

A-Engrossed
House Bill 2617

Ordered by the House April 30
Including House Amendments dated April 30

Sponsored by Representative HOLVEY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Authorizes State Department of Agriculture to issue license for temporary use of food establishment by person renting or leasing establishment.]

[Creates penalty for violation of food establishment laws, punishable by maximum of \$1,000 fine or one year's imprisonment, or both.]

Authorizes State Department of Agriculture to license one or more additional users of custom processing establishment, custom slaughtering establishment, meat seller establishment, nonslaughtering processing establishment, slaughterhouse, food establishment, milk processing plant, dairy products plant or bakery that is primarily licensed for operation by another person. Requires department to recognize one person as primary operator of establishment, slaughterhouse, plant or bakery.

Authorizes State Department of Agriculture to assess license fee to additional user based on gross dollar volume of sales and services to user. Authorizes department to adopt rules establishing license terms and determining responsibilities of primary operator and additional users.

A BILL FOR AN ACT

1
2 Relating to food establishments; creating new provisions; and amending ORS 603.034.

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

4 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 603.**

5 **SECTION 2. (1) The State Department of Agriculture may issue licenses under this**
6 **chapter to one or more additional users of a custom processing establishment, custom**
7 **slaughtering establishment, meat seller establishment, nonslaughtering processing estab-**
8 **lishment or slaughterhouse that is licensed primarily for operation by another person. A li-**
9 **cence issued to an additional user of an establishment described in this subsection shall**
10 **cover all operations at that establishment by the person licensed. Regardless of the number**
11 **of persons licensed to use an establishment described in this subsection, the department may**
12 **not recognize more than one person as the primary operator of the establishment.**

13 **(2) The department may assess a license fee to an additional user of an establishment**
14 **described in this section, calculated as provided in ORS 603.025. In calculating license fees**
15 **under ORS 603.025, the establishment's annual gross dollar volume of sales and services for**
16 **an additional user of the establishment is independent of the establishment's annual gross**
17 **dollar volume of sales for any other user or the primary operator of the establishment.**

18 **(3) Notwithstanding ORS 603.025, the department may adopt rules to establish the license**
19 **expiration, renewal and application dates for additional users of an establishment.**

20 **(4) The department may adopt rules to determine the responsibilities of an establish-**
21 **ment's primary operator and additional users of the establishment under ORS 603.034, 603.045**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (6), 603.055 and 603.059 and rules adopted under ORS 603.055 and 603.085.

2 (5) A recognized primary operator of an establishment shall notify the department upon
3 the expiration or termination of the rental or lease of the establishment by an additional
4 user of the establishment. The renting or leasing of an establishment to a person licensed
5 by the department as an additional user of the establishment or the expiration or termi-
6 nation of use by a person licensed as an additional user of the establishment does not, by
7 itself, constitute the transfer of a business for purposes of ORS 603.027.

8 **SECTION 3.** ORS 603.034 is amended to read:

9 603.034. (1) In accordance with the provisions of ORS chapter 183, the State Department of Ag-
10 riculture may suspend, revoke, or refuse to issue a license to any applicant or licensee whose es-
11 tablishment construction, equipment or sanitation does not meet the requirements of the State Meat
12 Inspection Act as defined in ORS chapter 619, or of ORS 599.205 and this chapter, or of the rules
13 promulgated thereunder.

14 (2) Notwithstanding the provisions of ORS chapter 183, upon conviction of a licensee of any vi-
15 olation of the State Meat Inspection Act, as defined in ORS chapter 619, or of any provisions of ORS
16 599.205 and this chapter, or of the rules promulgated thereunder, or upon determination by the de-
17 partment that a licensee has failed to maintain the surety bond or letter of credit required by ORS
18 603.025 (3), the department is authorized to forthwith suspend or revoke such license. The depart-
19 ment shall, by certified mail addressed to such licensee at the address shown on the license, render
20 notice that such license has been revoked or suspended.

21 (3) Subject to ORS 603.025, authority to carry on more than one type of activity at the same
22 establishment shall *only* be approved by the department **only** if there is compliance [*by the*
23 *licensee*] with the laws and rules applicable to each separate activity.

24 (4) ORS 599.205 and this chapter shall not require a person to obtain a license to slaughter on
25 the person's own premises a meat animal, owned by the person, for the person's consumption or for
26 consumption by members of the person's household, nonpaying guests or employees.

27 **SECTION 4.** Section 5 of this 2007 Act is added to and made a part of ORS 616.695 to
28 616.755.

29 **SECTION 5.** (1) The State Department of Agriculture may issue licenses under ORS
30 616.695 to 616.755 to one or more additional users of a food establishment that is licensed
31 primarily for operation by another person. A license issued to an additional user of the food
32 establishment shall cover all operations at that establishment by the person licensed. Re-
33 gardless of the number of persons licensed to use a food establishment, the department may
34 not recognize more than one person as the primary operator of the establishment.

35 (2) The department may assess a license fee to an additional user of a food establishment,
36 calculated as provided in ORS 616.706. In calculating license fees under ORS 616.706, the
37 gross sales for an additional user of the food establishment are independent of the gross
38 sales by any other user or the primary operator of the food establishment.

39 (3) Notwithstanding ORS 616.706, the department may adopt rules to establish the license
40 expiration, renewal and application dates for additional users of a food establishment.

41 (4) The department may adopt rules to determine the responsibilities of a food estab-
42 lishment's primary operator and additional users of the food establishment under ORS
43 616.700, 616.735 and 616.740.

44 (5) A recognized primary operator of a food establishment shall notify the department
45 upon the expiration or termination of the rental or lease of the food establishment by an

1 additional user of the establishment. The renting or leasing of a food establishment to a
2 person licensed by the department as an additional user of the establishment or the expira-
3 tion or termination of use by a person licensed as an additional user of the establishment
4 does not, by itself, constitute the ceasing or discontinuance of operations or business at the
5 food establishment by the primary operator or another additional user for purposes of ORS
6 616.706.

7 (6) Subsections (1) to (5) of this section do not apply to a food establishment located in
8 an area that is part of a domestic kitchen.

9 **SECTION 6.** Sections 7 and 8 of this 2007 Act are added to and made a part of ORS
10 chapter 621.

11 **SECTION 7.** (1) The State Department of Agriculture may issue a distributor or
12 producer-distributor license under ORS 621.072 to one or more additional users of a milk
13 processing plant that is primarily operated by another distributor or producer-distributor.
14 A license issued to an additional user for activities at the milk processing plant may differ
15 in activity type and fluid milk grade from the license issued to the primary operator of the
16 plant. The physical facilities of the milk processing plant must conform to the requirements
17 for all activity types and milk grades for which the primary operator and the additional users
18 of the plant are licensed. Regardless of the number of persons licensed to use a milk pro-
19 cessing plant, the department may not recognize more than one distributor or producer-
20 distributor as the primary operator of the plant.

21 (2) The department may assess a distributor or producer-distributor license fee to an
22 additional user of a milk processing plant, calculated as provided in ORS 621.072. In calcu-
23 lating license fees under ORS 621.072, the annual gross dollar volume of sales and services
24 for an additional user of a milk processing plant is independent of the annual gross dollar
25 volume of sales and services for any other user or the primary operator of the plant.

26 (3) Notwithstanding ORS 621.072, the department may adopt rules to establish the license
27 expiration, renewal and application dates for distributors or producer-distributors that are
28 additional users of a milk processing plant.

29 (4) The department may adopt rules to determine the responsibilities of a milk processing
30 plant's primary operator and additional users of the milk processing plant under standards
31 prescribed by ORS 621.176 and 621.181 and under ORS 621.183.

32 (5) A recognized primary operator of a milk processing plant shall notify the department
33 upon the expiration or termination of the rental or lease of the plant by an additional user
34 of the plant.

35 **SECTION 8.** (1) The State Department of Agriculture may issue a dairy products plant
36 license under ORS 621.166 to one or more additional users of a dairy products plant that
37 processes or uses milk to manufacture dairy products and is primarily operated by another
38 person. A license issued to an additional user for activities at the dairy products plant shall
39 cover all operations at that plant by the person licensed. Regardless of the number of per-
40 sons licensed to use a dairy products plant, the department may not recognize more than
41 one person as the primary operator of the plant.

42 (2) The department may assess a license fee to an additional user of a dairy products
43 plant described in subsection (1) of this section, calculated as provided in ORS 621.166. In
44 calculating license fees under ORS 621.166, the annual gross dollar volume of sales and ser-
45 vices for an additional user of the dairy products plant is independent of the annual gross

1 **dollar volume of sales and services for any other user or the primary operator of the plant.**

2 **(3) Notwithstanding ORS 621.166, the department may adopt rules to establish the license**
3 **expiration, renewal and application dates for additional users of a dairy products plant.**

4 **(4) The department may adopt rules to determine the responsibilities of the dairy pro-**
5 **ducts plant's primary operator and additional users of the dairy products plant's under**
6 **standards prescribed by ORS 621.176 and 621.181 and under ORS 621.183.**

7 **(5) A recognized primary operator of a dairy products plant shall notify the department**
8 **upon the expiration or termination of the rental or lease of the plant by an additional user**
9 **of the plant.**

10 **SECTION 9. Section 10 of this 2007 Act is added to and made a part of ORS 625.010 to**
11 **625.270.**

12 **SECTION 10. (1) The State Department of Agriculture may issue licenses under ORS**
13 **625.030 to one or more additional users of a bakery that is licensed primarily for operation**
14 **by another person. A license issued to an additional user of the bakery shall cover all op-**
15 **erations at that bakery by the person licensed. Regardless of the number of persons licensed**
16 **to use a bakery, the department may not recognize more than one person as the primary**
17 **operator of the bakery.**

18 **(2) The department may assess a license fee to an additional user of a bakery, calculated**
19 **as provided in ORS 625.180. In calculating license fees under ORS 625.180, the gross sales by**
20 **an additional user of a bakery are independent of the gross sales by any other user or the**
21 **primary operator of the bakery.**

22 **(3) Notwithstanding ORS 625.050, the department may adopt rules to establish the license**
23 **expiration, renewal and application dates for additional users of a bakery.**

24 **(4) The department may adopt rules to determine the responsibilities of a bakery's pri-**
25 **mary operator and additional users of the bakery under requirements prescribed by the de-**
26 **partment as provided under ORS 625.150.**

27 **(5) A recognized primary operator of a bakery shall notify the department upon the ex-**
28 **piration or termination of the rental or lease of the bakery by an additional user of the**
29 **bakery.**

30 **(6) Subsections (1) to (5) of this section do not apply to a bakery located in an area that**
31 **is part of a domestic kitchen.**

32