

Enrolled House Bill 4003

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture and Natural Resources)

CHAPTER

AN ACT

Relating to State Department of Agriculture food safety fees; creating new provisions; and amending ORS 603.025, 603.031, 603.200, 616.706, 616.708, 619.031, 621.072, 621.078, 621.166, 621.169, 625.030, 625.055, 625.090, 625.180, 628.240, 632.720, 632.741 and 635.030.

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

SECTION 1. ORS 603.025 is amended to read:

603.025. (1) A person may not sell, offer to sell or expose for sale meat products or engage in any other activity described or identified in subsection (4) of this section without first obtaining and maintaining a license [*therefor*] **for that activity** from the State Department of Agriculture. All such licenses shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule. Renewal applications must be postmarked before the expiration date to be timely.

(2) Application for a license required by this section shall be made to the department on forms prescribed by the department[, *which*] **and** shall contain any information the department deems necessary. The license is personal and nontransferable, with a separate license required for each establishment location. A new license is required each time there is a change in ownership, legal entity or establishment location.

(3) In addition to other license requirements of this section, if an applicant for a license under subsection (4)(c) of this section has an average weekly dollar value of meat animal purchases that exceeds \$10,000, the applicant shall submit with the application a surety bond with one or more corporate sureties authorized to do business in this state, or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The bond or letter of credit shall be in an amount equal to twice the average daily value of meat animal purchases during the preceding calendar year, or the amount of \$20,000, whichever amount is greater. The department shall prescribe the form for [*and approve*] the bond or letter of credit.[, *which shall*] **A bond or letter of credit is subject to department approval and must** be conditioned upon faithful performance by the licensee of all obligations to the producers of meat animals arising from the sale of meat animals by producers to the licensee.

(4) Each of the following activities [*shall*] **must** be licensed, and the fee established by the department paid with the **license** application [*therefor*]:

(a) Operation of a meat seller establishment. A license under this section allows only the meat products preparation described in ORS 603.010 (8).

(b) Operation of a nonslaughtering processing establishment. A license under this section allows selling meat products at the same location without obtaining the license described in paragraph (a) of this subsection.

(c) Operation of a slaughterhouse. A license under this section allows selling meat products at the same location without obtaining the license described in paragraph (a) of this subsection.

(d) Operation of a custom slaughtering establishment or custom processing establishment. A license under this section does not allow selling meat products without first obtaining and maintaining the license described in paragraph (a) of this subsection.

(e) Operation of a slaughterhouse, custom slaughtering establishment or custom processing establishment wherein only poultry or rabbits are slaughtered or prepared. A license under this section allows selling only poultry or rabbit products at the same location without obtaining the license described in paragraph (a) of this subsection.

(5) The license required by this section shall be displayed at all times in a conspicuous manner at the address shown on the license.

[(6) Except as provided in subsection (7) of this section, the license fees for establishments under this section are:]

[(a) \$216 if the establishment's annual gross dollar volume of sales and services is not more than \$50,000;]

[(b) \$271 if the establishment's annual gross dollar volume of sales and services is more than \$50,000 and not more than \$500,000;]

[(c) \$325 if the establishment's annual gross dollar volume of sales and services is more than \$500,000 and not more than \$1 million;]

[(d) \$487 if the establishment's annual gross dollar volume of sales and services is more than \$1 million and not more than \$5 million;]

[(e) \$541 if the establishment's annual gross dollar volume of sales and services is more than \$5 million and not more than \$10 million; or]

[(f) \$704 if the establishment's annual gross dollar volume of sales and services is more than \$10 million.]

[(7) If the establishment sells only prepackaged meats packaged at a facility inspected by the United States Department of Agriculture, the following license fee amounts shall apply instead of the fee established in subsection (6)(a) of this section:]

[(a) \$108 if the establishment's annual gross dollar volume of sales and services is not more than \$5,000; or]

[(b) \$162 if the establishment's annual gross dollar volume of sales and services is more than \$5,000 and not more than \$50,000.]

[(8)] (6) The department may adopt rules establishing license fee schedules for establishments licensed under this section. The department may determine the license fee for an establishment based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an establishment, the State Department of Agriculture shall use the annual gross dollar volume of sales and services by that establishment within Oregon during the prior calendar year or, if the establishment maintains sales and service records on a fiscal basis, the prior fiscal year. If the establishment applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales and services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the establishment. If an establishment whose previous year's fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual annual gross dollar volume of sales and services by the establishment.

(7) Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for an establishment of the same type and having the same volume of gross sales and services. When adopting a rule establishing a license fee,

notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount. Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

SECTION 2. (1) Notwithstanding the amendments to ORS 603.025 by section 1 of this 2012 Act, the license fee amounts authorized by ORS 603.025 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act shall remain in effect until superseded by license fees established by State Department of Agriculture rules.

(2) The department shall adopt initial rules establishing license fees under ORS 603.025 to take effect no later than July 1, 2013. For the purpose of adopting initial rules establishing license fees under ORS 603.025, the license fees authorized by ORS 603.025 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act are deemed to be the license fees charged during the year preceding adoption of the rule.

SECTION 3. ORS 616.706 is amended to read:

616.706. (1) Except as otherwise provided in ORS 616.695 to 616.755, a person may not operate a food establishment without first obtaining and thereafter maintaining a license under this section. A person shall make an application for a license to the State Department of Agriculture on forms prescribed by the department. Each license shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule.

(2) The department may, subject to the applicable provisions of ORS chapter 183, suspend, revoke or refuse to issue a license if the licensee has violated any of the provisions of ORS 616.695 to 616.755 or rules adopted under ORS 616.695 to 616.755.

(3) A license is personal to the applicant and may not be transferred. A new license is necessary if the business entity of the licensee is changed, or if the membership of a partnership is changed, irrespective of whether or not the business name is changed.

(4) The license shall cover all operations of the person licensed, under one entity or ownership. With prior approval of the department, the location of a licensed food establishment, or any part of a licensed food establishment, may be moved without the requirement of a new license if there is no change in the ownership or business entity.

(5) The license shall be posted in a conspicuous place in the main office of the food establishment. Duplicate copies of the license shall be conspicuously posted in branch offices, warehouses and other places owned or operated by the licensee at locations other than the main office. A license is automatically canceled if the food establishment ceases or discontinues operations or business.

[(6) The license fee for a food establishment that is part of a domestic kitchen is \$189.]

[(7) The license fees for a food establishment other than an establishment that is part of a domestic kitchen, or other than a retail food store or a warehouse, are:]

[(a) \$325 if the gross sales of an applicant's covered operations are not more than \$50,000;]

[(b) \$460 if the gross sales of an applicant's covered operations are more than \$50,000 and not more than \$500,000;]

[(c) \$541 if the gross sales of an applicant's covered operations are more than \$500,000 and not more than \$1 million;]

[(d) \$704 if the gross sales of an applicant's covered operations are more than \$1 million and not more than \$5 million;]

[(e) \$812 if the gross sales of an applicant's covered operations are more than \$5 million and not more than \$10 million; or]

[(f) \$920 if the gross sales of an applicant's covered operations are more than \$10 million.]

[(8) The food establishment license fees for a retail food store, as defined by the department by rule, are:]

[(a) \$135 if the gross sales of an applicant's covered operations are not more than \$50,000;]

[(b) \$271 if the gross sales of an applicant's covered operations are more than \$50,000 and not more than \$500,000;]

[(c) \$325 if the gross sales of an applicant's covered operations are more than \$500,000 and not more than \$1 million;]

[(d) \$487 if the gross sales of an applicant's covered operations are more than \$1 million and not more than \$5 million;]

[(e) \$595 if the gross sales of an applicant's covered operations are more than \$5 million and not more than \$10 million; or]

[(f) \$704 if the gross sales of an applicant's covered operations are more than \$10 million.]

[(9) The food establishment license fees for a warehouse, as defined by the department by rule, are:]

[(a) \$108 if the gross sales of an applicant's covered operations are not more than \$50,000;]

[(b) \$135 if the gross sales of an applicant's covered operations are more than \$50,000 and not more than \$10 million; or]

[(c) \$162 if the gross sales of an applicant's covered operations are more than \$10 million.]

(6) The department may adopt rules establishing license fee schedules for a food establishment:

(a) That is part of a domestic kitchen;

(b) That is a retail food store;

(c) That is a warehouse; or

(d) That is other than part of a domestic kitchen, retail food store or warehouse.

[(10)] (7) The department may determine the license fee for a food establishment described in subsection (6)(b) to (d) of this section based upon the gross sales by the applicant. In establishing the amount of *[the license fee for]* **a license fee based upon gross sales** by an applicant, the department shall use the annual gross dollar volume of sales of covered operations by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales of covered operations for a full calendar year, the department shall base the fee on estimated annual gross sales of covered operations by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales of covered operations figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales of covered operations by the applicant.

(8) Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for a food establishment of the same type and having the same volume of gross sales. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount. License fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

SECTION 4. (1) Notwithstanding the amendments to ORS 616.706 by section 3 of this 2012 Act, the license fee amounts authorized by ORS 616.706 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act shall remain in effect until superseded by license fees established by State Department of Agriculture rules.

(2) The department shall adopt initial rules establishing license fees under ORS 616.706 to take effect no later than July 1, 2013. For the purpose of adopting initial rules establishing license fees under ORS 616.706, the license fees authorized by ORS 616.706 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act are deemed to be the license fees charged during the year preceding adoption of the rule.

SECTION 5. ORS 619.031 is amended to read:

619.031. (1) A person may not operate an animal food slaughtering establishment or processing establishment without first obtaining a license *[therefor]* **for the establishment** from the State Department of Agriculture.

[(2) The license fees for an animal food slaughtering establishment or processing establishment are:]

[(a) \$216 if the establishment's annual gross dollar volume of sales and services is not more than \$50,000;]

[(b) \$271 if the establishment's annual gross dollar volume of sales and services is more than \$50,000 and not more than \$500,000;]

[(c) \$325 if the establishment's annual gross dollar volume of sales and services is more than \$500,000 and not more than \$1 million;]

[(d) \$487 if the establishment's annual gross dollar volume of sales and services is more than \$1 million and not more than \$5 million;]

[(e) \$541 if the establishment's annual gross dollar volume of sales and services is more than \$5 million and not more than \$10 million; or]

[(f) \$704 if the establishment's annual gross dollar volume of sales and services is more than \$10 million.]

[(3)] (2) The department may adopt rules establishing license fee schedules for establishments licensed under this section. The department may determine the license fee for an establishment based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an applicant, the department shall use the annual gross dollar volume of sales and services by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales and service records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales and services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales and services by the applicant. The license shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule.

(3) Except as provided in this subsection, the department may not adopt a rule to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for an establishment of the same type and having the same volume of gross sales and services. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount. Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

(4) The provisions of ORS 603.025 (2) and (5), 603.034 (1) and (2), 603.045 (7) and 603.075 shall apply to animal food slaughtering establishments or processing establishments. Except as provided in this subsection, the remainder of the provisions of ORS chapter 603 do not apply to such establishments.

(5) Notwithstanding subsection (1) of this section, a person licensed by the department under ORS chapter 603 to slaughter meat animals and subject to federal meat inspection, or a person licensed by the department under ORS chapter 603 to slaughter only poultry and rabbits and subject to federal poultry inspection, or a person licensed by the department under ORS chapter 603 as a nonslaughtering processor may, without being required to obtain an additional license, also sell or dispose of meat products as animal food provided that such licensees also comply with the provisions of subsection (6) of this section, ORS 619.010 to 619.026 and 619.036 to 619.066.

(6) In accordance with the provisions of ORS chapter 183, the department may promulgate rules necessary to carry out and enforce any procedures or measures to protect the health of the animals that are fed or intended to be fed the meat products sold or disposed of by animal food slaughtering establishments or processing establishments, and to protect the health of other animals in this state. In addition to the provisions of ORS 619.046, for the purposes of this section the department shall take into consideration:

(a) The provisions of ORS chapter 596.

(b) The procedures necessary to ensure that meat products that are only fit for or destined for animal consumption are not sold for human consumption.

(7) A person licensed as provided by this section:

(a) May not sell, hold or offer for sale any carcass of a meat animal or part thereof that is unfit for or unwholesome as animal food.

(b) May not sell, hold or offer for sale a carcass of a meat animal or part thereof for human consumption.

(c) Shall keep complete and accurate records of the meat animals purchased for slaughter, including but not limited to their description, brands if any, date of purchase and the name and address of the person from whom the animals were purchased.

(d) Shall keep complete and accurate records of the sale of all meat animal carcasses or parts [thereof] of **meat animal carcasses**, including the name and address of the purchaser.

(e) Shall comply with the provisions of ORS 619.026.

SECTION 6. (1) Notwithstanding the amendments to ORS 619.031 by section 5 of this 2012 Act, the license fee amounts authorized by ORS 619.031 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act shall remain in effect until superseded by license fees established by State Department of Agriculture rules.

(2) The department shall adopt initial rules establishing license fees under ORS 619.031 to take effect no later than July 1, 2013. For the purpose of adopting initial rules establishing licensing fees under ORS 619.031, the license fees authorized by ORS 619.031 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act are deemed to be the license fees charged during the year preceding adoption of the rule.

SECTION 7. ORS 621.072 is amended to read:

621.072. (1) The State Department of Agriculture shall issue a license to use a grade designation to any person who:

(a) Makes written application for a license on forms provided by the department;

(b) Pays the designated license fee;

(c) Is engaged in the business of producing or distributing fluid milk; and

(d) Meets the requirements of the particular grade designation for which application is made.

(2) If a person carries on the activities of a producer and a producer-distributor, the person must obtain a separate license for each of those activities. If a producer-distributor manufactures products from both grade A fluid milk and grade B fluid milk at the same premises, the producer-distributor must obtain separate licenses for grade A product manufacturing activity and grade B product manufacturing activity.

(3) Licenses issued under this section shall be personal and not transferable.

(4) Each milk hauler, milk receiver or other person who grades fluid milk as fit or unfit for processing as fluid milk due to quality, odor, flavor or wholesomeness must first obtain a license from the department authorizing that person to sample and grade fluid milk. Each applicant for a milk sampler's and grader's license shall, by written examination, demonstrate an adequate knowledge of milk sanitation as it relates to the sampling, grading and handling of fluid milk and cream for analysis. The department shall give examinations for licenses at such times and places as appears to be necessary and practicable.

(5) Before and after issuing a license to a person as a producer, producer-distributor, distributor or nonprocessing distributor of fluid milk, the department shall, as it deems necessary, inspect the physical facilities of the applicant's dairy, milk processing plant or distribution center and investigate other factors the department determines may relate to the production, processing or distribution of fluid milk. The physical facilities must conform to the production, processing or distribution requirements for the fluid milk grade designation sought or held.

(6) Each license issued under this section expires on June 30 next following the date of its issuance unless sooner revoked and may be renewed upon application of the licensee. Each application for a license or annual renewal [thereof] of a **license** shall be accompanied by a license fee.

[(7) The department shall establish license fee schedules for milk samplers and graders in accordance with ORS chapter 183. A fee may not be less than \$25 or more than \$50.]

[(8) The license fees for producer-distributors, distributors and nonprocessing distributors are:]

[(a) \$135 if the applicant's annual gross dollar volume of sales and services is not more than \$50,000;]

[(b) \$189 if an applicant's annual gross dollar volume of sales and services is more than \$50,000 and not more than \$500,000;]

[(c) \$325 if an applicant's annual gross dollar volume of sales and services is more than \$500,000 and not more than \$1 million;]

[(d) \$487 if an applicant's annual gross dollar volume of sales and services is more than \$1 million and not more than \$5 million;]

[(e) \$649 if an applicant's annual gross dollar volume of sales and services is more than \$5 million and not more than \$10 million; or]

[(f) \$812 if an applicant's annual gross dollar volume of sales and services is more than \$10 million.]

[(9) The license fees for producers are:]

[(a) \$135 if the applicant's annual gross sales are not more than \$50,000;]

[(b) \$189 if an applicant's annual gross sales are more than \$50,000 and not more than \$500,000;]

[(c) \$325 if an applicant's annual gross sales are more than \$500,000 and not more than \$1 million;]

[(d) \$487 if an applicant's annual gross sales are more than \$1 million and not more than \$5 million;]

[(e) \$649 if an applicant's annual gross sales are more than \$5 million and not more than \$10 million; or]

[(f) \$812 if an applicant's annual gross sales are more than \$10 million.]

(7) The department may adopt rules establishing license fee schedules for:

(a) Milk samplers and graders;

(b) Producer-distributors, distributors and nonprocessing distributors; and

(c) Producers.

[(10)] (8) The department may determine the license fee for a producer-distributor, distributor or nonprocessing distributor based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an applicant under this **subsection**, the department shall use the annual gross dollar volume of sales and services by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales and service records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales and services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales and services by the applicant.

(9) The department may determine the license fee for a producer based upon the annual gross sales by the applicant. In establishing the amount of the license fee for an applicant under this subsection, the department shall use the annual gross sales by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross sales for a full calendar year, the department shall base the fee on estimated annual gross sales by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross sales by the applicant.

(10) Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the fee charged during the preceding year for a milk sampler and grader, for a producer-distributor, distributor or nonprocessing distributor having the same volume of gross sales and services or for a producer having the same volume of gross sales. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount. Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

(11) A distributor or producer-distributor must obtain a license and pay license fees [*as provided under subsection (8) of this section*] for each physical facility used to produce, process or distribute fluid milk. A person is not required to obtain a distributor or producer-distributor license to act as a milk hauler or to operate receiving or transfer stations in conjunction with a milk processing plant.

(12) The department may refuse to issue or renew, or may suspend or revoke, a license for any violation of this section or ORS 621.062, 621.070, 621.076, 621.084, 621.088, 621.117, 621.122 or 621.259 or processes or standards established under ORS 621.060 or 621.083.

SECTION 8. (1) Notwithstanding the amendments to ORS 621.072 by section 7 of this 2012 Act, the license fee amounts authorized by ORS 621.072 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act shall remain in effect until superseded by license fees established by State Department of Agriculture rules.

(2) The department shall adopt initial rules establishing license fees under ORS 621.072 to take effect no later than July 1, 2013. For the purpose of adopting initial rules establishing license fees under ORS 621.072, the license fees authorized by ORS 621.072 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act are deemed to be the license fees charged during the year preceding adoption of the rule.

SECTION 9. ORS 621.166 is amended to read:

621.166. (1) As used in this section, “mobile milk tanker” means a tank or other receptacle that attaches to a bulk tank truck or other equipment and is used to transport fluid milk, milk or milk products.

[(1)] (2) Application for a dairy products plant license shall be made to the State Department of Agriculture on forms provided by the department. Each license and each annual renewal shall expire on June 30 next following its issuance or on such date as may be specified by department rule. Dairy products plant licenses are personal and are not transferable.

[(2)] (3) Each dairy products plant shall submit a separate fee established by the department for each mobile milk tanker. The fee [*shall*] **does** not apply to a mobile milk tanker owned and operated by a dairy products plant while transporting dairy products from the dairy products plant to wholesale or retail outlets for those products. [*As used in this section, “mobile milk tanker” means a tank or other receptacle that attaches to a bulk tank truck or other equipment and is used to transport fluid milk, milk or milk products.*]

[(3)] The department shall establish the license fee for a mobile milk tanker in accordance with ORS chapter 183. The fee may not be less than \$25 or more than \$50. The fees for a dairy products plant are:]

[(a)] \$135 if the applicant’s annual gross dollar volume of sales and services is not more than \$50,000;]

[(b)] \$189 if an applicant’s annual gross dollar volume of sales and services is more than \$50,000 and not more than \$500,000;]

[(c)] \$325 if an applicant’s annual gross dollar volume of sales and services is more than \$500,000 and not more than \$1 million;]

[(d)] \$487 if an applicant’s annual gross dollar volume of sales and services is more than \$1 million and not more than \$5 million;]

[(e)] \$649 if an applicant’s annual gross dollar volume of sales and services is more than \$5 million and not more than \$10 million; or]

[(f) \$812 if an applicant's annual gross dollar volume of sales and services is more than \$10 million.]

(4) The department may adopt rules establishing license fee schedules for:

(a) Mobile milk tankers; and

(b) Dairy products plants.

[(4)] (5) The department may determine the license fee for a dairy products plant based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an applicant, the department shall use the annual gross dollar volume of sales and services by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales and service records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales or services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales and services by the applicant.

(6) Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the fee charged during the preceding year for an equivalent mobile milk tanker or for a dairy products plant having the same volume of gross sales and services. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount. Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

SECTION 10. (1) Notwithstanding the amendments to ORS 621.166 by section 9 of this 2012 Act, the license fee amounts authorized by ORS 621.166 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act shall remain in effect until superseded by license fees established by State Department of Agriculture rules.

(2) The department shall adopt initial rules establishing license fees under ORS 621.166 to take effect no later than July 1, 2013. For the purpose of adopting initial rules establishing license fees under ORS 621.166, the license fees authorized by ORS 621.166 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act are deemed to be the license fees charged during the year preceding adoption of the rule.

SECTION 11. ORS 625.180 is amended to read:

625.180. (1) Every bakery or bakery distributor doing business in this state shall pay a license fee.

[(2) The license fees for a distributor may not be less than \$25 and may not exceed \$108. The fees for a bakery, other than a domestic kitchen bakery, are:]

[(a) \$244 if the bakery's annual gross sales are not more than \$50,000;]

[(b) \$379 if the bakery's annual gross sales are more than \$50,000 and not more than \$500,000;]

[(c) \$487 if the bakery's annual gross sales are more than \$500,000 and not more than \$1 million;]

[(d) \$812 if the bakery's annual gross sales are more than \$1 million and not more than \$5 million;]

[(e) \$1,082 if the bakery's annual gross sales are more than \$5 million and not more than \$10 million; or]

[(f) \$1,624 if the bakery's annual gross sales are more than \$10 million.]

[(3) The license fees for a domestic kitchen bakery are:]

[(a) \$152 if the bakery's annual gross sales are not more than \$50,000;]

[(b) \$216 if the bakery's annual gross sales are more than \$50,000 and not more than \$500,000;]

[(c) \$325 if the bakery's annual gross sales are more than \$500,000 and not more than \$1 million;]

[(d) \$487 if the bakery's annual gross sales are more than \$1 million and not more than \$5 million;]

[(e) \$649 if the bakery's annual gross sales are more than \$5 million and not more than \$10 million; or]

[(f) \$812 if the bakery's annual gross sales are more than \$10 million.]

(2) The State Department of Agriculture may adopt rules establishing license fee schedules for:

(a) A bakery distributor;

(b) A domestic kitchen bakery; and

(c) A bakery other than a domestic kitchen bakery.

[(4)] **(3) The department may determine the license fee for a bakery or bakery distributor based upon the annual gross sales by the applicant.** In establishing the amount of the license fee for a bakery or bakery distributor, the department shall use the annual gross sales by that bakery or distributor within Oregon during the prior calendar year or, if the bakery or distributor maintains sales records on a fiscal basis, the prior fiscal year. If the bakery or distributor applying for an original license or for a renewal license cannot provide the annual gross sales for a full calendar year, the department shall base the fee on estimated annual gross sales by the bakery or distributor. If a bakery or distributor whose previous year's fee was determined using an estimated gross sales figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross sales by the bakery or distributor.

(4) Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for a bakery distributor having the same volume of gross sales or for a bakery of the same type and having the same volume of gross sales. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount. Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

SECTION 12. (1) Notwithstanding the amendments to ORS 625.180 by section 11 of this 2012 Act, the license fee amounts authorized by ORS 625.180 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act shall remain in effect until superseded by license fees established by State Department of Agriculture rules.

(2) The department shall adopt initial rules establishing license fees under ORS 625.180 to take effect no later than July 1, 2013. For the purpose of adopting initial rules establishing license fees under ORS 625.180, the license fees authorized by ORS 625.180 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act are deemed to be the license fees charged during the year preceding adoption of the rule.

SECTION 13. ORS 628.240 is amended to read:

628.240. [(1) *The license fee for a refrigerated locker plant is \$100.*]

(1) An applicant for a refrigerated locker plant license shall pay a license fee to the State Department of Agriculture. The department may adopt rules establishing a license fee for a refrigerated locker plant. Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the fee charged during the preceding year. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount. The department may not change the amount of the refrigerated locker plant license fee more frequently than once each year.

(2) If the license is issued after January 1 but before June 30 of the same year, the license fee shall be one-half of the fee [provided in] established by the department by rule under subsection (1) of this section.

(3) All fees received by the [*State Department of Agriculture pursuant to*] **department under ORS 628.210 to 628.370 shall be deposited in the Department of Agriculture Service Fund and are continuously appropriated to the department for the purpose of administering and enforcing those sections.**

SECTION 14. (1) **Notwithstanding the amendments to ORS 628.240 by section 13 of this 2012 Act, the license fee amount authorized by ORS 628.240 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act shall remain in effect until superseded by a license fee established by State Department of Agriculture rules.**

(2) **The department shall adopt initial rules establishing a license fee under ORS 628.240 to take effect no later than July 1, 2013. For the purpose of adopting initial rules establishing the license fee under ORS 628.240, the license fee authorized by ORS 628.240 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act is deemed to be the license fee charged during the year preceding adoption of the rule.**

SECTION 15. ORS 632.720 is amended to read:

632.720. [*There shall be paid to*] **An applicant for an egg handler's license shall pay an annual license fee to the State Department of Agriculture with each application [*for an egg handler's license an annual license fee of \$25*]. The department may adopt rules establishing a license fee for an egg handler. Except as provided in this section, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the fee charged during the preceding year. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount. The department may not change the amount of the egg handler's license fee more frequently than once each year.**

SECTION 16. (1) **Notwithstanding the amendments to ORS 632.720 by section 15 of this 2012 Act, the license fee amount authorized by ORS 632.720 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act shall remain in effect until superseded by a license fee established by State Department of Agriculture rules.**

(2) **The department shall adopt initial rules establishing a license fee under ORS 632.720 to take effect no later than July 1, 2013. For the purpose of adopting initial rules establishing a license fee under ORS 632.720, the license fee authorized by ORS 632.720 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act is deemed to be the license fee charged during the year preceding adoption of the rule.**

SECTION 17. ORS 635.030 is amended to read:

635.030. (1) Any person desiring to or who does engage in the business of a nonalcoholic beverage manufacturer shall apply to the State Department of Agriculture for a license for each plant operated by such person. The application shall be in such form and contain such information as the department may prescribe.

[*(2) Each nonalcoholic beverage manufacturer doing business in this state shall pay a license fee.*]

[*(3) The license fees for a nonalcoholic beverage manufacturer are:*]

[*(a) \$162 if the manufacturer's annual gross sales are not more than \$50,000;*]

[*(b) \$271 if the manufacturer's annual gross sales are more than \$50,000 and not more than \$500,000;*]

[*(c) \$379 if the manufacturer's annual gross sales are more than \$500,000 and not more than \$1 million;*]

[*(d) \$595 if the manufacturer's annual gross sales are more than \$1 million and not more than \$5 million;*]

[*(e) \$704 if the manufacturer's annual gross sales are more than \$5 million and not more than \$10 million; or*]

[*(f) \$920 if the manufacturer's annual gross sales are more than \$10 million.*]

[4] (2) **The department may adopt rules establishing license fee schedules for nonalcoholic beverage manufacturers. The department may determine the license fee for a manufacturer based upon the annual gross sales by the manufacturer.** In establishing the amount of the license fee for a manufacturer, the department shall use the annual gross sales by that manufacturer within Oregon during the prior calendar year or, if the manufacturer maintains sales records on a fiscal basis, the prior fiscal year. If the manufacturer applying for an original license or for a renewal license cannot provide the annual gross sales for a full calendar year, the department shall base the fee on estimated annual gross sales by the manufacturer. If a manufacturer whose previous year's fee was determined using an estimated gross sales figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross sales by the manufacturer.

(3) **Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for a manufacturer having the same volume of gross sales. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount. Fee schedules adopted under this section may not increase the amount of the same license fee more frequently than once each year.**

[5] (4) *[All such]* Licenses **issued under this section** shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule. The department shall collect **a license fee** for each license and for each renewal *[thereof the license fee computed as provided in subsection (3) of this section]* **of a license.** The fee shall be remitted by the department to the State Treasurer. The State Treasurer shall place all moneys received under this section in the Department of Agriculture Service Fund. Moneys from fees imposed under this section are continuously appropriated to the department for the purpose of administering and enforcing the provisions of this chapter.

SECTION 18. (1) **Notwithstanding the amendments to ORS 635.030 by section 17 of this 2012 Act, the license fee amounts authorized by ORS 635.030 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act shall remain in effect until superseded by license fees established by State Department of Agriculture rules.**

(2) **The department shall adopt initial rules establishing license fees under ORS 635.030 to take effect no later than July 1, 2013. For the purpose of adopting initial rules establishing license fees under ORS 635.030, the license fees authorized by ORS 635.030 as set forth in the 2011 Edition of Oregon Revised Statutes and in effect on the effective date of this 2012 Act are deemed to be the license fees charged during the year preceding adoption of the rule.**

SECTION 19. ORS 603.031 is amended to read:

603.031. (1) The State Department of Agriculture may issue licenses under this chapter to one or more additional users of a custom processing establishment, custom slaughtering establishment, meat seller establishment, nonslaughtering processing establishment or slaughterhouse that is licensed primarily for operation by another person. A license issued to an additional user of an establishment described in this subsection shall cover all operations at that establishment by the person licensed. Regardless of the number of persons licensed to use an establishment described in this subsection, the department may not recognize more than one person as the primary operator of the establishment.

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

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

(4) The department may adopt rules to determine the responsibilities of an establishment's primary operator and additional users of the establishment under ORS 603.034, 603.045 (6), 603.055 and 603.059 and rules adopted under ORS 603.055 and 603.085.

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

SECTION 20. Notwithstanding the amendments to ORS 603.031 by section 19 of this 2012 Act, prior to July 1, 2013, if the State Department of Agriculture has not adopted rules establishing license fees under ORS 603.025 the department shall calculate the ORS 603.031 license fee as provided in ORS 603.025 as set forth in the 2011 Edition of Oregon Revised Statutes.

SECTION 21. ORS 616.708 is amended to read:

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

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

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

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

(5) A recognized primary operator of a food establishment shall notify the department upon the expiration or termination of the rental or lease of the food establishment by an additional user of the establishment. The renting or leasing of a food establishment to a person licensed by the department as an additional user of the establishment or the expiration or termination of use by a person licensed as an additional user of the establishment does not, by itself, constitute the ceasing or discontinuance of operations or business at the food establishment by the primary operator or another additional user for purposes of ORS 616.706.

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

SECTION 22. Notwithstanding the amendments to ORS 616.708 by section 21 of this 2012 Act, prior to July 1, 2013, if the State Department of Agriculture has not adopted rules establishing license fees under ORS 616.706 the department shall calculate the ORS 616.708 license fee as provided in ORS 616.706 as set forth in the 2011 Edition of Oregon Revised Statutes.

SECTION 23. ORS 621.078 is amended to read:

621.078. (1) The State Department of Agriculture may issue a distributor or producer-distributor license under ORS 621.072 to one or more additional users of a milk processing plant that is primarily operated by another distributor or producer-distributor. A license issued to an additional user for activities at the milk processing plant may differ in activity type and fluid milk grade from the license issued to the primary operator of the plant. The physical facilities of the milk processing plant must conform to the requirements for all activity types and milk grades for which the primary operator and the additional users of the plant are licensed. Regardless of the number of persons li-

censed to use a milk processing plant, the department may not recognize more than one distributor or producer-distributor as the primary operator of the plant.

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

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

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

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

SECTION 24. Notwithstanding the amendments to ORS 621.078 by section 23 of this 2012 Act, prior to July 1, 2013, if the State Department of Agriculture has not adopted rules establishing license fees under ORS 621.072 the department shall calculate the ORS 621.078 license fee as provided in ORS 621.072 as set forth in the 2011 Edition of Oregon Revised Statutes.

SECTION 25. ORS 621.169 is amended to read:

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

(2) The department may assess a license fee to an additional user of a dairy products plant described in subsection (1) of this section, calculated as provided in **rules adopted under ORS 621.166**. In calculating license fees **as provided** under ORS 621.166, the annual gross dollar volume of sales and services for an additional user of the dairy products plant is independent of the annual gross dollar volume of sales and services for any other user or the primary operator of the plant.

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

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

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

SECTION 26. Notwithstanding the amendments to ORS 621.169 by section 25 of this 2012 Act, prior to July 1, 2013, if the State Department of Agriculture has not adopted rules establishing license fees under ORS 621.166 the department shall calculate the ORS 621.169 license fee as provided in ORS 621.166 as set forth in the 2011 Edition of Oregon Revised Statutes.

SECTION 27. ORS 625.030 is amended to read:

625.030. Application for a bakery license shall be made in writing to the State Department of Agriculture on forms supplied by the department. After receipt of the application and the fees required by **rules adopted under 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.

SECTION 28. Notwithstanding the amendments to ORS 625.030 by section 27 of this 2012 Act, prior to July 1, 2013, if the State Department of Agriculture has not adopted rules establishing license fees under ORS 625.180 the license fee for an application filed under ORS 625.030 is the applicable license fee required under ORS 625.180 as set forth in the 2011 Edition of Oregon Revised Statutes.

SECTION 29. ORS 625.055 is amended to read:

625.055. (1) The State Department of Agriculture may issue licenses under ORS 625.030 to one or more additional users of a bakery that is licensed primarily for operation by another person. A license issued to an additional user of the bakery shall cover all operations at that bakery by the person licensed. Regardless of the number of persons licensed to use a bakery, the department may not recognize more than one person as the primary operator of the bakery.

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

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

(4) The department may adopt rules to determine the responsibilities of a bakery's primary operator and additional users of the bakery under requirements prescribed by the department as provided under ORS 625.150.

(5) A recognized primary operator of a bakery shall notify the department upon the expiration or termination of the rental or lease of the bakery by an additional user of the bakery.

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

SECTION 30. Notwithstanding the amendments to ORS 625.055 by section 29 of this 2012 Act, prior to July 1, 2013, if the State Department of Agriculture has not adopted rules establishing license fees under ORS 625.180 the department shall calculate the ORS 625.055 license fee as provided in ORS 625.180 as set forth in the 2011 Edition of Oregon Revised Statutes.

SECTION 31. ORS 625.090 is amended to read:

625.090. Application for a **bakery** distributor's license shall be filed in writing with the State Department of Agriculture on the form prescribed and supplied by the department. After receipt of the application and the fees required by **rules adopted under** 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.

SECTION 32. Notwithstanding the amendments to ORS 625.090 by section 31 of this 2012 Act, prior to July 1, 2013, if the State Department of Agriculture has not adopted rules establishing license fees under ORS 625.180 the department shall assess the ORS 625.090 license fee in effect on the effective date of this 2012 Act.

SECTION 33. ORS 632.741 is amended to read:

632.741. (1) In addition to the license fee [*prescribed in*] **adopted by rule under** ORS 632.720, each egg handler shall pay to the State Department of Agriculture a fee prescribed by the department, not to exceed two and one-half mills per dozen eggs sold by such egg handler. Such fee shall be paid by remitting monthly payments, on dates prescribed by the department, accompanied by such reports concerning egg sales as the department may prescribe. The egg handler utilizing this method shall prepare and maintain adequate books and records evidencing the egg sales, and shall keep the

same for at least two years. The department is authorized to inspect and audit such books and records as provided in ORS 561.265 and the egg handler shall pay to the department its costs for the same. The department shall assign such egg handler a permit number to be placed on egg containers in the manner prescribed by the department.

(2) The fees required to be paid under subsection (1) of this section and, except as otherwise provided [therein] **under ORS 632.771**, the labeling required by ORS 632.771 [shall] **do** not apply to:

- (a) Eggs sold and shipped outside of this state;
- (b) Eggs sold to the United States Government;
- (c) Bulk sales of eggs;
- (d) Eggs sold to another egg handler for processing into egg products; or
- (e) Eggs sold by a producer to consumers at the place of production.

SECTION 34. The amendments to ORS 632.741 by section 33 of this 2012 Act become operative on the earlier of:

(1) **July 1, 2013; or**

(2) **The effective date of State Department of Agriculture rules establishing license fees under ORS 632.720.**

SECTION 35. ORS 603.200 is amended to read:

603.200. Notwithstanding any other provision of law:

(1) In the absence of a contract or other agreement providing otherwise, any processor who purchases meat animals from the producers thereof shall make full payment therefor not later than the second business day after the day the processor takes delivery of any such meat animal.

(2) In the absence of a contract or other agreement providing otherwise, any meat seller who purchases meat or meat products from the processor thereof shall make full payment therefor not later than the seventh business day after the day the meat seller takes delivery of any such meat or meat product.

(3) Any person who fails to make payment as required by subsections (1) and (2) of this section shall pay, in addition to the amount due, interest thereon at the rate of one percent per month.

(4) As used in this section:

(a) "Meat animal" has the meaning for that term provided in ORS 603.010.

(b) "Meat or meat product" has the meaning for that term provided in ORS 603.010.

(c) "Meat seller" means a person required to obtain a license [the fee for which is prescribed] **described** in ORS 603.025 (4)(a).

(d) "Processor" means a person required to obtain a license [the fee for which is prescribed] **described** in ORS 603.025 (4)(b) to (e).

SECTION 36. ORS 603.025, as amended by section 1 of this 2012 Act, is amended to read:

603.025. (1) A person may not sell, offer to sell or expose for sale meat products or engage in any other activity described or identified in subsection (4) of this section without first obtaining and maintaining a license for that activity from the State Department of Agriculture. All such licenses shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule. Renewal applications must be postmarked before the expiration date to be timely.

(2) Application for a license required by this section shall be made to the department on forms prescribed by the department and shall contain any information the department deems necessary. The license is personal and nontransferable, with a separate license required for each establishment location. A new license is required each time there is a change in ownership, legal entity or establishment location.

(3) In addition to other license requirements of this section, if an applicant for a license under subsection (4)(c) of this section has an average weekly dollar value of meat animal purchases that exceeds \$10,000, the applicant shall submit with the application a surety bond with one or more corporate sureties authorized to do business in this state, or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The bond or letter of credit shall be in an amount equal to twice the average daily value of meat animal purchases during the preceding calendar year, or the amount of \$20,000, whichever amount is greater. The department shall prescribe

the form for the bond or letter of credit. A bond or letter of credit is subject to department approval and must be conditioned upon faithful performance by the licensee of all obligations to the producers of meat animals arising from the sale of meat animals by producers to the licensee.

(4) Each of the following activities must be licensed, and the fee established by the department paid with the license application:

(a) Operation of a meat seller establishment. A license under this section allows only the meat products preparation described in ORS 603.010 (8).

(b) Operation of a nonslaughtering processing establishment. A license under this section allows selling meat products at the same location without obtaining the license described in paragraph (a) of this subsection.

(c) Operation of a slaughterhouse. A license under this section allows selling meat products at the same location without obtaining the license described in paragraph (a) of this subsection.

(d) Operation of a custom slaughtering establishment or custom processing establishment. A license under this section does not allow selling meat products without first obtaining and maintaining the license described in paragraph (a) of this subsection.

(e) Operation of a slaughterhouse, custom slaughtering establishment or custom processing establishment wherein only poultry or rabbits are slaughtered or prepared. A license under this section allows selling only poultry or rabbit products at the same location without obtaining the license described in paragraph (a) of this subsection.

(5) The license required by this section shall be displayed at all times in a conspicuous manner at the address shown on the license.

(6) The department may adopt rules establishing license fee schedules for establishments licensed under this section. The department may determine the license fee for an establishment based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an establishment, the State Department of Agriculture shall use the annual gross dollar volume of sales and services by that establishment within Oregon during the prior calendar year or, if the establishment maintains sales and service records on a fiscal basis, the prior fiscal year. If the establishment applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales and services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the establishment. If an establishment whose previous year's fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual annual gross dollar volume of sales and services by the establishment.

(7) *[Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for an establishment of the same type and having the same volume of gross sales and services. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount.]* **The department may not adopt or enforce a rule under this section establishing a license fee that is higher than the license fee charged for the license year that began July 1, 2018, for an establishment of the same type and having the same volume of gross sales and services.** Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

SECTION 37. ORS 616.706, as amended by section 3 of this 2012 Act, is amended to read:

616.706. (1) Except as otherwise provided in ORS 616.695 to 616.755, a person may not operate a food establishment without first obtaining and thereafter maintaining a license under this section. A person shall make an application for a license to the State Department of Agriculture on forms prescribed by the department. Each license shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule.

(2) The department may, subject to the applicable provisions of ORS chapter 183, suspend, revoke or refuse to issue a license if the licensee has violated any of the provisions of ORS 616.695 to 616.755 or rules adopted under ORS 616.695 to 616.755.

(3) A license is personal to the applicant and may not be transferred. A new license is necessary if the business entity of the licensee is changed, or if the membership of a partnership is changed, irrespective of whether or not the business name is changed.

(4) The license shall cover all operations of the person licensed, under one entity or ownership. With prior approval of the department, the location of a licensed food establishment, or any part of a licensed food establishment, may be moved without the requirement of a new license if there is no change in the ownership or business entity.

(5) The license shall be posted in a conspicuous place in the main office of the food establishment. Duplicate copies of the license shall be conspicuously posted in branch offices, warehouses and other places owned or operated by the licensee at locations other than the main office. A license is automatically canceled if the food establishment ceases or discontinues operations or business.

(6) The department may adopt rules establishing license fee schedules for a food establishment:

(a) That is part of a domestic kitchen;

(b) That is a retail food store;

(c) That is a warehouse; or

(d) That is other than part of a domestic kitchen, retail food store or warehouse.

(7) The department may determine the license fee for a food establishment described in subsection (6)(b) to (d) of this section based upon the gross sales by the applicant. In establishing the amount of a license fee based upon gross sales by an applicant, the department shall use the annual gross dollar volume of sales of covered operations by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales of covered operations for a full calendar year, the department shall base the fee on estimated annual gross sales of covered operations by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales of covered operations figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales of covered operations by the applicant.

(8) *[Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for a food establishment of the same type and having the same volume of gross sales. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount.]* **The department may not adopt or enforce a rule under this section establishing a license fee that is higher than the license fee charged for the license year that began July 1, 2018, for an establishment of the same type and having the same volume of gross sales.** License fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

SECTION 38. ORS 619.031, as amended by section 5 of this 2012 Act, is amended to read:

619.031. (1) A person may not operate an animal food slaughtering establishment or processing establishment without first obtaining a license for the establishment from the State Department of Agriculture.

(2) The department may adopt rules establishing license fee schedules for establishments licensed under this section. The department may determine the license fee for an establishment based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an applicant, the department shall use the annual gross dollar volume of sales and services by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales and service records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales and services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales

and services by the applicant. The license shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule.

(3) *[Except as provided in this subsection, the department may not adopt a rule to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for an establishment of the same type and having the same volume of gross sales and services. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount.]* **The department may not adopt or enforce a rule under this section establishing a license fee that is higher than the license fee charged for the license year that began July 1, 2018, for an establishment of the same type and having the same volume of gross sales and services.** Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

(4) The provisions of ORS 603.025 (2) and (5), 603.034 (1) and (2), 603.045 (7) and 603.075 shall apply to animal food slaughtering establishments or processing establishments. Except as provided in this subsection, the remainder of the provisions of ORS chapter 603 do not apply to such establishments.

(5) Notwithstanding subsection (1) of this section, a person licensed by the department under ORS chapter 603 to slaughter meat animals and subject to federal meat inspection, or a person licensed by the department under ORS chapter 603 to slaughter only poultry and rabbits and subject to federal poultry inspection, or a person licensed by the department under ORS chapter 603 as a nonslaughtering processor may, without being required to obtain an additional license, also sell or dispose of meat products as animal food provided that such licensees also comply with the provisions of subsection (6) of this section, ORS 619.010 to 619.026 and 619.036 to 619.066.

(6) In accordance with the provisions of ORS chapter 183, the department may promulgate rules necessary to carry out and enforce any procedures or measures to protect the health of the animals that are fed or intended to be fed the meat products sold or disposed of by animal food slaughtering establishments or processing establishments, and to protect the health of other animals in this state. In addition to the provisions of ORS 619.046, for the purposes of this section the department shall take into consideration:

(a) The provisions of ORS chapter 596.

(b) The procedures necessary to ensure that meat products that are only fit for or destined for animal consumption are not sold for human consumption.

(7) A person licensed as provided by this section:

(a) May not sell, hold or offer for sale any carcass of a meat animal or part thereof that is unfit for or unwholesome as animal food.

(b) May not sell, hold or offer for sale a carcass of a meat animal or part thereof for human consumption.

(c) Shall keep complete and accurate records of the meat animals purchased for slaughter, including but not limited to their description, brands if any, date of purchase and the name and address of the person from whom the animals were purchased.

(d) Shall keep complete and accurate records of the sale of all meat animal carcasses or parts of meat animal carcasses, including the name and address of the purchaser.

(e) Shall comply with the provisions of ORS 619.026.

SECTION 39. ORS 621.072, as amended by section 7 of this 2012 Act, is amended to read:

621.072. (1) The State Department of Agriculture shall issue a license to use a grade designation to any person who:

(a) Makes written application for a license on forms provided by the department;

(b) Pays the designated license fee;

(c) Is engaged in the business of producing or distributing fluid milk; and

(d) Meets the requirements of the particular grade designation for which application is made.

(2) If a person carries on the activities of a producer and a producer-distributor, the person must obtain a separate license for each of those activities. If a producer-distributor manufactures products from both grade A fluid milk and grade B fluid milk at the same premises, the producer-distributor

must obtain separate licenses for grade A product manufacturing activity and grade B product manufacturing activity.

(3) Licenses issued under this section shall be personal and not transferable.

(4) Each milk hauler, milk receiver or other person who grades fluid milk as fit or unfit for processing as fluid milk due to quality, odor, flavor or wholesomeness must first obtain a license from the department authorizing that person to sample and grade fluid milk. Each applicant for a milk sampler's and grader's license shall, by written examination, demonstrate an adequate knowledge of milk sanitation as it relates to the sampling, grading and handling of fluid milk and cream for analysis. The department shall give examinations for licenses at such times and places as appears to be necessary and practicable.

(5) Before and after issuing a license to a person as a producer, producer-distributor, distributor or nonprocessing distributor of fluid milk, the department shall, as it deems necessary, inspect the physical facilities of the applicant's dairy, milk processing plant or distribution center and investigate other factors the department determines may relate to the production, processing or distribution of fluid milk. The physical facilities must conform to the production, processing or distribution requirements for the fluid milk grade designation sought or held.

(6) Each license issued under this section expires on June 30 next following the date of its issuance unless sooner revoked and may be renewed upon application of the licensee. Each application for a license or annual renewal of a license shall be accompanied by a license fee.

(7) The department may adopt rules establishing license fee schedules for:

- (a) Milk samplers and graders;
- (b) Producer-distributors, distributors and nonprocessing distributors; and
- (c) Producers.

(8) The department may determine the license fee for a producer-distributor, distributor or nonprocessing distributor based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an applicant under this subsection, the department shall use the annual gross dollar volume of sales and services by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales and service records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales and services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales and services by the applicant.

(9) The department may determine the license fee for a producer based upon the annual gross sales by the applicant. In establishing the amount of the license fee for an applicant under this subsection, the department shall use the annual gross sales by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross sales for a full calendar year, the department shall base the fee on estimated annual gross sales by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross sales by the applicant.

(10) *[Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the fee charged during the preceding year for a milk sampler and grader, for a producer-distributor, distributor or nonprocessing distributor having the same volume of gross sales and services or for a producer having the same volume of gross sales. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount.]* **The department may not adopt or enforce a rule under this section establishing a license fee for a milk sampler and grader that is higher than the license fee charged for the license year that began July 1, 2018, for a milk sampler and grader. The department may not adopt or**

enforce a rule under this section establishing a license fee for a producer-distributor, distributor or nonprocessing distributor that is higher than the license fee charged for the license year that began July 1, 2018, for a producer-distributor, distributor or nonprocessing distributor having the same volume of gross sales and services. The department may not adopt or enforce a rule under this section establishing a license fee for a producer that is higher than the license fee charged for the license year that began July 1, 2018, for a producer having the same volume of gross sales. Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

(11) A distributor or producer-distributor must obtain a license and pay license fees for each physical facility used to produce, process or distribute fluid milk. A person is not required to obtain a distributor or producer-distributor license to act as a milk hauler or to operate receiving or transfer stations in conjunction with a milk processing plant.

(12) The department may refuse to issue or renew, or may suspend or revoke, a license for any violation of this section or ORS 621.062, 621.070, 621.076, 621.084, 621.088, 621.117, 621.122 or 621.259 or processes or standards established under ORS 621.060 or 621.083.

SECTION 40. ORS 621.166, as amended by section 9 of this 2012 Act, is amended to read:

621.166. (1) As used in this section, "mobile milk tanker" means a tank or other receptacle that attaches to a bulk tank truck or other equipment and is used to transport fluid milk, milk or milk products.

(2) Application for a dairy products plant license shall be made to the State Department of Agriculture on forms provided by the department. Each license and each annual renewal shall expire on June 30 next following its issuance or on such date as may be specified by department rule. Dairy products plant licenses are personal and are not transferable.

(3) Each dairy products plant shall submit a separate fee established by the department for each mobile milk tanker. The fee does not apply to a mobile milk tanker owned and operated by a dairy products plant while transporting dairy products from the dairy products plant to wholesale or retail outlets for those products.

(4) The department may adopt rules establishing license fee schedules for:

- (a) Mobile milk tankers; and
- (b) Dairy products plants.

(5) The department may determine the license fee for a dairy products plant based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an applicant, the department shall use the annual gross dollar volume of sales and services by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales and service records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales or services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the applicant. If an applicant whose previous year's fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales and services by the applicant.

(6) *[Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the fee charged during the preceding year for an equivalent mobile milk tanker or for a dairy products plant having the same volume of gross sales and services. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount.]* **The department may not adopt or enforce a rule under this section establishing a license fee for a mobile milk tanker that is higher than the license fee charged for the license year that began July 1, 2018, for an equivalent mobile milk tanker. The department may not adopt or enforce a rule under this section establishing a license fee for a dairy products plant that is higher than the license fee charged for the license year that began July 1, 2018, for a dairy products plant having the same volume of gross sales and services.** Fee schedules adopted

under this section may not change the amount of the same license fee more frequently than once each year.

SECTION 41. ORS 625.180, as amended by section 11 of this 2012 Act, is amended to read:

625.180. (1) Every bakery or bakery distributor doing business in this state shall pay a license fee.

(2) The State Department of Agriculture may adopt rules establishing license fee schedules for:

(a) A bakery distributor;

(b) A domestic kitchen bakery; and

(c) A bakery other than a domestic kitchen bakery.

(3) The department may determine the license fee for a bakery or bakery distributor based upon the annual gross sales by the applicant. In establishing the amount of the license fee for a bakery or bakery distributor, the department shall use the annual gross sales by that bakery or distributor within Oregon during the prior calendar year or, if the bakery or distributor maintains sales records on a fiscal basis, the prior fiscal year. If the bakery or distributor applying for an original license or for a renewal license cannot provide the annual gross sales for a full calendar year, the department shall base the fee on estimated annual gross sales by the bakery or distributor. If a bakery or distributor whose previous year's fee was determined using an estimated gross sales figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross sales by the bakery or distributor.

(4) *[Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for a bakery distributor having the same volume of gross sales or for a bakery of the same type and having the same volume of gross sales. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount.]* **The department may not adopt or enforce a rule under this section establishing a license fee for a bakery distributor that is higher than the license fee charged for the license year that began July 1, 2018, for a bakery distributor having the same volume of gross sales. The department may not adopt or enforce a rule under this section establishing a license fee for a bakery that is higher than the license fee charged for the license year that began July 1, 2018, for a bakery of the same type and having the same volume of gross sales.** Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

SECTION 42. ORS 628.240, as amended by section 13 of this 2012 Act, is amended to read:

628.240. (1) An applicant for a refrigerated locker plant license shall pay a license fee to the State Department of Agriculture. The department may adopt rules establishing a license fee for a refrigerated locker plant. *[Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the fee charged during the preceding year. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount.]* **The department may not adopt or enforce a rule under this section establishing a license fee for a refrigerated locker plant that is higher than the license fee charged for the license year that began July 1, 2018, for a refrigerated locker plant.** The department may not change the amount of the refrigerated locker plant license fee more frequently than once each year.

(2) If the license is issued after January 1 but before June 30 of the same year, the license fee shall be one-half of the fee established by the department by rule under subsection (1) of this section.

(3) All fees received by the department under ORS 628.210 to 628.370 shall be deposited in the Department of Agriculture Service Fund and are continuously appropriated to the department for the purpose of administering and enforcing those sections.

SECTION 43. ORS 632.720, as amended by section 15 of this 2012 Act, is amended to read:

632.720. An applicant for an egg handler's license shall pay an annual license fee to the State Department of Agriculture with each application. The department may adopt rules establishing a license fee for an egg handler. *[Except as provided in this section, the department may not adopt a*

rule under this section to establish a license fee that is more than three percent higher than the fee charged during the preceding year. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount.] **The department may not adopt or enforce a rule under this section establishing an egg handler license fee that is higher than the egg handler license fee charged for the license year that began July 1, 2018.** The department may not change the amount of the egg handler's license fee more frequently than once each year.

SECTION 44. ORS 635.030, as amended by section 17 of this 2012 Act, is amended to read:

635.030. (1) Any person desiring to or who does engage in the business of a nonalcoholic beverage manufacturer shall apply to the State Department of Agriculture for a license for each plant operated by such person. The application shall be in such form and contain such information as the department may prescribe.

(2) The department may adopt rules establishing license fee schedules for nonalcoholic beverage manufacturers. The department may determine the license fee for a manufacturer based upon the annual gross sales by the manufacturer. In establishing the amount of the license fee for a manufacturer, the department shall use the annual gross sales by that manufacturer within Oregon during the prior calendar year or, if the manufacturer maintains sales records on a fiscal basis, the prior fiscal year. If the manufacturer applying for an original license or for a renewal license cannot provide the annual gross sales for a full calendar year, the department shall base the fee on estimated annual gross sales by the manufacturer. If a manufacturer whose previous year's fee was determined using an estimated gross sales figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross sales by the manufacturer.

(3) *[Except as provided in this subsection, the department may not adopt a rule under this section to establish a license fee that is more than three percent higher than the license fee charged during the preceding year for a manufacturer having the same volume of gross sales. When adopting a rule establishing a license fee, notwithstanding the three percent limit, the department may round the fee amount to the next higher whole dollar amount.]* **The department may not adopt or enforce a rule under this section establishing a license fee that is higher than the license fee charged for the license year that began July 1, 2018, for a nonalcoholic beverage manufacturer having the same volume of gross sales.** Fee schedules adopted under this section may not increase the amount of the same license fee more frequently than once each year.

(4) Licenses issued under this section shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule. The department shall collect a license fee for each license and for each renewal of a license. The fee shall be remitted by the department to the State Treasurer. The State Treasurer shall place all moneys received under this section in the Department of Agriculture Service Fund. Moneys from fees imposed under this section are continuously appropriated to the department for the purpose of administering and enforcing the provisions of this chapter.

SECTION 45. The amendments to ORS 603.025, 616.706, 619.031, 621.072, 621.166, 625.180, 628.240, 632.720 and 635.030 by sections 36 to 44 of this 2012 Act become operative July 1, 2019.

Passed by House February 27, 2012

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate February 29, 2012

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2012

Approved:

.....M,....., 2012

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2012

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Kate Brown, Secretary of State