

# Chapter 635

## 1967 REPLACEMENT PART (1977 reprint)

### Nonalcoholic Beverages

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#### CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183	635.030
Beverage containers, regulation of use and sale, 459.810 to 459.890	Expenditures without allotment prohibited in certain cases, 291.238
Purity of food, Ch. 616	
Sanitary conditions for handling, 616.735 to 616.740	



635.010 [Repealed by 1967 c.154 §9]

**635.015 Definitions.** As used in this chapter:

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

(2) "Nonalcoholic beverage manufacturing business" or the "business of a nonalcoholic beverage manufacturer" means the operations and business of and the owner or operator thereof, who manufactures, makes bottles, handles, distributes, holds for sale, or sells soda or soda waters, mineral waters, carbonated beverages and other nonalcoholic drinks or beverages otherwise known as soft drinks, except those that are exempt as not covered as provided in ORS 635.027 or those exempted by the department.

[1967 c.154 §1]

635.020 [Repealed by 1967 c.154 §9]

**635.025 Short title; enforcement by department.** This chapter, which may be cited as the Oregon Nonalcoholic Beverage Plant Law, shall be enforced and carried out by the department.

[1967 c.154 §2]

**635.027 License required for manufacture of nonalcoholic beverage; exceptions.** (1) Except as otherwise provided in this chapter, no person shall operate or engage in the business of a nonalcoholic beverage manufacturer without first obtaining and thereafter maintaining a license, or renewal thereof, from the department. No license is required of a person who:

(a) Sells nonalcoholic drink or beverage products in or from their original containers at wholesale or retail.

(b) Mixes or sells nonalcoholic products in the usual course of business at a soda fountain.

(c) Engages in the nonalcoholic beverage manufacturing business in a building and using machinery, equipment and all facilities which have been approved and licensed by the department for use in the processing of fluid milk to be labeled with "grade 'A'" pursuant to ORS chapter 621.

(2) The provisions of paragraphs (a), (b) and (c) of subsection (1) of this section however do not exempt any person, or his business, from the application of any other provisions of this chapter.

[1967 c.154 §3]

**635.030 Application for and issue of license; disposition of fees.** (1) Any person desiring to or who does engage in the business of a nonalcoholic beverage manufacturer shall apply to the department for a license for each plant operated by such person. The application shall be in such form and contain such information as the department may prescribe.

(2) The department shall charge for each license issued, a fee computed on the basis of \$1 per 1,000 cases, as determined by the total production and sale of the plant for the previous calendar year. The licensee of a new plant shall pay a fee of \$15 at the time of application and, at the end of the licensing year, shall pay to the department whatever additional fees may be due based upon the number of cases manufactured and sold during that period. In no case shall the license fee be less than \$15 nor more than \$50.

(3) All such licenses shall be issued for the calendar year or any remaining portion thereof. The department shall collect for each license and for each renewal thereof the license fee computed as provided in subsection (2) of this section. The fee shall be remitted by the department to the State Treasurer. The State Treasurer shall place all moneys so received to the credit of the Department of Agriculture Account and such payments hereby are made an appropriation of such sums from the Department of Agriculture Account for the purpose of carrying this chapter into full force and effect.

[Amended by 1955 c.666 §1; 1967 c.154 §4]

**635.040 Refusal, suspension or revocation of license.** The department may refuse to issue, suspend or revoke any license for failure to comply with this chapter, or regulations promulgated thereunder.

[Amended by 1961 c.425 §19]

**635.045 Rulemaking authority of department relating to nonalcoholic beverage business.** After public hearing and under the provisions of ORS chapter 183, in connection with and covering all of the operations and the business of a nonalcoholic beverage manufacturer, and the beverage and drink products covered by ORS 635.015 to 635.030 and 635.045 to 635.991, the department is authorized to promulgate rules relating to:

(1) Definitions, standards of identity, marking, labeling, advertising, branding or tagging of such drink and beverage products.

(2) The subject matters set forth in paragraph (a) of subsection (1) of ORS 616.700.

(3) Storage, handling and use of ingredients which will be or are a part of the drink and beverage products.

(4) Other subject matters set forth in ORS chapter 616, ORS 632.275 to 632.290, 632.450 to 632.490 and 632.900 to 632.985 and other provisions reasonably necessary to insure that the products are sanitary and healthful.  
[1967 c.154 §5]

**635.050** [Repealed by 1967 c.154 §9]

**635.055 Standards for rules promulgated by department; conformity with federal rules.** In carrying out the intent and purpose of ORS 635.045, the department in addition to taking into consideration the desires and needs of the nonalcoholic beverage manufacturing industry and the evidence and testimony received at a public hearing, shall also take into consideration the laws and rules of this state, other states and the Federal Government. Unless there is substantial evidence and testimony to the contrary, the department shall as far as is reasonable and practical, make its rules conform to, and they shall not be more restrictive than, the rules of the Federal Food and Drug Administration or other federal enforcement agency.  
[1967 c.154 §6]

**635.060** [Repealed by 1955 c.666 §5]

**635.061** [1955 c.666 §4; repealed by 1967 c.154 §9]

**635.070** [Repealed by 1967 c.154 §9]

**635.080** [Repealed by 1967 c.154 §9]

**635.090** [Repealed by 1967 c.154 §9]

**635.100** [Repealed by 1967 c.154 §9]

**635.110** [Amended by 1955 c.666 §2; repealed by 1967 c.154 §9]

**635.120** [Repealed by 1967 c.154 §9]

**635.130** [Repealed by 1955 c.666 §5]

**635.140** [Repealed by 1967 c.154 §9]

**635.150** [Repealed by 1967 c.154 §9]

**635.160** [Repealed by 1967 c.154 §9]

**635.170** [Repealed by 1967 c.154 §9]

**635.180** [Repealed by 1967 c.154 §9]

**635.990** [Repealed by 1967 c.154 §9]

**635.991 Penalties.** Violation of any provision of this chapter is punishable, upon conviction, by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding six months, or both.  
[1967 c.154 §8]

#### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law  
Done at Salem, Oregon,  
December 1, 1967

Robert W. Lundy  
Legislative Counsel

#### CHAPTERS 636 TO 645

[Reserved for expansion]