

Enrolled Senate Bill 643

Sponsored by Senator KNOPP; Senators PROZANSKI, SMITH DB, SOLLMAN, Representatives BOICE, ELMER, GAMBA, GRAYBER, HOLVEY, MORGAN (Presession filed.)

CHAPTER

AN ACT

Relating to food establishments in residential dwellings; amending ORS 616.723.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 616.723 is amended to read:

616.723. (1) As used in this section:

(a) “Food” and “food establishment” have the meanings given those terms in ORS 616.695. “Food” does not include any article containing cannabis.

(b) “Potentially hazardous” means requiring temperature control due to the capacity to support the rapid and progressive growth of infectious microorganisms or the growth of toxic microorganisms.

(c) “Retailer” means a person who engages in the business of selling consumer goods to retail buyers. “Retailer” includes coffee shops and excludes restaurants.

(2) ORS 616.695 to 616.755 do not apply to a food establishment if:

(a) The food establishment is located in a residential dwelling;

[(b) The food establishment sells food only to the end user of the product;]

[(c)] (b) The foods prepared at the food establishment for public distribution are **packaged and not potentially hazardous, including but not limited to baked goods, confectionary items, coffee beans, teas, popcorn, jams, jellies, honey, syrups, fruit butters, nut mixes, repackaged freeze-dried foods, repackaged dried and dehydrated foods and powdered drink mixes;**

[(d) The foods prepared at the food establishment for public distribution are baked goods or confectionary items;]

[(e)] (c) The food bears on its label a statement and product information as described in subsection *[(4)]* (6) of this section informing consumers that the product is not prepared in an inspected food establishment;

[(f) Except as provided in subsection (6) of this section, the annual gross sales of foods prepared at the food establishment do not exceed \$20,000; and]

(d) **The annual gross sales of foods prepared at the food establishment do not exceed \$50,000, adjusted annually for inflation pursuant to the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor and rounded to the nearest \$100; and**

[(g)] (e) Each individual involved in the preparation of food at the food establishment for public distribution has successfully completed a food handler training program and holds a certificate issued under ORS 624.570.

[(3) A person may not sell foods prepared in an establishment described in this section on the Internet or to a commercial entity or an institution including, but not limited to, a restaurant, grocery store, caterer, school, day care center, hospital, nursing home or correctional facility.]

(3) A person may not sell foods prepared in a food establishment described in subsection (2) of this section to an institution including, but not limited to, a caterer, school, day care center, hospital, nursing home, correctional facility or restaurant.

(4) A person may sell foods prepared in a food establishment described in subsection (2) of this section directly to the end user in any manner, including from the home, online, through the mail and at events.

(5) A person may sell packaged foods prepared in a food establishment described in subsection (2) of this section to a retailer if the retailer agrees to:

(a) Store and display the foods separately from other foods; and

(b) Clearly indicate in displaying the foods that the foods are homemade and not prepared in an inspected food establishment.

[(4)(a)] **(6)(a)** Except as provided in this paragraph, the label statement required under subsection (2) of this section is “This product is homemade, *[and]* is not prepared in an inspected food establishment **and must be stored and displayed separately if merchandised by a retailer.**” The State Department of Agriculture may adopt rules specifying alternative wording for the label statement to the extent that alternative wording is necessary in order to comply with federal requirements.

(b) In addition to the statement required under paragraph (a) of this subsection, the label *[shall]* **must** disclose the following product information:

(A) The name[,] **and** phone number *[and address]* for the food establishment;

(B) The address of the food establishment or the unique identification number for the food establishment provided under subsection (7) of this section;

[(B)] *(C)* The name of the product;

[(C)] **(D)** The ingredients of the product in descending order by weight;

[(D)] **(E)** The net weight or net volume of the product;

[(E)] **(F)** Any applicable allergen warnings as specified under federal labeling requirements; *[and]*

[(F)] **(G)** If the label provides any nutrient content claim, health claim or other nutritional information, product nutritional information as described in federal labeling requirements; **and**

(H) The presence of pets in the residential dwelling in which the food establishment is located, if any, and the potential for pet allergens.

(7) At the request of a food establishment described in subsection (2) of this section, the department shall provide to the food establishment a unique identification number that the food establishment may use on the label of a product under subsection (6) of this section. The department may establish and collect a reasonable fee to cover the cost of administering this subsection.

[(5)] **(8)** Notwithstanding subsection (2) of this section, the department may require a food establishment described in **subsection (2) of this section** to become licensed under ORS 616.695 to 616.755, if the food establishment refuses to comply with department rules requiring that the food establishment be constructed and maintained in a clean, healthful and sanitary condition.

[(6) The department may adopt rules increasing the food sales limit established in subsection (2) of this section by an amount that reflects changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. The State Department of Agriculture may not adopt rules decreasing the food sales limit established in subsection (2) of this section.]

(9) The department shall adjust annually the maximum dollar amount of annual gross sales described in subsection (2)(d) of this section.

(10) The department may not prohibit a food establishment located in a residential dwelling, including a food establishment licensed as a domestic kitchen, from selling foods

on the basis that there are pets in the residential dwelling. The department shall prohibit pets from being in the food preparation area.

[(7)] (11) A person operating a food establishment described in **subsection (2) of** this section must maintain accurate records of annual sales and the types of foods produced by the food establishment. The person must retain the records for not less than three years and make the records available for inspection by the department upon request.

Passed by Senate April 17, 2023

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House May 31, 2023

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Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State