improved old varieties or such new varieties of mint. Nothing in this section is intended to interfere with, restrict or in any way discourage the development of improved old varieties or new varieties by dealers, growers or other private parties and such powers and duties as are conferred upon the commission hereby are restricted to such improvement of old varieties or development of new varieties which are improved or developed by the commission and such improved old varieties as are developed by dealers, growers or other private parties are not subject to the provisions of this section.

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

[22-3805, added 1969, ch. 49, sec. 5, p. 126; am. 1974, ch. 18, sec. 92, p. 364; am. 1994, ch. 180, sec. 32, p. 446.]

22-3806. ASSESSMENT IMPOSED -- REQUIREMENTS -- "GROWER'S ACREAGE" -- ADDITIONAL ASSESSMENT -- REFERENDUM. (1) The commission is hereby empowered to levy an assessment not to exceed eight cents (8¢) per pound on each pound of essential oil handled in the primary channels of trade.

(2) This assessment may be increased to not exceed a total assessment of ten cents (10¢) per pound as determined by a two-thirds (2/3) affirmative vote of the growers voting or a majority of the acreage voting in a referendum to be conducted by mail by the commission. The amount of any increased assessment, if any, shall be determined by resolution of the commission after February 1st or before July 1st of each year. The term "acreage" for the purposes of this subsection, means the number of acres of mint 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 1st but prior to January 15th of such year, registered with the commission on forms to be supplied by the commission giving such grower's name, mailing address and acreage, except that for the calendar year in which this subsection takes effect, the periods for the registration of growers shall be the fifteen (15) days immediately succeeding the effective date of this subsection. The qualification of any grower to vote or the amount of such grower's acreage 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 acreage, 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 or that growers representing a majority 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 the 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 pounds of mint 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 essential oils 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 resubmit 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 essential oils are first handled in the primary channels of trade and shall be paid not later than the last day of the month next succeeding the month in which such essential oils were first handled in the primary channels of trade.

(4) The assessment constitutes a lien prior to all other liens and encumbrances upon such essential oils except liens which are declared prior by operation of a statute of this state, but payment of the assessment by either grower or dealer who first handled such essential oils shall not subject such grower or dealer to liability for a lien prior to the lien herein imposed unless actual notice of such prior lien has been made upon such grower or dealer.

(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 the assessment is wholly uncollectible.

[22-3806, added 1969, ch. 49, sec. 6, p. 126; am. 1971, ch. 8, sec. 1, p. 18; am. 1987, ch. 285, sec. 1, p. 605; am. 1992, ch. 64, sec. 1, p. 197.]

22-3807. PAYMENT. All assessment[s] levied and imposed under and pursuant to the provision [provisions] of this chapter shall be paid to the commission by the person, either grower or dealer, by whom the essential oils are first handled in the primary channels of trade.

[22-3807, added 1969, ch. 49, sec. 7, p. 126.]

22-3808. FILING -- REQUIREMENTS. Every grower and dealer shall at such times as the commission may by rule prescribe, file with the commission a return under oath on forms to be prescribed by and furnished by the commission, stating the number of pounds of essential oils 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.

[22-3808, added 1969, ch. 49, sec. 8, p. 126; am. 1996, ch. 91, sec. 3, p. 274.]

22-3809. PENALTY FOR DEFAULTS. Any grower or dealer who fails to make collection or to file a 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 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.

[22-3809, added 1969, ch. 49, sec. 9, p. 126.]

22-3810. INSPECTION -- LICENSE FEES. 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 of 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 license fee herein imposed nor shall such person hinder or in any manner delay or prevent such inspection.

[22-3810, added 1969, ch. 49, sec. 10, p. 126.]

22-3811. DISPOSITION OF RECEIPTS AND USE OF MONEYS COLLECTED. (1) As soon as possible after receipt, all moneys received by the commission from the assessment levied under section [22-3806](#), 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 deposi-

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

(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. 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 prescribes. The cost of such bond is an administrative cost under this chapter.

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

[22-3811, added 1969, ch. 49, sec. 11, p. 126; am. 2006, ch. 362, sec. 1, p. 1100.]

22-3812. ELECTION OF COMMISSION MEMBERS. (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 the 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.

[22-3812, added 1969, ch. 49, sec. 12, p. 126; am. 1974, ch. 18, sec. 93, p. 364.]

22-3813. LICENSE APPLICATION -- FEE -- BOND -- REVOCATION -- FORFEITURE. No person shall act as dealer in the essential oils 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 two hundred dollars (\$200) and by good and sufficient surety bond in the penal sum of two thousand dollars (\$2,000) executed by the applicant and as principal and by a surety company authorized to do busi-

ness 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 willfully 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 licenses 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 [22-3811](#), 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.

[22-3813, added 1969, ch. 49, sec. 13, p. 126; am. 1993, ch. 216, sec. 5, p. 591; am. 1996, ch. 91, sec. 4, p. 275.]

22-3814. PENALTY. Every person who shall violate or aid in the violation of any of the provisions of this act or any of the rules 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, 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 [22-3811](#), Idaho Code.

[22-3814, added 1969, ch. 49, sec. 14, p. 126; am. 1996, ch. 91, sec. 5, p. 275.]

22-3815. REFERENDUM FOR CONTINUANCE OF THE IDAHO MINT COMMISSION. 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 Mint Commission" and "against continuance of the Idaho Mint 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 thirty percent (30%) of the growers, or two hundred (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 set 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 twenty (20) days after mailing by the commission.

[22-3815, added 1969, ch. 49, sec. 15, p. 126; am. 1996, ch. 91, sec. 6, p. 276.]

22-3816. TERMINATION OF COMMISSION. If the vote at the referendum provided in section [22-3815](#) is in favor of discontinuance, 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 mint.

[22-3816, added 1969, ch. 49, sec. 16, p. 126.]