

House Bill 3265

Sponsored by Representative BARKER; Representative GREENLICK (at the request of Kathleen Thomas, Drake Durham, Rena Jimenez and Mercedes Rhonden)

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 **as introduced**.

Requires use of safe food practice point system for determining sanitation score of restaurant or bed and breakfast facility. Requires that notice provided for posting by restaurant or bed and breakfast facility indicate sanitation score letter grade or, if failing, numeric score.

Applies for inspections conducted on or after January 1, 2010.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to safe food practice inspections; creating new provisions; amending ORS 624.073; and de-
3 claring an emergency.

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

5 **SECTION 1.** ORS 624.073 is amended to read:

6 624.073. (1) **As used in this section, "imminent" means impending or likely to develop**
7 **without delay.**

8 [(1)] (2) If the Director of Human Services determines that a critical violation of ORS 624.010
9 to 624.121, or any rule promulgated pursuant thereto, exists in a restaurant or bed and breakfast
10 facility and the critical violation constitutes a potential danger to the public health, the director
11 may revoke, suspend or refuse to issue the license required by ORS 624.020 if, after a reasonable
12 time has been given for correction of the violation, but not longer than 14 days, the violation con-
13 tinues to exist. The director shall reinstate a license that has been revoked or suspended if the di-
14 rector determines that the violation has been corrected.

15 [(2)] (3) Notwithstanding ORS 624.020, if the director determines that a critical violation of ORS
16 624.010 to 624.121[,] or any rule [*promulgated pursuant thereto,*] **adopted under ORS 624.010 to**
17 **624.121** exists in a restaurant or bed and breakfast facility and the critical violation [*constitutes*] **is**
18 an imminent or present danger to the public health, the director may:

19 (a) Order immediate correction[,];

20 (b) **Order the** use of an approved alternative procedure; or

21 (c) **Order** closure of the restaurant or bed and breakfast facility by written notice [*thereof*] **of**
22 **closure** to the operator.

23 (4) [*The*] **An** inspection report [*carrying*] **may serve as the written notice of the closure if**
24 **the report carries** a statement ordering closure, [*and specifying*] **specifies** the reasons [*therefor*]
25 **for closure, is** signed by the director and delivered to the operator [*may serve as the written notice*
26 *of the closure*]. The director shall use inspection forms that clearly display notice that procedures
27 are available to the licensee under ORS chapter 183 for appeal of the closure order. A copy of the
28 notice shall be filed with the records of the Department of Human Services. The closure order shall
29 have the effect of an immediate revocation of the operator's license. If requested, the director shall

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 provide a prompt hearing after the closure in accordance with ORS chapter 183.

2 [(3)] (5) If the director determines that closure of the restaurant or bed and breakfast facility
3 is necessary because failure to correct a critical violation or implement an approved alternative
4 procedure [constitutes] **is** a potential danger to the public health, or failure to correct a critical vi-
5 olation or implement an approved alternative procedure [constitutes] **is** an imminent or present
6 danger to the public health, the director shall:

7 (a) Notify the owner or person in charge of the restaurant or bed and breakfast facility that
8 [such] **the** restaurant or bed and breakfast facility [shall] **may** not be used for food service purposes
9 until the critical violations specified in the inspection report have been corrected; and

10 (b) Post a notice of closure upon the restaurant or bed and breakfast facility at the customary
11 entrance to the restaurant or bed and breakfast facility in public view. [to the effect] **The notice**
12 **shall state** that the restaurant or bed and breakfast facility is closed for operation because a crit-
13 ical violation exists.

14 [(4)(a)] (6)(a) [No person shall] **A person may not** remove a notice of closure from a restaurant
15 or bed and breakfast facility until the violation [which] **that** caused the notice to be posted has been
16 corrected.

17 (b) [No person shall] **A person may not** operate a restaurant or bed and breakfast facility upon
18 which a notice of closure has been posted until the violation [which] **that** caused the notice to be
19 posted has been corrected and the notice has been removed.

20 [(5)] (7) The director shall define clearly the criteria and rules for conformance to acceptable
21 food service practices used to determine the restaurant or bed and breakfast facility sanitation score
22 to [insure] **ensure** statewide uniformity in the inspection and licensing processes. Critical violations
23 [which constitute] **that are** a potential danger to the public health and critical violations [which
24 constitute] **that are** an imminent or present danger to the public health shall be clearly defined.
25 [Minimum acceptable food service standard procedures shall be clearly defined by setting a minimum
26 acceptable sanitation score for a licensed restaurant or bed and breakfast facility.]

27 (8) **During an inspection, the director shall score a restaurant or bed and breakfast fa-**
28 **facility for food service practices using a system in which a score of 100 points means that the**
29 **restaurant or bed and breakfast facility meets or exceeds all required sanitation practices**
30 **and a score of less than 70 points means an unacceptable sanitation score. The director shall**
31 **issue a restaurant or bed and breakfast facility a notice of compliance for posting under ORS**
32 **624.060 (4) based on the sanitation score obtained by the restaurant or bed and breakfast**
33 **facility during the inspection. If the sanitation score is 90 or more points, the notice of**
34 **compliance shall bear the letter "A". If the sanitation score is at least 80 points but less than**
35 **90 points, the notice of compliance shall bear the letter "B". If the sanitation score is at least**
36 **70 points but less than 80 points, the notice of compliance shall bear the letter "C". If the**
37 **sanitation score is less than 70 points, the notice of compliance shall bear the numeric san-**
38 **itation score.**

39 [(6)] (9) If a restaurant or bed and breakfast facility obtains a sanitation score of less than [the
40 minimum acceptable standard] **70 points**, the restaurant or bed and breakfast facility operator or
41 person in charge of the restaurant or bed and breakfast facility shall be notified of impending clo-
42 sure if, after reinspection within 30 days, the sanitation score does not [meet minimum acceptable
43 food service standards] **equal or exceed 70 points**. If closure action is taken after reinspection, the
44 restaurant or bed and breakfast facility may not be operated until the restaurant or bed and
45 breakfast facility operator submits a plan for correction of the violations that receives the approval

1 of the director and a subsequent inspection of the restaurant or bed and breakfast facility produces
2 a sanitation score that [*meets minimum acceptable food service standards*] **equals or exceeds 70**
3 **points.**

4 [(7)] (10) The department may establish a more frequent inspection schedule for a restaurant
5 licensed under ORS 624.020 that fails to meet specific [*minimum*] standards **or criteria** established
6 by the department. The department may charge a fee for costs associated with the performance of
7 additional inspections.

8 [(8) *As used in this section, "imminent" means impending or likely to develop without delay.*]

9 **SECTION 2. The amendments to ORS 624.073 by section 1 of this 2009 Act apply for safe**
10 **food practice inspections conducted on or after January 1, 2010.**

11 **SECTION 3. This 2009 Act being necessary for the immediate preservation of the public**
12 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
13 **on its passage.**

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