Chapter 625

1981 REPLACEMENT PART

Bakeries and Bakery Products

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BAKERIES

625.010 Definitions for ORS 625.010 to 625.270. As used in ORS 625.010 to 625.270, unless the context requires otherwise:

(1) "Bakery" means any place, premises or establishment where any bakery product is regularly prepared, processed or manufactured for sale other than for consumption on the premises where originally prepared, processed or manufactured.

(2) "Bakery product" includes bread, rolls, cakes, pies, doughnuts and all similar goods, to be used for human food, but does not include cookies, biscuits or crackers.

(3) "Balloon bread" or "balloon loaf," which may be further defined by the department, means a loaf of bread manufactured or baked by a person taking the approximate amount of bread dough used for the baking of a loaf of bread in a pan, size or weight established by ORS 625.200 and 625.209, or by departmental regulation, and baking such loaf in a pan of a larger size. By expanding or ballooning the bread dough to fit the larger pan, such loaf after being baked in the larger pan then simulates a loaf of bread of a larger weight or size.

(4) "Container" means the container or wrapper in which bakery products are sold or offered for sale.

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

(6) "Distributor" means any person other than a bakery engaged within the state in the selling, marketing, or distributing at wholesale or retail any bakery products but does not include:

(a) Any person distributing solely bakery products manufactured by him in a bakery licensed under ORS 625.010 to 625.270.

(b) Any retail food store selling or making delivery from a fixed place of business.

(7) "Label" or "labeled" means:

(a) The words "Net Weight" or the abbreviation thereof "Net Wt."; and

(b) The applicable net weight as prescribed and required by ORS 625.200 for each such loaf of bread; and

(c) The name and place of business of the manufacturer or distributor; and

(d) The identity of the bakery product within the container; and

(e) Such other information and wording as may be required by regulations promulgated by the department under the authority granted by ORS 625.160.

(8) "Person" includes an individual, partnership, corporation, association or club. [Amended by 1955 c 298 §1, 1959 c 370 §1, 1963 c 594 §2, 1969 c 192 §1]

625.020 License required to operate bakery; exceptions. (1) Except as provided in subsection (2) of this section, no person shall operate or participate in the operation of any bakery within this state without a bakery license for that bakery, issued and in effect under ORS 625.010 to 625.270.

(2) A license is not required for a domestic kitchen type bakery that is operated in behalf of a nonprofit institution or is otherwise not operated for profit. [Amended by 1975 c 312 §1]

625.030 Application for bakery license; inspection of premises and equipment; issuance of certificate. Application for a bakery license shall be made in writing to the department on forms supplied by the department. After receipt of the application and the fees required by ORS 625.180, the department shall cause to be made a proper detailed inspection of the premises and equipment or of the plans and specifications of the bakery involved. If the department finds that the premises and equipment are or will be of a sanitary construction, design or condition and that the applicant has complied with and will be able to comply with ORS 625.010 to 625.270, the application shall be approved and the department shall issue to the applicant a numbered license certificate bearing the name and address of the licensee and of the premises licensed.

625.040 Grounds for denial of application. The department shall refuse to grant any application for a bakery license if it finds after proper investigation that:

(1) The applicant has made to the department any false statement of a material nature;

(2) The premises or equipment of the bakery sought to be licensed are not of a sanitary construction, design or condition. However, this section shall not be applied to prevent licensing and operation of a bakery solely because such establishment is in an area which is part of and not separate from a domestic kitchen if the establishment is upon investigation by the department found to be

constructed and maintained in a clean, healthful and sanitary condition; or

(3) The applicant has failed to comply with ORS 625.010 to 625.270 or any other applicable law of this state relative to bakeries or bakery products or any regulation in effect thereunder; except that if it is determined that an applicant has not so complied he shall be allowed a reasonable time, not exceeding 30 days, within which to comply, and his refusal or neglect to comply within that period is cause for denial of the application. [Amended by 1973 c.243 §1]

625.050 Expiration of bakery license; renewal; transfer of license. Each bakery license expires on December 31 next following its date of issue, unless sooner revoked for cause. Renewal may be obtained annually by paying to the department the required annual license fee. The license is not transferable to any person or applicable to any location other than that for which originally issued.

625.060 Cancellation and suspension. The department may cancel or suspend any bakery license if it finds after proper investigation that:

(1) The licensee has violated any provision of ORS 625.010 to 625.270 or of any other law of this state relating to the operation of bakeries or the manufacture or handling of any bakery product, or any regulation effective thereunder; or

(2) The licensed bakery premises or any equipment used therein or in connection therewith is in an insanitary condition and the licensee has failed or refused to remedy the condition within 10 days after receipt from the department of written notice so to do.

625.070 Posting and surrender of certificate. The operator of the licensed bakery shall keep the numbered license certificate posted conspicuously on the licensed premises. In the event of revocation or suspension of the license, the certificate shall be surrendered by the licensee to the department promptly upon demand.

625.080 Distributor's license required. No person shall engage within this state in the sale or distribution of any bakery product, other than exclusively as a retail food store or otherwise at retail at a fixed place or places of business, without holding a license so to do issued to that person by the department; but this does not affect the delivery of bakery products sold in a retail food store A distributor's license is not required of any person distributing solely bakery products manufactured by him in a bakery licensed under ORS 625.010 to 625.270.

625.090 Application for license; inspection of premises and equipment; issuance of certificate. Application for a distributor's license shall be filed in writing with the department on the form prescribed and supplied by the department. After receipt of the application and the fees required by ORS 625.180, the department shall cause to be made a proper detailed inspection of the premises and equipment to be used by the applicant in distribution within this state of bakery products. If the department finds that the premises and equipment are or will be of a sanitary construction, design or condition and that the applicant has complied with and will be able to comply with ORS 625.010 to 625.270, the application shall be approved and there shall be issued to the applicant a numbered license certificate bearing the name and address of the licensee.

625.100 Grounds for refusing to issue or revoking license. The department may refuse to issue or may revoke or suspend any distributor's license by reason of his violation or participation in a violation of ORS 625.010 to 625.270 or of any other law of this state relating or applicable to the sanitary handling, storage, packaging, sale, transportation or distribution of bakery products, or of any regulation effective thereunder.

625.110 Expiration of distributor's license; renewal; transfer of license. Each distributor's license expires on December 31 of the year of issue unless sooner revoked for cause and may be renewed annually upon written application to the department and payment of the required annual license fee for the following year. A distributor's license is not transferable and is strictly personal to the person to whom issued.

625.120 Display and surrender of certificate. The distributor's numbered license certificate shall be kept posted conspicuously at the licensee's principal public place of business within this state. The licensee shall also cause to be displayed conspicuously on the outside of each vehicle used by him in distribution of bakery products the statement "State Bakery Distributor's License No.——," including the proper license number In event

of revocation or suspension of the license, the certificate shall be surrendered by the licensee to the department promptly upon demand.

625.130 [Repealed by 1961 c 425 §20]

625.140 Inspection of bakeries and vehicles. The department shall cause to be made periodically a thorough inspection of each licensed bakery to determine whether or not the premises are constructed, equipped and operated in accordance with the requirements of ORS 625.010 to 625.270 and of all other laws of this state relating to bakeries or bakery products and all regulations effective thereunder. Such inspection shall also be made of each vehicle used by a bakery or distributor licensed under ORS 625.010 to 625.270 in transporting or distributing any bakery product within this state.

625.150 Sanitary regulations. The department shall prescribe reasonable sanitation requirements, not inconsistent with existing laws or regulations issued thereunder, governing the storing, handling, mixing, preparation, processing, manufacture, transportation and distribution of bakery products, and the design, construction, installation, maintenance, use, care and cleaning of utensils and equipment used therein or in connection therewith. Upon promulgation of any such regulation, any violation thereof is punishable as provided in ORS 625.990 (1). Any such regulation may be amended, altered or repealed by the department.

625.160 Powers of department; rules and regulations. (1) The department has the powers necessary or proper to enable it to carry out fully and effectually all the purposes and provisions of ORS 625.010 to 625.270. The department may adopt rules and regulations necessary and feasible for carrying out the provisions of ORS 625.010 to 625.270, and may amend or repeal the rules or regulations. The rules and regulations shall be published as provided by ORS 561.190.

(2) Such rules and regulations herein provided for shall include, but not be limited to, the following:

(a) The location of any and all advertising, lettering, wording or figures that appear on a bakery product container and the minimum contents thereof.

(b) The size, form and method of printing to be used in such labeling.

(c) Standards of identity and standards of quality for bakery products which shall be compatible and not in conflict with the federal standards of identity and quality for bakery products. [Amended by 1969 c 192 §2, 1975 c 265 §1]

625.170 [Repealed by 1959 c.370 §5]

625.180 License fees; additional vehicle registration fee. (1) Subject to subsection (2) of this section every bakery doing business in this state shall pay a license fee not to exceed the sum of $25, and an additional license fee equal to 75 cents each on the average number of employes for the preceding calendar year.

(2) Every domestic kitchen type bakery operated for profit and every distributor doing business in this state shall pay a license fee of $10.

(3) The payment of the bakery or distributor's license fee by any bakery or distributor entitles the bakery or distributor to the right to use one vehicle for the delivery or distribution of bakery products. For each additional vehicle so used each bakery shall pay an annual registration fee of $2 which shall be payable together with the bakery or distributor's license fee; except that whenever any bakery, at any time during any license year, desires to use an additional vehicle required to be registered by this section, and not so registered, such bakery or distributor shall, before using such vehicle in the sale or distribution of bakery products, make application to the department, pay the required $2 registration fee and receive from the department a permit for the use of the vehicle. All such vehicle registrations shall, together with the bakery and distributors' licenses, expire on December 31 next following their date of issuance. [Amended by 1967 c 244 §1, 1973 c.243 §2; 1975 c.312 §2]

625.190 Disposition of fees; appropriation. All fees received by the department under ORS 625.010 to 625.270 shall be deposited in the Department of Agriculture Service Fund and are continuously appropriated to the department for the purpose of carrying out ORS 625.010 to 625.270. [Amended by 1979 c.499 §25]

625.200 Standard of weight for bread; inspections by department; sale of loaves of unauthorized weight prohibited; cakes and cookies. (1) Bread, manufactured, made or kept for the purpose of sale, offered or exposed for sale, or sold in the form of loaves, shall be one of the following standards of

weights, and no other, namely: "Standard loaf" which shall not weigh less than 15 ounces and not more than 1 pound 1 ounce or "Standard large loaf" which shall weigh not less than 1 pound 6 1/2 ounces and not more than 1 pound 9 1/2 ounces or "Standard extra large loaf" which shall weigh not less than 1 pound 14 ounces and not more than 2 pounds 2 ounces. When twin loaves, or multiple loaves are baked, the weight specified in this section shall apply to each unit of the twin or multiple loaves.

(2) Inspections by the department of the weight of bread may be made either on the premises of the maker or manufacturer or at the place or premises where the bread is sold, offered or exposed for sale to the public at retail. The inspection by the department of the weight of bread shall be made within 24 hours after baking. In determining the weights prescribed in this section, the department shall average the weight of not less than 12 loaves of bread of any one unit of a specific variety and brand name and such average weight per loaf shall be within the tolerances herein established for the respective loaf of such unit. In the event there are less than 12 loaves of any one unit of a specific variety and brand name available at the time of inspection, then the average weight per loaf shall be determined from such loaves of any one unit of a specific variety and brand name as may be available.

(3) For the purpose of this section bread shall be deemed to be in the form of loaves, whether or not the loaf is wrapped, or whether transparent or other wrapping is used, or whether or not the loaf is sliced, and shall be deemed to be in package form when wrapped, and shall be labeled with the net weight provided for in this section and such other labeling as may be required by regulations promulgated by the department under the authority granted in ORS 625.160.

(4) No person shall manufacture, make, procure or keep for the purpose of sale, offer or expose for sale, or sell bread in the form of loaves which does not conform to the weights specified in this section.

(5) This section does not apply to biscuits, buns, crackers, rolls or what is commonly known as cakes and cookies, which, when sold or offered for sale, shall be sold either by net weight or numerical count, and when in package form shall be marked plainly as to the net weight or numerical count, except that packages containing more than 12 shall be labeled with the net weight. [Amended by 1953 c 657 §2; 1959 c 370 §2; 1969 c 192 §3]

625.205 [1953 c.651 §2, 1955 c.298 §2, 1971 c 176 §10; repealed by 1975 c.265 §15]

625.209 Standards for pans used for baking bread. Pursuant to the provisions of ORS 183.310 to 183.550, the department may promulgate, amend or repeal regulations setting forth the dimensions and size of pans which must be used in Oregon for the baking of bread. The department may take into consideration but is not limited to:

(1) The laws or regulations of the United States or other states relating to dimensions and sizes of bread pans.

(2) The customs, practices and problems of the bread baking industry in this state and other states.

(3) Dimensions and sizes of bread pans reasonably necessary to insure continued fair trade practices in the baking of bread.

(4) Measures reasonably necessary in order that the consumer will not be deceived or misled by deceptive shapes, dimensions, sizes, contents or the value of loaves of bread. [1959 c 370 §4]

625.210 [Repealed by 1959 c 370 §5]

625.212 Definitions for ORS 625.215. As used in ORS 625.215 unless the context requires otherwise:

(1) (a) "Bread," "white bread," "milk bread" and "raisin bread" have the same meaning as they have in the definitions and standards promulgated by the department pursuant to ORS 625.160.

(b) As used in this subsection, "bread" also includes those commonly known as Vienna, French and Italian.

(2) (a) "Rolls," "buns," "white rolls," "white buns," "raisin rolls" and "raisin buns" have the same meaning as they have in the definitions and standards promulgated by the department pursuant to ORS 625.160.

(b) As used in this subsection, "rolls" or "buns" include doughnuts, sweet rolls or sweet buns made with fillings or coatings, such as cinnamon, the soft rolls, such as Parker House rolls, hamburger buns, hot dog buns and the hard rolls, such as Vienna rolls or Kaiser rolls. However, rolls or buns shall not include foods made with specialty flours, such as cake flour.

(3) "Enriched" as applied to any of the breads, rolls or buns defined in subsections (1) and (2) of this section means the addition of the vitamins, minerals and other nutrients necessary to make that food conform to the definition and standards for enriched bread, enriched rolls or enriched buns promulgated by the department pursuant to ORS 625.160. [1971 c 176 §2, 1975 c 265 §2]

625.215 Sale of unenriched breads prohibited. It shall be unlawful for any person to manufacture, bake, sell or offer for sale for human consumption any of the breads, rolls or buns specified in ORS 625.212 (1) and (2) unless they are enriched. [1971 c 176 §3]

LABELING OF BREAD LOAVES

625.220 Labeling of bread loaves. Bread sold or offered for sale in the form of loaves shall be conspicuously labeled as required by ORS 625.010 (7), 625.200 and the regulations promulgated by the department under the authority of ORS 625.160. In addition to such requirements, if the loaf is balloon bread and if advertising, lettering, wording or figures appear on the container:

(1) On the top and on both sides, then the label shall also appear on at least two such places on the loaf of bread.

(2) On only the sides, then the label shall also appear on both sides.

(3) On only one side, then the label shall appear on such side.

(4) On only the top, then the label shall appear on the top.

(5) On both ends, then the label shall also appear on both ends.

(6) On only one end, then the label shall also appear on such end.

(7) On an attaching tag, quick lock or similar locking device, then the label shall also appear on such tag or device. [1963 c 594 §3; 1965 c 142 §1; 1969 c.192 §4]

625.230 [1963 c.594 §4, repealed by 1969 c 192 §7]

625.240 Labeling requirement for balloon bread. Notwithstanding the provisions of ORS 625.200 and 625.209, and in addition to other labeling of loaves of bread required by this chapter, a loaf of balloon bread may be baked and sold, providing it is conspicuously labeled with the words "BALLOON," "BALLOON LOAF" or "BALLOON BREAD" in the same manner and places as required for the labeling of bread by ORS 625.220, except that the words or letters shall be at least:

(1) One-half inch in height when appearing on the top, bottom or sides of a loaf.

(2) One-fourth inch in height when appearing on the ends of a loaf.

(3) One-eighth inch in height when appearing on an attaching tag, quick lock or other similar locking device common to the baking industry. [1963 c 594 §5, 1965 c.142 §2; 1969 c 192 §5]

625.250 Net weight of loaf to be stated if price is stated. (1) Other than on a container, if the word "bread" is used and the price thereof is a part of or appears in any visual advertisement, display, placard, or descriptive wording, then the applicable and appropriate net weight of such loaf must also be shown in bold-faced letters or numbers at least one-eighth inch in height, or not less than one-fourth of the height of the word "bread," whichever is the greater. If the bread is balloon bread, then the words "BALLOON," "BALLOON LOAF" or "BALLOON BREAD" shall also be shown in the same type and size letters.

(2) In any radio or television broadcast, advertising the sale of bread, if the price of such loaf is made a part thereof, then the appropriate net weight must also be stated. "Balloon bread" or "balloon loaf" shall be mentioned if the advertisement refers to balloon bread.

(3) In any advertising, radio or television broadcast which refers to the weight of a loaf of bread, the weight shall be expressed in ounces or a fraction thereof. [1963 c 594 §§6, 7, 1969 c.192 §6]

625.260 Exceptions from labeling requirement for unwrapped bread. (1) Except as provided by subsection (2) of this section, the provisions of ORS 625.220 and 625.240 do not apply in a bakery where unwrapped bread is on display and available for inspection by the prospective purchaser and where after purchase, each loaf is immediately placed in a bag by bakery personnel for the convenience of such purchaser.

(2) If the bread being sold under the provisions of subsection (1) of this section is balloon bread, the bakery shall place a placard next to or in with such loaves on which appears in bold-faced letters at least one inch in height

the words "BALLOON LOAF" or "BALLOON BREAD." Such placard must be placed so that it can be easily read by the prospective purchaser. [1963 c 594 §9]

625.270 Unlawful sale prohibited; exception. (1) Except as provided in subsection (2) of this section, no person shall sell, offer for sale, hold for sale, or bake a loaf of bread in violation of the provisions of ORS 625.010 to 625.270 or orders thereunder.

(2) The provisions of ORS 625.220 to 625.250 do not apply to bread sold at an occasional temporary bake sale held by a fraternal, religious, social or service organization. [1963 c 594 §8]

ADVERTISING AND TRADE PRACTICES

625.310 Definitions for ORS 625.310 to 625.350. As used in ORS 625.310 to 625.350, unless the context requires otherwise:

(1) "Bakery" means any place, premises or establishment where any bakery product is regularly prepared, processed or manufactured for sale other than for consumption on the premises where originally prepared, processed or manufactured.

(2) "Bakery products" includes bread, buns, rolls, cakes, pies, cookies, doughnuts and all similar goods now manufactured by bakeries, to be used for human food.

625.320 Forbidden representations and usages. No person shall, in connection with the operation of any bakery or the sale or distribution by bakeries of any bakery product:

(1) Use any method or make any statement, whether by print, radio, display or otherwise, which is inaccurate in any material particular, or which misrepresents any bakery product or ingredient thereof.

(2) Give or loan to any customer any show case, display table, rack or other display equipment or contrivance.

(3) Offer or give any article of value in connection with the sale of a bakery product.

(4) Offer or make any concession of any kind whatsoever, whether by the giving of coupons or otherwise, in connection with any such sale.

(5) Offer for sale or sell a bakery product in combination with any other commodity.

625.330 Remedies of persons injured by violation; attorney fees. (1) Any person injured by any violation of ORS 625.310 to 625.350 may maintain an action in any court of general equitable jurisdiction of this state to prevent, restrain or enjoin the violation. If in the suit a violation of ORS 625.310 to 625.350 is established, the court shall enjoin and restrain or otherwise prohibit the violation, and the plaintiff in the action is entitled to recover the damages sustained by the plaintiff, and the costs of suit and a reasonable attorney fee at trial and on appeal.

(2) In the event no injunctive relief is sought or required, any person injured by any violation of ORS 625.310 to 625.350 may maintain an action for damages alone in any court of general jurisdiction in this state. The measure of damages in such action shall be the same as that prescribed by subsection (1) of this section. [Amended by 1981 c 897 §74]

625.340 Compelling defendant to testify; introduction of books and records; use of testimony as basis for prosecution. Any defendant in an action or suit brought under the provisions of ORS 625.310 to 625.350 may be required to testify under the provisions of ORCP 65 or by deposition. In addition, the books and records of any such defendant may be brought into court and introduced into evidence. No information so obtained may be used against the defendant as a basis for a criminal prosecution under ORS 625.990 (2). [Amended by 1979 c 284 §183; 1981 c 898 §51]

625.350 Prohibited contract illegal. Any contract, express or implied, made by any person in violation of any of the provisions of ORS 625.310 to 625.350 is declared to be an illegal contract and no recovery thereon shall be had.

MISCELLANEOUS

625.810 Adulterated and misbranded food. The provisions of ORS 616.215, 616.235 and 616.250 relating to prohibited acts and adulterated and misbranded foods are applicable to this chapter. [1975 c 265 §7]

PENALTIES

625.990 Penalties. (1) Violation of any provision of ORS 625.010 to 625.270 is punishable, upon conviction, by a fine of not less than $25 nor more than $500. Justice courts and district courts have concurrent jurisdiction with circuit courts of all criminal offenses provided for in ORS 625.010 to 625.270.

(2) Violation of any provision of ORS 625.310 to 625.350 by any person, firm or corporation, whether as principal, agent, officer or director, for himself or for another person, or for any firm or corporation, is a misdemeanor for each single violation and is punishable, upon conviction, by a fine of not less than $100 nor more than $500, or by imprisonment not exceeding six months, or both. Justice courts have concurrent jurisdiction with district and circuit courts of prosecutions for violations of ORS 625.310 to 625.350.