

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES

CHAPTER 36
IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

54-3601. DECLARATION OF POLICY. It is in the best interest of the people of the state of Idaho that the abundant and natural resources of Idaho be protected and fully developed. It is in the public interest to protect the public health, prevent fraudulent practices, provide for the development of markets, production research, and promotion of Idaho grapes and grape by-products. The legislature recognizes the vital contributions of agricultural and tourist industries to the economy of this state and declares the intent of this chapter is to enhance, diversify and develop these industries by encouraging the planting and development of native vineyards and the production of wines made from the grapes, fruits and berries of the state of Idaho.

[54-3601, added 1984, ch. 42, sec. 1, p. 68.]

54-3602. COMMISSION CREATED. There is hereby created in the department of self-governing agencies an Idaho grape growers and wine producers commission, to be thus known and designated. The commission shall be composed of three (3) grape growers and two (2) wine producers.

The three (3) grower members shall be citizens and residents of this state, over the age of twenty-one (21) years, each of whom is and has been actively engaged in the growing and producing of grapes within the state of Idaho.

The two (2) wine producer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association or cooperative organization are and have been actively engaged as producers of wine within the state of Idaho, are citizens and residents of this state; and are over the age of twenty-one (21) years.

The qualifications of members of the commission must continue during their term of office. No member of the commission shall receive any salary or other compensation, but each member of the commission, when commission funds are duly appropriated, shall be compensated as provided in section [59-509](#)(d), Idaho Code.

[54-3602, added 1984, ch. 42, sec. 1, p. 68.]

54-3603. DEFINITIONS. As used in this chapter:

(1) "Account" means the Idaho grape growers and wine producers account in the dedicated fund.

(2) "Commission" means the Idaho grape growers and wine producers commission.

(3) "Grower" means any person who owns, operates or plants a native vineyard of four (4) or more acres.

(4) "Idaho grape product" means juices, raisins, wines and other grape by-products produced in Idaho and grapes grown in Idaho for the production of juices, raisins, wines and other grape by-products.

(5) "Native vineyard" means acreages planted in vinifera and/or other grapes cultivated primarily for the purpose of vinification.

(6) "Person" means any partnership, association, corporation, cooperative or other business unit or device.

(7) "Producer" means any person who owns, operates or conducts a bonded winery within this state where at least five hundred (500) cases of wine per year are vinified in whole or in part for sale.

(8) "Winery" means a place, premises and/or establishment within the state of Idaho for the manufacture and/or bottling of wine for sale.

[54-3603, added 1984, ch. 42, sec. 1, p. 68; am. 1991, ch. 319, sec. 1, p. 831; am. 2012, ch. 30, sec. 1, p. 88.]

54-3604. COMMISSION MEMBERS -- APPOINTMENT. Grower and producer members of the commission shall be selected as follows:

(1) The governor shall appoint three (3) grower members and two (2) producer members.

(2) The three (3) grower members shall be appointed to one (1), two (2) and three (3) year terms, respectively. The two (2) producer members shall be appointed to two (2) and three (3) year terms, respectively. Members shall be selected from nominations made by growers and producers as follows:

(a) Prior to July 1, the growers of the state shall convene for the purpose of nominating grower commission members. The growers of the state shall nominate at least three (3) and no more than six (6) growers and submit the names to the governor.

(b) Prior to July 1, the producers shall convene for the purpose of nominating producer commission members. The producers shall nominate at least two (2) and no more than four (4) producers and submit the names to the governor.

Initial commission members shall commence their terms, August 1, 1991. Terms of commission members thereafter shall be for three (3) years.

(3) 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 appointed to the commission.

(4) Commission members currently serving shall continue to serve until reappointed or until a new commission member is appointed.

(5) In the event there are vacancies in the commission, the governor shall make the appointment or appointments to fill the vacancy.

[54-3604, added 1984, ch. 42, sec. 1, p. 69; am. 1991, ch. 319, sec. 2, p. 831; am. 2005, ch. 320, sec. 1, p. 987.]

54-3605. POWERS AND DUTIES OF COMMISSION. The commission shall have, but is not limited to, the following powers and duties:

(1) To elect a chairman and such other officers as it deems advisable.

(2) To appoint and employ, and at its pleasure discharge, all necessary agents, employees and professional personnel and other personnel, including experts in agriculture and the publicizing of wines and to prescribe their duties and fix their compensation.

(3) To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this act.

(4) To find new markets for Idaho grape products.

(5) To give, publicize and promulgate reliable information showing the value of Idaho grape products for any purpose for which they are found useful and profitable.

(6) To investigate and participate in studies of the problems to the growers of grapes in the state of Idaho.

(7) To take such action as the commission deems necessary or advisable in order to promote Idaho grape products.

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

(9) 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 of Idaho.

(10) 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, engaged in work or activity 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, product protection, publicity and reciprocal enforcement of these objects.

(11) To protect brands, marks, packages, brand names or trademarks being promoted by the commission.

(12) To do any and all things that will promote Idaho grape products.

(13) To keep an accurate record of all its dealings, which shall be open to inspection by the state controller.

(14) To sue and be sued.

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

[54-3605, added 1984, ch. 42, sec. 1, p. 69; am. 1994, ch. 180, sec. 105, p. 496; am. 2012, ch. 30, sec. 2, p. 88.]

54-3606. RESEARCH -- INVESTIGATION. The commission shall provide for and conduct comprehensive and extensive research, advertising and educational campaigns as the Idaho grape product sales and market conditions reasonably require. It will investigate and ascertain the needs of growers, conditions of the market and extent to which public convenience and necessity require research and advertising.

[54-3606, added 1984, ch. 42, sec. 1, p. 70; am. 2012, ch. 30, sec. 3, p. 89.]

54-3606A. PROMOTION OF IDAHO GRAPE PRODUCTS. (1) In addition to the powers and duties set forth in section [54-3605](#), Idaho Code, the commission shall have, but is not limited to, the following powers to promote Idaho grape products:

(a) To host, sponsor or participate in activities and events dispensing or serving Idaho grape products to retailers, distributors, importers, evaluators, judges and members of the public. The commission may charge an admission charge to an activity or event.

(b) To host, sponsor or participate in activities and events promoting new markets for Idaho grape products, publicizing reliable information showing the value of Idaho grape products, or promoting research or education benefiting Idaho grape products and Idaho producers, wineries and growers. The commission may charge an admission charge to an activity or event.

(c) To solicit and receive donations of Idaho grape products for the purpose of promoting Idaho grape products.

(d) To purchase Idaho grape products for the purpose of promoting Idaho grape products.

(e) To donate Idaho grape products to activities, events, trade groups and other individuals and entities for the purpose of promoting Idaho grape products.

(f) To donate Idaho grape products to persons or associations for benevolent, charitable or public purposes, subject to the provisions of section [23-1336](#), Idaho Code.

(2) Notwithstanding any other provision of law including, but not limited to, [chapter 13, title 23](#), Idaho Code, the following shall apply to the commission's activities under this section:

(a) The commission and the property owner, lessee and operator shall not be required to hold or obtain any license, permit or registration or to provide any notification to a public official to enable the commission, commission members, volunteers authorized by the commission and commission employees to engage in the activities authorized by this section.

(b) The activities of the commission, volunteers authorized by the commission, commission members and commission employees authorized by this section include, but are not limited to, dispensing or serving samples of wine on premises not licensed for the sale of wine by the individual glass or opened bottle.

(3) In the performance of activities authorized by this section, the commission shall observe the following limitations:

(a) The commission shall not receive any payment for the Idaho grape products it serves, dispenses or donates under this section. The receipt of an admission charge to an activity or event is not the receipt of payment by the commission for Idaho grape products for the purposes of this section.

(b) Individuals not serving as commission members, acting as volunteers authorized by the commission, or who are not commission employees are not authorized by this section to serve or dispense Idaho grape products. Nothing in this section shall prohibit an individual who is otherwise authorized by law to serve or dispense Idaho grape products from serving or dispensing such Idaho grape products.

(c) Where the commission dispenses or serves wine, the persons dispensing or serving wine and the recipients of the wine dispensed or served must be of legal drinking age.

[54-3606A, added 2012, ch. 30, sec. 4, p. 89.]

54-3607. COMMISSION ACCOUNT. (1) The commission may accept tax receipts, 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 or as provided by law shall be paid to the commission and shall be deposited into a bank account in the name of the Idaho grape growers and wine producers commission. Moneys in the bank account are continuously appropriated and made available for defraying the expenses of the commission in carrying out the provisions of this chapter. Immediately upon receipt, all 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 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 one (1) officer designated by the commission. 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.

(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 council, the state controller, and the division of financial management, a report showing the annual income and expenses by standard classification of the commission during the preceding fiscal year. The report shall also include an estimate of income to the commission for the current and next fiscal year and a projection of anticipated expenses by category for the current and next 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 annually 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.

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

[54-3607, added 1984, ch. 42, sec. 1, p. 70; am. 1991, ch. 319, sec. 3, p. 832; am. 1995, ch. 204, sec. 1, p. 699; am. 2003, ch. 32, sec. 27, p. 132; am. 2009, ch. 59, sec. 1, p. 164.]

54-3608. BOND OF ADMINISTRATOR. 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 prescribed by [chapter 8, title 59](#), Idaho Code. The cost of the bond is an administrative expense under this chapter.

[54-3608, added 1984, ch. 42, sec. 1, p. 71.]

54-3609. STATE NOT LIABLE. 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.

[54-3609, added 1984, ch. 42, sec. 1, p. 71.]

54-3610. IMPOSITION OF TAX AND PROVISION FOR LATE FEES. (1) From and after the first day of July, 1995, there is hereby levied and imposed a tax payable to the commission on the production of wine in Idaho, and on all grapes grown and grape juice purchased in Idaho for the production of wine in Idaho, and on all grapes and grape juice purchased from producers outside Idaho for the production of wine in Idaho. The commission shall set each tax by rule. The minimum tax to each grower for grapes grown in Idaho shall be

set at one hundred dollars (\$100) annually. The tax on each winery for the production of wine shall be set at a minimum of one hundred dollars (\$100) annually. The purchasers of grapes grown or grape juice produced outside the state shall be responsible for submitting the tax to the commission.

(2) Any person or firm who makes payment to the commission at a date later than that prescribed in this section or by rule may be subject to a late payment penalty as set forth by the commission by rule. Such penalty shall not exceed the rate of fifteen percent (15%) per annum on the amount due. In addition to the above penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in this section.

[54-3610, added 1995, ch. 204, sec. 2, p. 700; am. 2005, ch. 335, sec. 1, p. 1052; am. 2009, ch. 60, sec. 1, p. 165; am. 2016, ch. 165, sec. 1, p. 449.]

54-3611. OPT OUT ALTERNATIVE. (1) Each and every year, any grower or producer may, at his election, opt out of application of all provisions of this chapter, including assessment provisions. In order to opt out of application of the provisions of this chapter, a grower or producer shall comply with the following requirements:

(a) On an annual basis, no later than June 30 of each year, submit a letter to the Idaho grape growers and wine producers commission, stating intent to opt out of application of the provisions of the chapter for the upcoming fiscal year; and

(b) The letter shall include the grower's or producer's name and address.

(2) The Idaho grape growers and wine producers commission shall post the address of the commission on its official website. The commission shall also set forth its mailing address by rule.

[54-3611, added 2006, ch. 28, sec. 1, p. 89.]

54-3612. SEVERABILITY. This act shall be liberally construed and if any part or portion thereof shall 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 application thereof to any person, 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.

[54-3612, added 1984, ch. 42, sec. 1, p. 71.]