

## Chapter 624 — Food Service Facilities

### 2005 EDITION

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#### RESTAURANTS; BED AND BREAKFAST FACILITIES

**624.010 Definitions for ORS 624.010 to 624.120.** As used in ORS 624.010 to 624.120, unless the context requires otherwise:

(1) “Bed and breakfast facility” means any establishment located in a structure designed for a single family residence and structures appurtenant thereto, regardless of whether the owner or operator of the establishment resides in any of the structures, that:

- (a) Has more than two rooms for rent on a daily basis to the public; and
- (b) Offers a breakfast meal as part of the cost of the room.

(2) “Department” means the Department of Human Services.

(3) “Director” means the Director of Human Services.

(4) “Limited service restaurant” means a restaurant serving only individually portioned prepackaged foods prepared from an approved source by a commercial processor and nonperishable beverages.

(5) “Restaurant” includes any establishment where food or drink is prepared for consumption by the public or any establishment where the public obtains food or drink so prepared in form or quantity consumable then and there, whether or not it is consumed within the confines of the premises where prepared, and also includes establishments that prepare food or drink in consumable form for service outside the premises where prepared, but does not include railroad dining cars, bed and breakfast facilities or temporary restaurants.

(6) “Temporary restaurant” means any establishment operating temporarily in connection

with any fair, carnival, circus or similar public gathering or entertainment, food product promotion or any other event where food is prepared or served for consumption by the public. “Temporary restaurant” does not include:

(a) An establishment where food is prepared and served by a fraternal, social or religious organization only to its own members and guests.

(b) An approved school lunchroom where food is prepared and served for school and community activities, where the preparation and service are under the direction of the school lunchroom supervisor.

(c) A food product promotion where only samples of a food or foods are offered to demonstrate the characteristics of the food product. For the purposes of this paragraph, a sample shall not include a meal, an individual hot dish or a whole sandwich.

(d) A private residence, or part thereof, including the grounds, areas and facilities held out for the use of the occupants generally, for which a temporary sales license is issued under ORS 471.190 for a period not exceeding one day. [Amended by 1953 c.177 §8; 1957 c.672 §1; 1959 c.153 §1; 1973 c.824 §1; 1973 c.825 §1; 1975 c.792 §1; 1979 c.236 §4; 1987 c.226 §1; 1991 c.468 §1; 1995 c.578 §1; 1999 c.351 §38; 2001 c.900 §210; 2001 c.975 §3; 2003 c.14 §375]

**Note:** Section 1, chapter 975, Oregon Laws 2001, provides:

**Sec. 1.** A licensed limited service restaurant operating immediately prior to the effective date of the amendments to ORS 624.010 by section 3 of this 2001 Act [November 1, 2001] may continue to be licensed as a limited service restaurant while the restaurant:

(1) Continues to be owned or operated by the person that owned or operated the restaurant immediately prior to the effective date of the amendments to ORS 624.010 by section 3 of this 2001 Act; and

(2) Continues to serve only items that qualified the restaurant as limited service and were offered by the restaurant immediately prior to the effective date of the amendments to ORS 624.010 by section 3 of this 2001 Act. [2001 c.975 §1]

**624.015 “Benevolent organization” defined.** As used in ORS 624.028 and 624.067, “benevolent organization” means any person organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes. The fact that contributions to an organization do not qualify for a charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, constitutes prima facie evidence that the organization is not a bona fide benevolent organization. For purposes of this section, each subordinate lodge, chapter, council, grange, church, parish or other subdivision of an organization constitutes a separate organization. [1973 c.824 §4]

**624.020 License; fee payment; denial, suspension and revocation of licenses; posting; nontransferability.** (1) A person may not operate a restaurant or bed and breakfast facility without a license to do so from the Department of Human Services.

(2) Application for the license shall be in writing in the form prescribed by the department and shall contain the name and address of the applicant and any other information that the department may require. The fee for a license is as provided in ORS 624.490. A license expires annually on December 31.

(3) The Director of Human Services may suspend, deny or revoke any license for violation of any of the applicable provisions of ORS 624.010 to 624.120 or any rule adopted under ORS 624.010 to 624.120.

(4) Procedures for denial, revocation or suspension of a license are as provided in ORS chapter 183.

(5) The licensee shall post evidence of the license in public view at the customary entrance of

the restaurant or bed and breakfast facility. A person other than the director may not deface or remove evidence of a license.

(6) A license is not transferable. The department may not issue a refund representing any unused portion of a license. [Amended by 1953 c.177 §8; 1957 c.672 §2; 1971 c.661 §1; 1973 c.182 §1; 1975 c.526 §4a; 1975 c.607 §44; 1979 c.696 §11; 1983 c.352 §1; 1983 c.533 §6; 1987 c.226 §2; 1991 c.821 §1; 1995 c.578 §2; 2001 c.975 §4; 2003 c.309 §8]

**624.023 Single toilet fixture allowed in small restaurant.** The Department of Human Services shall allow restaurants with an occupancy capacity of no more than 15 persons, including employees and patrons, to have only one toilet fixture and adjacent lavatory on the premises. This single toilet fixture shall comply with all department standards for construction, maintenance, cleanliness, accessibility and others, not in conflict with the state building code, that the department might provide. [1979 c.390 §2]

**624.025 Temporary restaurant license; fees.** (1) A person may not operate a temporary restaurant without first procuring a license to do so from the Department of Human Services. The temporary restaurant license shall be posted in a conspicuous place on the premises of the licensee.

(2) Application for a temporary restaurant license shall be in writing in the form prescribed by the department and shall contain the name and address of the applicant, the specific location of the temporary restaurant and any other information the department may require.

(3) All temporary restaurant licenses shall terminate 30 days after issuance unless within the 30 days the temporary restaurant is discontinued or is moved from the specific location for which the license was issued. If within 30 days after issuance the temporary restaurant is discontinued or moved from the specific location for which the license was issued, the license shall terminate upon the discontinuance or the removal.

(4) Except as provided in ORS 624.028 and subsection (6) of this section, every applicant for a temporary restaurant license or renewal thereof shall pay to the department the appropriate license fee under ORS 624.490.

(5) The Director of Human Services may suspend, deny or revoke any temporary restaurant license if it appears, after a reasonable time has been given for correction of a sanitation violation, that the applicant does not meet applicable minimum sanitation standards as outlined in ORS 624.010 to 624.120 or any rule adopted thereunder. Any suspension, denial or revocation action shall be taken in accordance with ORS chapter 183.

(6) Notwithstanding any other provision of this section or ORS 624.490:

(a) Each temporary restaurant operating on an intermittent basis, in a grouping of six or more, at the same specific location two or more times within a 30-day period shall be issued one license for each 30-day period.

(b) The total annual amount of license fees for temporary restaurants described in paragraph (a) of this subsection may not exceed the maximum annual license fee for a restaurant that is situated in the county in which the temporary restaurant is situated. [1957 c.672 §9; 1973 c.182 §2; 1973 c.824 §2; 1975 c.526 §5; 1979 c.696 §12; 1985 c.573 §1; 1991 c.821 §2; 1993 c.151 §2; 1995 c.578 §3; 2003 c.309 §9]

**624.027 Exemption of confection operations from license requirements; rules.** When the Department of Human Services determines that public health hazards are nonexistent, the department may, by rule, exempt certain types of confection operations from the license requirements of ORS 624.010 to 624.120. [Formerly part of 624.100; 1973 c.825 §2]

**624.028 Temporary benevolent restaurant license; limit.** (1)(a) Notwithstanding ORS 624.025 (3) and (4), the Department of Human Services shall issue a license to a benevolent

organization to operate a temporary restaurant pursuant to this section if the benevolent organization has notified the department, orally or in writing, of its intention to operate a temporary restaurant. The department shall provide at least one place in each county at which such notification may be made.

(b) Not more than 13 temporary restaurant licenses per year may be issued pursuant to this section to each benevolent organization.

(c) No license fee or inspection fee shall be charged for a temporary restaurant licensed pursuant to this section.

(2) The department shall issue a temporary benevolent restaurant license to each provider of restaurant service at a special event arranged by a benevolent organization. The license shall be provided without fee to each restaurant service provider who files with the benevolent organization a signed statement that the service provider receives no profit from restaurant services performed at the special event. The statement shall be subject to inspection by the department at the time inspections are made pursuant to ORS 624.067. For the purpose of licenses issued pursuant to this subsection, a particular benevolent organization may arrange only one special event per calendar year.

(3) All licenses issued pursuant to this section shall terminate three days after issuance unless within the three days the temporary restaurant is discontinued or is moved from the specific location for which the license was issued. If within three days after issuance the temporary restaurant is discontinued or moved from the specific location for which the license was issued, the license shall terminate upon the discontinuance or the removal. [1973 c.824 §5; 1993 c.151 §1]

**624.030** [Amended by 1957 c.672 §3; 1973 c.825 §3; 1981 c.650 §1; repealed by 1983 c.533 §5]

**624.032 Bed and breakfast facility regulation.** The Department of Human Services shall allow a bed and breakfast facility to conduct food service operations for its patrons in rooms used by the owner or operator, provided that:

(1) Such rooms are not used as sleeping quarters; and

(2) Persons not employed by the facility shall be excluded from such rooms during breakfast meal hours. [1987 c.226 §3]

**624.035 When alternative food service criteria applicable.** The Director of Human Services may declare that an extraordinary situation exists and may apply alternative food service criteria in an establishment operated to prepare or serve food or beverages to indigent or needy persons by a benevolent organization, as defined by ORS 624.015, without charge or solicitation from those served. [1985 c.247 §2]

**624.040** [Amended by 1953 c.177 §8; 1973 c.825 §4; repealed by 1983 c.533 §5]

**624.045 State Food Service Advisory Committee; appointment; composition; duties.** The Department of Human Services shall appoint a State Food Service Advisory Committee. The committee shall consist of volunteer representatives from a cross section of the food service industry, the general public, appropriate local and state groups, county environmental health specialists and other appropriate state agencies, including the State Department of Agriculture. In addition to such other duties as may be prescribed by the Department of Human Services, the committee, not later than January 1 of each year in which a biennial session of the Legislative Assembly convenes, shall submit to the department and the Legislative Assembly recommendations regarding the implementation of ORS 624.020, 624.060, 624.085, 624.495 and 624.510. [1985 c.701 §3; 2003 c.309 §10; 2003 c.547 §115]

**624.050** [Amended by 1953 c.177 §8; 1957 c.672 §4; 1973 c.825 §5; 1981 c.650 §2; repealed by 1983 c.533 §5]

**624.060 Inspection and reinspection of restaurants and bed and breakfast facilities; posting of sign required; report; posting.** (1) At least once every six months the Director of Human Services shall inspect every restaurant located within the jurisdiction of the director. At least once a year the director shall inspect every bed and breakfast facility located within the jurisdiction of the director. The person operating the restaurant or bed and breakfast facility shall, upon the request of the director, permit access to all parts of the establishment.

(2) A copy of each inspection report shall be given to the restaurant or bed and breakfast facility operator or person in charge of the restaurant or bed and breakfast facility, and another copy shall be filed with the records of the Department of Human Services.

(3) During each inspection, the director shall insure that restaurants or bed and breakfast establishments that hold valid liquor licenses have properly posted the appropriate sign required by ORS 471.551.

(4) After each inspection, notice regarding compliance with ORS 624.010 to 624.120 by the restaurant or bed and breakfast facility shall be posted at the customary entrance of the restaurant or bed and breakfast facility in public view and shall not be removed by any person except the director.

(5) If the director discovers the violation of any provision of ORS 624.010 to 624.120, the director shall make a second inspection after the lapse of such time as the director deems necessary for the defect to be remedied. When a violation noted on an inspection has been remedied, that violation shall not cumulate with violations noted on a second inspection. [Amended by 1953 c.177 §8; 1973 c.825 §6; 1983 c.533 §3; 1985 c.701 §§1, 6; 1987 c.226 §§4, 5; 1991 c.324 §8]

**624.062** [1971 c.661 §2; 1973 c.825 §6a; repealed by 1973 c.825 §23a]

**624.065 Inspection of temporary restaurants; report.** (1) At least once during the operation of a temporary restaurant, the Director of Human Services shall inspect the facilities and operation. The person operating the temporary restaurant shall, upon request of the director, permit access to all parts of the establishment.

(2) One copy of the inspection report shall be posted by the director somewhere on the establishment premises; and the report shall not be defaced or removed by any person except the director until the temporary restaurant license is terminated. Another copy of the inspection report shall be filed with the records of the Department of Human Services. [1957 c.672 §10(1),(2); 1973 c.824 §7; 1973 c.825 §7]

**624.067 Inspection of benevolent organization restaurant facilities and operation.** (1) At any time during the operation of a temporary restaurant licensed pursuant to ORS 624.028, the Director of Human Services may inspect the facilities and operation.

(2) The benevolent organization operating the temporary restaurant shall, upon request of the director, permit access to all parts of the establishment. [1973 c.824 §6]

**624.070 Examination of food and drink samples; unwholesome or adulterated food and drink.** Samples of food, drink and other substances may be taken and examined by the Director of Human Services as often as may be necessary for the detection of unwholesomeness or adulteration. The director may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or adulterated. [Amended by 1953 c.177 §8; 1973 c.825 §8]

**624.075 Summary closure of temporary restaurant.** When the violation of any provision of ORS 624.010 to 624.120 or any rule promulgated thereunder comes to the attention of the Director of Human Services and if the violation is of such a nature as to constitute a serious hazard to the health of the public, immediate closure of the temporary restaurant may be secured upon notification of the operator in writing. The inspection report carrying a statement ordering closure and signed by the director delivered to the operator may serve as the written notice of the closure. A copy of this notice shall be filed with the records of the Department of Human Services. The closure order shall have the effect of an immediate revocation of the operator's license. The director shall, if requested, provide a prompt hearing after closure in accordance with ORS chapter 183. [1957 c.672 §10(3); 1973 c.825 §9]

**624.080 Diseased persons working in restaurants, bed and breakfast facilities or temporary restaurants; suspicion of possible transmission of infection; rules.** (1) The Department of Human Services may, by rule, define certain communicable diseases which may be spread to the public by employees of a restaurant, bed and breakfast facility or temporary restaurant.

(2) No person who is affected with a communicable disease described in subsection (1) of this section or is a carrier of such disease shall work in any restaurant, bed and breakfast facility or temporary restaurant. No restaurant, bed and breakfast facility or temporary restaurant shall employ any such person or any person suspected of being affected with any communicable disease or of being a carrier of such disease. If the restaurant, bed and breakfast facility or temporary restaurant manager suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease the manager shall notify the Director of Human Services immediately. A placard containing this subsection shall be posted in all toilet rooms.

(3) When suspicion arises as to the possibility of transmission of infection from any restaurant, bed and breakfast facility or temporary restaurant employee, the director may require any or all of the following measures:

(a) The immediate exclusion of the employee from all restaurants, bed and breakfast facilities and temporary restaurants; and

(b) Adequate medical examinations of the employee and associates of the employee, with such laboratory examinations as may be indicated. [Amended by 1957 c.672 §5; 1973 c.825 §10; 1987 c.226 §6; 1999 c.59 §184]

**624.085 Revocation, suspension or refusal of license; closure; sanitation score; inspection schedule.** (1) If the Director of Human Services determines that a critical violation of ORS 624.010 to 624.120, or any rule promulgated pursuant thereto, exists in a restaurant or bed and breakfast facility and the critical violation constitutes a potential danger to the public health, the director may revoke, suspend or refuse to issue the license required by ORS 624.020 if, after a reasonable time has been given for correction of the violation, but not longer than 14 days, the violation continues to exist. The director shall reinstate a license that has been revoked or suspended if the director determines that the violation has been corrected.

(2) Notwithstanding ORS 624.020, if the director determines that a critical violation of ORS 624.010 to 624.120, or any rule promulgated pursuant thereto, exists in a restaurant or bed and breakfast facility and the critical violation constitutes an imminent or present danger to the public health, the director may order immediate correction, use of an approved alternative procedure or closure of the restaurant or bed and breakfast facility by written notice thereof to the operator. The inspection report carrying a statement ordering closure and specifying the reasons therefor signed by the director and delivered to the operator may serve as the written notice of the closure. The director shall use inspection forms that clearly display notice that procedures are available to

the licensee under ORS chapter 183 for appeal of the closure order. A copy of the notice shall be filed with the records of the Department of Human Services. The closure order shall have the effect of an immediate revocation of the operator's license. If requested, the director shall provide a prompt hearing after the closure in accordance with ORS chapter 183.

(3) If the director determines that closure of the restaurant or bed and breakfast facility is necessary because failure to correct a critical violation or implement an approved alternative procedure constitutes a potential danger to the public health, or failure to correct a critical violation or implement an approved alternative procedure constitutes an imminent or present danger to the public health, the director shall:

(a) Notify the owner or person in charge of the restaurant or bed and breakfast facility that such restaurant or bed and breakfast facility shall not be used for food service purposes until the critical violations specified in the inspection report have been corrected; and

(b) Post a notice of closure upon the restaurant or bed and breakfast facility at the customary entrance to the restaurant or bed and breakfast facility in public view to the effect that the restaurant or bed and breakfast facility is closed for operation because a critical violation exists.

(4)(a) No person shall remove a notice of closure from a restaurant or bed and breakfast facility until the violation which caused the notice to be posted has been corrected.

(b) No person shall operate a restaurant or bed and breakfast facility upon which a notice of closure has been posted until the violation which caused the notice to be posted has been corrected and the notice has been removed.

(5) The director shall define clearly the criteria and rules for conformance to acceptable food service practices used to determine the restaurant or bed and breakfast facility sanitation score to insure statewide uniformity in the inspection and licensing processes. Critical violations which constitute a potential danger to the public health and critical violations which constitute an imminent or present danger to the public health shall be clearly defined. Minimum acceptable food service standard procedures shall be clearly defined by setting a minimum acceptable sanitation score for a licensed restaurant or bed and breakfast facility.

(6) If a restaurant or bed and breakfast facility obtains a sanitation score of less than the minimum acceptable standard, the restaurant or bed and breakfast facility operator or person in charge of the restaurant or bed and breakfast facility shall be notified of impending closure if, after reinspection within 30 days, the sanitation score does not meet minimum acceptable food service standards. If closure action is taken after reinspection, the restaurant or bed and breakfast facility may not be operated until the restaurant or bed and breakfast facility operator submits a plan for correction of the violations that receives the approval of the director and a subsequent inspection of the restaurant or bed and breakfast facility produces a sanitation score that meets minimum acceptable food service standards.

(7) The department may establish a more frequent inspection schedule for a restaurant licensed under ORS 624.020 that fails to meet specific minimum standards established by the department. The department may charge a fee for costs associated with the performance of additional inspections.

(8) As used in this section, "imminent" means impending or likely to develop without delay. [1983 c.533 §2; 1987 c.226 §7; 1995 c.578 §4; 2003 c.309 §11]

**624.090** [Amended by 1953 c.177 §8; repealed by 1973 c.825 §23]

**624.095** [1971 c.661 §4; repealed by 1973 c.825 §23]

**624.100 Rules.** The Department of Human Services shall make all rules necessary for the enforcement of ORS 624.010 to 624.120, including such rules concerning the construction and operation of restaurants, bed and breakfast facilities and temporary restaurants as are reasonably necessary to protect the public health of persons using these facilities. The rules shall provide for,

but need not be restricted to, the following:

- (1) A water supply adequate in quantity and safe for human consumption.
- (2) Disposal of sewage, refuse and other wastes in a manner that will not create a nuisance or a health hazard.
- (3) The cleanliness and accessibility of toilets and handwashing facilities.
- (4) The cleanliness of the premises.
- (5) The refrigeration of perishable foods.
- (6) The storage of food for protection against dust, dirt and contamination.
- (7) Equipment of proper construction and cleanliness of such equipment.
- (8) The control of insects and rodents.
- (9) The cleanliness and grooming of food workers.
- (10) Exclusion of unauthorized persons from food preparation and storage areas.
- (11) Review of proposed plans for the construction or remodeling of facilities subject to licensing under this chapter. [Amended by 1957 c.672 §6; part renumbered as 624.027; 1973 c.825 §11; 1987 c.226 §8; 1995 c.578 §5; 2005 c.22 §439]

**624.110 Rating surveys; preparing and disseminating information for educational programs.** The Department of Human Services shall make such rating surveys as are necessary to obtain uniform enforcement of ORS 624.010 to 624.120 throughout the state, and shall prepare and disseminate information pertaining to educational programs for the purpose of encouraging compliance with ORS 624.010 to 624.120 on the part of owners, managers and employees of eating and drinking establishments. [Amended by 1973 c.825 §12]

**624.120 Disposition of fees.** All license fees collected under ORS 624.010 to 624.120 shall be paid into the General Fund in the State Treasury and placed to the credit of the Public Health Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 624.010 to 624.120. [Amended by 1957 c.672 §7; 1973 c.427 §13; 1987 c.905 §34]

**624.130 Training to relieve choking; methods of training; exemptions; fees.** (1) Any restaurant where food is served to be consumed on the premises shall require that its food service employees, within a reasonable time after date of employment, be trained to administer emergency first aid to relieve any person choking on food particles pursuant to a training program approved by the local public health authority or as described in Red Cross Manual 32-1138 as the “abdominal thrust” procedures.

(2) A local public health authority shall provide or cause to be provided the necessary training program at reasonable intervals, as determined by the local authority. The local public health authority must provide for the training requirement of this section to be met by inclusion of the necessary training in a food handler training program under ORS 624.570 or by the placement of posters in the workplace.

(3) The local public health authority may charge reasonable fees to cover actual expenses of providing the training and issuing verification of training.

(4) The local public health authority may waive in writing the training requirements of this section in cases of undue hardship, or where the local authority determines that the employee’s assignment renders such training impracticable or unnecessary.

(5) Civil or criminal liability to the restaurant or restaurant employees may not result from good faith application by a trained person of the first aid described under subsection (1) of this section. [1977 c.824 §1; 2001 c.975 §4a; 2003 c.309 §12]

GAME MEAT

**624.165 Service of inspected game meat by charitable organization.** (1) Subject to ORS 624.070, game meat that has been donated to a charitable organization and has been inspected and processed as provided in ORS 619.095 may be served for human consumption by that charitable organization.

(2) As used in subsection (1) of this section:

(a) "Charitable organization" means the Department of Human Services, Oregon Youth Authority, Department of Corrections institutions, low-income nutritional centers, public school nutritional centers, senior nutritional centers, state hospitals and other charitable organizations or public institutions approved by the State Department of Fish and Wildlife.

(b) "Game meat" includes antelope, bighorn sheep, deer, elk, moose and mountain goat. [1983 c.575 §4; 1987 c.320 §240; 1997 c.249 §190; 2001 c.900 §211]

## COMMISSARIES, MOBILE UNITS AND VENDING MACHINES

**624.310 Definitions for ORS 624.310 to 624.430.** As used in ORS 624.310 to 624.430 unless the context requires otherwise:

(1) "Approved" means approved by the administrator.

(2) "Commissary" means commissary catering establishment, restaurant or any other place in which food, beverage, ingredients, containers or supplies are kept, handled, prepared or stored, and from which vending machines or mobile units are serviced.

(3) "Department" means the Department of Human Services.

(4) "Director" means the Director of Human Services.

(5) "Employee" means any operator or any person employed by an operator who handles any food, beverage, or ingredient to be dispensed through vending machines or mobile units, or who comes into contact with product contact surfaces of the container, equipment, utensils or packaging materials, used in connection with vending machines or mobile unit operations, or who otherwise services or maintains one or more such machines or units.

(6) "Food" means any raw, cooked or processed edible substance, beverage or ingredient used or intended for use in whole, or in part, for human consumption.

(7) "Machine location" means the room, enclosure, space or area where one or more vending machines are installed and are in operation.

(8) "Mobile unit" means any vehicle on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer.

(9) "Operator" means any person, who by contract, agreement or ownership is responsible for operating a commissary or warehouse or furnishing, installing, servicing, operating or maintaining one or more vending machines or mobile units.

(10) "Person" means any individual, partnership, corporation, company, firm, institution, association or any other public or private entity.

(11) "Product contact surface" means any surface of the vending machine or mobile unit, appurtenance or container which comes into direct contact with any food, beverage or ingredient.

(12) "Readily perishable food" means any food, beverage or ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry, or any other food capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications. However, "readily perishable food" does not include products in hermetically sealed containers processed by heat to prevent spoilage or dehydrated, dry or powdered products which are so low in moisture content as to preclude development of microorganisms.

(13) "Single-service article" means any utensil, container, implement or wrapper intended for use only once in the preparation, storage, display, service or consumption of food or beverage.

(14) "Utensil" means any kitchenware, tableware, glassware, cutlery, container, cleaning brush or other equipment that comes into contact with food or product contact surfaces during cleaning of vending machines, mobile units or commissary equipment, or during storage,

preparation, serving, dispensing or consumption of food.

(15) "Vending machine" means any self-service device offered for public use which, upon insertion of a coin, coins, currency or token, or by other means, dispenses unit servings of food or beverage, either in bulk or package, without the necessity of replenishing the device between each vending operation.

(16) "Warehouse" means any place where food, utensils, single-service articles, cleaning or servicing supplies for vending machines, mobile units or commissaries are stored. [1963 c.575 §1; 1973 c.825 §13; 1975 c.792 §2; 2001 c.900 §212; 2001 c.975 §5]

**624.320 License requirement for commissary, warehouse, mobile unit or vending machine; notice of mobile unit movement.** (1) A person may not operate a vending machine, warehouse, commissary or mobile unit without first procuring a license to do so from the Department of Human Services. The operator shall post the license in a conspicuous place in the warehouse or commissary. The operator shall affix a card, emblem or other device clearly showing the name and address of the licensee and the serial number of the license to each vending machine or mobile unit as the case may be.

(2) Application for the license shall be in writing in the form prescribed by the department and shall contain the following information:

- (a) Name and address of the applicant.
- (b) Location of all warehouses or commissaries.
- (c) Locations where supplies are kept.
- (d) Locations where vending machines or mobile units are stored, repaired or renovated.
- (e) Identity and form of food to be dispensed through vending machines.
- (f) Number of each type of vending machine on location.

(3) The operator must keep the specific locations of the vending machines and specific itineraries of the mobile units on file at the operator's business office and readily available to the department. If the mobile unit is moved to a delegate county other than a delegate county that licensed the mobile unit, the operator shall notify the health department for the county to which the mobile unit is moved prior to operating the mobile unit within that county. The operator shall furnish the department with written details of the conversion of any vending machine to dispense products other than those for which the license was issued. [1963 c.575 §2; 1973 c.825 §14; 2001 c.104 §244; 2001 c.975 §6; 2003 c.672 §1]

**624.330 Exemption of certain commissaries, mobile units and vending machines from licensing requirements; rules.** (1) Vending machines dispensing only ball chewing gum, nutmeats and the following prepackaged foods: Candy, chewing gum, nutmeats, potato chips, pretzels, popcorn, cookies, crackers and bottled or canned soft drink beverages shall be exempt from the provisions of ORS 624.320 and 624.430.

(2) The Department of Human Services may, by rule, exempt certain other types of vending machines from the license requirements of ORS 624.310 to 624.430 when it appears that there is no danger to the life and health of the people of this state.

(3) The provisions of ORS 624.310 to 624.430 do not include commissaries, mobile units or vending machines which are presently licensed and inspected by the State Department of Agriculture or United States Public Health Service. [1963 c.575 §§7,15; 1973 c.825 §15]

**624.340 Denial, suspension or revocation of license.** The Director of Human Services may deny, suspend or revoke a license in accordance with ORS chapter 183 in any case where the director finds that there has been a substantial failure to comply with the provisions of ORS 624.310 to 624.430 or the rules promulgated under ORS 624.310 to 624.430. [1963 c.575 §4; 1973 c.825 §16]

**624.350** [1963 c.575 §5; repealed by 1973 c.825 §23]

**624.360** [1963 c.575 §6; repealed by 1973 c.825 §23]

**624.370 Inspection of commissary, warehouse, mobile unit or vending machine; report of Director of Human Services; hearing.** (1) At least once every six months, the Director of Human Services shall inspect every commissary and warehouse, and a representative number of each operator's mobile units and vending machines. The director shall be granted access at reasonable times to all parts of the commissary and shall have access, either in the company of an employee or otherwise, to the interior of all vending machines or mobile units of the operator at such times as the director considers necessary to insure compliance with the provisions of ORS 624.310 to 624.430.

(2) Samples of food, drink and other substances may be taken and examined by the director as often as may be necessary for the detection of unwholesomeness or adulteration. The director may condemn and prohibit the sale of or cause to be removed or destroyed, any food or drink which contains any toxic, contaminated, filthy, putrid, decomposed or diseased substance or if it is otherwise unfit for human consumption.

(3) One copy of the inspection report shall be posted by the director upon an inside wall of the commissary or placed in the mobile unit. The inspection report shall not be defaced or removed by any person except the director. A copy of the inspection report on vending machines shall be sent to the operator. Another copy of each inspection report shall be filed with the records of the Department of Human Services.

(4) If the director discovers the violation of any provision of ORS 624.310 to 624.430 or any rule promulgated thereunder, the director shall make a second inspection after the lapse of such time as the director considers necessary for the defect to be remedied.

(5) If a violation is of a nature so as to constitute a danger to the health of the people of this state, the director may order immediate closure of the commissary, mobile unit, or vending machine and shall, within 24 hours of the time of inspection, mail to or serve personally on the licensee a copy of the inspection report signed by the director showing thereon the particular facility closed and the reason. The director shall, if requested, hold a hearing in accordance with ORS chapter 183. [1963 c.575 §8; 1973 c.825 §17; 1975 c.792 §2]

**624.380 Diseased persons working in commissary or mobile unit; suspicion of possible transmission of infection.** (1) No person affected with a communicable disease described in ORS 624.080 (1) or is a carrier of such disease shall work in any commissary, mobile unit or in the servicing of vending machines nor shall any operator employ any such person or any person suspected of being affected with any communicable disease or of being a carrier of such disease. If the operator suspects that any employee has an infectious disease in a communicable form or may be a carrier of such a disease the operator shall notify the Director of Human Services immediately. A placard containing this section shall be posted in all toilet rooms.

(2) When, in the opinion of the director, there is a possibility of transmission of infection from any person or employee, the director may require the immediate exclusion of such person or employee from all commissaries, mobile units and vending machines and may require a medical examination of the person or employee and associates of the person or employee including such laboratory examinations as may be indicated. [1963 c.575 §9; 1973 c.825 §18]

**624.390 Rules.** The Department of Human Services shall make reasonable rules for carrying out the provisions of ORS 624.310 to 624.430, including but not limited to the following:

- (1) Construction and operation of commissaries, mobile units and vending machines.
- (2) Water supply adequate in quantity and safe for human consumption.
- (3) Disposal of sewage, refuse and other wastes in a manner that will not create a nuisance or

health hazard.

- (4) Cleanliness of premises and facilities.
- (5) Refrigeration of perishable foods and the wholesomeness of all food and beverage ingredients.
- (6) Protection of food, utensils, wrapping and serving materials against dust, dirt and contamination.
- (7) Equipment of proper construction and the maintenance of such equipment.
- (8) Approved plumbing.
- (9) Sanitary facilities for employees in commissaries.
- (10) Control and exclusion of insects and rodents.
- (11) Labeling of foods or beverages.
- (12) Exclusion of vending machines dispensing chemicals, sanitizers, detergents, economic poisons and such other compounds of similar nature from immediate areas where food and beverage vending machines are located.
- (13) Approval of plans for commissaries, mobile units and vending machines. [1963 c.575 §10; 1973 c.825 §19]

**624.400 Rating surveys; preparing and disseminating information; cooperation with local health departments in educational programs.** The Department of Human Services shall make such surveys as are necessary to obtain uniform enforcement of ORS 624.310 to 624.430 throughout the state and shall prepare and disseminate information and shall cooperate with and assist local health departments in educational programs for the purpose of encouraging compliance with ORS 624.310 to 624.430 on the part of operators and employees of vending machines and mobile units. [1963 c.575 §12; 1973 c.825 §20]

**624.410 Commissaries and sources of supply outside jurisdiction.** (1) Foods from commissaries or other sources outside the jurisdiction of the Department of Human Services may be sold in the local jurisdiction if such commissaries or other sources of supply conform to the provisions of ORS 624.310 to 624.430 and the rules promulgated under ORS 624.310 to 624.430 or to substantially equivalent provisions.

(2) The department shall investigate and survey the system of regulations in effect for commissaries or sources of supply outside the state. Upon determination that the regulations in effect are of a quality substantially equal to the rules of ORS 624.310 to 624.430, the department may permit such commissaries or sources of supply to be used in the state. [1963 c.575 §11; 1973 c.825 §21]

**624.420 Abating or enjoining violations of ORS 624.310 to 624.430.** Any commissary, mobile unit or vending machine operated contrary to the provisions of ORS 624.310 to 624.430 is a public nuisance and dangerous to health and may be abated or enjoined in the manner provided by law. [1963 c.575 §14]

**624.430 Fee payment.** (1) Except as provided in ORS 624.330, every applicant for a license to operate a commissary, vending machine, warehouse or mobile unit shall pay to the Department of Human Services the appropriate annual fee set forth in ORS 624.490.

(2) All licenses issued under ORS 624.320 expire annually on a date set by department rule. A license is not transferable. The department may not issue a refund representing any unused portion of a license. The department may not refund fees submitted with applications that have been denied. [1963 c.575 §3; 1973 c.182 §3; 1975 c.526 §6; 1979 c.696 §13; 1983 c.352 §2; 1995 c.578 §6; 2001 c.975 §7; 2003 c.309 §13]

**624.440** [1963 c.575 §13; 1973 c.427 §14; 1987 c.905 §35; repealed by 2001 c.975 §11]

## ADMINISTRATION AND ENFORCEMENT OF FOOD SERVICE FACILITY LAWS

**624.490 License fees; exemptions.** (1) The Department of Human Services may charge the following fees for the issuance or renewal of licenses:

- (a) \$157.50 for a bed and breakfast facility.
- (b) \$210 for a limited service restaurant.
- (c) For a restaurant in accordance with seating capacity, as follows:
  - (A) \$367.50 for 0 to 15 seats;
  - (B) \$414.75 for 16 to 50 seats;
  - (C) \$472.50 for 51 to 150 seats; and
  - (D) \$525 for more than 150 seats.
- (d) For a temporary restaurant, except as provided in ORS 624.025 and 624.028:
  - (A) \$36.75 for an event lasting one day; and
  - (B) \$52.50 for an event lasting two days or longer.
- (e) \$262.50 for a commissary.
- (f) \$105 for each warehouse.
- (g) \$131.50 for each mobile unit.
- (h) For vending machines in accordance with the number of machines covered by the license

as follows:

- (A) \$26.25 for 1 to 10 machines;
- (B) \$52.50 for 11 to 20 machines;
- (C) \$78.75 for 21 to 30 machines;
- (D) \$105 for 31 to 40 machines;
- (E) \$131.25 for 41 to 50 machines;
- (F) \$157.50 for 51 to 75 machines;
- (G) \$210 for 76 to 100 machines;
- (H) \$367.50 for 101 to 250 machines;
- (I) \$577.50 for 251 to 500 machines;
- (J) \$787.50 for 501 to 750 machines;
- (K) \$966 for 751 to 1,000 machines;
- (L) \$1,260 for 1,001 to 1,500 machines; and
- (M) \$1,575 for more than 1,500 machines.

(2) To reinstate a license other than a temporary restaurant license after the expiration date, the operator must pay a reinstatement fee of \$100 in addition to the license fee required under subsection (1) of this section. If the operator reinstates the license more than 30 days after the expiration date, the reinstatement fee shall increase by \$100 on the 31st day following the expiration date and on that day of the month in each succeeding month until the license is reinstated.

(3) The department or a local public health authority may exempt or reduce the license fee for restaurants operated by benevolent organizations, as defined in ORS 624.015, that provide food or beverages primarily to children, the elderly, the indigent or other needy populations if the persons receiving the food or beverages are not required to pay the full cost of the food or beverages. [2003 c.309 §4]

**624.495 Foodborne illness prevention program; rules.** (1) The Department of Human Services shall adopt rules establishing a foodborne illness prevention program for the purpose of protecting the public health. The program may include, but need not be limited to, provisions for preventing the spread of communicable disease through food dispensing facilities and for effective and rapid response to terrorism events related to food dispensing facilities.

(2) A program established by the department under this section must provide for a local

public health authority that enters into an intergovernmental agreement under ORS 624.510 to undertake primary responsibility for the delivery of program services within the jurisdiction of the local authority. A program must also provide for extensive monitoring and review by the department of local public health authority performance of program services under an intergovernmental agreement.

(3) The department shall consult with groups representing local health officials within the state and statewide restaurant associations in the development of rules adopted under this section and prior to preparing an intergovernmental agreement delegating administration and enforcement of all or part of the foodborne illness prevention program to a local public health authority. [2003 c.309 §3]

**624.500** [1971 c.661 §3; repealed by 1973 c.825 §23]

**624.510 Intergovernmental agreements with local public health authorities; fee collection and remittance; rules.** (1) The Director of Human Services shall enter into an intergovernmental agreement with each local public health authority established under ORS 431.375, delegating to the local authority the administration and enforcement within the jurisdiction of the authority of the powers, duties and functions of the Director of Human Services under ORS 624.010 to 624.120, 624.310 to 624.430, 624.650 and 624.992. The intergovernmental agreement must describe the powers, duties and functions of the local public health authority relating to fee collection, licensing, inspections, enforcement, civil penalties and issuance and revocation of permits and certificates, standards for enforcement by the local authority and the monitoring to be performed by the Department of Human Services. The department shall establish the descriptions and standards in consultation with the local public health authority officials and in accordance with ORS 431.345. The intergovernmental agreement must be a part of the local annual plan submitted by the local public health authority under ORS 431.385. The department shall review the performance of the local public health authority under any expiring intergovernmental agreement. The review shall include criteria to determine if provisions of ORS 624.085 are uniformly applied to all licensees within the jurisdiction of the local public health authority. In accordance with ORS chapter 183, the director may suspend or rescind an intergovernmental agreement under this subsection. If the department suspends or rescinds an intergovernmental agreement, the unexpended portion of the fees collected under subsection (2) of this section shall be available to the department for carrying out the powers, duties and functions under this section.

(2) A local public health authority shall collect fees on behalf of the department that are adequate to cover the administration and enforcement costs incurred by the local public health authority under this section and the cost of oversight by the department. If the fee collected by a local public health authority for a license or service is more than 20 percent above or below the fee for that license or service charged by the department, the department shall analyze the local public health authority fee process and determine whether the local public health authority used the proper cost elements in determining the fee and whether the amount of the fee is justified. Cost elements may include, but need not be limited to, expenses related to administration, program costs, salaries, travel expenses and department consultation fees. If the department determines that the local public health authority did not use the proper cost elements in determining the fee or that the amount of the fee is not justified, the department may order the local public health authority to reduce any fee to a level supported by the department's analysis of the fee process.

(3) The department, after consultation with groups representing local health officials in the state, shall by rule assess a remittance from each local public health authority to which health enforcement powers, duties or functions have been delegated under subsection (1) of this section. The amount of the remittance must be specified in the intergovernmental agreement. The

remittance shall supplement existing funds for consultation services and development and maintenance of the statewide food service program. The department shall consult with groups representing local health officials in the state and statewide restaurant associations in developing the statewide food service program.

(4) In any action, suit or proceeding arising out of local public health authority administration of functions pursuant to subsection (1) of this section and involving the validity of a rule adopted by the department, the department shall be made a party to the action, suit or proceeding. [1973 c.825 §22a; 1975 c.790 §3; 1975 c.792 §4; 1981 c.650 §5; 1983 c.370 §1; 1983 c.533 §4; 1995 c.578 §7; 2001 c.975 §8; 2003 c.309 §14; 2005 c.22 §440]

**624.530 Agreement to ensure only one agency inspects facilities; rules.** Notwithstanding any provision of ORS 624.010 to 624.120 or 624.310 to 624.430 or statutes administered by the State Department of Agriculture, the Director of Human Services and the Director of Agriculture jointly shall adopt rules and enter into interagency agreements necessary to ensure that only one of the agencies inspects and licenses any facility that is subject to regulation by both agencies. [1981 c.112 §1; 2003 c.14 §376; 2003 c.309 §16]

**624.550 Local public health authority food service advisory committee.** An intergovernmental agreement described in ORS 624.510 must encourage and authorize a local public health authority to which health enforcement powers, duties or functions have been delegated pursuant to ORS 624.510 to appoint a food service advisory committee consisting of volunteer representatives from a cross section of the food service industry and the general public. A committee established by a local public health authority may:

(1) Make recommendations to the local public health authority regarding the administration and enforcement by the local authority of powers, duties and functions under an existing or proposed intergovernmental agreement; and

(2) Review and provide to the Department of Human Services an evaluation of the effectiveness of this chapter and any foodborne illness prevention program adopted by the department by rule under ORS 624.495. [1983 c.533 §8; 1985 c.519 §5; 2003 c.309 §17]

## FOOD HANDLER TRAINING PROGRAM

**624.570 Food handler training requirement; exception; certification; fees; rules.** (1)(a) Except as provided in subsection (6) of this section, any person involved in the preparation or service of food in a restaurant or food service facility licensed under ORS 624.020 or 624.320 must successfully complete a food handler training program and earn a certificate of program completion within 30 days after the date of hire. The person shall thereafter maintain a valid completion certificate at all times during the employment.

(b) A food handler training program offered by the Department of Human Services or the designated agent of the department, or offered by a local public health authority or designated agent of the local authority and approved by the department, is valid in any jurisdiction in the state for the purpose of obtaining the certificate of completion under subsection (2) of this section.

(2) If a person successfully completes the food handler training program required in subsection (1) of this section and pays the appropriate fee, the department, a local public health authority or a designated agent shall issue a certificate of completion. A food handler certificate of completion expires three years after the date of issuance.

(3) All local public health authorities exercising powers, duties and functions pursuant to ORS 624.510, shall ensure the provision of food handler training programs within the jurisdiction of the local public health authority. The department shall establish and maintain food handler training programs in counties without authority delegated under ORS 624.510.

(4) The department shall establish by rule all provisions necessary to administer and enforce the provisions of this section, including but not limited to:

(a) Minimum standards for program content and delivery; and

(b) The establishment of minimum requirements for successful completion of the training.

(5) The department, a local public health authority or a designated agent shall charge a program fee to program participants. The program fee may not exceed \$10. A program provider may assess a new program fee each time a participant takes or retakes all or part of a program or certification exam. A fee not exceeding \$5 may be charged for duplicate certificates of completion.

(6) Persons involved in the preparation or service of food in a temporary restaurant are not required to complete a food handler training program, but the temporary restaurant shall have at least one person who has completed the food handler training program on the premises at all times. [1995 c.578 §13; 2001 c.975 §8a; 2003 c.309 §18]

## MISCELLANEOUS

**624.610 Application of ORS 624.010 to 624.120 or 624.310 to 624.430 to certain food service.** Neither ORS 624.010 to 624.120 nor 624.310 to 624.430 apply to:

(1) Food service provided to sleeping room patrons of facilities described in ORS 446.435; or

(2) Food service provided solely and incidentally to participants in the course of backpacking, hiking, horseback packing, canoeing, rafting or other such expedition as described in ORS 446.435 unless the expedition is a part of an organizational camp program. [1981 c.650 §3]

**624.630 Construction, remodeling requirements; fees.** A person may not construct or extensively remodel a facility subject to licensure under this chapter without first submitting construction or remodeling plans to the Department of Human Services and paying a fee to the department for review of the plans. The fee shall be assessed in the following amounts:

(1) For initial construction:

(a) Of a full service restaurant, \$250.

(b) Of a bed and breakfast facility, \$75.

(c) Of a commissary, \$125.

(d) Of a warehouse, \$50.

(e) Of a limited service restaurant, \$75.

(f) Of a mobile unit, \$75.

(2) For remodeling:

(a) Of a full service restaurant, \$100.

(b) Of any facility other than a full service restaurant, \$50. [1995 c.578 §11]

**624.650 Temporary restaurant inspection fee.** (1) Notwithstanding any provision of ORS 624.010, 624.025, 624.065, 624.510 or 624.530, a temporary restaurant as defined under ORS 624.010 that is a mobile unit as defined under ORS 624.310 may be required to pay a fee not to exceed \$25 for inspection services if the mobile unit is licensed by:

(a) The Department of Human Services under ORS 624.320 or a local public health authority acting pursuant to an intergovernmental agreement to conduct inspections in accordance with ORS 624.370;

(b) The State Department of Agriculture or the United States Public Health Service as provided under ORS 624.330; or

(c) Another jurisdiction and permitted to be used in this state under ORS 624.410.

(2) This section does not prohibit the Department of Human Services or a local public health authority delegated authority under an intergovernmental agreement described in ORS 624.510 from enforcing ORS 624.380 or 624.420 or rules adopted by the department pursuant to ORS

624.390. [1995 c.686 §1; 2003 c.309 §19]

**624.670 Disposition of fees.** All moneys received by the Department of Human Services under this chapter shall be paid into the State Treasury, deposited in the General Fund to the credit of the Public Health Account and used exclusively by the department for the purpose of carrying out the provisions of this chapter. [1995 c.578 §12; 2001 c.975 §9]

## PENALTIES

**624.990 Criminal penalties.** (1) Violation of any provision of ORS 624.010 to 624.120 or rules of the Department of Human Services promulgated under ORS 624.010 to 624.120 is a Class C misdemeanor.

(2) Violation of any provision of ORS 624.310 to 624.430 or rules of the department promulgated under ORS 624.310 to 624.430 is a Class B misdemeanor. [Subsection (2) enacted as 1963 c.575 §16; 1973 c.825 §22; 2003 c.14 §377]

**624.992 Civil penalty; rules.** (1) In addition to any other penalty provided by law, the Department of Human Services may impose a civil penalty on any person for violation of ORS 624.020 (1), 624.060 (1), 624.060 (4), 624.070, 624.085, 624.320, 624.370, 624.380 or 624.430 or rules adopted under ORS 624.010 to 624.120 or 624.390.

(2) After public hearing, the Department of Human Services by rule shall adopt objective criteria for establishing the civil penalty that may be imposed under subsection (1) of this section.

(3) Civil penalties under subsection (1) of this section shall be imposed in the manner provided by ORS 183.745.

(4) A local public health authority delegated civil penalty power under an intergovernmental agreement described in ORS 624.510 shall implement that power in accordance with protocols and limits established by the Department of Human Services by rule. The local public health authority's civil penalty power applies only to imminent and present dangers to public health and to operation without a license. [1995 c.578 §14; 2001 c.975 §10; 2003 c.309 §20]

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