

Chapter 625

2007 EDITION

Bakeries and Bakery Products

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FOOD AND OTHER COMMODITIES

BAKERIES

625.010 Definitions for ORS 625.010 to 625.270. As used in ORS 625.010 to 625.270, unless the context requires otherwise:

(1) "Bakery" means any place, premises or establishment where any bakery product is regularly prepared, processed or manufactured for sale other than for consumption on the premises where originally prepared, processed or manufactured.

(2) "Bakery product" includes bread, rolls, cakes, pies, doughnuts and all similar goods, to be used for human food, but does not include cookies, biscuits or crackers.

(3) "Container" means the container or wrapper in which bakery products are sold or offered for sale.

(4) "Department" means the State Department of Agriculture.

(5) "Distributor" means any person other than a bakery engaged within the state in the selling, marketing, or distributing at wholesale or retail any bakery products but does not include:

(a) Any person distributing solely bakery products manufactured by the person in a bakery licensed under ORS 625.010 to 625.270.

(b) Any retail food store selling or making delivery from a fixed place of business.

(6) "Label" or "labeled" means:

(a) The words "Net Weight" or the abbreviation thereof "Net Wt.;" and

(b) The applicable net weight as prescribed and required for each such loaf of bread; and

(c) The name and place of business of the manufacturer or distributor; and

(d) The identity of the bakery product within the container; and

(e) Such other information and wording as may be required by rules promulgated by the department under the authority granted by ORS 625.160.

(7) "Person" includes an individual, partnership, corporation, association or club. [Amended by 1955 c.298 §1; 1959 c.370 §1; 1963 c.594 §2; 1969 c.192 §1; 1987 c.472 §1]

625.020 License required to operate bakery; exceptions. (1) Except as provided in subsection (2) of this section, no person shall operate or participate in the operation of any bakery within this state without a bakery license for that bakery, issued and in effect under ORS 625.010 to 625.270.

(2) A license is not required for a domestic kitchen type bakery that is operated in behalf of a nonprofit institution or is otherwise not operated for profit. [Amended by 1975 c.312 §1]

625.030 Application for bakery license; inspection of premises and equipment; issuance of certificate. Application for a bakery license shall be made in writing to the State Department of Agriculture on forms supplied by the department. After receipt of the application and the fees required by ORS 625.180, the department shall cause to be made a proper detailed inspection of the premises and equipment or of the plans and specifications of the bakery involved. If the department finds that the premises and equipment are or will be of a sanitary construction, design or condition and that the applicant has complied with and will be able to comply with ORS 625.010 to 625.270, the application shall be approved and the department shall issue to the applicant a numbered license certificate bearing the name and address of the licensee and of the premises licensed.

625.040 Grounds for denial of application. The State Department of Agriculture shall refuse to grant any application for a bakery license if the department finds after proper investigation that any of the following has occurred:

(1) The applicant has made to the department any false statement of a material nature.

(2) The premises or equipment of the bakery sought to be licensed are not of a sanitary construction, design or condition. However, this section may not be applied to prevent licensing and operation of a bakery solely because the bakery is in an area that is part of and not separate from a domestic kitchen if the bakery is upon investigation by the department found to be constructed and maintained in a clean, healthful and sanitary condition.

(3) The applicant has failed to comply with ORS 625.010 to 625.270 or any other applicable law of this state relative to bakeries or bakery products or any regulation in effect thereunder, except that if it is determined that an applicant has not so complied the applicant shall be allowed a reasonable time, not exceeding 30 days, within which to comply, and the refusal or neglect of the applicant to comply within that period is cause for denial of the application. [Amended by 1973 c.243 §1; 2005 c.22 §441]

625.050 Renewal of bakery license; transfer of license. Each bakery license may be renewed annually by paying to the State Department of Agriculture the required annual license fee. The license is not transferable to any person or applicable to any location other than that for which originally issued. [Amended by 1989 c.253 §1]

625.055 Additional users of bakery; fees; rules. (1) The State Department of Agriculture may issue licenses under ORS 625.030 to one or more additional users of a bakery that is licensed primarily for operation by another person. A license issued to an additional user of the bakery shall cover all operations at that bakery by the person licensed. Regardless of the number of persons licensed to use a bakery, the department may not recognize more than one person as the primary operator of the bakery.

(2) The department may assess a license fee to an additional user of a bakery, calculated as provided in ORS 625.180. In calculating license fees under ORS 625.180, the gross sales by an additional user of a bakery are independent of the gross sales by any other user or the primary operator of the bakery.

(3) Notwithstanding ORS 625.050, the department may adopt rules to establish the license expiration, renewal and application dates for additional users of a bakery.

(4) The department may adopt rules to determine the responsibilities of a bakery's primary operator and additional users of the bakery under requirements prescribed by the department as provided under ORS 625.150.

(5) A recognized primary operator of a bakery shall notify the department upon the expiration or termination of the rental or lease of the bakery by an additional user of the bakery.

(6) Subsections (1) to (5) of this section do not apply to a bakery located in an area that is part of a domestic kitchen. [2007 c.645 §10]

625.060 Cancellation and suspension. The State Department of Agriculture may cancel or suspend any bakery license if it finds after proper investigation that:

(1) The licensee has violated any provision of ORS 625.010 to 625.270 or of any other law of this state relating to the operation of bakeries or the manufacture or handling of any bakery product, or any regulation effective thereunder; or

(2) The licensed bakery premises or any equipment used therein or in connection therewith is in an insanitary condition and the licensee has failed or refused to remedy the condition within 10 days after receipt from the department of written notice so to do.

625.070 Posting and surrender of certificate. The operator of the licensed bakery shall keep the numbered license certificate posted conspicuously on the licensed premises. In the event of revocation or suspension of the license, the certificate shall be surrendered by the licensee to the State De-

partment of Agriculture promptly upon demand.

625.080 Distributor's license required. No person shall engage within this state in the sale or distribution of any bakery product, other than exclusively as a retail food store or otherwise at retail at a fixed place or places of business, without holding a license so to do issued to that person by the State Department of Agriculture; but this does not affect the delivery of bakery products sold in a retail food store. A distributor's license is not required of any person distributing solely bakery products manufactured by the person in a bakery licensed under ORS 625.010 to 625.270.

625.090 Application for distributor's license; inspection of premises and equipment; issuance of certificate. Application for a distributor's license shall be filed in writing with the State Department of Agriculture on the form prescribed and supplied by the department. After receipt of the application and the fees required by ORS 625.180, the department shall cause to be made a proper detailed inspection of the premises and equipment to be used by the applicant in distribution within this state of bakery products. If the department finds that the premises and equipment are or will be of a sanitary construction, design or condition and that the applicant has complied with and will be able to comply with ORS 625.010 to 625.270, the application shall be approved and there shall be issued to the applicant a numbered license certificate bearing the name and address of the licensee.

625.100 Grounds for refusing to issue or for revoking or suspending distributor's license. The State Department of Agriculture may refuse to issue or may revoke or suspend any distributor's license by reason of the violation or participation of the distributor in a violation of ORS 625.010 to 625.270 or of any other law of this state relating or applicable to the sanitary handling, storage, packaging, sale, transportation or distribution of bakery products, or of any regulation effective thereunder.

625.110 Renewal of distributor's license; transfer of license. Each distributor's license may be renewed annually upon written application to the State Department of Agriculture and payment of the required annual license fee for the following year. A distributor's license is not transferable and is strictly personal to the person to whom issued. [Amended by 1989 c.253 §2]

625.120 Display and surrender of certificate. The distributor's numbered license certificate shall be kept posted conspicuously at the licensee's principal public place of

business within this state. The licensee shall also cause to be displayed conspicuously on the outside of each vehicle used by the licensee in distribution of bakery products the statement "State Bakery Distributor's License No. _____," including the proper license number. In event of revocation or suspension of the license, the certificate shall be surrendered by the licensee to the State Department of Agriculture promptly upon demand.

625.130 [Repealed by 1961 c.425 §20]

625.140 Inspection of bakeries and vehicles. The State Department of Agriculture shall cause to be made periodically a thorough inspection of each licensed bakery to determine whether or not the premises are constructed, equipped and operated in accordance with the requirements of ORS 625.010 to 625.270 and of all other laws of this state relating to bakeries or bakery products and all regulations effective thereunder. Such inspection shall also be made of each vehicle used by a bakery or distributor licensed under ORS 625.010 to 625.270 in transporting or distributing any bakery product within this state.

625.150 Sanitary regulations. The State Department of Agriculture shall prescribe reasonable sanitation requirements, not inconsistent with existing laws or regulations issued thereunder, governing the storing, handling, mixing, preparation, processing, manufacture, transportation and distribution of bakery products, and the design, construction, installation, maintenance, use, care and cleaning of utensils and equipment used therein or in connection therewith. Upon promulgation of any such regulation, any violation thereof is punishable as provided in ORS 625.990. Any such regulation may be amended, altered or repealed by the department. [Amended by 1987 c.472 §8]

625.160 Powers of department; rules.

(1) The State Department of Agriculture has the powers necessary to enable it to carry out the provisions of ORS 625.010 to 625.270. The department may adopt rules necessary to carry out the provisions of ORS 625.010 to 625.270, and may amend or repeal the rules.

(2) Such rules shall include, but not be limited to, the following:

(a) The location of advertising, lettering, wording or figures that appear on a bakery product container and the minimum contents thereof.

(b) The size, form and method of printing to be used in labeling.

(c) Standards of identity, standards of weight and standards of quality for bakery products which shall be compatible with the federal standards of identity and quality for

bakery products. [Amended by 1969 c.192 §2; 1975 c.265 §1; 1987 c.472 §2]

625.170 [Repealed by 1959 c.370 §5]

625.180 License fees. (1) Every bakery or bakery distributor doing business in this state shall pay a license fee.

(2) Except as provided in subsection (4) of this section, the license fees for a distributor may not be less than \$25 and may not exceed \$100. Except as provided in subsection (4) of this section, the fees for a bakery, other than a domestic kitchen bakery, are:

(a) \$225 if the bakery's annual gross sales are not more than \$50,000;

(b) \$350 if the bakery's annual gross sales are more than \$50,000 and not more than \$500,000;

(c) \$450 if the bakery's annual gross sales are more than \$500,000 and not more than \$1 million;

(d) \$750 if the bakery's annual gross sales are more than \$1 million and not more than \$5 million;

(e) \$1,000 if the bakery's annual gross sales are more than \$5 million and not more than \$10 million; or

(f) \$1,500 if the bakery's annual gross sales are more than \$10 million.

(3) Except as provided in subsection (4) of this section, the license fees for a domestic kitchen bakery are:

(a) \$140 if the bakery's annual gross sales are not more than \$50,000;

(b) \$200 if the bakery's annual gross sales are more than \$50,000 and not more than \$500,000;

(c) \$300 if the bakery's annual gross sales are more than \$500,000 and not more than \$1 million;

(d) \$450 if the bakery's annual gross sales are more than \$1 million and not more than \$5 million;

(e) \$600 if the bakery's annual gross sales are more than \$5 million and not more than \$10 million; or

(f) \$750 if the bakery's annual gross sales are more than \$10 million.

(4) The department shall increase the license fee amounts described in subsections (2) and (3) of this section by two percent annually, rounded to the nearest whole dollar amount for assessment and collection purposes. The department shall determine each annual increase using the unrounded figure from the preceding year. The first increase in the fee amounts shall occur on July 1, 2006.

(5) In establishing the amount of the license fee for a bakery or bakery distributor,

the department shall use the annual gross sales by that bakery or distributor within Oregon during the prior calendar year or, if the bakery or distributor maintains sales records on a fiscal basis, the prior fiscal year. If the bakery or distributor applying for an original license or for a renewal license cannot provide the annual gross sales for a full calendar year, the department shall base the fee on estimated annual gross sales by the bakery or distributor. If a bakery or distributor whose previous year's fee was determined using an estimated gross sales figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross sales by the bakery or distributor. [Amended by 1967 c.244 §1; 1973 c.243 §2; 1975 c.312 §2; 1982 s.s.1 c.4 §11; 1983 c.503 §1; 1989 c.253 §3; 1991 c.632 §6; 2005 c.22 §442; 2005 c.735 §13]

Note: The amendments to 625.180 by section 14, chapter 735, Oregon Laws 2005, become operative January 2, 2010. See section 17, chapter 735, Oregon Laws 2005. The text that is operative on and after January 2, 2010, is set forth for the user's convenience.

625.180. (1) Every bakery or bakery distributor doing business in this state shall pay a license fee.

(2) The license fees for a distributor may not be less than \$25 and may not exceed \$108. The fees for a bakery, other than a domestic kitchen bakery, are:

(a) \$244 if the bakery's annual gross sales are not more than \$50,000;

(b) \$379 if the bakery's annual gross sales are more than \$50,000 and not more than \$500,000;

(c) \$487 if the bakery's annual gross sales are more than \$500,000 and not more than \$1 million;

(d) \$812 if the bakery's annual gross sales are more than \$1 million and not more than \$5 million;

(e) \$1,082 if the bakery's annual gross sales are more than \$5 million and not more than \$10 million; or

(f) \$1,624 if the bakery's annual gross sales are more than \$10 million.

(3) The license fees for a domestic kitchen bakery are:

(a) \$152 if the bakery's annual gross sales are not more than \$50,000;

(b) \$216 if the bakery's annual gross sales are more than \$50,000 and not more than \$500,000;

(c) \$325 if the bakery's annual gross sales are more than \$500,000 and not more than \$1 million;

(d) \$487 if the bakery's annual gross sales are more than \$1 million and not more than \$5 million;

(e) \$649 if the bakery's annual gross sales are more than \$5 million and not more than \$10 million; or

(f) \$812 if the bakery's annual gross sales are more than \$10 million.

(4) In establishing the amount of the license fee for a bakery or bakery distributor, the department shall use the annual gross sales by that bakery or distributor within Oregon during the prior calendar year or, if the bakery or distributor maintains sales records on a fiscal basis, the prior fiscal year. If the bakery or distributor applying for an original license or for a renewal license cannot provide the annual gross sales for a full calendar year, the department shall base the fee on estimated annual gross sales by the bakery or distributor. If a bakery or distributor whose previous year's fee was determined using an estimated gross sales figure applies for renewal of that license, the fee for the previous li-

cense year shall be adjusted to reflect the actual gross sales by the bakery or distributor.

625.190 Disposition of fees. All fees received by the State Department of Agriculture under ORS 625.010 to 625.270 shall be deposited in the Department of Agriculture Service Fund and are continuously appropriated to the department for the purpose of carrying out ORS 625.010 to 625.270. [Amended by 1979 c.499 §25]

BREAD, ROLLS AND BUNS

625.200 Standard of weight for bread; sale of loaves of unauthorized weight prohibited; other products. (1) Bread, manufactured, made or kept for the purpose of sale, offered or exposed for sale, or sold in the form of loaves, shall be of such a standard of weight as the State Department of Agriculture by rule may prescribe.

(2) For the purpose of this section bread shall be deemed to be in the form of loaves, whether or not the loaf is wrapped, or whether transparent or other wrapping is used, or whether or not the loaf is sliced, and shall be deemed to be in package form when wrapped, and shall be labeled with the net weight and such other labeling as may be required by rules promulgated by the department under the authority granted in ORS 625.160.

(3) No person shall manufacture, make, procure or keep for the purpose of sale, offer or expose for sale, or sell bread in the form of loaves which does not conform to the weights specified by rule.

(4) This section does not apply to biscuits, buns, crackers, rolls, cakes or cookies, which, when sold or offered for sale, shall be sold either by net weight or numerical count, and when in package form shall be marked plainly as to the net weight or numerical count, except that packages containing more than 12 shall be labeled with the net weight. [Amended by 1953 c.657 §2; 1959 c.370 §2; 1969 c.192 §3; 1987 c.472 §3]

625.205 [1953 c.651 §2; 1955 c.298 §2; 1971 c.176 §10; repealed by 1975 c.265 §15]

625.209 [1959 c.370 §4; repealed by 1987 c.472 §5]

625.210 [Repealed by 1959 c.370 §5]

625.212 Definitions for ORS 625.215. As used in ORS 625.215 unless the context requires otherwise:

(1)(a) "Bread," "white bread," "milk bread" and "raisin bread" have the meanings given those terms in the definitions and standards promulgated by the State Department of Agriculture pursuant to ORS 625.160.

(b) As used in this subsection, "bread" also includes breads commonly known as Vienna, French and Italian.

(2)(a) “Rolls,” “buns,” “white rolls,” “white buns,” “raisin rolls” and “raisin buns” have the meanings given those terms in the definitions and standards promulgated by the department pursuant to ORS 625.160.

(b) As used in this subsection, “rolls” or “buns” includes doughnuts, sweet rolls or sweet buns made with fillings or coatings, such as cinnamon, the soft rolls, such as Parker House rolls, hamburger buns, hot dog buns and the hard rolls, such as Vienna rolls or Kaiser rolls. However, “rolls” or “buns” does not include foods made with specialty flours, such as cake flour.

(3) “Enriched,” as applied to any of the breads, rolls or buns defined in subsections (1) and (2) of this section, means the addition of the vitamins, minerals and other nutrients necessary to make that food conform to the definition and standards for enriched bread, enriched rolls or enriched buns promulgated by the department pursuant to ORS 625.160. [1971 c.176 §2; 1975 c.265 §2; 2005 c.22 §443]

625.215 Sale of unenriched breads prohibited. It shall be unlawful for any person to manufacture, bake, sell or offer for sale for human consumption any of the breads, rolls or buns specified in ORS 625.212 (1) and (2) unless they are enriched. [1971 c.176 §3]

625.220 Labeling of bread loaves; exceptions. Bread sold or offered for sale in the form of loaves shall be conspicuously labeled as required by the rules promulgated by the State Department of Agriculture under the authority of ORS 625.160. The provisions of this section do not apply to:

(1) A bakery where unwrapped bread is displayed and can be inspected by prospective purchasers and where, after purchase, the loaf of bread is immediately placed in a bag by the bakery personnel; or

(2) A bakery which is a wholesale establishment which sells bread to a restaurant in which the bread is consumed on the prem-

ises. [1963 c.594 §3; 1965 c.142 §1; 1969 c.192 §4; 1987 c.472 §4]

625.230 [1963 c.594 §4; repealed by 1969 c.192 §7]

625.240 [1963 c.594 §5; 1965 c.142 §2; 1969 c.192 §5; repealed by 1987 c.472 §5]

625.250 [1963 c.594 §§6,7; 1969 c.192 §6; repealed by 1987 c.472 §5]

625.260 [1963 c.594 §9; repealed by 1987 c.472 §5]

625.270 Unlawful sale prohibited; exception. (1) Except as provided in subsection (2) of this section, no person shall sell, offer for sale, hold for sale, or bake a loaf of bread in violation of the provisions of ORS 625.010 to 625.270 or orders thereunder.

(2) The provisions of ORS 625.220 do not apply to bread sold at an occasional temporary bake sale held by a fraternal, religious, social or service organization. [1963 c.594 §8; 1987 c.472 §6]

625.310 [Repealed by 1987 c.472 §5]

625.320 [Repealed by 1987 c.472 §5]

625.330 [Amended by 1981 c.897 §74; repealed by 1987 c.472 §5]

625.340 [Amended by 1979 c.284 §183; 1981 c.898 §51; repealed by 1987 c.472 §5]

625.350 [Repealed by 1987 c.472 §5]

MISCELLANEOUS

625.810 Application of laws regarding adulterated and misbranded food. The provisions of ORS 616.215, 616.235 and 616.250 relating to prohibited acts and adulterated and misbranded foods are applicable to this chapter. [1975 c.265 §7]

PENALTIES

625.990 Penalties. Violation of any provision of ORS 625.010 to 625.270 is a Class A violation. Justice courts have concurrent jurisdiction with circuit courts of all criminal offenses provided for in ORS 625.010 to 625.270. [Amended by 1987 c.472 §7; 1999 c.1051 §211]

