

**Enrolled**  
**House Bill 3116**

Sponsored by Representatives MARSH, MCLAIN; Representatives POST, SMITH DB

CHAPTER .....

AN ACT

Relating to egg sales; amending ORS 616.683, 632.715 and 632.771; and declaring an emergency.

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

**SECTION 1.** ORS 616.683 is amended to read:

616.683. (1)(a) Except as provided in subsection (7) of this section, the sale, or exposure or offering for sale, of agricultural products described in subsections (2) and (3) of this section by a farm direct marketer does not make the space used by the farm direct marketer subject to ORS 616.695 to 616.755.

(b) Except as provided in subsection (7) of this section, the sale, or exposure or offering for sale, of agricultural products described in subsections (2) and (3) of this section by a farm direct marketer does not make the farm direct marketer or a consigning agricultural producer subject to ORS 616.695 to 616.755. Except as provided in subsection (7) of this section, the storage or preparation of agricultural products identified for sale by a farm direct marketer does not make the farm direct marketer subject to ORS 616.695 to 616.755.

(2) Subsection (1) of this section applies to farm direct marketer sales of the following types of agricultural products:

(a) Fresh fruit, vegetables and herbs.

(b) Fruit, vegetables and herbs, if those items are cured or dried by the agricultural producer as part of routine post-harvest handling.

(c) Dried fruits, vegetables and herbs for which drying is not part of routine post-harvest handling, if:

(A) The principal ingredients are grown by the agricultural producer; and

(B) The product is labeled with a list of ingredients and the name and address of the agricultural producer.

(d) Shelled nuts and unshelled nuts, if those items are cured or dried by the agricultural producer as part of routine post-harvest handling.

(e) Fruit-based syrups, preserves, jams, fruits and vegetables, if those items are:

(A) Producer-processed products;

(B) Acidic foods;

(C) Labeled with a list of ingredients and the name and address of the agricultural producer; and

(D) Bottled, packaged or canned by an agricultural producer that during the preceding calendar year had annual sales of fruit-based syrups, preserves and jams, fruits and vegetables described in subparagraphs (A) to (C) of this paragraph that in total did not exceed \$20,000 or a higher limit established by State Department of Agriculture rule under ORS 616.686.

- (f) Shell eggs.
  - (g) Honey, if not combined with other food ingredients.
  - (h) Whole, hulled, crushed or ground grains, legumes and seeds, if of a type customarily cooked before consumption.
  - (i) Parched or roasted grains, if of a type customarily cooked before consumption.
  - (j) Popcorn, nuts, peppers and corn on the cob, if those items are roasted at the place of purchase by the agricultural producer after purchase and not sold for immediate consumption.
  - (k) Products identified by the department by rule.
- (3) Subsection (1) of this section applies to consignment sales of the following types of agricultural products:
- (a) Fresh fruits, vegetables and herbs.
  - (b) Fruit, vegetables and herbs, if those items are cured or dried by the agricultural producer as part of routine post-harvest handling.
  - (c) Unshelled nuts that are cured or dried by the agricultural producer as part of routine post-harvest handling.

[*d*] Subject to ORS 632.715, shell eggs.]

**(d) Shell eggs, if the producer or the seller is licensed as an egg handler.**

- (e) Honey, if not combined with other food ingredients.
  - (f) Products identified by the department by rule.
- (4) Subsection (1) of this section does not apply to foods that have been commingled.
- (5) Title to agricultural products sold on consignment remains with the consigning agricultural producer until the products are sold to consumers. Agricultural products sold on consignment must be clearly and conspicuously labeled with the name and business address of the consigning agricultural producer.

(6)(a) In addition to any other required labeling, agricultural products described in subsections (2)(e) to (i) or (3)(d) or (e) of this section shall bear on the label a statement informing consumers that the product is not prepared in an inspected food establishment. Except as provided in paragraph (b) of this subsection, the required wording for the label statement is: "This product is homemade and is not prepared in an inspected food establishment."

(b) The department may adopt rules specifying alternative wording for the label statement required under paragraph (a) of this subsection to the extent that the alternative wording is necessary in order to comply with federal requirements.

(7) The department may require that a farm direct marketer or the space used by the farm direct marketer be licensed under ORS 616.695 to 616.755, if the farm direct marketer or the person in control of the space used by the farm direct marketer refuses to comply with a department rule adopted under ORS 616.686 or 616.700 for keeping the space used by the farm direct marketer in a clean, healthful and sanitary condition or for ensuring the condition and safety of the food the farm direct marketer provides to retail purchasers.

**SECTION 2.** ORS 632.715 is amended to read:

632.715. (1) Unless the person holds a permit issued under ORS 632.730, a person may not sell or distribute within this state any eggs to consumers or to retailers without having first obtained an egg handler's license from the State Department of Agriculture. The license [*shall not be*] **is not** required:

(a) Of a producer selling and delivering eggs of the producer's own production directly to an individual consumer;

(b) For the sale of uncandled eggs to other than a consumer; [*or*]

(c) For the sale by a retailer to a consumer of eggs that previously have been candled and graded by an egg handler in compliance with ORS 632.705 to 632.815[.]; **or**

**(d) For the sale on consignment under ORS 616.683 (3)(d) of eggs produced by a licensed egg handler.**

(2) Application for an egg handler's license shall be made to the department, on forms prescribed by the department.

(3) Each egg handler's license expires on June 30 next following the date of issuance or on such date as may be specified by department rule. The license is not transferable to any person. The original of the license shall be conspicuously displayed in the main office of the licensee. A duplicate copy of the license shall be conspicuously displayed in each separate branch, store, sales outlet, office, warehouse or location operated or owned by the licensee in which eggs are candled or graded.

(4) The department, in accordance with ORS chapter 183, may refuse to issue, or may suspend or revoke, an egg handler's license issued under this section, or a permit issued under ORS 632.730, if the applicant, the permit holder or the licensee has violated or is violating the provisions of ORS 632.705 to 632.815 or rules promulgated pursuant thereto.

**SECTION 3.** ORS 632.771 is amended to read:

632.771. (1) The labeling of any container used by an egg handler shall include the information required by the federal Act or rules promulgated thereunder, or:

- (a) The full, correct and unabbreviated designation of size and grade or quality of the eggs;
- (b) The common or usual name, if any there be, of the **eggs or** egg product;
- (c) The lot or production code, number or date;
- (d) The net contents;

(e) The name and address of the egg handler or distributor, and in the case of a distributor shall include qualifying terms as "packed for," "distributed by" or "distributor"; and

(f) The Oregon state egg seal or the official number assigned to the egg handler by the State Department of Agriculture.

(2) The labeling information required by subsection (1) of this section shall be of a size and in a location prescribed by the department or by the rules promulgated under the federal Act.

(3) If eggs are sold by retailers to consumers from a bulk display, in lieu of the labeling information required by subsection (1) of this section, there shall be a clearly visible and legible placard prominently displayed immediately adjacent to such display containing the size and grade or quality of the eggs.

(4) Advertising of eggs or egg products shall conform to such provisions of subsection (1) of this section as the department may prescribe.

**(5) Notwithstanding subsections (1) to (4) of this section and ORS 632.786 (5) and (9), except as provided under subsection (6)(a) of this section, a producer may sell candled eggs using the designation "ungraded" instead of designating the size and grade or quality of the eggs if:**

**(a) The producer:**

**(A) Sells eggs of the producer's own production directly to consumers; or**

**(B) Sells eggs of the producer's own production by consignment under ORS 616.683 (3)(d).**

**(b) The labeling and display of the "ungraded" designation conforms with the size and location requirements prescribed under subsections (2) and (3) of this section for the labeling and display of an egg grade designation.**

**(6) For ungraded eggs described in subsection (5) of this section:**

**(a) The labeling must include a net content statement indicating the number of ungraded eggs; and**

**(b) The labeling or display need not include any statement of net weight.**

**SECTION 4.** This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

**Passed by House April 6, 2017**

**Repassed by House May 9, 2017**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 4, 2017**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2017

**Approved:**

.....M,....., 2017

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2017

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Dennis Richardson, Secretary of State