

# Chapter 624

## 1981 REPLACEMENT PART

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## RESTAURANTS

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

(1) "Assistant director" means the Assistant Director for Health or an authorized representative.

(2) "Division" means the Health Division of the Department of Human Resources.

(3) "Temporary restaurant" means any establishment operating temporarily in connection with any fair, carnival, circus or similar public gathering or entertainment, food product promotion, or any other event where food is prepared or served for consumption by the public. "Temporary restaurant" does not include:

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

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

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

(d) A private residence, or part thereof, including the grounds, areas and facilities held out for the use of the occupants generally, for which a special retail beer or special retail wine license is issued under ORS 471.290 for a period not exceeding one day.

(4) "Restaurant" includes any establishment where food or drink is prepared for consumption by the public or any establishment where the public obtains food or drink so prepared in form or quantity consumable then and there, whether or not it is consumed within the confines of the premises where prepared, and also includes establishments which prepare food or drink in consumable form for service outside the premises where prepared, but does not include railroad dining cars or temporary restaurants as defined in subsection (3) of this section.

(5) "Limited service restaurant" means a restaurant serving only prewrapped sandwiches, or a single dish or food product, and nonperishable beverages. [Amended by 1953 c.177

§8; 1957 c 672 §1, 1959 c.153 §1; 1973 c.824 §1, 1973 c.825 §1; 1975 c 792 §1, 1979 c.236 §4]

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

**624.020 License required to operate restaurant; denial, suspension and revocation of licenses.** (1) No person shall operate a restaurant without a license to do so from the division. The restaurant license shall be posted in a conspicuous place on the premises of the licensee.

(2) Application for the license shall be in writing in the form prescribed by the division and shall contain the name and address of the applicant and any other information which the division may require. All licenses issued under this section terminate and are renewable on December 31 of each year.

(3) Every applicant for a restaurant license or renewal thereof shall pay to the division a license fee of \$70. An applicant for a limited service restaurant shall pay to the division a fee of \$25.

(4) The assistant director may suspend, deny or revoke any license issued under this section for violation of any of the applicable provisions of ORS 624.010 to 624.120 or any rule promulgated under ORS 624.010 to 624.120.

(5) Procedures for denial, revocation or suspension of a license shall be as provided in ORS 183.310 to 183.550. [Amended by 1953 c 177 §8; 1957 c.672 §2, 1971 c 661 §1, 1973 c.182 §1, 1975 c 526 §4a, 1975 c 607 §44; 1979 c 696 §11]

**624.023 Single toilet fixture allowed in small restaurant.** The division shall allow restaurants with an occupancy capacity of no

more than 15 persons, including employes and patrons, to have only one toilet fixture and adjacent lavatory on the premises. This single toilet fixture shall comply with all division standards for construction, maintenance, cleanliness, accessibility and others, not in conflict with the state building code, that the division might provide. [1979 c 390 §2]

**624.025 License for temporary restaurant.** (1) No person shall operate a temporary restaurant without first procuring a license to do so from the division. The temporary restaurant license shall be posted in a conspicuous place on the premises of the licensee.

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

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

(4) Except as provided in ORS 624.028, every applicant for a temporary restaurant license or renewal thereof shall pay to the division a license fee of \$30.

(5) The assistant director may suspend, deny or revoke any license issued under this section or under ORS 624.028 if it appears, after a reasonable time has been given for correction of a sanitation violation, that the applicant does not meet applicable minimum sanitation standards as outlined in ORS 624.010 to 624.120 or any rule promulgated thereunder. Any suspension, denial or revocation action shall be taken in accordance with ORS 183.310 to 183.550. [1957 c 672 §9; 1973 c 182 §2, 1973 c 824 §2; 1975 c 526 §5, 1979 c 696 §12]

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

**624.028 Temporary restaurant license for benevolent organizations.** (1) Notwithstanding ORS 624.025 (3) and (4), the division shall issue a license to a benevolent organization to operate a temporary restaurant pursuant to this section if the benevolent organization has notified the division, orally or in writing, of its intention to operate a temporary restaurant. The division shall provide at least one place in each county at which such notification may be made.

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

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

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

**624.030 Grading of restaurants; standards for temporary restaurants.** (1) All restaurants shall be graded as A, B or C in accordance with the standards of sanitation established by law or set forth in the rules of the division.

(2) After public hearing and by rule applicable to the grading of restaurants, the division shall define clearly the criteria for conformance to each grade to insure state-wide uniformity in the grading process. In defining these criteria, the division shall consider the type, number, degree, duration and interrelationship of deficiencies as such deficiencies apply to potential or actual health hazards or contamination of foods.

(3) A restaurant grade shall not be lowered from an A to a B on the basis of a single inspection. Grades shall not be lowered because of nonpayment of fees.

(4) The inspection forms shall identify any deficiency that must be corrected in order to restore a higher grade or to avoid lowering a grade.

(5) The division shall use inspection forms that clearly display notice that procedures are

available under ORS 183.310 to 183.550 to the licensee for review or appeal of the grade or inspection.

(6) Temporary restaurants shall not be graded but no temporary restaurant shall be operated in Oregon unless it is in conformance with minimum sanitation standards established by the rules adopted pursuant to ORS 624.100. The assistant director may reinstate or grant a temporary restaurant license which has been revoked, suspended or denied when it is demonstrated that the operation is in conformance with the minimum sanitation standards. [Amended by 1957 c.672 §3, 1973 c 825 §3; 1981 c.650 §1]

#### **624.040 Display of notice of grade.**

Every restaurant shall display at all times, in a place designated by the assistant director, a notice approved by the assistant director stating the grade of the establishment. [Amended by 1953 c.177 §8, 1973 c.825 §4]

**624.050 Restaurant to conform with grades; failure to qualify as grade B; reinstatement of license; review of grade.** (1) No restaurant shall be operated within Oregon unless it is in conformance with grade A or grade B. However, when any restaurant fails to qualify as grade B, the assistant director may, in lieu of revocation or suspension of license, lower the grade of the establishment to C and permit its operating during a temporary period not exceeding 30 days. The assistant director may reinstate a restaurant license which has been revoked, suspended or denied and may reinstate a grade which has been lowered when it appears from the inspection by the assistant director that the licensee is complying with the higher grade requirements.

(2) If a licensee is dissatisfied with the grade assigned to the restaurant of the licensee, the licensee may request and obtain a review of the grade by the assistant director or the county official designated pursuant to ORS 624.510, whichever is appropriate. Such review may include a reinspection of the restaurant or an explanation of the grading criteria, or both. After written findings, the assistant director or the designated county official may reinstate the grade when it appears that the licensee is complying with the higher grade requirements. Proceedings under this subsection are not subject to ORS 183.310 to 183.550.

(3) If a licensee is dissatisfied with the results of the review described in subsection

(2) of this section, the licensee may appeal the lowering of the grade as provided by ORS 183.310 to 183.550.

(4) The party that does not prevail on the appeal described in subsection (3) of this section shall pay the actual costs of any administrative hearing required by ORS 183.310 to 183.550. [Amended by 1953 c.177 §8; 1957 c.672 §4; 1973 c 825 §5, 1981 c 650 §2]

**624.060 Inspection of restaurants; report of assistant director.** (1) At least once every six months the assistant director shall inspect every restaurant located within his jurisdiction. The person operating the restaurant shall, upon the request of the assistant director, permit access to all parts of the establishment.

(2) One copy of the inspection report shall be posted by the assistant director upon an inside wall of the restaurant, and the inspection report shall not be defaced or removed by any person except the assistant director. Another copy of the inspection report shall be filed with the records of the division.

(3) If the assistant director discovers the violation of any provision of ORS 624.010 to 624.120 or any rule concerning the grade in which the restaurant is classified, he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied. [Amended by 1953 c.177 §8, 1973 c 825 §6]

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

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

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

**624.067 Inspection of benevolent organization restaurant facilities and operation.** (1) At any time during the opera-

tion of a temporary restaurant licensed pursuant to ORS 624.028, the assistant director may inspect the facilities and operation.

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

**624.070 Examination of food and drink samples; unwholesome or adulterated food and drink.** Samples of food, drink and other substances may be taken and examined by the assistant director as often as may be necessary for the detection of unwholesomeness or adulteration. The assistant director may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or adulterated.

[Amended by 1953 c.177 §8, 1973 c 825 §8]

**624.075 Summary closure of temporary restaurant.** When the violation of any provision of ORS 624.010 to 624.120 or any rule promulgated thereunder comes to the attention of the assistant director and if the violation is of such a nature as to constitute a serious hazard to the health of the public, immediate closure of the temporary restaurant may be secured upon notification of the operator in writing. The inspection report carrying a statement ordering closure and signed by the assistant director delivered to the operator may serve as the written notice of the closure. A copy of this notice shall be filed with the records of the division. The closure order shall have the effect of an immediate revocation of the operator's license. The assistant director shall, if requested, provide a prompt hearing after closure in accordance with ORS 183.310 to 183.550. [1957 c 672 §10(3), 1973 c 825 §9]

**624.080 Diseased persons working in restaurants or temporary restaurants; suspicion of possible transmission of infection.** (1) The division may, by rule, define certain communicable diseases which may be spread to the public by employes of a restaurant or temporary restaurant.

(2) No person who is affected with a communicable disease described in subsection (1) of this section or is a carrier of such disease shall work in any restaurant or temporary restaurant. No restaurant or temporary restaurant shall employ any such person or any person suspected of being affected with any communicable disease or of being a carrier of such disease. If the restaurant or temporary

restaurant manager suspects that any employe has contracted any disease in a communicable form or has become a carrier of such disease he shall notify the assistant director immediately. A placard containing this section shall be posted in all toilet rooms.

(3) When suspicion arises as to the possibility of transmission of infection from any restaurant or temporary restaurant employe, the assistant director may require any or all of the following measures:

(a) The immediate exclusion of the employe from all restaurants and temporary restaurants; and

(b) Adequate medical examinations of the employe and his associates, with such laboratory examinations as may be indicated.

[Amended by 1957 c 672 §5; 1973 c.825 §10]

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

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

**624.100 Rules.** The division shall make all rules necessary for the enforcement of ORS 624.010 to 624.120, including such rules concerning the construction and operation of restaurants and temporary restaurants as are reasonably necessary to protect the public health of persons using these facilities. Particularly, these latter rules shall provide for, but shall not be restricted to the following:

(1) A water supply adequate in quantity and safe for human consumption.

(2) Disposal of sewage, refuse and other wastes in a manner that will not create a nuisance or a health hazard.

(3) The cleanliness and accessibility of toilets and handwashing facilities.

(4) The cleanliness of the premises.

(5) The refrigeration of perishable foods.

(6) The storage of food for protection against dust, dirt and contamination.

(7) Equipment of proper construction and cleanliness of such equipment.

(8) The control of insects and rodents.

(9) The cleanliness and grooming of food workers.

(10) Exclusion of unauthorized persons from food preparation and storage areas.

[Amended by 1957 c 672 §6, part renumbered as 624.027, 1973 c 825 §11]

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

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

**624.130 Emergency training in first aid required of restaurant employes; training programs; fees.** (1) Any restaurant where food is served to be consumed on the premises shall require that its food service employes, within a reasonable time after date of employment or October 4, 1977, be trained to administer emergency first aid to relieve any person choking on food particles pursuant to a training program approved by the county health officer or as described in Red Cross Manual 32-1138 as the "abdominal thrust" procedures.

(2) The county board of health shall provide or cause to be provided the necessary training program at reasonable intervals, as determined by the county board.

(3) For such training the county board of health may charge reasonable fees to cover actual expenses of providing training and issuing verification of training.

(4) The county board of health may waive in writing the training requirements of this section in cases of undue hardship, or where the county board determines that the employe's assignment renders such training impracticable or unnecessary.

(5) No civil or criminal liability to the restaurant or its employes shall result from good faith application by a trained person of the first aid described under subsection (1) of this section. [1977 c 824 §1]

## COMMISSARIES, MOBILE UNITS AND VENDING MACHINES

**624.310 Definitions for ORS 624.310 to 624.440.** As used in ORS 624.310 to 624.440 unless the context requires otherwise:

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

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

(3) "Division" means the Health Division of the Department of Human Resources.

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

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

(6) "Assistant director" means the Assistant Director for Health.

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

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

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

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

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

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

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

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

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

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

**624.320 License required to operate commissary, mobile unit or vending machine.** (1) After January 1, 1964, no person shall operate a vending machine, commissary or mobile unit without first procuring a license to do so from the division. The license shall be posted in a conspicuous place in the commissary. A card, emblem or other device clearly showing the name and address of the licensee and the serial number of the license shall be affixed to each vending machine or mobile unit as the case may be.

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

- (a) Name and address of the applicant.
- (b) Location of all commissaries.

(c) Locations where supplies are kept.

(d) Locations where vending machines or mobile units are stored, repaired or renovated.

(e) Identity and form of food to be dispensed through vending machines.

(f) Number of each type of vending machine on location.

(3) Specific locations of the vending machines and specific itineraries of the mobile units shall be on file at the operator's business office and shall be readily available to the division. The details of the conversion of any vending machine to dispense products other than those for which the license was issued shall be furnished in writing to the division.

[1963 c.575 §2, 1973 c.825 §14]

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

(2) The division may, by rule, exempt certain other types of vending machines from the license requirements of ORS 624.310 to 624.440 when it appears that there is no danger to the life and health of the people of this state.

(3) The provisions of ORS 624.310 to 624.440 do not include commissaries, mobile units or vending machines which are presently licensed and inspected by the State Department of Agriculture or United States Public Health Service. [1963 c.575 §§7, 15; 1973 c 825 §15]

**624.340 Denial, suspension or revocation of license.** The assistant director may deny, suspend or revoke a license in accordance with ORS 183.310 to 183.550 in any case where he finds that there has been a substantial failure to comply with the provisions of ORS 624.310 to 624.440 or the rules promulgated under ORS 624.310 to 624.440. [1963 c 575 §4; 1973 c.825 §16]

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

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

**624.370 Inspection of commissary, warehouse, mobile unit or vending machine; report of assistant director; hearing.** (1) At least once every six months, the

assistant director shall inspect every commissary and warehouse, and a representative number of each operator's mobile units and vending machines. The assistant director shall be granted access at reasonable times to all parts of the commissary and shall have access, either in the company of an employe or otherwise, to the interior of all vending machines or mobile units of the operator at such times as the assistant director considers necessary to insure compliance with the provisions of ORS 624.310 to 624.440.

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

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

(4) If the assistant director discovers the violation of any provision of ORS 624.310 to 624.440 or any rule promulgated thereunder, he shall make a second inspection after the lapse of such time as he considers necessary for the defect to be remedied.

(5) If a violation is of a nature so as to constitute a danger to the health of the people of this state, the assistant director may order immediate closure of the commissary, mobile unit, or vending machine and shall, within 24 hours of the time of inspection, mail to or serve personally on the licensee a copy of the inspection report signed by the assistant director showing thereon the particular facility closed and the reason. The assistant director shall, if requested, hold a hearing in accordance with ORS 183.310 to 183.550. [1963 c 575 §8, 1973 c 825 §17; 1975 c 792 §2]

**624.380 Diseased persons working in commissary or mobile unit; suspicion of possible transmission of infection.** (1) No person affected with a communicable disease

described in ORS 624.080 (1) or is a carrier of such disease shall work in any commissary, mobile unit or in the servicing of vending machines nor shall any operator employ any such person or any person suspected of being affected with any communicable disease or of being a carrier of such disease. If the operator suspects that any employe has an infectious disease in a communicable form or may be a carrier of such a disease he shall notify the assistant director immediately. A placard containing this section shall be posted in all toilet rooms.

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

**624.390 Rules.** The division shall make reasonable rules for carrying out the provisions of ORS 624.310 to 624.440, including but not limited to the following:

(1) Construction and operation of commissaries, mobile units and vending machines.

(2) Water supply adequate in quantity and safe for human consumption.

(3) Disposal of sewage, refuse and other wastes in a manner that will not create a nuisance or health hazard.

(4) Cleanliness of premises and facilities.

(5) Refrigeration of perishable foods and the wholesomeness of all food and beverage ingredients.

(6) Protection of food, utensils, wrapping and serving materials against dust, dirt and contamination.

(7) Equipment of proper construction and the maintenance of such equipment.

(8) Approved plumbing.

(9) Sanitary facilities for employes in commissaries.

(10) Control and exclusion of insects and rodents.

(11) Labeling of foods or beverages.

(12) Exclusion of vending machines dispensing chemicals, sanitizers, detergents, economic poisons and such other compounds of

similar nature from immediate areas where food and beverage vending machines are located.

(13) Approval of plans for commissaries, mobile units and vending machines. [1963 c.575 §10, 1973 c 825 §19]

**624.400 Rating surveys; preparing and disseminating information; cooperation with local health departments in educational programs.** The division shall make such surveys as are necessary to obtain uniform enforcement of ORS 624.310 to 624.440 throughout the state and shall prepare and disseminate information and shall cooperate with and assist local health departments in educational programs for the purpose of encouraging compliance with ORS 624.310 to 624.440 on the part of operators and employees of vending machines and mobile units. [1963 c 575 §12, 1973 c 825 §20]

**624.410 Commissaries and sources of supply outside jurisdiction.** (1) Foods from commissaries or other sources outside the jurisdiction of the division may be sold in the local jurisdiction if such commissaries or other sources of supply conform to the provisions of ORS 624.310 to 624.440 and the rules promulgated under ORS 624.310 to 624.440 or to substantially equivalent provisions.

(2) The division shall investigate and survey the system of regulations in effect for commissaries or sources of supply outside the state. Upon determination that the regulations in effect are of a quality substantially equal to the rules of ORS 624.310 to 624.440, the division may permit such commissaries or sources of supply to be used in the state. [1963 c 575 §11, 1973 c 825 §21]

**624.420 Abating or enjoining violations of ORS 624.310 to 624.440.** Any commissary, mobile unit or vending machine operated contrary to the provisions of ORS 624.310 to 624.440 is a public nuisance and dangerous to health and may be abated or enjoined in the manner provided by law. [1963 c 575 §14]

**624.430 License fees.** (1) Every applicant for a license to operate a commissary, vending machine, warehouse or mobile unit shall pay to the division an annual fee in the following amounts:

	Annual fee
(a) Each commissary	\$ 50
(b) Each warehouse	\$ 20
(c) Mobile units	\$ 25

(d) Vending machines as follows

Number of units or machines	Annual fee
1 - 10	\$ 25
11 - 20	\$ 50
21 - 30	\$ 75
31 - 40	\$ 100
41 - 50	\$ 125
51 - 75	\$ 150
76 - 100	\$ 200
101 - 250	\$ 350
251 - 500	\$ 550
501 - 750	\$ 750
751 - 1,000	\$ 920
1,001 - 1,500	\$ 1,200
1,501 - 2,000 or more	\$ 1,500

(2) All licenses issued under ORS 624.310 to 624.440 shall terminate and be renewable on December 31 of each year. Such licenses shall not be transferable, nor shall refunds be made on the unused portions of license or upon applications that have been denied. [1963 c 575 §3; 1973 c 182 §3, 1975 c 526 §6; 1979 c 696 §13]

**624.440 Disposition of fees and fines.** All moneys collected under ORS 624.310 to 624.440 shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 624.310 to 624.440. [1963 c.575 §13, 1973 c 427 §14]

### ADMINISTRATION AND ENFORCEMENT OF FOOD SERVICE FACILITY LAWS

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

**624.510 Delegating to county officials for administration and enforcement of laws; disbursement of fees to counties.** (1) The Assistant Director for Health shall delegate to any county board of commissioners which requests any of the authority, responsibilities and functions of the Assistant Director for Health under ORS 624.010 to 624.120 and 624.310 to 624.440 if the assistant director determines that the county is willing and able to carry out the rules of the division relating to fee collection, licensing, inspections, enforcement and issuance and revocation of permits and certificates in compliance with standards for enforcement by the counties and monitoring by the division. Such standards shall be established by the division in consultation with the appropriate county officials

and in accordance with ORS 431.345. The division shall review and monitor each county's performance under this subsection. The review shall include criteria to determine if rules established pursuant to ORS 624.030 are uniformly applied to all licensees within the county. In accordance with ORS 183.310 to 183.550, the assistant director may suspend or rescind a delegation under this subsection. If it is determined that a county is not carrying out such rules or the delegation is suspended, the unexpended portion of the fees collected under subsection (2) of this section shall be available to the division for carrying out the authority, responsibility and functions under this section.

(2) The county may determine the amount of, and retain, any fee for any function undertaken pursuant to subsection (1) of this section or use the fee schedules pursuant to ORS 624.020, 624.025 and 624.430. The county, quarterly, shall remit 15 percent of the collected fees to the division for monitoring county programs and for providing the necessary forms, licenses, and informational material necessary to maintain a uniform state program.

(3) In any action, suit or proceeding arising out of county administration of functions pursuant to subsection (1) of this section and involving the validity of a rule promulgated by the division, the division shall be made a party to the action, suit or proceeding. [1973 c 825 §22a, 1975 c 790 §3, 1975 c 792 §4, 1981 c.650 §5]

**624.530 Agreement to insure only one agency inspects facilities.** (1) Notwithstanding any provision of ORS 624.010 to 624.120 or 624.310 to 624.440 or statutes administered by the State Department of Agriculture, the Assistant Director for Health and the director of the department jointly shall adopt rules and enter into interagency agreements neces-

sary to insure that only one of the agencies inspects and licenses any facility that is subject to regulation by both agencies.

(2) The rules and agreements entered into pursuant to subsection (1) of this section shall be written so as to encourage delegation of jurisdiction over facilities to local governments pursuant to ORS 624.510. [1981 c 112 §1]

## MISCELLANEOUS

**624.610 Application of ORS 624.010 to 624.120 or 624.310 to 624.440 to certain food service.** Neither ORS 624.010 to 624.120 nor 624.310 to 624.440 apply to:

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

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

## PENALTIES

**624.990 Penalties.** (1) Violation of any provision of of ORS 624.010 to 624.120 or rules of the division promulgated under ORS 624.010 to 624.120 is a Class C misdemeanor.

(2) Violation of any provision of ORS 624.310 to 624.440 or rules of the division promulgated under ORS 624.310 to 624.440 is a Class B misdemeanor. [Subsection (2) enacted as 1963 c 575 §16, 1973 c 825 §22]

