

## Chapter 634

### Grades, Standards and Labels for Linseed Oil, Illuminating Oil, Insecticides and Fungicides

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#### CROSS REFERENCES

Grades and standards for agricultural products and containers, 616.410  
Sale of liquid or nonliquid commodities, 618.410  
Weights and measures generally, Ch. 618

634.240  
Disposal of products seized by department, Chs. 561, 570, 616.095



**ILLUMINATING OILS**

**634.010 Definitions for ORS 634.010 to 634.050.** As used in ORS 634.010 to 634.050, the terms "oil," "illuminating oils," "oils used for illuminating purposes" and all similar words, terms and expressions used in those sections mean any mineral or petroleum oil, or any fluid or substance which is the product of such oil or petroleum, or in which such oil, fluid or substance obtained is a constituent part by whatsoever name or title such oil, fluid or other substance may be known or called.

**634.020 Labeling petroleum products.** Benzole, benzene, gasoline, naptha and distillates, must be sold under their true names and grades, respectively. Such names and grades must be impressed, or otherwise plainly marked, upon the barrel, can or vessel in which it is sold, offered or exposed for sale, respectively, or upon a label conspicuously and securely fastened thereto. Every barrel, can or vessel of kerosene or coal oil that is offered or exposed for sale, shall be in like manner plainly marked or labeled with the word "kerosene" or "coal oil," and with the degree, Fahrenheit, or fire test below which it will not burn.

**634.030 Adulterated illuminating oils prohibited.** (1) No person, corporation or company shall import or bring into this state, or shall personally or by any clerk or agent, sell or offer for sale, or in any manner dispose or attempt to dispose of any illuminating oil adulterated in any manner, or any illuminating oil other than benzole, benzene, gasoline, naptha and distillates, which, on the application of a well-lighted taper, or similar flame, will take fire and burn at a temperature below that of 120 degrees Fahrenheit.

(2) The instrument in which the degree of fire test shall be made shall be the open Taglibue electric cup, or one similar in construction and result.

**634.040 Jurisdiction of ORS 634.010 to 634.050 offenses.** Justice courts shall have jurisdiction of all offenses arising under ORS 634.010 to 634.050.

**634.050 Enforcement of ORS 634.010 to 634.050.** The State Department of Agriculture shall enforce ORS 634.010 to 634.050.

**634.060 to 634.100** [Reserved for expansion]

**LINSEED OILS**

**634.110 Raw and boiled linseed oil; misrepresentation prohibited.** (1) No person, firm, or corporation shall manufacture or mix for sale, sell, or offer for sale, as raw linseed oil, any article which is not wholly the product of commercially pure linseed or flaxseed.

(2) No person, firm, or corporation shall manufacture or mix for sale, sell, or offer for sale, as boiled linseed oil, any article, unless the oil from which the article is made is wholly the product of commercially pure linseed or flaxseed, and unless it has been heated to at least 225 degrees Fahrenheit.

**634.120 Restrictions on compounds of linseed oil.** Nothing in ORS 634.110 to 634.140 shall be construed as prohibiting the sale or manufacture of any compound of linseed or flaxseed oil; provided, that such compound, if it imitates in appearance and is designed to take the place of linseed or flaxseed oil, shall not be manufactured or mixed for sale, sold or offered for sale under a name or description containing the words "linseed" oil or "flaxseed" oil.

**634.130 Enforcement of ORS 634.110 to 634.140.** (1) The State Department of Agriculture shall enforce ORS 634.110 to 634.140.

(2) The violation of any of the provisions of said sections relating to the manufacture and adulteration of linseed or flaxseed oil hereby is declared to be a public nuisance. Any court of competent jurisdiction is authorized, upon application of the State Department of Agriculture, to enjoin such violation in the same manner as injunctions are usually granted under the rules and practice of such court.

(3) The authorized officers, employees and deputies of the State Department of Agriculture shall have access, ingress and egress to and from all places of business and buildings where linseed or flaxseed oil is kept for sale, stored or manufactured. They may also open any tank, barrel, can or other vessel containing such oil, and inspect the contents thereof and take samples therefrom for analysis. All clerks, bookkeepers, express agents, railroad agents or officials, employees of common carriers or other persons, shall render them all the assistance in their power, when so requested, in tracing, finding or inspecting such oil.

**634.140 Duties of court and district attorney in enforcement of ORS 634.110 to 634.140.** (1) The court shall, in every action brought under ORS 634.110 to 634.140, tax as costs in the cause, the actual and necessary expenses of analyzing the linseed or flaxseed oil which is in controversy in such proceeding. However, the amount so taxed shall not exceed the sum of \$25.

(2) The district attorney, upon application of the State Department of Agriculture, shall attend to the prosecution, in the name of the state, of any action brought for violation of any of the provisions of those sections within his district.

**634.150 to 634.200** [Reserved for expansion]

### INSECTICIDES AND FUNGICIDES

**634.210 Definitions for ORS 634.210 to 634.270.** As used in ORS 634.210 to 634.270, the terms:

(1) "Adulterated" applies to any insecticide or fungicide:

(a) The strength or purity of which falls below its professed standard of quality.

(b) If any substance has been substituted wholly or in part for the article.

(c) If any valuable constituent of the article has been wholly or in part abstracted.

(d) If it is intended for use on vegetation and contains any substance which, although preventing, destroying, repelling or mitigating insects, is injurious to such vegetation when used as directed.

(2) "Department" means the State Department of Agriculture acting through its authorized officers, agents and employees.

(3) "Highly toxic to man" means any substance which, according to standard works on medicine, toxicology or materia medica is liable to be destructive to adult human life in quantities of 60 grains or less.

(4) "Insecticide" and "fungicide" mean any and all substances intended for use in preventing, destroying, repelling or mitigating insects, rodents, predatory animals, including birds, fungi, bacteria, weeds, parasites or other pests; excluding, however, drugs, chemicals or other preparations sold or intended for medicinal or toilet purposes or for use in the arts or sciences.

(5) "Misbranded" applies to:

(a) Any insecticide or fungicide if its package or label bears any statement which is false or does not conform to the requirements of ORS 634.210 to 634.270.

(b) If it is an imitation or offered for sale under the name of another article.

(c) If it is labeled or branded so as to deceive or mislead the purchaser.

(d) If not definitely insecticidal, fungicidal, toxic to animal life or repellent for the purposes for which it is recommended.

(e) If in package form and the labeling does not contain adequate directions for use.

(6) "Professed standard of quality" means a plain and correct statement of the name and percentage of each active ingredient, together with the total percentage of all inert ingredients contained in an insecticide or fungicide.

(7) "Registrant" applies to the person registering any insecticide or fungicide pursuant to ORS 634.230.

**634.220 Regulation of manufacture, sale and distribution of insecticides and fungicides.** No person shall manufacture, deliver, distribute, sell, expose or offer for sale, either at wholesale or retail, within this state:

(1) Any insecticide or fungicide unless it is inclosed in the registrant's or the manufacturer's original unbroken container or package, to each of which is affixed a label bearing the name and address of the manufacturer, registrant or person for whom manufactured, the name, brand or trade-mark under which the article is sold, its professed standard of quality and the net weight or measure of the contents; provided, however, that insecticides or fungicides may be sold at retail from broken packages when such packages conform to law and the seller labels the package with a label containing the name and address of the seller, the name, brand or trade-mark under which the article is sold, its professed standard of quality and the net weight or measure of the amount sold.

(2) Any insecticide or fungicide which contains arsenic or any of its combinations, any fluoride or combination thereof, or any other substance highly toxic to man, unless it is inclosed in the original unbroken container of the manufacturer, registrant or person for whom manufactured, to which is affixed a label bearing, in addition to the information required by subsection (1) of this section, the skull and crossbones, the word "poison" in red on a background of distinctly contrasting color and an antidote for the poisons contained therein. This subsection shall not apply to calx chlorinata, bleaching powder and chloride of lime.

(3) Any white powder insecticide or

fungicide consisting of or containing arsenic or any of its white derivatives or compounds, or sodium fluoride or other fluorides or mixtures of fluoride, unless the same are distinctly colored.

(4) Any insecticide or fungicide, the contents of which does not conform to its professed standard of quality.

(5) Any insecticide or fungicide or any material represented to be an insecticide or fungicide which has not been registered pursuant to ORS 634.230.

(6) Any insecticide or fungicide that is misbranded or adulterated under ORS 634.210 to 634.270.

**634.230 Registration of insecticides and fungicides; fees.** (1) Every insecticide or fungicide manufactured, compounded, delivered, distributed, sold, offered or exposed for sale, either at wholesale or retail within this state, shall be registered each year by its manufacturer or some distributor thereof with the department by filing with the department a statement containing:

(a) The name and address of the registrant.

(b) The name, brand or trade-mark of the insecticide or fungicide registered.

(c) A specimen or facsimile of each label, together with a statement of the correct names and percentage amounts of each and every active ingredient, and the total percentage of inert ingredients contained therein.

(2) Every registrant shall pay to the department \$20 for each brand or trade-mark of the insecticide or fungicide registered except that if four and not more than 25 brands or trade-marks are registered, the registrant shall pay a flat fee of \$75 and if more than 25 brands or trade-marks are registered the further sum of \$2 for each additional brand filed during the same fiscal year shall be paid.

**634.240 Administration and enforcement of ORS 634.210 to 634.270; regulations to be furnished registrant; seizure of products.** (1) ORS 634.210 to 634.270 shall be enforced and administered by the department, which may:

(a) Register insecticides or fungicides manufactured, compounded, delivered, distributed, sold, offered or exposed for sale, either at wholesale or retail, within this state.

(b) Collect labels and samples of insecticides and fungicides and cause analysis, examination or test thereof to be made.

(2) A copy of the results of analysis, examination or test, as made by the analyst,

examiner or expert under oath, may be published under the direction of the department when the department deems ORS 634.210 to 634.270 to be violated.

(3) Rules and regulations promulgated by the department under ORS 634.210 to 634.270 shall be furnished to each registrant.

(4) Whenever an authorized representative of the department finds, or has cause to believe, that any insecticide or fungicide is being manufactured, distributed, sold or offered for sale in violation of ORS 634.210 to 634.270 he may seize the product and shall proceed in the manner directed by law for the disposal of products seized by the department.

**634.250 Exemptions from application of ORS 634.210 to 634.270.** The provisions of ORS 634.210 to 634.270 prohibiting delivery and distribution of any insecticide or fungicide shall not apply to transactions of:

(1) Manufacturers, processors or packers which relate to the improvement, production and preparation of such commodities for lawful sale within the meaning of those sections.

(2) Common or private carriers and warehousemen while engaged in lawfully transporting and storing insecticides or fungicides if they can furnish names of parties within the state who are responsible.

(3) Public officers while engaged in the performance of their official duties.

(4) Any employe of any person mentioned in subsections (1) to (3) of this section while acting within the scope of his employment.

**634.260 Jurisdiction of ORS 634.210 to 634.270 offenses.** Justice courts and district courts shall have concurrent jurisdiction with circuit courts of all prosecutions arising under ORS 634.210 to 634.270.

**634.270 Disposition of fees and penalties.** All money received from license fees and penalties under ORS 634.210 to 634.270 and subsection (4) of ORS 634.990 shall be paid into the State Treasury, credited to the Department of Agriculture Account and expended by the department for salaries, laboratory expenses, chemical supplies, traveling expenses, printing and such other expenses found necessary in enforcing those sections.

**634.280 to 634.980** [Reserved for expansion]

**PENALTIES**

**634.990 Penalties.** (1) Violation of ORS 634.020 is punishable, upon conviction, by a fine of not less than \$100 nor more than \$500, or imprisonment in the county jail not exceeding six months.

(2) Violation of ORS 634.030 is punishable, upon conviction, by a fine of not less than \$100 nor more than \$500, or imprisonment in the county jail not exceeding six months, and, in addition, the adulterated illuminating oils shall be condemned and de-

stroyed by order of the court having jurisdiction of the offense.

(3) Violation of any provision of ORS 634.110 to 634.140 is punishable, upon conviction, by a fine of not less than \$50 nor more than \$500; and in default of payment of such fine, the violator shall be committed to the county jail for not less than 30 days.

(4) Violation of any provision of ORS 634.210 to 634.270 is punishable, upon conviction, by a fine of not less than \$25 nor more than \$100 for the first offense, and by a fine of not less than \$100 nor more than \$500 for any subsequent offense.