

House Bill 2868

Sponsored by Representative CLEM (Pre-session filed.)

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**.

Provides for licensing of intermittent temporary restaurants and seasonal temporary restaurants. Removes special license provision for temporary restaurant operating on intermittent basis. Removes limit on fee for multiple temporary restaurants operated by same person.

Removes limit on number of temporary restaurants operated by benevolent organization. Extends license term for single-event temporary restaurant operated by benevolent organization.

A BILL FOR AN ACT

1
2 Relating to temporary restaurants; creating new provisions; and amending ORS 471.190, 616.711,
3 624.010, 624.041, 624.080, 624.086, 624.091, 624.096, 624.106, 624.111, 624.490, 624.570 and 624.650.

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

5 **SECTION 1. Sections 2 to 4 of this 2011 Act are added to and made a part of ORS 624.010**
6 **to 624.121.**

7 **SECTION 2. (1) A person may not operate an intermittent temporary restaurant without**
8 **first procuring a license to do so from the Oregon Health Authority. The intermittent tem-**
9 **porary restaurant license shall be posted in a conspicuous place on the premises of the**
10 **licensee.**

11 **(2) Application for an intermittent temporary restaurant license shall be in writing in the**
12 **form prescribed by the authority and shall contain the name and address of the applicant,**
13 **the specific location of the intermittent temporary restaurant, a description of the public**
14 **gatherings, entertainment events, food product promotions or other events to be served by**
15 **the intermittent temporary restaurant, an operating plan and any other information the**
16 **authority may require. Except as provided in ORS 624.106, an applicant for an intermittent**
17 **temporary restaurant license or renewal of an intermittent temporary restaurant license**
18 **shall pay to the authority the appropriate license fee under ORS 624.490.**

19 **(3) An intermittent temporary restaurant license shall expire 30 days after issuance.**
20 **However, the license shall terminate immediately if:**

21 **(a) The intermittent temporary restaurant prepares or serves food for consumption by**
22 **the public that is not in connection with a public gathering, entertainment event, food**
23 **product promotion or other event held by an oversight organization;**

24 **(b) The location of the intermittent temporary restaurant changes; or**

25 **(c) The menu is substantially altered as defined by authority rules.**

26 **(4) The Director of the Oregon Health Authority may suspend, deny or revoke an inter-**
27 **mittent temporary restaurant license if it appears, after a reasonable time has been given**
28 **for correction of a sanitation violation, that the applicant does not meet applicable minimum**
29 **sanitation standards as described in ORS 624.010 to 624.121 or in a rule adopted under ORS**
30 **624.010 to 624.121. Any suspension, denial or revocation action shall be taken in accordance**

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 with ORS chapter 183.

2 **SECTION 3.** (1) A person may not operate a seasonal temporary restaurant without first
 3 procuring a license to do so from the Oregon Health Authority. The seasonal temporary
 4 restaurant license shall be posted in a conspicuous place on the premises of the licensee.

5 (2) Application for a seasonal temporary restaurant license shall be in writing in the form
 6 prescribed by the authority and shall contain the name and address of the applicant, the
 7 specific location of the seasonal temporary restaurant, the name of the oversight organiza-
 8 tion arranging the public gatherings, entertainment events, food product promotions or
 9 other events to be served by the seasonal temporary restaurant, an operating plan and any
 10 other information the authority may require. Except as provided in ORS 624.106, an applicant
 11 for a seasonal temporary restaurant license or renewal of a seasonal temporary restaurant
 12 license shall pay to the authority the appropriate license fee under ORS 624.490.

13 (3) A seasonal temporary restaurant license shall expire 90 days after issuance. However,
 14 a license shall terminate immediately if:

15 (a) The seasonal temporary restaurant prepares or serves food for consumption by the
 16 public that is not in connection with a public gathering, entertainment event, food product
 17 promotion or other event held by the oversight organization identified in the license appli-
 18 cation for the seasonal temporary restaurant;

19 (b) The location of the seasonal temporary restaurant changes; or

20 (c) The menu is substantially altered as defined by authority rules.

21 (4) The Director of the Oregon Health Authority may suspend, deny or revoke a seasonal
 22 temporary restaurant license if it appears, after a reasonable time has been given for cor-
 23 rection of a sanitation violation, that the applicant does not meet applicable minimum sani-
 24 tation standards as described in ORS 624.010 to 624.121 or in a rule adopted under ORS 624.010
 25 to 624.121. Any suspension, denial or revocation action shall be taken in accordance with ORS
 26 chapter 183.

27 **SECTION 4.** The following are not subject to the requirements established under ORS
 28 624.010 to 624.121 for restaurants, intermittent temporary restaurants, seasonal temporary
 29 restaurants or single-event temporary restaurants:

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

32 (2) An approved school lunchroom where:

33 (a) Food is prepared and served for school and community activities; and

34 (b) The food preparation and service are under the direction of the school lunchroom
 35 supervisor.

36 (3) A food product promotion where only samples of a food or foods are offered to dem-
 37 onstrate the characteristics of the food product. For the purposes of this subsection, a
 38 sample may not include a meal, an individual hot dish or a whole sandwich.

39 (4) A private residence, or part of a private residence, including the grounds, areas and
 40 facilities held out for the use of the occupants generally, for which a temporary sales license
 41 is issued under ORS 471.190 for a period not exceeding one day.

42 **SECTION 5.** ORS 624.010 is amended to read:

43 624.010. As used in ORS 624.010 to 624.121, unless the context requires otherwise:

44 (1) "Authority" means the Oregon Health Authority.

45 (2) "Bed and breakfast facility" means any establishment located in a structure designed for a

1 single family residence and structures appurtenant thereto, regardless of whether the owner or op-
 2 erator of the establishment resides in any of the structures, that:

3 (a) Has more than two rooms for rent on a daily basis to the public; and

4 (b) Offers a breakfast meal as part of the cost of the room.

5 (3) "Director" means the Director of the Oregon Health Authority.

6 (4) **"Intermittent temporary restaurant" means an establishment:**

7 (a) **That operates temporarily at a specific location in connection with multiple public**
 8 **gatherings, entertainment events, food product promotions or other events, at least two of**
 9 **which are arranged for by different oversight organizations; and**

10 (b) **Where food is prepared or served for consumption by the public.**

11 [(4)] (5) "Limited service restaurant" means a restaurant serving only individually portioned
 12 prepackaged foods prepared from an approved source by a commercial processor and nonperishable
 13 beverages.

14 (6) **"Operational review" means the examination of a plan of operation for an establish-**
 15 **ment in order to ensure that the proposed operation conforms with applicable sanitation**
 16 **standards.**

17 (7) **"Oversight organization" means an entity responsible for organizing, managing or**
 18 **otherwise arranging for a public gathering, entertainment event, food product promotion or**
 19 **other event, including but not limited to ensuring the availability of water, sewer and sani-**
 20 **tation services.**

21 [(5)] (8) "Restaurant," *[includes any establishment]* **except as provided in subsection (9) of this**
 22 **section, means an establishment:**

23 (a) Where food or drink is prepared for consumption by the public;

24 (b) *[or any establishment]* Where the public obtains food or drink so prepared in form or quantity
 25 consumable then and there, whether or not it is consumed within the confines of the premises where
 26 prepared, *and also includes establishments that prepare;* **or**

27 (c) **That prepares** food or drink in consumable form for service outside the premises where
 28 prepared, *but does not include railroad dining cars, bed and breakfast facilities or temporary res-*
 29 *taurants.]*

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

34 [(a)] *An establishment where food is prepared and served by a fraternal, social or religious organ-*
 35 *ization only to its own members and guests.]*

36 [(b)] *An approved school lunchroom where food is prepared and served for school and community*
 37 *activities, where the preparation and service are under the direction of the school lunchroom*
 38 *supervisor.]*

39 [(c)] *A food product promotion where only samples of a food or foods are offered to demonstrate the*
 40 *characteristics of the food product. For the purposes of this paragraph, a sample shall not include a*
 41 *meal, an individual hot dish or a whole sandwich.]*

42 [(d)] *A private residence, or part thereof, including the grounds, areas and facilities held out for the*
 43 *use of the occupants generally, for which a temporary sales license is issued under ORS 471.190 for*
 44 *a period not exceeding one day.]*

45 (9) **"Restaurant" does not mean a railroad dining car, bed and breakfast facility, inter-**

1 **mittent temporary restaurant, seasonal temporary restaurant or single-event temporary**
2 **restaurant.**

3 (10) **“Seasonal temporary restaurant” means an establishment:**

4 (a) **That operates at a specific location in connection with multiple public gatherings,**
5 **entertainment events, food product promotions or other events that are arranged for by the**
6 **same oversight organization; and**

7 (b) **Where food is prepared or served for consumption by the public.**

8 (11) **“Single-event temporary restaurant” means an establishment:**

9 (a) **That operates in connection with a single public gathering, entertainment event, food**
10 **product promotion or other event; and**

11 (b) **Where food is prepared or served for consumption by the public.**

12 **SECTION 6.** ORS 624.041 is amended to read:

13 624.041. The Oregon Health Authority shall make all rules necessary for the enforcement of ORS
14 624.010 to 624.121, including such rules concerning the construction and operation of restaurants,
15 bed and breakfast facilities [*and*], **intermittent temporary restaurants, seasonal temporary**
16 **restaurants and single-event** temporary restaurants as are reasonably necessary to protect the
17 public health of persons using these facilities. The rules shall provide for, but need not be restricted
18 to, the following:

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

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

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

23 (4) The cleanliness of the premises.

24 (5) The refrigeration of perishable foods.

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

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

27 (8) The control of insects and rodents.

28 (9) The cleanliness and grooming of food workers.

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

30 (11) Review of proposed plans for the construction or remodeling of facilities subject to licensing
31 under this chapter.

32 **SECTION 7.** ORS 624.080 is amended to read:

33 624.080. (1) The Oregon Health Authority may, by rule, define certain communicable diseases
34 [*which may be*] **that are capable of being** spread to the public by employees of a restaurant, bed
35 and breakfast facility [*or*], **intermittent temporary restaurant, seasonal temporary restaurant**
36 **or single-event** temporary restaurant.

37 (2) [*No*] **A** person who is affected with a communicable disease described in subsection (1) of this
38 section or is a carrier of such disease [*shall*] **may not** work in any restaurant, bed and breakfast
39 facility [*or*], **intermittent temporary restaurant, seasonal temporary restaurant or single-**
40 **event** temporary restaurant. [*No*] **A** restaurant, bed and breakfast facility [*or temporary restaurant*
41 *shall employ any such person or any person*], **intermittent temporary restaurant, seasonal tem-**
42 **porary restaurant or single-event temporary restaurant may not employ a person who is**
43 **affected with, carries or is** suspected of being affected with **or carrying** any communicable disease
44 [*or of being a carrier of such disease*]. If the restaurant, bed and breakfast facility [*or*], **intermittent**
45 **temporary restaurant, seasonal temporary restaurant or single-event** temporary restaurant

1 manager suspects that any employee has contracted any disease in a communicable form or has
 2 become a carrier of such disease, the manager shall notify the Director of the Oregon Health Au-
 3 thority immediately. A placard containing this subsection shall be posted in all toilet rooms.

4 (3) When suspicion arises as to the possibility of transmission of infection from any restaurant,
 5 bed and breakfast facility *[or]*, **intermittent temporary restaurant, seasonal temporary restau-
 6 rant or single-event** temporary restaurant employee, the director may require any or all of the
 7 following measures:

8 (a) The immediate exclusion of the employee from all restaurants, bed and breakfast facilities
 9 *[and]*, **intermittent temporary restaurants, seasonal temporary restaurants and single-event**
 10 temporary restaurants; and

11 (b) Adequate medical examinations of the employee and associates of the employee, with such
 12 laboratory examinations as may be indicated.

13 **SECTION 8.** ORS 624.086 is amended to read:

14 624.086. (1) A person may not operate a **single-event** temporary restaurant without first pro-
 15 curing a license to do so from the Oregon Health Authority. The **single-event** temporary restaurant
 16 license shall be posted in a conspicuous place on the premises of the licensee.

17 (2) Application for a **single-event** temporary restaurant license shall be in writing in the form
 18 prescribed by the authority and shall contain the name and address of the applicant, the specific
 19 location of the **single-event** temporary restaurant and any other information the authority may re-
 20 quire.

21 (3) All **single-event** temporary restaurant licenses shall terminate 30 days after issuance unless
 22 within the 30 days the **single-event** temporary restaurant is discontinued or is moved from the
 23 specific location for which the license was issued. If within 30 days after issuance the **single-event**
 24 temporary restaurant is discontinued or moved from the specific location for which the license was
 25 issued, the license shall terminate upon the discontinuance or the removal.

26 (4) Except as provided in ORS 624.106, *[and subsection (6) of this section,]* every applicant for a
 27 **single-event** temporary restaurant license or renewal *[thereof]* of a **single-event temporary res-
 28 taurant license** shall pay to the authority the appropriate license fee under ORS 624.490.

29 (5) The Director of the Oregon Health Authority may suspend, deny or revoke any **single-event**
 30 temporary restaurant license if it appears, after a reasonable time has been given for correction of
 31 a sanitation violation, that the applicant does not meet applicable minimum sanitation standards as
 32 outlined in ORS 624.010 to 624.121 or any rule adopted thereunder. Any suspension, denial or revo-
 33 cation action shall be taken in accordance with ORS chapter 183.

34 *[(6) Notwithstanding any other provision of this section or ORS 624.490:]*

35 *[(a) Each temporary restaurant operating on an intermittent basis, in a grouping of six or more,
 36 at the same specific location two or more times within a 30-day period shall be issued one license for
 37 each 30-day period.]*

38 *[(b) The total annual amount of license fees for temporary restaurants described in paragraph (a)
 39 of this subsection may not exceed the maximum annual license fee for a restaurant that is situated in
 40 the county in which the temporary restaurant is situated.]*

41 **SECTION 9.** ORS 624.091 is amended to read:

42 624.091. (1) At least once during the operation of a **single-event** temporary restaurant, the Di-
 43 rector of the Oregon Health Authority shall inspect the facilities and operation. The person oper-
 44 ating the **single-event** temporary restaurant shall, upon request of the director, permit access to
 45 all parts of the establishment.

1 **(2) The director shall conduct an operational review of an intermittent temporary res-**
 2 **taurant or seasonal temporary restaurant. The director may charge a reasonable fee estab-**
 3 **lished by rule for conducting the operational review. The director shall inspect the facilities**
 4 **and operation of an intermittent temporary restaurant or seasonal temporary restaurant at**
 5 **least once during the term of the license. The person operating the intermittent temporary**
 6 **restaurant or seasonal temporary restaurant shall, upon request of the director, permit ac-**
 7 **cess to all parts of the establishment.**

8 [(2)] **(3) One copy of the inspection report shall be posted by the director [somewhere] on the**
 9 **establishment premises.;** *and the report shall not be defaced or removed by any person except the di-*
 10 *rector until the temporary restaurant license is terminated.]* **A person other than the director may**
 11 **not remove or deface the inspection report during the term of the license. [Another] The di-**
 12 **rector shall file a copy of the inspection report [shall be filed with] in the records of the Oregon**
 13 **Health Authority.**

14 **SECTION 10.** ORS 624.096 is amended to read:

15 624.096. *[When the]* **If a violation of any provision of ORS 624.010 to 624.121 or any rule**
 16 *[promulgated thereunder]* **adopted under ORS 624.010 to 624.121** comes to the attention of the Di-
 17 **rector of the Oregon Health Authority and [if] the violation is of such a nature as to constitute a**
 18 **serious hazard to the health of the public, [immediate closure of the temporary restaurant may be se-**
 19 **cured upon notification of the operator in writing.] the director may immediately close an inter-**
 20 **mittent temporary restaurant, seasonal temporary restaurant or single-event temporary**
 21 **restaurant by giving written notice to the operator.** The inspection report carrying a statement
 22 ordering closure and signed by the director delivered to the operator may serve as the written no-
 23 tice of the closure. *[A copy of this notice shall be filed with]* **The director shall file a copy of the**
 24 **notice in the records of the Oregon Health Authority. The closure order shall have the effect of**
 25 **an immediate revocation of the operator's license. The director shall, if requested, provide a prompt**
 26 **hearing after closure in accordance with ORS chapter 183.**

27 **SECTION 11.** ORS 624.106 is amended to read:

28 624.106. (1)(a) *[Notwithstanding ORS 624.086 (3) and (4),]* The Oregon Health Authority shall is-
 29 **sue a license to a benevolent organization to operate a single-event temporary restaurant pursuant**
 30 **to this section if the benevolent organization has notified the authority, orally or in writing, [of its**
 31 **intention to operate a temporary restaurant.] that the benevolent organization intends to operate**
 32 **a single-event temporary restaurant.** The authority shall provide at least one place in each
 33 county at which such notification may be made.

34 **(b) Not more than 13 temporary restaurant licenses per year may be issued pursuant to this section**
 35 **to each benevolent organization.]**

36 **(c) No license fee or inspection fee shall be charged for a temporary restaurant licensed pursuant**
 37 **to this section.]**

38 **(b) Notwithstanding ORS 624.490 or 624.650, the authority, or a local public health au-**
 39 **thority as provided under ORS 624.510, may not charge a benevolent organization a license**
 40 **fee or inspection fee for a single-event temporary restaurant licensed under this subsection.**

41 **(2) The authority shall issue a single-event temporary [benevolent] restaurant license to each**
 42 **[provider of] restaurant service provider at a special event arranged by a benevolent organization.**
 43 **The license shall be provided without fee to each restaurant service provider who files with the**
 44 **benevolent organization a signed statement that the service provider receives no profit from res-**
 45 **taurant services performed at the special event. The statement shall be subject to inspection by the**

1 authority at the time inspections are made pursuant to ORS 624.111. *[For the purpose of licenses is-*
 2 *ssued pursuant to this subsection, a particular benevolent organization may arrange only one special*
 3 *event per calendar year.] A benevolent organization may not arrange more than one special*
 4 **event per calendar year for which restaurant service providers are licensed without charge**
 5 **under this subsection.**

6 *[(3) All licenses issued pursuant to this section shall terminate three days after issuance unless*
 7 *within the three days the temporary restaurant is discontinued or is moved from the specific location*
 8 *for which the license was issued. If within three days after issuance the temporary restaurant is dis-*
 9 *continued or moved from the specific location for which the license was issued, the license shall ter-*
 10 *minate upon the discontinuance or the removal.]*

11 **SECTION 12.** ORS 624.111 is amended to read:

12 624.111. (1) At any time during the operation of a **single-event** temporary restaurant licensed
 13 *[pursuant to]* **under** ORS 624.106, the Director of the Oregon Health Authority may inspect the fa-
 14 cilities and operation.

15 (2) The benevolent organization **or service provider** operating the **single-event** temporary
 16 restaurant shall, upon request of the director, permit access to all parts of the establishment.

17 **SECTION 13.** ORS 624.490 is amended to read:

18 624.490. (1) The Oregon Health Authority may charge the following fees for the issuance or re-
 19 newal of licenses:

- 20 (a) \$157.50 for a bed and breakfast facility.
- 21 (b) \$210 for a limited service restaurant.
- 22 (c) For a restaurant in accordance with seating capacity, as follows:
- 23 (A) \$367.50 for 0 to 15 seats;
- 24 (B) \$414.75 for 16 to 50 seats;
- 25 (C) \$472.50 for 51 to 150 seats; and
- 26 (D) \$525 for more than 150 seats.
- 27 **(d) For an intermittent temporary restaurant, \$52.50.**
- 28 **(e) For a seasonal temporary restaurant, \$52.50.**

29 *[(d)] (f) For a single-event temporary restaurant, except as provided in ORS [624.086 and]*
 30 *624.106:*

- 31 (A) \$36.75 for an event lasting one day; and
- 32 (B) \$52.50 for an event lasting two days or longer.

- 33 *[(e)] (g) \$262.50 for a commissary.*
- 34 *[(f)] (h) \$105 for each warehouse.*
- 35 *[(g)] (i) \$131.50 for each mobile unit.*

36 *[(h)] (j) For vending machines in accordance with the number of machines covered by the license*
 37 *as follows:*

- 38 (A) \$26.25 for 1 to 10 machines;
- 39 (B) \$52.50 for 11 to 20 machines;
- 40 (C) \$78.75 for 21 to 30 machines;
- 41 (D) \$105 for 31 to 40 machines;
- 42 (E) \$131.25 for 41 to 50 machines;
- 43 (F) \$157.50 for 51 to 75 machines;
- 44 (G) \$210 for 76 to 100 machines;
- 45 (H) \$367.50 for 101 to 250 machines;

- 1 (I) \$577.50 for 251 to 500 machines;
- 2 (J) \$787.50 for 501 to 750 machines;
- 3 (K) \$966 for 751 to 1,000 machines;
- 4 (L) \$1,260 for 1,001 to 1,500 machines; and
- 5 (M) \$1,575 for more than 1,500 machines.

6 (2) **Except as provided in this subsection**, to reinstate [*a license other than a temporary res-*
 7 *taurant license after the expiration date,*] **an expired license** the operator must pay a reinstatement
 8 fee of \$100 in addition to the license fee required under subsection (1) of this section. **The rein-**
 9 **statement fee does not apply to the reinstatement of an expired intermittent temporary**
 10 **restaurant, seasonal temporary restaurant or single-event temporary restaurant license.** If
 11 the operator reinstates the license more than 30 days after the expiration date, the reinstatement
 12 fee shall increase by \$100 on the 31st day following the expiration date and on that day of the month
 13 in each succeeding month until the license is reinstated.

14 (3) **Notwithstanding subsection (1) of this section**, the Oregon Health Authority or a local
 15 public health authority **as provided under ORS 624.510** may exempt or reduce the license fee for
 16 restaurants operated by benevolent organizations[, *as defined in ORS 624.101,*] that provide food or
 17 beverages primarily to children, the elderly, the indigent or other needy populations if the persons
 18 receiving the food or beverages are not required to pay the full cost of the food or beverages. **As**
 19 **used in this subsection, “benevolent organization” has the meaning given that term in ORS**
 20 **624.101.**

21 **SECTION 14.** ORS 624.570 is amended to read:

22 624.570. (1)(a) Except as provided in subsection (6) of this section, any person involved in the
 23 preparation or service of food in a restaurant or food service facility licensed under ORS 624.020
 24 or 624.320 must successfully complete a food handler training program and earn a certificate of
 25 program completion within 30 days after the date of hire. The person shall thereafter maintain a
 26 valid completion certificate at all times during the employment.

27 (b) A food handler training program offered by the Oregon Health Authority or the designated
 28 agent of the authority, or offered by a local public health authority or designated agent of the local
 29 public health authority that has been approved by the Oregon Health Authority, is valid in any ju-
 30 risdiction in the state for the purpose of obtaining the certificate of completion under subsection (2)
 31 of this section.

32 (2) If a person successfully completes the food handler training program required in subsection
 33 (1) of this section and pays the appropriate fee, the Oregon Health Authority, a local public health
 34 authority or a designated agent shall issue a certificate of completion. A food handler certificate
 35 of completion expires three years after the date of issuance.

36 (3) All local public health authorities exercising powers, duties and functions pursuant to ORS
 37 624.510, shall ensure the provision of food handler training programs within the jurisdiction of the
 38 local public health authority. The Oregon Health Authority shall establish and maintain food han-
 39 dler training programs in counties without authority delegated under ORS 624.510.

40 (4) The Oregon Health Authority shall establish by rule all provisions necessary to administer
 41 and enforce the provisions of this section, including but not limited to:

- 42 (a) Minimum standards for program content and delivery; and
- 43 (b) The establishment of minimum requirements for successful completion of the training.

44 (5) The Oregon Health Authority, a local public health authority or a designated agent shall
 45 charge a program fee to program participants. The program fee may not exceed \$10. A program

1 provider may assess a new program fee each time a participant takes or retakes all or part of a
2 program or certification exam. A fee not exceeding \$5 may be charged for duplicate certificates of
3 completion.

4 (6) Persons involved in the preparation or service of food in [a] **an intermittent temporary**
5 **restaurant, seasonal temporary restaurant or single-event** temporary restaurant are not re-
6 quired to complete a food handler training program, but the **intermittent temporary restaurant,**
7 **seasonal temporary restaurant or single-event** temporary restaurant shall have at least one
8 person who has completed the food handler training program on the premises at all times.

9 **SECTION 15.** ORS 624.650 is amended to read:

10 624.650. (1) Notwithstanding any provision of ORS 624.010, 624.086, 624.091, 624.510 or 624.530,
11 a **single-event** temporary restaurant as defined under ORS 624.010 that is a mobile unit as defined
12 under ORS 624.310 **is subject to** [*may be required to pay*] a fee not to exceed \$25 for inspection
13 services if the mobile unit is licensed by:

14 (a) The Oregon Health Authority under ORS 624.320 or a local public health authority acting
15 pursuant to an intergovernmental agreement to conduct inspections in accordance with ORS 624.370;

16 (b) The State Department of Agriculture or the United States Public Health Service as provided
17 under ORS 624.330; or

18 (c) Another jurisdiction and permitted to be used in this state under ORS 624.410.

19 (2) This section does not prohibit the Oregon Health Authority or a local public health authority
20 delegated authority under an intergovernmental agreement described in ORS 624.510 from enforcing
21 ORS 624.420 or 624.425 or rules adopted by the Oregon Health Authority pursuant to ORS 624.355.

22 **SECTION 16.** ORS 471.190 is amended to read:

23 471.190. (1) The holder of a temporary sales license may sell at retail by the drink wine, malt
24 beverages, cider and distilled liquor. Distilled liquor served by the holder of a temporary sales li-
25 cense must be purchased from a retail sales agent of the Oregon Liquor Control Commission. The
26 holder of a temporary sales license must provide food service as required by commission rule.

27 (2) A temporary sales license may be issued only to:

28 (a) Nonprofit or charitable organizations that are registered with the state.

29 (b) A political committee that has filed a statement of organization under ORS 260.039 or
30 260.042.

31 (c) State agencies.

32 (d) Local governments, and agencies and departments of local governments.

33 (e) Persons not otherwise described in this subsection, as long as the applicant submits a plan
34 that is approved by the commission detailing how minors will be prevented from gaining access to
35 alcoholic beverages and how minors will be prevented from gaining access to any portion of the li-
36 censed premises prohibited to minors under ORS 471.430 (3) or any rule adopted by the commission.

37 (3) The holder of a temporary sales license may sell wine, malt beverages or cider in factory-
38 sealed containers for consumption off the licensed premises.

39 (4) The commission may by rule establish additional eligibility requirements for temporary sales
40 licenses.

41 (5) Subject to such qualifications as the commission may establish by rule, persons who hold a
42 full or limited on-premises sales license are eligible for temporary sales licenses.

43 (6) A person holding a temporary sales license is not required to obtain [a] **an intermittent**
44 **temporary restaurant, seasonal temporary restaurant, single-event** temporary restaurant li-
45 cense or mobile unit license under ORS chapter 624 if only wine, malt beverages and cider in

1 single-service containers are served and only nonperishable food items that are exempted from
2 licensure by the Oregon Health Authority are served.

3 (7) Employees and volunteers serving alcoholic beverages for a nonprofit or charitable organ-
4 ization licensed under this section are not required to have server permits nor to complete an al-
5 cohol server education program and examination under ORS 471.542. The commission by rule may
6 establish education requirements for servers described in this subsection.

7 (8) Notwithstanding ORS 471.392 to 471.400, a temporary sales license may be issued to a
8 nonprofit trade association that has a membership primarily comprised of persons that hold winery
9 licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.

10 **SECTION 17.** ORS 616.711 is amended to read:

11 616.711. (1) No license or duplicate of a license, as prescribed in ORS 616.706, is necessary for
12 food establishments where the principal activity is the receiving, storage, sorting, cleaning and
13 packing of fresh fruits and vegetables.

14 (2) All provisions of ORS 616.695 to 616.755 other than licensing apply to food establishments
15 set forth in subsection (1) of this section.

16 (3) The provisions of ORS 616.695 to 616.755 do not apply to:

17 (a) Restaurants, bed and breakfast facilities, **intermittent temporary restaurants, seasonal**
18 **temporary restaurants, single-event temporary restaurants**, commissaries, vending machines
19 and mobile food and beverage units licensed under ORS 624.010 to 624.121, 624.310 to 624.430 or
20 those [*which*] **that** are exempted under ORS 624.330.

21 (b) Food service facilities not preparing food for distribution to the public or to institutional
22 facilities licensed and regulated by the Department of Human Services or the Oregon Health Au-
23 thority.

24 (c) Shellfish operations licensed under ORS chapter 622.

25 (d) A person processing, manufacturing or packaging food for family use or consumption.

26 (e) Commercial transit salvage operations not involving sale of food to the general public.

27 **SECTION 18. Sections 2 to 4 of this 2011 Act and the amendments to ORS 471.190, 616.711,**
28 **624.010, 624.041, 624.080, 624.086, 624.091, 624.096, 624.106, 624.111, 624.490, 624.570 and 624.650**
29 **by sections 5 to 17 of this 2011 Act apply to licenses issued 60 or more days after the effective**
30 **date of this 2011 Act.**

31