

Chapter 621

Purity, Grades, Standards and Labels of Dairy Products and Substitutes

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DEFINITIONS

621.005 Definitions. As used in this chapter, unless the context requires otherwise:

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

(2) "Director" means the Director of the State Department of Agriculture.

621.010 to 621.050 [Reserved for expansion]

GRADES AND STANDARDS OF QUALITY FOR FLUID MILK

621.055 Definitions. As used in ORS 621.055 to 621.125, unless the context requires otherwise:

(1) "Distributor" means a person purchasing, only, unpasteurized fluid milk and causing it to be processed, including pasteurization, and bottled for distribution and sale for human consumption.

(2) "Fluid milk" means the lacteal secretion of cows or goats, or any constituent part of such secretion, which is produced, processed, distributed, sold, offered for sale or exposed for sale for human consumption in liquid form.

(3) "Person" means and includes any individual, partnership, association or corporation and his or its agents.

(4) "Producer" means a person engaged in the production on a dairy farm of unpasteurized fluid milk, but who does not bottle fluid milk for distribution and sale for human consumption.

(5) "Producer-distributor" means a person producing unpasteurized fluid milk on a dairy farm and bottling such milk, either pasteurized or unpasteurized, on the premises where produced for distribution and sale for human consumption; but a producer-distributor may purchase unpasteurized milk from a producer and distribute such milk after pasteurization.

621.060 Establishing standards of quality and identity. (1) Official state standards of quality shall be established by the department for fluid milk, both pasteurized and unpasteurized, in the manner prescribed by ORS 616.405 to 616.440.

(2) The standards of quality established shall be based upon:

(a) The health of the cows and goats;

(b) The physical facilities of dairies and milk processing plants;

(c) The standard of sanitary maintenance

of dairies and milk processing plants including equipment used therein, the cleanliness of operating personnel, and the cleanliness of adjacent land areas;

(d) The physical facilities for the transportation of fluid milk, and the methods and standards of sanitary maintenance of such facilities;

(e) The quality of the fluid milk as shown by an examination by means suitable to the determination of its quality, and also, the factors affecting the nutritional value of fluid milk as a human food; and

(f) Any other factor found by the department, upon hearing, to affect the quality of fluid milk.

(3) Definitions and standards of identity for fluid milk may be established by the department.

621.065 Designation of grades. The highest standard of quality established for fluid milk shall be designated as "grade A"; the next highest shall be designated as "grade B"; and the third highest shall be designated as "grade C."

621.070 License required to use grade designation. No person shall use any grade designation on bottle caps, in advertising, on labels or in any other manner connected with the sale of fluid milk, unless the person has obtained from the department a license to use the grade designation.

621.075 Licensing to use grade designation. A license to use the grade designation "grade A," "grade B," or "grade C" shall be issued by the department to any person engaged in the business of producing or distributing, or both, fluid milk upon written application therefor and who meets the requirements of the particular grade designation for which application is made. If a person carries on both the activities of a producer and of a producer-distributor such person shall obtain a separate license for each such activity. Before issuing a license the department shall inspect the physical facilities of the applicant's dairy or plant and such other factors as may relate to the production or distribution of fluid milk. The physical facilities must conform to the requirements created by regulation for the production and distribution of fluid milk meeting the standards of quality for which the license to use the particular grade designation is sought. Each license issued under this section expires one year from the date

of its issuance unless sooner revoked and may be renewed upon application of the licensee. Each application for a license or annual renewal thereof shall be accompanied by a license fee, the amount of which shall be established by the department after investigation. The fee shall be based upon the cost of inspection, but shall not exceed the amount of \$35 for any annual license. The department may refuse to issue, revoke or refuse to renew any such license for any violation of ORS 621.055 to 621.120 or regulations promulgated under those sections.

621.080 Disposition of license fees; appropriation. All license fees received by the department under ORS 621.075 shall be paid to the State Treasurer on or before the tenth day of the calendar month next succeeding their receipt by the department and shall be credited to the Department of Agriculture Account. All such fees, in addition to any other appropriation of funds available for such purpose and any balance remaining unexpended of money received under laws repealed by chapter 348, Oregon Laws 1949, hereby are appropriated to the department for the purpose of defraying the costs and expenses incurred in the enforcement and administration of ORS 621.055 to 621.120.

621.085 Milk not to be sold for human consumption; coloring defective milk. Any fluid milk which contains sediment in excess of the sediment toleration for fluid milk established by the department or which contains other foreign matter or deleterious substance which renders it unfit for human consumption shall be deemed to be unlawful milk and shall not be sold or offered for sale for human consumption. Any person grading fluid milk as unlawful shall immediately affix to the container thereof a condemnation tag which shall be in such form as the department may prescribe, and in addition shall thoroughly mix with that milk such harmless red coloring matter as will prevent the fluid milk from being sold, offered or exposed for sale for human consumption.

621.090 City milk ordinances; minimum state standards to be maintained. ORS 621.055 to 621.120 do not prohibit an incorporated city from enacting and enforcing an ordinance establishing standards of quality for fluid milk; except that the municipal grade designations authorized by such ordinances must conform to the state grade designations for fluid milk created by ORS

621.065. The department shall investigate not less than once each year the milk supply of incorporated cities having in force such ordinances, to determine whether or not minimum state standards of quality, at least, are being maintained. Whenever the department finds that the municipal standards are not being maintained and enforced so as to equal, at least, the state standards of quality, it shall give written notification of that finding to the chief administrative officer of the city. If the department finds, not less than 30 days after the date of the written notice, that the municipal standards are not being maintained and enforced, the provisions of ORS 621.055 to 621.120 shall thereupon become applicable to all persons selling, delivering, producing or distributing fluid milk, or both, within the corporate limits of the city.

621.095 Application of state regulations to holder of permit or license where city milk ordinance in force. The provisions of ORS 621.055 to 621.120 do not apply to any person holding a valid permit or license to produce, distribute or sell fluid milk within the corporate limits of a city which has enacted and is enforcing an ordinance the terms of which establish standards of quality for fluid milk equal at least to the standards established by the department pursuant to ORS 621.060; except as state regulations may become applicable to such persons after withdrawal of state approval of a city inspection system as provided in ORS 621.090, and except as the provisions of ORS 621.100 shall also apply.

621.100 Free movement of fluid milk within state; inspection areas; cities prohibiting sale of unpasteurized fluid milk; emergencies. (1) Subject to subsections (2) to (5) of this section, the fluid milk of any producer operating under and complying with the system of fluid milk regulation authorized by ORS 621.055 to 621.120 may be transported or sold any place in this state irrespective of the fact that such transportation or sale may be in an area operating under a system of inspection other than that under which it was produced.

(2) A city having an approved system of fluid milk inspection may inspect, on a permanent basis, the dairy farm of any producer or any fluid milk produced thereon for the purpose of approving fluid milk for use within the corporate limits of the city.

(3) Whenever an individual producer is

supplying fluid milk to two or more cities each having an approved system of inspection, the department shall make a determination, after conferring with authorized representatives of both cities, which city shall carry on the inspection of the producer's dairy farm and milk produced thereon, and in addition thereto shall make provision for the interchange of information between the affected cities relating to the inspection.

(4) Whenever fluid milk from several producers is pooled and commingled prior to movement for processing and bottling by distributors operating under different inspection systems, the department, after conferring with all inspection agencies concerned, shall assign definite areas within which each affected inspection agency may carry on inspection if it wishes to do so, otherwise the department shall carry on inspection of all dairy farms and fluid milk of producers furnishing milk to the pool.

(5) Any city having an approved system of fluid milk regulation may prohibit the sale within the corporate limit of such city of unpasteurized fluid milk except for the purpose of further processing, including pasteurization.

(6) In the event of an emergency creating a milk shortage in any area, the department may also permit the transportation and sale in such area of fluid milk prepared and processed by producer-distributors or by distributors without restriction and irrespective of the fact that such transportation or sale may be in an area operating under a system of inspection other than that under which the fluid milk was processed and bottled.

(7) Nothing in this section shall be construed to affect the provisions of ORS chapter 583.

621.105 Entry and use of fluid milk produced outside state; reciprocal agreements. (1) The department may, for the purpose of assuring the people of this state a continuous and adequate supply of wholesome and nutritious fluid milk, permit the entry and use in this state of fluid milk produced in other governmental units under the conditions set forth in this section. For the purposes of this section the term "governmental unit" means and includes any state, territory of the United States, or political subdivision of such state or territory.

(2) The department shall investigate and survey the system of regulation of the fluid milk industry in effect in the govern-

mental unit in which the fluid milk, for which entry is sought, is produced. The investigation shall be made into all the factors relating to the quality of fluid milk as prescribed in ORS 621.060. Upon a determination by the department that the system of fluid milk regulation in effect in such governmental units is of a nature that will reasonably assure that fluid milk produced thereunder will be of a quality substantially as high as fluid milk produced in this state, the department may issue a permit to any person operating under that system for the movement of fluid milk into this state.

(3) Recognition by the department of the system of regulation and inspection of fluid milk produced or processed in any other governmental unit shall only be granted in cases where such other governmental unit grants a reciprocal recognition to fluid milk produced or processed in this state.

(4) The department may give full faith and credit to the acts of any other governmental unit administering a system of fluid milk regulation recognized by the department, suspending, temporarily or permanently, the right or privilege of any person under the jurisdiction of such governmental unit to produce or process fluid milk.

(5) The department shall arrange with any other governmental unit administering and enforcing a system of fluid milk regulation recognized by the department for the exchange of information necessary to assure an uninterrupted interchange of wholesome and nutritious fluid milk between such governmental unit and this state.

(6) Nothing in this section shall be construed to interfere with the operations and effect of ORS chapter 583.

621.110 Short courses for inspectors; certificate of completion required. (1) For the purpose of making uniform the techniques of inspection of dairies and milk plants producing and processing fluid milk, all persons employed by the department or by a city administering a system of fluid milk regulations as permitted by ORS 621.100 shall have completed a course of instruction in the techniques of inspection of such places. The instruction shall be given by the department in cooperation with state agricultural college to all persons employed by the department or such city prior to such persons entering upon their inspection duties. The department shall issue to a person successfully completing the course of

instruction a certificate reciting such fact. No charge shall be made for the course of instruction or for the certificate.

(2) At least once each calendar year the department shall conduct a refresher course of instruction in the techniques of inspection. Attendance at the refresher course is compulsory upon all persons employed as inspectors, unless excused by the department for sickness or other reason. The certificate of approval as inspector shall be renewed by the department for all persons successfully completing the refresher course.

(3) The employment by any city of a person for the inspection of fluid milk who does not have a certificate of approval from the department is grounds for withdrawal by the department of approval of city inspection.

(4) No person employed on May 14, 1951, by a city or the department for the inspection of dairies and milk plants producing or processing fluid milk is required to obtain a certificate; except that such persons shall attend the first annual refresher course and at that time and at succeeding courses obtain the certificate required by this section.

621.115 Labeling requirements; bottling unpasteurized fluid milk; sale or purchase during suspension; purchase from nonlicensed person. (1) No person shall sell, expose for sale, offer for sale or knowingly transport fluid milk in containers:

(a) Which has been produced and processed by a person who has not first obtained a license to use a state grade designation on fluid milk produced or processed by him.

(b) Which is not labeled on the container or container cap with the name and address of the producer, distributor or producer-distributor of the milk and the applicable state grade; except that containers of unpasteurized fluid milk shipped by producers to a milk plant for pasteurization and which are identified by shipper name or number shall not be required to be so labeled.

(2) No person shall bottle unpasteurized fluid milk except on the premises where it is produced.

(3) No producer or a producer-distributor shall sell or offer for sale fluid milk during the period while such producer's or producer-distributor's license to use a grade designation on fluid milk has been suspended under ORS 621.120.

(4) No distributor shall knowingly purchase fluid milk from any person whose license to use a grade designation has been suspended under ORS 621.120.

(5) No distributor shall knowingly purchase fluid milk from any person who has not received a license under ORS 621.075.

621.120 Suspension of grade use privilege. (1) In addition to the powers conferred on the department pursuant to ORS 621.055 to 621.115, the department may suspend the privilege of any person to use a grade designation on containers of fluid milk produced or distributed by him. The power of suspension may be exercised by the department for any violation of ORS 621.055 to 621.120, or of the regulations promulgated under the authority of those sections.

(2) No suspension shall be for a period longer than 10 days; except that in all cases the department shall assure itself that the violation for which the suspension was imposed has been corrected by the person against whom it was imposed before the suspension is lifted.

(3) No suspension shall be imposed unless the department has, within the three months immediately preceding the violation for which the suspension is to be imposed, first notified in writing the person to be suspended that a further violation of the same character will be grounds for suspension by the department. The notice of suspension shall be in writing and shall state length of the suspension and the reason for the suspension.

(4) The provisions of ORS 561.310 to 561.390 do not apply to suspensions imposed under authority of this section, and the sole method of appeal shall be in the manner provided by ORS 561.570. Nothing in this subsection shall be construed to deprive any person of the right to present any defense he may have to a criminal prosecution instituted for violation of ORS 621.055 to 621.115, nor shall it deprive him of the right to a declaratory judgment in a proper case.

621.125 Milk from diseased animals not to be sold as grade A; inspecting herds for brucellosis. (1) As used in this section "official veterinarian" includes county veterinarians and all veterinarians employed or appointed by the department.

(2) No person shall sell, offer or expose for sale any fluid milk designated or represented to be "grade A" fluid milk with knowledge that such milk has been produced

from a herd of cows or goats one or more of which are infected with brucellosis at the time such milk was produced, or with knowledge that all animals in such herd have not been tested for brucellosis at least once during the preceding calendar year. The results of a test by the United States Bureau of Animal Industry laboratory of a blood sample drawn by an official veterinarian is prima facie evidence of the infection or non-infection of an animal in any prosecution instituted for violation of this section.

(3) All herds of cows or goats shall be tested for brucellosis at least once annually by an official veterinarian. If, upon any test for brucellosis, a herd is found to be infected, all reactors to the test shall be removed and slaughtered in accordance with the provisions of ORS 597.155 to 597.395. The remaining animals in the herd shall be retested not less than 30 days nor more than 45 days from date of the first test. A series of retests, with removal and slaughter of reacting animals, shall be continued until the herd shall have passed two successive negative tests, at the interval mentioned above in this subsection, computed from succeeding tests, in which no reactors are found. If upon a final test, not less than six months nor more than seven months from the date of the last negative test, no reactors are found in the herd, it shall be deemed a disease-free herd within the meaning of that term as defined in ORS 597.005.

(4) The department shall administer and enforce this section.

621.130 to 621.150 [Reserved for expansion]

DAIRY PRODUCTS PLANTS

621.151 Title of ORS 621.151 to 621.291. ORS 621.151 to 621.291 shall be known and may be cited as the Oregon Dairy Products Plant Act. [1953 c.686 §30]

621.152 Definitions. As used in ORS 621.151 to 621.291, unless the context requires otherwise:

(1) "Cream" means that portion of milk which consists of milk fat.

(2) "Dairy products" means butter, all known varieties of cheese, frozen desserts and frozen dessert mixes containing milk, cream or nonfat milk solids; and evaporated, condensed, concentrated, powdered, dried or fermented milk, whey, cream or skimmed milk processed for human consumption.

(3) "Dairy products plant" means:

(a) Any establishment in which milk is received, processed or used in manufacturing dairy products for human consumption.

(b) Any place or premises in or at which milk is received or collected.

(c) Mobile equipment, including bulk tank truck, used in the transportation of milk or cream.

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

(5) "Disease free herd" and "infected herd" means a herd of cows or goats which is "disease-free" or "infected" as defined in ORS 597.005. For the purposes of ORS 621.151 to 621.291, any test for brucellosis must be performed by a United States Bureau of Animal Industry Laboratory from blood samples collected and submitted by a state, deputy state or county veterinarian.

(6) "Licensee" means a person licensed to operate a dairy products plant pursuant to the provisions of ORS 621.151 to 621.291.

(7) "Milk" means the lacteal secretion of cows or goats.

(8) "Pasteurize" means the process established by the department pursuant to ORS 621.261, by which each particle of milk, cream or any dairy product is treated, usually by heat, for the purpose of destroying or rendering harmless bacterial organisms, including pathogenic organisms and viruses.

(9) "Unreasonable amount of sediment" means milk or cream which contains more than two and one-half milligrams of sediment as measured by the sediment standards established by the United States Department of Agriculture or similar method approved by the department. [1953 c.686 §1]

621.155 [Repealed by 1953 c.686 §37]

621.156 Applicability of ORS 621.151 to 621.291 to fluid milk. Of the provisions of ORS 621.151 to 621.291, only ORS 621.261 is applicable to the statutes relating to fluid milk, as defined in ORS 621.055. [1953 c.686 §29]

621.160 [Repealed by 1953 c.686 §37]

621.161 Operation of dairy products plant without license prohibited. No person shall engage in any of the activities in the operation of a dairy products plant unless that person has a valid dairy products plant license. A separate plant license shall be obtained for each plant operated by a person at which dairy products are processed. No

person shall be required to obtain a license for receiving or collection stations operated in conjunction with a processing plant or mobile equipment such as bulk tank trucks at which no processing is done. [1953 c.686 §2]

621.165 [Repealed by 1953 c.686 §37]

621.166 Application for dairy products plant license; fee; expiration. (1) Application for a dairy products plant license shall be made to the department on forms furnished by it. Each application shall be accompanied by a license fee of \$40. Any fee paid by the applicant for a license pursuant to the provisions of ORS 621.055 to 621.115 shall reduce by the amount so paid the license fee payable under this section, if the license relates to the same premises.

(2) The license and each annual renewal shall be valid until June 30 next following its issuance. [1953 c.686 §3]

621.170 [Repealed by 1953 c.686 §37]

621.171 Issuance of license; renewal; suspension; revocation. (1) The department shall issue the dairy products plant license when it determines that the dairy products plant to be operated by the applicant is in compliance with the provisions of ORS 621.151 to 621.291 and the regulations issued under its authority.

(2) The department may refuse to issue or renew or may revoke or suspend the license of any person who fails to comply with the provisions of ORS 621.151 to 621.291 and the regulations promulgated under it. [1953 c.686 §4]

621.175 [Repealed by 1953 c.686 §37]

621.176 Standards of construction for dairy products plants. For the purpose of assuring that the handling and processing of dairy products is conducted in a sanitary environment which will protect dairy products handled, processed or stored from contamination, the department shall prescribe minimum standards of construction for dairy products plants, including but not limited to, the following:

- (1) Floors, walls, ceilings.
- (2) Doors and windows.
- (3) Lighting and ventilation.
- (4) Toilet and lavatory facilities.
- (5) Water supply.
- (6) Separation and partitioning of rooms for carrying on the several handling, pro-

cessing and storage functions. [1953 c.686 §5]

621.180 [Repealed by 1953 c.686 §37]

621.181 Standards of sanitation for operation of dairy products plant. The department shall prescribe minimum standards of sanitation for the operation of dairy products plants including, but not limited to, the following:

(1) Washing, cleaning, maintenance and condition of floors, walls and ceilings of all rooms directly connected with the handling, processing and storage of dairy products, and the equipment used therein, including mobile equipment used in transportation of milk or cream from farm to plant or between plants.

(2) Health and cleanliness of personnel.

(3) Cleanliness and sanitation of surrounding premises.

(4) Disposal of all waste and sewage material.

(5) Insect and rodent control. [1953 c.686 §6]

621.185 [Repealed by 1953 c.686 §37]

621.186 Sanitation of equipment. (1) The cans or other containers in which milk and milk products are stored, received, transported or delivered by any person shall be thoroughly washed, sterilized and dried after emptying and before being used again.

(2) Subsection (1) of this section is applicable to utensils, apparatus or equipment used by a licensee for any purpose other than that of handling milk and milk products.

(3) The inside surfaces of any equipment, apparatus or container which comes in contact with milk or its products shall be smooth, readily cleanable, free from open seams, cracks, crevices and rust spots. [1953 c.686 §7]

621.190 [Repealed by 1953 c.686 §37]

621.191 Reports by licensees. Each licensee shall at least once annually at a time prescribed by the department file a report with the department on forms prepared by the department which shall include:

(1) The number of suppliers of milk and cream.

(2) The amount of milk and cream purchased.

(3) The dairy product utilization of milk fat, nonfat milk solids, vegetable fats and animal fats.

(4) The total amount and type of dairy products manufactured and sold.

(5) Such other information relating to the source, utilization and sales of milk, cream, vegetable and animal fats and dairy products as the department deems of value to the agricultural industry of this state. [1953 c.686 §8]

621.195 [Repealed by 1953 c.686 §37]

621.196 Confidential nature of information in reports. All information required in ORS 621.191 shall be confidential at the request of the licensee. The department may furnish any of such information to proper agencies of the Federal Government engaged in the compilation of statistics and information relating to agriculture, if the department is assured that such information will remain confidential. [1953 c.686 §9]

621.200 [Repealed by 1953 c.686 §37]

621.201 Grades and standards of quality for milk and cream. (1) The department, after notice and hearings in substantially the same manner as provided in ORS 616.425, shall establish official state grades and standards of quality applicable to all milk and cream. Separate reasonable grades and standards shall be established for milk and cream, and shall be based upon:

(a) Bacteriological examination or test of milk by the method known as the methylene blue test, or by other reliable methods.

(b) Sediment content.

(c) Acid content.

(d) Flavor.

(e) Odor.

(f) Condition of cleanliness.

(g) Wholesomeness.

(2) Such grades and standards may from time to time be changed by the department after public notice and hearing, as provided in subsection (1) of this section. [1953 c.686 §10]

621.205 [Repealed by 1953 c.686 §37]

621.206 Licensee to employ licensed milk and cream grader and butter and cheese maker. (1) Each licensee shall employ a milk and cream grader licensed under ORS 621.266, who shall accurately and impartially grade all milk and cream purchased by the licensee from producers before it is commingled with other milk or cream, or otherwise loses its identity.

(2) Each licensee engaged in the manufacturing of butter and cheese shall employ

a butter and cheese maker licensed under ORS 621.266. [1953 c.686 §11]

621.210 [Repealed by 1953 c.686 §37]

621.211 Test for sediment in milk and cream. A test to determine the amount and nature of sediment in milk or cream shall be made by a licensed grader on the first milk or cream purchased or received from a producer. If the test reveals no unreasonable amount of sediment, no further sediment test need be made on the milk or cream purchased or received from that producer during the following 30 days, but at least one test for sediment content shall be made each 30 days on milk or cream purchased or received from each producer. However, a licensed grader may make a sediment test of milk or cream any time he has reason to believe it contains an unreasonable amount of sediment or that such test otherwise is advisable. [1953 c.686 §15]

621.215 [Repealed by 1953 c.686 §37]

621.216 Record of grade of milk and cream graded. The person grading milk and cream shall make a true written record of the grade of all milk and cream graded by him. The record shall also show the name of the producer, the date of delivery and of grading, and the quantity involved. The record shall be delivered to and retained by the licensee for 30 days and shall be available for inspection by the producer of the milk or cream and by the department. [1953 c.686 §12]

621.220 [Repealed by 1953 c.686 §37]

621.221 Price differential between grades. (1) A price differential of not less than one cent between the several grades of milk and cream shall be maintained by the licensee for all milk and cream purchased by the licensee directly from the producer. The producer of milk or cream purchased by a licensee shall be paid on the basis of the applicable grades.

(2) The licensee shall post in a conspicuous place, at each place where milk or cream is received by the licensee for purchase, the prices currently being paid for the several grades of milk or cream. [1953 c.686 §13]

621.225 [Repealed by 1953 c.686 §37]

621.226 Tagging and coloring unlawful milk or cream. (1) Whenever a grader determines that any milk or cream is unlawful,

he shall immediately affix to its container a condemnation tag. Condemnation tags shall be in such form as prescribed by the department. The grader shall also thoroughly mix with the condemned milk or cream some harmless coloring matter.

(2) As used in this section the term "unlawful milk or cream" means:

(a) Milk or cream which contains dirt, filth, oil or other foreign matter which may render them, or dairy products from them, unfit for human consumption.

(b) Milk or cream which is stale, cheesy, rancid, putrid, decomposed or actively foaming.

(c) Milk or cream which contains an unreasonable amount of sediment of any kind. [1953 c.686 §14]

621.230 [Repealed by 1953 c.686 §37]

621.231 Weighing, sampling and testing for milk fat content. (1) All milk and cream purchased by the licensee shall be accurately tested by the licensee for its milk fat content by means of the method known to the industry as the "Babcock Test," or any equally accurate and efficient test approved by the department.

(2) Each delivery of cream shall be weighed, sampled and tested at time of delivery.

(3) Each delivery of milk shall be weighed and sampled at time of delivery and shall be tested by means of an individual sample or a composite sample made up from a representative sample from each delivery of milk. The composite sample shall be made at intervals not to exceed 16 days. [1953 c.686 §18]

621.236 Regulations regarding weighing, sampling and testing. (1) The department shall promulgate regulations relating to the weighing, sampling and testing of milk and cream on the following:

(a) The procedure and method of conducting the test required by subsection (1) of ORS 621.231, including the proper equipment to be used to assure uniformity and accuracy.

(b) The method of identification and preservation of samples of milk and cream.

(c) The method of weighing and sampling milk and cream.

(d) The making and preservation of records of the amount, grade and test of milk and cream received from individual producers.

(2) Subsection (1) of this section shall not be construed as a limitation on the authority of the department to make other necessary regulations. [1953 c.686 §19]

621.241 Right of producer to be present at weighing, sampling or testing and to have own tests made. The producer of milk or cream, or the producer's agent, has the right to be present while the licensee weighs, samples or tests the milk or cream, and to take samples of the milk or cream and have them privately tested. At the request of any producer, a dairy products plant shall notify him of the time and place where the milk or cream will be weighed, sampled or tested. [1953 c.686 §20]

621.246 Liability of licensee for inaccurate weighing, sampling, testing or recording. If a producer is damaged by an inaccurate weighing, sampling or testing of milk or cream by a licensee or by the inaccurate recording of the results of any test, he may, if action or suit is brought therefor, in addition to damages, recover a reasonable attorney's fee to be fixed by the court. [1953 c.686 §21]

621.251 Authority of department to take charge of weighing, sampling and testing upon noncompliance by licensee. The department, in lieu of revoking the license of any licensee, and with the licensee's written consent, may take charge of the weighing, sampling and testing of the milk or cream received or purchased by the licensee. In this event, the department shall employ competent personnel of its own choice to perform the required weighing, sampling or testing. The salary and necessary expenses of such personnel shall be paid by the department, who shall be reimbursed by the licensee each month. The department shall continue in charge of the weighing, sampling and testing of the milk or cream received or purchased by the licensee until such time as the department is satisfied that the licensee will and can comply with all of the provisions of ORS 621.151 to 621.291. When the department is so satisfied, control of the weighing, sampling and testing shall be returned to the licensee. [1953 c.686 §22]

621.255 [Repealed by 1953 c.686 §37]

621.256 Pasteurization to be supervised by licensed pasteurizer operator. In all dairy products plants where pasteurization equipment is operated, the pasteurization process

shall be under the direct supervision of a pasteurizer operator licensed under ORS 621.266. [1953 c.686 §16]

621.260 [Repealed by 1953 c.686 §37]

621.261 Regulations regarding equipment used in pasteurization process. The department shall promulgate regulations prescribing the equipment to be used in the pasteurization of dairy products and the manner of cleaning and maintaining the equipment. When the department authorizes the use of heat as a method of pasteurization, it shall prescribe the necessary regulations for the use of recording thermometers or other devices for determining the time and temperature reached during the pasteurization process. [1953 c.686 §17]

621.265 [Repealed by 1953 c.686 §37]

621.266 Licenses for milk and cream graders, butter and cheese makers and pasteurizer operators. (1) All applications for a license as a milk and cream grader, butter and cheese maker or pasteurizer operator shall be made to the department on forms provided by it. Any licenses issued by the department under this section may be restricted in their application to the person licensed so as to authorize the holder to engage only in a limited line of activity commensurate with the holder's ability.

(2) The applicant shall be required to pass a reasonable written examination and give a practical demonstration of his ability to carry out the duties required under the license. Each application for a license shall be accompanied by a fee of \$5, which shall be used to defray the cost of processing the application, giving the examination and issuing the license. The fee shall not be refunded for any reason. The license shall be valid for the lifetime of the person to whom it is issued, except as provided in ORS 621.276. [1953 c.686 §23]

621.270 [Repealed by 1953 c.686 §37]

621.271 Demonstration of practical knowledge by applicants for butter and cheese maker's license. An applicant for a license to make butter and cheese shall specifically demonstrate a thorough practical knowledge of the fundamentals of cheese making and butter making, including:

(1) The relationship of milk and cream quality to the finished product.

(2) Basic sanitation of dairy products

plants and butter and cheese making equipment.

(3) Practical tests for determination of milk and cream quality.

(4) Testing milk and cream acidity.

(5) Composition control of butter and cheese.

(6) Judging of butter and cheese quality.

(7) Methods of manufacture of butter and cheese. [1953 c.686 §24]

621.275 [Repealed by 1953 c.686 §37]

621.276 Licensees under ORS 621.266 to show knowledge of and ability to comply with changes in laws or regulations. (1) When any amendment is made in the laws of this state or new regulations are promulgated relating to a change in the grades of milk and cream, the operation of pasteurizing equipment or the manufacturing of butter and cheese, the department may require any person licensed under ORS 621.266 to demonstrate his knowledge and familiarity with such amendments or changes and his ability to comply with them.

(2) Any person who becomes subject to the provisions of this section has not less than 30 nor more than 60 days to meet such additional requirements. If, at the expiration of 60 days, the person licensed has not demonstrated his knowledge and ability in respect to such additional requirements, his license to grade milk and cream shall be suspended automatically. [1953 c.686 §25]

621.280 [Repealed by 1953 c.686 §37]

621.281 Suspension or revocation of licenses issued under ORS 621.266. If any person licensed under ORS 621.266 fails, neglects or refuses to fully and faithfully comply with any provisions of ORS 621.151 to 621.291 required of persons so licensed, his license may be revoked or suspended, or otherwise limited. [1953 c.686 §26]

621.285 [Repealed by 1953 c.686 §37]

621.286 Prohibitions. (1) No person shall operate or permit the operation of any pasteurization equipment except under the direct personal supervision of a person licensed as a pasteurizer operator under ORS 621.266.

(2) No licensee shall sell, offer or expose for sale any milk or cream which has not been pasteurized or produced by a disease-free herd, except to another licensee for the manufacture of dairy products.

(3) No person shall knowingly sell, offer or expose for sale any milk or cream which has not been pasteurized or produced by a disease-free herd, except to a licensee for the manufacture of dairy products.

(4) No licensee shall sell, offer or expose for sale any butter or cheese manufactured by the licensee which has not been manufactured under the direct personal supervision of a licensed butter or cheese maker.

(5) No licensee shall sell, offer or expose for sale any dairy product processed or manufactured by him unless all of the milk or cream constituents have been pasteurized or produced by a disease-free herd.

(6) No person shall knowingly sell, offer or expose for sale any dairy product unless all of the milk or cream constituents of such product have been pasteurized or produced by a disease-free herd.

(7) Excepting cottage cheese, the requirement of subsections (5) and (6) of this section shall not apply to cheese which has been aged for at least 60 days from the date of manufacture, which date must appear on the cheese or its container.

(8) No person shall falsely represent by word, design, device, or by any other means that any milk, cream or dairy product has been pasteurized.

(9) No licensee shall fail, neglect or refuse to provide for the grading of all milk and cream purchased by the licensee as required by ORS 621.151 to 621.291.

(10) No person shall fail, neglect or refuse to file the report required by ORS 621.191.

(11) No person shall give or offer to give any licensed milk or cream grader anything of value, either money, goods or services, for the purpose of influencing or attempting to influence such grader to raise or lower the grade of any milk or cream or otherwise affect the impartial discharge of his duties as required by ORS 621.151 to 621.291.

(12) No licensed milk or cream grader shall accept, solicit or offer to accept anything of value, either money, goods or services which is given to him for the purpose of influencing such grader in the impartial discharge of his duties under ORS 621.151 to 621.291.

(13) No person shall alter, remove or tamper with any condemnation tag affixed by the department pursuant to the provisions of ORS 621.226.

(14) No licensee or licensed milk and cream grader shall:

(a) Negligently sample, weigh or test any milk or cream.

(b) Fraudulently manipulate any weight, sample or test of milk or cream.

(c) Make a false entry or record of the weight, or test of milk or cream on any statement, record or invoice. [1953 c.686 §28]

621.290 [Repealed by 1953 c.686 §37]

621.291 Applicability of ORS 621.151 to 621.286 to cities having their own system of inspection and grading. (1) Nothing in ORS 621.151 to 621.286 shall be construed as prohibiting any incorporated city from enacting and enforcing an ordinance establishing a system of continuous inspection of dairy products and dairy products plants or from grading or degrading any dairy or dairy products or barring the same from sale within the city, provided that any such ordinance shall provide a system of inspection equal at least to the system of inspection of dairy products or dairy products plants established by ORS 621.151 to 621.286 and the regulations promulgated under its authority, and that the grading of any dairy products or dairy products plants as provided by ordinance shall be at least equal to that employed by the State Department of Agriculture.

(2) The department shall investigate not less than twice each year the enforcement by a city having a system of inspection and grading to determine whether or not such system of inspection and grading is being enforced. Whenever the department shall find that it is not being enforced or that the standards are not at least equal to those of the department, the department shall give written notification of such findings to the chief enforcement officer of the city and shall file a copy of such written notice with the city auditor, clerk or recorder as the case may be. If the department thereafter shall find, not less than 30 days after the date of such notice, that the system of inspection and grading is not being enforced or is not at least equal to that of the department, then the inspection and grading by the department shall become applicable to all persons and establishments theretofore operating under the municipal system; provided, however, that any dairy product may be degraded or barred from sale in any municipality by local action in the event of an epidemic of disease, or is found to carry pathogenic bacteria, or if such degrading or

barring from sale is necessary for the preservation of the life or health of the inhabitants of such city. [1953 c.686 §36]

621.295 [Repealed by 1953 c.686 §37]

621.300 [Reserved for expansion]

ICE CREAM AND OTHER FROZEN DESSERTS

621.305 **Definitions.** As used in ORS 621.305 to 621.370:

(1) "Animal fats" means those fats derived from animal sources, except milk fat.

(2) "Frozen dessert mix" includes the unfrozen, blended ingredients, in liquid or powdered form, from which the particular frozen desserts defined and standardized in ORS 621.310 are made by freezing the mix ingredients to a solid or semisolid consistency.

(3) "Frozen desserts" include any food product as defined and standardized in ORS 621.310.

(4) "Machine" means the freezer or any other device by which the liquid ingredients for frozen desserts are frozen to a solid or semisolid consistency.

(5) "Milk products" mean the milk from bovine animals or goats or any constituent part of such milk, either liquid or dried, and includes milk, cream, skim milk, milk fat, butter, butter oil, plastic cream, buttermilk, condensed buttermilk, dry buttermilk or any combination of such products.

(6) "Person" includes any individual, partnership, corporation or association regularly engaged in the commercial preparation or sale of any commodity covered by ORS 621.305 to 621.370.

(7) "Vegetable fats" means those fats derived from vegetable sources. [Amended by 1953 c.684 §12]

621.310 **Definitions and standards of identity for frozen desserts.** The following definitions and standards of identity for frozen desserts are established:

(1) Ice cream; ice milk and sherbet are the frozen or semifrozen products made by combining two or more of the following ingredients: Milk products, wholesome eggs or egg products, wholesome edible fruits, chocolate, nuts, candy; nutritious sweetening agents; harmless coloring; harmless flavoring; wholesome edible stabilizer or emulsifier and water; provided further,

(a) Ice cream shall contain not less than 18 percent by weight of total milk solids, not less than 10 percent by weight of milk fat,

and not less than 35 percent by weight of total food solids, except that vanilla flavored ice cream shall contain not less than 12 percent by weight of milk fat and 20 percent by weight of total milk solids.

(b) Ice milk shall contain not less than 3.2 percent nor more than 10 percent by weight of milk fat, not less than 14 percent by weight of total milk solids, and not less than 28 percent by weight of total food solids.

(c) Sherbet shall have an acidity of not less than .35 percent calculated as anhydrous citric acid.

(2) Mellorine is a frozen product made from the same ingredients or combination of ingredients as the frozen desserts defined in subsection (1) of this section, except that such product contains vegetable or animal fats. Mellorine shall contain not less than 3.2 percent fat, not less than 10.8 percent total milk solids, and not less than 28 percent total food solids.

(3) Dietary frozen desserts are frozen or semifrozen products made from the same ingredients or combination of ingredients as ice cream, ice milk or sherbet, except that the nutritious sweetening agent is replaced in whole by a low caloric or noncaloric sweetening agent. [Amended by 1953 c.684 §12]

621.315 **Standard weight and measure of packages and containers of frozen desserts.** Frozen desserts sold in other than individual serving devices, shall be sold in terms of gallons, quarts or pints weighing not less than 4.5 pounds per gallon, or less than 36 ounces per one-half gallon, or less than 18 ounces per quart, or less than nine ounces per pint. If the average weight of 10 units, e.g. 10 quarts, or any lot of frozen dessert of the same brand and flavor equals or exceeds the minimum weight established for such units by this section, the requirements shall be deemed to have been met; provided, no individual unit shall be more than five percent of the required unit weight under the minimum weight established for such unit. All packages and final delivery containers shall be labeled with the size of the container in terms of pints, quarts or gallons. [Amended by 1953 c.684 §12]

621.320 **Labeling requirements for frozen desserts.** (1) Frozen desserts sold in package form or final delivery containers shall be labeled with:

(a) The name and address of the manufacturer, with the words "manufactured by"

appearing above the name of the manufacturer.

(b) The size of the container in terms of pints, quarts or gallons.

(c) The word "pasteurized."

(d) The number of United States Pharmacopoeia units of vitamin "A" contained in the frozen dessert, when such dessert has been artificially enriched by the addition of vitamin "A."

(2) Packages and final delivery containers of frozen desserts identified and standardized in subsection (1) of ORS 621.310, which are filled in the presence of the purchaser at retail shall be exempted from the labeling requirements of this section if a sign in boldface type not less than three-eighths inch high is displayed in plain view of the purchaser containing all of the information required by that section to be on the label. [Amended by 1953 c.684 §12]

621.325 Additional labeling requirements for frozen desserts. (1) In addition to the labeling required by ORS 621.320, each package or final delivery container of frozen desserts which are identified or standardized by subsections (1) and (3) of ORS 621.310, shall be labeled with the words "ice cream," "ice milk" or "sherbet" as the case may be, in bold faced type not smaller than three-eighths of an inch high.

(2) In addition to the labeling requirements of ORS 621.320 and subsection (1) of this section, frozen desserts identified and standardized in subsection (3) of ORS 621.320 shall be labeled "Special Dietary Frozen Dessert."

(3) In addition to the labeling requirements of ORS 621.320, each package or final delivery container containing Mellorine shall be labeled with the word "Mellorine" in bold faced type not smaller than the largest lettering appearing on the package or container, followed by the words "containing vegetable fat" or "containing animal fat" in letters not less than three-eighths of an inch high. [Amended by 1953 c.684 §12; subsection (3) enacted as 1953 c.684 §7]

621.330 Labeling containers of frozen dessert mix. All containers of frozen dessert mix shall be conspicuously labeled as to the contents of the container, the name and address of the manufacturer or distributor, the date of manufacture and the percentage by weight of milk fat, vegetable fat or animal fat in the mix. [Amended by 1953 c.684 §12]

621.335 Licenses to freeze and sell frozen desserts. (1) A person engaged in the business of both freezing and selling frozen desserts, either at wholesale or retail, shall obtain a license from the department to carry on such business as provided in this section.

(2) A license to freeze and sell frozen desserts shall be issued by the department to any applicant upon payment to the department of the proper license fee which shall be computed as follows:

(a) A person engaged in the business of freezing and selling frozen desserts at wholesale or both at wholesale and retail, shall pay a license fee of \$15 for a single machine and \$5 for each additional machine used by such person in such business.

(b) A person engaged in the business of freezing and selling frozen desserts at retail only, shall pay a license fee of \$5 for a single machine and \$2.50 for each additional machine used by such person in such business.

(c) The maximum fee for persons freezing and selling frozen desserts at wholesale or wholesale and retail is \$50; for persons selling frozen desserts at retail only, the maximum fee is \$25.

(3) The license shall be valid for a term of one year from the date of its issuance unless sooner revoked or suspended. A license is personal to the applicant and is not transferable.

621.340 Selling frozen dessert with excessive bacteria count prohibited. No person shall sell or offer for sale at retail a frozen dessert which has a bacteria count in excess of 75,000 per milliliter. No wholesaler shall sell, offer for sale or have in his possession with intent to sell a frozen dessert or frozen dessert mix to a retailer thereof which has a bacteria count in excess of 50,000 per milliliter. Frozen desserts in which cultured milk is an ingredient shall not be required to meet any minimum bacteria count standards. [Amended by 1953 c.684 §12]

621.345 Sale or offering for sale of misrepresented product prohibited. No person shall sell or offer for sale any product representing it to be a frozen dessert unless the product conforms to the standard of identity for such product established by ORS 621.310. [Amended by 1953 c.684 §12]

621.348 Possession of misrepresented product prohibited. No manufacturer, packer or wholesale distributor of frozen dessert or frozen dessert mix shall have in his possession with intent to sell the same:

(1) A frozen dessert labeled in terms of pints, quarts or gallons which does not meet the weight requirements established for such units by ORS 621.315.

(2) A product represented to be a frozen dessert or frozen dessert mix unless such product conforms with the standard of identity for such frozen dessert or frozen dessert mix as established by ORS 621.310. [1953 c.684 §12]

621.350 Sale or offer for sale of improperly labeled frozen dessert prohibited. No person shall sell or offer for sale a frozen dessert which is not labeled as required by ORS 621.305 to 621.370. [Amended by 1953 c.684 §12]

621.352 Mellorine to be sold only in properly labeled factory-filled containers. No person shall sell mellorine except in pre-packaged factory-filled containers or wrappers labeled as required in ORS 621.325. [1953 c.684 §12]

621.355 Selling frozen dessert without license prohibited. No person shall freeze and sell a frozen dessert or any product representing it to be a frozen dessert unless such person has first obtained a license to both freeze and sell frozen desserts.

621.357 Use of certain words in sale or advertising of mellorine prohibited. No person shall use the word "cream," "creamy," "milk," "dairy" or their derivatives or phonetic equivalents in connection with the sale, offering for sale or the advertising for sale of mellorine; provided, however, this shall not be construed to prevent the use of such words when a part of an assumed business name or corporate name which is in use on January 1, 1953. [1953 c.684 §12]

621.360 Sale of imitation frozen dessert prohibited. No person shall sell or offer for sale any food which simulates or imitates by appearance, taste or texture, or general composition, a frozen dessert unless such product conforms to the standards of identity established for frozen desserts by ORS 621.310. [Amended by 1953 c.684 §12]

621.365 Reducing percentage of milk fat. No person, except a manufacturer of frozen dessert mix, shall reduce the percentage by weight of milk fat in a frozen dessert mix by the addition of any milk product.

621.367 Seizure or embargo of frozen desserts or frozen dessert mixes which are

improperly labeled or below minimum weight. The department may seize or embargo the movement of any frozen dessert or frozen dessert mix which either is not properly labeled or does not meet the minimum weight requirements as provided in ORS 621.305 to 621.370. Any such seizure or embargo shall be subject to the provisions of ORS 616.095, 616.100, 616.110 and subsection (2) of 616.990. [1953 c.684 §12]

621.368 Revocation of licenses. The department may revoke a license issued pursuant to ORS 621.305 to 621.370 for a violation of ORS 621.305 to 621.370 by the licensee. [1953 c.684 §12]

621.369 Possession of frozen dessert or frozen dessert mix as prima facie evidence of intent to sell. In any proceeding instituted for a violation of ORS 621.305 to 621.370 in which possession with intent to sell a frozen dessert or frozen dessert mix is an issue, possession by the accused of such dessert or dessert mix in containers of the size and type commonly used by him in selling such product shall be prima facie evidence of intent to sell. [1953 c.684 §12]

621.370 Money appropriated for payment of administrative expenses. All license fees collected under ORS 621.335, in addition to any other appropriation of funds available for the administration of ORS 621.305 to 621.370 and any balance remaining unexpended of moneys received under laws repealed by chapter 145, Oregon Laws 1951, hereby are appropriated to the department for the purpose of defraying the costs and expenses incurred in the enforcement and administration of ORS 621.305 to 621.370.

621.375 to 621.400 [Reserved for expansion]

CONDENSED OR EVAPORATED MILK; IMITATION MILK AND DAIRY PRODUCT SUBSTITUTES

621.405 Standards for condensed or evaporated milk. No person shall within this state manufacture for sale, have in his possession with the intent to sell, offer or expose for sale, or sell any condensed or evaporated milk unless it conforms to the following standards and conditions:

(1) It shall be prepared by evaporating the fresh, pure, whole milk of healthy cows, obtained by complete milking and excluding all milkings within 15 days before calving

and seven days after calving; provided, at the end of the seven-day period the animals are in perfectly normal condition.

(2) It shall contain total solids of 25.9 percent and the percentage of milk fat shall be not less than 7.9 percent.

(3) It shall contain no added butter or butter oil incorporated either with whole milk or skimmed milk or with the evaporated milk at any stage of the manufacture.

621.410 Requisites of milk used in manufacture of condensed or evaporated milk.

(1) No person shall manufacture for sale, or sell or exchange, or expose or offer for sale or exchange, any condensed or evaporated milk, or any substance containing any milk or milk products and designed or intended to be used or capable of being used for or as a substitute for condensed or evaporated milk, unless the milk used in the manufacture thereof is pure, clean, fresh, healthful, unadulterated and wholesome milk.

(2) No person shall manufacture for sale, or sell or expose, or offer for sale or exchange, any condensed or evaporated milk containing any vegetable fat.

621.415 "Imitation milk" defined. Imitation milk is defined to be any mixture or compound composed of milk, skim milk, condensed milk, evaporated milk or powdered milk of any kind and any edible oil or fat not natural milkfat, whether with or without any other ingredient; and it includes any mixture or compound made in imitation or semblance or having the appearance or semblance of milk, condensed milk or evaporated milk, or when so made or having such appearance or semblance, calculated or intended, whether by the intent of the compounder, or any other person, or by reason of its appearance, or any other characteristic of the mixture or compound, for use or disposition as or for milk, condensed milk or evaporated milk, or to induce its purchase or use as or for milk, condensed milk or evaporated milk.

621.420 Sale of imitation milk in eating places; posting notice. (1) No person shall render, manufacture, sell, offer, expose or have or possess with intent to sell, or use, or serve to the patrons of any restaurant, lunch counter, eating house, hotel or dining car, any imitation milk except in compliance with ORS 621.415 to 621.430.

(2) Restaurants, lunch counters, eating houses and hotels using or serving imitation

milk shall prominently display at their lunch counters and dining rooms the words "imitation milk used and served here" in bold letters not smaller than three inches high by two inches wide.

621.425 Labeling containers of imitation milk. (1) Every barrel, can or other container of more than one gallon capacity used in the manufacture, storing or sale of imitation milk shall be labeled or marked with the trade name, if any, of the product in letters not smaller than one by one and one-half inches in size, and as a compound of oil or fat and milk, skim milk, condensed milk, evaporated milk or powdered milk as the case may be, in letters not less than one-half inch in height.

(2) Every bottle, can or other container of a capacity of one gallon or less shall be separately labeled with the trade name, if any, of the product, and as a compound of oil or fat and milk, skim milk, condensed milk, evaporated milk or powdered milk, as the case may be. The words "do not use in place of milk for infants" in bold and conspicuous type, not less than 10 point, shall be prominently displayed on the label. The label shall plainly state all the ingredients of the compound or mixture and the percentages thereof.

621.430 When imitation milk adulterated. Imitation milk, not evaporated or condensed, is declared adulterated if it is found to contain less than 3.2 percent of any edible fats or oils. Imitation milk, if evaporated or condensed, is declared adulterated if it is found to contain less than 7.8 percent of any edible fats or oils or less than 25.5 percent total solids.

621.435 Substitute dairy products; use in trade name or advertisement of words indicating product to be genuine. (1) No person engaged in the business, in whole or in part, of manufacturing, selling, offering for sale, advertising or otherwise dealing in or with any product used or intended or designed to be used as a substitute for milk, butter, cheese or any other pure dairy product, shall use as a part of his trade or corporate name, or as a name or description of his product, or use in or on his labels, packages, containers or advertising matter or sales literature thereto relating, any of the following names: "Milk," "butter," "cream," "creamery," "churn," "cheese," "cow" or "dairy."

(2) No such person shall use any pictorial or other representations resembling any of the objects named in subsection (1) of this section in or on the labels, packages, containers, advertising matter or literature referred to in subsection (1) of this section; but the word "milk" when immediately preceded by the word "imitation" displayed with equal prominence may be used.

(3) This section shall not be construed to forbid a true statement of or concerning the ingredients or composition of a product or of the contents of a package or container, when the statement is not misleading or in any way deceptive, or to forbid a caution against the use of such product as a substitute for a genuine dairy product.

(4) This section does not apply to products manufactured in this state for the purpose of shipping out of the state and not offered for sale in this state.

621.440 Person selling imitation dairy products to keep sales book record. Every person who sells oleomargarine, butterine, renovated or process butter or any imitation butter, or other imitation dairy products in this state, shall keep a sales book in which all sales made to hotels, restaurants and public dining rooms shall be entered at the time of the sale. The sales book shall state the amount sold and the date of sale, together with the name and address of the purchaser. The sales book shall be open to the inspection of all authorized officers, employees and deputies of the department at all times.

621.445 Restrictions on serving colored butter substitute in public eating place. (1) In any public eating place serving meals for compensation at which a butter substitute colored to imitate butter is served, the owner or manager shall:

(a) Cause the butter substitute to be served in triangular pats or triangular bricks only.

(b) Post in a prominent place on the interior wall of the eating place a notice in bold letters not smaller than three inches high by two inches wide containing the words: "Butter substitute served here."

(c) Plainly type or print the same words on each menu furnished the patrons.

(2) The administration and enforcement of this section is vested in the department.

621.450 [Reserved for expansion]

621.455 [Repealed by 1953 c.686 §37]

621.460 [Repealed by 1953 c.686 §37]

621.465 [Repealed by 1953 c.686 §37]

621.470 [Repealed by 1953 c.686 §37]

621.475 [Repealed by 1953 c.686 §37]

621.480 [Repealed by 1953 c.686 §37]

621.485 [Repealed by 1953 c.686 §37]

621.490 [Repealed by 1953 c.686 §37]

621.495 [Repealed by 1953 c.686 §37]

621.500 [Repealed by 1953 c.686 §37]

621.505 [Repealed by 1953 c.686 §37]

621.510 to 621.550 [Reserved for expansion]

BRANDS, LABELS AND CONTAINERS; ADVERTISING

621.555 Definitions. As used in ORS 621.555 to 621.595, unless the context requires otherwise:

(1) "Bottling" means all operations in the processing and preparation of milk products for ordinary commercial sale or distribution, or both, including the placing of milk products in containers.

(2) "Brand" means any name, design, mark or device of any kind or character used for the purpose of designating the person engaged either in the bottling, selling or distribution of milk products.

(3) "Branded" means the placing of a brand upon any container, either by printing, engraving, blowing, cutting, carving, embossing, impressing or in any other manner annexing or attaching the brand.

(4) "Container" means any bottle, can, carton, crate or other container used in the ordinary commercial distribution of milk products.

(5) "Milk products" means either milk, cream, skimmed milk, or compound milk drinks or other dairy products.

(6) "Person" includes corporations, firms, partnerships and associations, as well as natural persons, and their agents.

(7) "Secondary distributor" means any person who buys or receives, from any other person engaged in the business of bottling milk products, milk products in branded containers for resale or distribution, or both, in the ordinary commercial way.

621.560 Registration of brand for milk products in branded containers. All persons, except secondary distributors engaged in the bottling, selling or distributing of milk

products in branded containers within Oregon, may file with the Secretary of State a description of the brand. After filing a description of the brand with the Secretary of State, the owner of the brand shall cause notice of the filing containing a description of the brand to be published at least once a week for two consecutive weeks in a news paper published and of general circulation within Oregon. Proof of publication of the notice by affidavit of the printer of the newspaper in which the notice is published shall thereafter be filed with the Secretary of State. Upon the filing of proof of publication of the notice with the Secretary of State, the brand shall be considered as registered for the purposes of ORS 621.555 to 621.595, and any container having on it a registered brand shall be considered as registered for the purposes of those sections.

621.565 Registration of persons permitted to fill, sell or distribute registered containers. The registration of persons permitted by the owner of a registered brand to fill any registered containers of the owner with milk products or in the ordinary commercial way to sell, deliver, distribute, offer or expose for sale or traffic in milk products in such containers, shall be effected by the owner filing with the Secretary of State a statement of the persons so entitled to utilize the registered containers. The registration as to any such persons may be revoked by the owner of the registered brand at any time by filing notice of revocation with the Secretary of State.

621.570 Sale or transfer of brand. No sale, transfer or conveyance of any registered brand, or any interest therein, shall be made by the owner thereof except in the case of a sale of his business as a whole or of some interest therein.

621.575 Sale of registered brands or containers. Registered brands and used or second-hand registered containers shall not be sold except by written bill of sale signed by the owner of the registered brand or container. A copy of the bill of sale shall be filed with the Secretary of State. Title by bill of sale shall not pass to the vendee therein named until the copy of the bill of sale has been filed with the Secretary of State. The ordinary commercial sale and delivery of milk products in registered containers shall not be deemed to be a sale of the containers, notwithstanding the owner

of such brands or containers requires a cash deposit for the return thereof.

621.580 Use of branded containers by unregistered persons prohibited. No person other than the owner of the registered brand appearing upon a registered container, or other than the persons who are registered with the Secretary of State by the owner as being permitted so to do:

(1) Shall, for the purpose of sale or distribution in the ordinary commercial way, fill any such container with milk products.

(2) Or other than a secondary distributor with an express contract from the owner of a registered brand appearing upon a registered container, shall, in the ordinary commercial way, sell, deliver, distribute, offer or expose for sale or traffic in, milk products in such containers.

621.585 Defacing brand; using containers. No person shall wilfully deface, erase, alter, obliterate, cover up or otherwise remove or cancel any registered brand other than his own appearing on any registered container and thereafter fill the container with milk products for the sale or distribution, or both; and no person shall sell, deliver, distribute, offer or expose for sale or traffic in, milk products in such containers.

621.590 Destruction or secretion of containers prohibited; exchange of containers. No person shall wilfully destroy or otherwise injure or secrete, hide or store away any registered or unregistered containers other than his own. Any owner of a registered brand to whom his own registered bottle is returned shall give to the person returning it, in exchange therefor, the latter's own registered or an unregistered bottle of a like size for each registered bottle returned; and, upon demand of the owner, any other container shall be delivered to him by any person having possession thereof.

621.595 Enforcement; rules and regulations. The department shall enforce the provisions of ORS 621.555 to 621.595 and shall make the rules and regulations necessary to carry into effect the provisions of those sections.

621.600 Written consent required to use another's brand or label. No person shall use the brand or label of any other creamery or dairyman without his written consent. A copy of the consent shall be filed with the department.

621.605 Name of breed of cattle; use in firm name or advertising. No person shall use in any corporate or firm name or in the name of any association or in any advertisement, trade-mark or brand, the name of any breed of dairy cattle such as "Jersey," "Guernsey," "Ayrshire," "Holstein" or "Brown Swiss," unless the product sold, advertised, offered or exposed for sale by such person is produced from the breed of dairy cattle so named. The owner of any herd of cows is entitled to the use of the term "Jersey," "Guernsey," "Ayrshire," "Holstein" or "Brown Swiss" when each cow in the herd carries not less than 50 percent of the blood of the breed name so used.

621.610 Permit to use breed name. Any person desiring to use the name of any breed of dairy cattle in connection with any advertisement, trade-mark, brand or sale of any dairy product, or otherwise, shall make application to the department for permission so to do. The department in turn shall take the matter up with the secretary of the respective cattle club or breed association representing the particular breed of dairy cattle named and, upon receipt of satisfactory assurance that the applicant is entitled to the use of the name, permission shall be granted so to do by the department in compliance with ORS 621.605 and this section, and the rules and regulations pertaining thereto.

621.615 to 621.650 [Reserved for expansion]

BUTTER AND CHEESE; LABELS

621.655 Kinds of butter defined. (1) "Creamery butter" is butter churned from milk or cream supplied from several herds, and manufactured at a creamery located in a sanitary building, equipped with a cream ripener, power churn and mechanical butter worker.

(2) "Dairy butter" is butter manufactured on a farm or dairy and not manufactured at a creamery.

(3) "Renovated butter" is the product obtained by taking creamery, dairy, storage, reworked or other butter, or any combination thereof, melting it, drawing off or extracting the butterfat and mixing the fat with milk or cream or any other milk product and rechurning or reworking the mixture; or any product produced by any process

commonly known as boiling, processing or renovating.

(4) "Reworked butter" is the product obtained from rechurning or mixing creamery or dairy butter, or both, manufactured on different dates or at different places. However, the mixing of clean, fresh trimmings or remnants from one day's churning or cutting with the butter from the next day's churning at the same creamery does not constitute reworked butter.

621.660 Creamery butter; label. Any person, firm or corporation who, within Oregon, manufactures, distributes, cuts or cuts and wraps creamery butter, shall register with the department and be given a number. All creamery butter sold, offered or exposed for sale, shall have printed upon the wrapper of each roll, print or square, the grade of the butter and the number of the creamery, distributor, or the place where the butter is cut, or cut and wrapped.

621.665 Dairy butter; label. All dairy butter sold, or offered or exposed for sale, in rolls, prints or squares, shall have printed or stamped upon the wrapper the words "Dairy Butter" and the name and address of the manufacturer and the net weight. If dairy butter is sold or offered or exposed for sale in a box or tub such label shall be placed upon the box or tub. If dairy butter is sold from bulk a placard with the words "Dairy Butter" and the name and address of the manufacturer in letters not less than one inch in height shall be placed upon the bulk so as to be readily seen by the prospective purchasers.

621.670 Renovated butter; label. (1) No person shall sell or offer or expose for sale, renovated butter unless the words "Renovated Butter" are plainly printed in full-faced letters at least three-fourths of an inch in height, on the top and side of each receptacle, package or wrapper in which it is kept.

(2) If renovated butter is exposed for sale uncovered or not in a receptacle, package or wrapper, a placard bearing the words "Renovated Butter," printed in style and manner prescribed in subsection (1) of this section, shall be attached to the mass of butter so as to be easily and readily seen by intending purchasers.

621.675 Reworked butter; label. No person shall offer or expose for sale, or sell,

reworked butter unless it is plainly and durably branded with the words "Reworked Butter" printed in letters not smaller than 12 point, full-faced capitals if the butter is sold in squares or rolls or prints. If reworked butter is sold, offered or exposed for sale in boxes or tubs, each box or tub containing it shall be branded with the words "Reworked Butter" in letters not less than one inch in height. If reworked butter is sold from bulk a placard with the words "Reworked Butter" and the name and address of the manufacturer in letters not less than one inch in height shall be placed upon the bulk so as to be readily seen by the purchaser. In all branding of reworked butter, the words "Reworked Butter" shall not be a part of any other sentence or statement.

621.680 Labeling of out-of-state butter as Oregon butter prohibited. No person shall sell, offer or expose for sale in Oregon any butter put up in rolls, prints or squares, made in any state other than Oregon in wrappers bearing the words "Oregon Creamery Butter" or any other words that will imply that the butter was made in Oregon.

621.685 [Repealed by 1953 c.423 §2]

621.690 Indicating weight of butter on label; sale of short-weight butter prohibited. All butter sold, or exposed or offered for sale in rolls, prints or squares within Oregon shall be plainly marked with the net weight thereof, and every roll, print or square sold, or offered or exposed for sale shall contain the weight marked thereon. No person shall sell, offer or expose for sale any short-weight butter within Oregon.

621.695 Cheese bandage or box to be labeled; grades. (1) Any person who within Oregon manufactures and packages cheese shall, at the place of manufacture, and where cheese is packaged in the final container and before selling or removing such cheese therefrom, distinctly and durably label such cheese on the bandage, or wrapper of every such cheese and on the box, package or container in which every such cheese is placed or contained with:

(a) The name and address of the manufacturer or distributor.

(b) The factory or distributor number, which shall be assigned to each cheese manufacturer or distributor upon application to the department.

(c) The true variety of the cheese, as "Oregon Whole Milk Cheese," or "Oregon Half-skimmed Cheese," or "Oregon Quarter-skimmed Cheese," or "Oregon Skimmed Cheese," as the case may be.

(2) All cheese marked "Oregon Whole Milk Cheese" shall contain in the water-free substance not less than 50 percent of milkfat. All cheese marked "Oregon Half-skimmed Cheese" shall contain in the water-free substance not less than 25 percent of milkfat. "Oregon Quarter-skimmed Cheese" shall contain in the water-free substance not less than 12 percent of milkfat. All cheese not plainly marked or branded as to its quality must contain in the water-free substance not less than 50 percent of milkfat. Milkfat is the fat of milk and has a Reichert-Meissel number not less than 24 and specific gravity not less than 0.905 (40° C.). Brick cheese, commonly known as "Cream Brick," made from whole milk, shall contain not less than 50 percent milkfat nor more than 42 percent moisture with tolerance of one percent; Emmenthaler cheese, commonly known as domestic Swiss cheese, shall contain in the water-free substance not less than 43 percent of milkfat.

621.700 Manner of labeling; filing facsimiles. (1) All labeling of cheese shall be in letters or numerals at least one-half inch in height. However, subject to approval by the department, letters or numerals of less than one-half inch in height may be used to label cheese which weighs less than 10 pounds per unit.

(2) A facsimile of all stamps, stencils or labels, shall be placed on file with and approved by the department before being permitted to be used in labeling cheese as defined in ORS 621.695.

621.705 Skimmed cheese; labels. All cheese other than full cream cheese offered or sold or exposed for sale at retail shall bear a label or placard containing letters not less than one-half inch in height setting forth whether such cheese is "Half-skimmed," "Quarter-skimmed," or "Skimmed," according to the percentage of butterfat therein contained, as provided in ORS 621.695.

621.710 Requirements of ORS 621.695 to 621.705 not applicable to certain cheeses. ORS 621.695 to 621.705 do not apply to "Edam," "Pineapple," "Limburger" or hand-made cheese not made by the ordinary cheddar process.

621.715 Filled cheese; label. Any person who sells, offers or exposes for sale, or has in his possession with the intent to sell, any substance in imitation of cheese not made exclusively and wholly of milk or cream with salt, rennet, and with or without harmless coloring matter, and containing fats, oils, or grease, not produced from milk and cream, shall have the words "Filled Cheese" stamped or printed thereon in a conspicuous manner.

621.720 to 621.750 [Reserved for expansion]

621.755 [Repealed by 1953 c.686 §37]

621.760 [Repealed by 1953 c.686 §37]

621.765 [Repealed by 1953 c.686 §37]

621.770 [Repealed by 1953 c.686 §37]

621.775 [Repealed by 1953 c.686 §37]

621.780 [Reserved for expansion]

621.785 [Repealed by 1953 c.686 §37]

621.790 [Repealed by 1953 c.686 §37]

621.795 to 621.985 [Reserved for expansion]

PENALTIES

621.990 Penalties. (1) Violation of any provision of ORS 621.405, 621.440, 621.445, 621.600 or 621.655 to 621.715, is punishable, upon conviction, by a fine of not less than \$10 nor more than \$1,000, or by imprisonment in the county jail not exceeding one year, or both; but, upon a second conviction, violation of the provisions listed above in this subsection is punishable by a fine of not less than \$50 nor more than \$1,000, or by imprisonment in the county jail for not less than 10 days nor more than one year, or both. Justice courts, district courts and municipal courts sitting as justice courts have concurrent jurisdiction with the circuit courts of all prosecutions arising under the provisions listed above in this subsection. The district attorney may institute prosecutions for violations of those provisions by information, or the prosecutions may be instituted by indictment or by complaint verified before any magistrate. In all prosecutions under those provisions, the fines collected shall be transmitted by the officer collecting them to the State Treasurer and the fines so remitted shall become a part of the General Fund of the state.

(2) Violation of any provision of ORS 621.055 to 621.120 or of any rule or regulation lawfully promulgated pursuant to those sections, is punishable, upon conviction, by a fine of not less than \$10 nor more than \$100. Justice courts and district courts have concurrent jurisdiction with circuit courts of violations of ORS 621.055 to 621.120.

(3) Violation of subsection (2) of ORS 621.125 or failure to cause the retests required by subsection (3) of ORS 621.125 to be made is punishable, upon conviction, by a fine of not less than \$25 nor more than \$100.

(4) Violation of any of the provisions of ORS 621.151 to 621.286 is a misdemeanor.

(5) Violation of any provision of ORS 621.305 to 621.370 or any rule or regulation lawfully promulgated thereunder is punishable, upon conviction, by a fine of not less than \$10 or not more than \$500. Justice courts and district courts shall have concurrent jurisdiction with circuit courts, of all criminal actions instituted for such violations.

(6) Violation of ORS 621.410 is punishable, upon conviction, by a fine not exceeding \$100, or by imprisonment in the county jail not exceeding 30 days, or both; and each subsequent violation of ORS 621.410 by a person having been previously convicted of a violation of that section is punishable, upon conviction, by a fine of not less than \$100 and not exceeding \$500, or by imprisonment in the county jail not less than 30 days nor more than six months, or both.

(7) Violation of any provision of ORS 621.415 to 621.430 is punishable, upon conviction, by a fine not exceeding \$1,000 and the cost.

(8) Violation of ORS 621.435 is punishable, upon conviction, by a fine not exceeding \$500, together with the necessary expenses and costs incurred in the prosecution of the case.

(9) Violation of any provision of ORS 621.555 to 621.595 is punishable, upon conviction for the first offense, by a fine not exceeding \$100 and, upon conviction for any subsequent offense, by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding 90 days, or both.

(10) Violation of any provision of ORS 621.605 or 621.610 is punishable, upon conviction, by a fine not exceeding \$25 for the

first offense, and not less than \$50 nor [Amended by 1953 c.684 §12; subsection (4)
more than \$100 for each subsequent offense. enacted as 1953 c.686 §31]

CHAPTERS 622 AND 623

[Reserved for expansion]