

House Bill 3116

Sponsored by Representatives MARSH, MCLAIN

SUMMARY

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

Allows producer to sell candled eggs designated as ungraded. States information requirements for labeling or display of ungraded eggs.

Allows sales of shell eggs at location used for farm direct marketing if producer or seller is licensed as egg handler. Allows licensed or unlicensed producer to sell ungraded eggs of own production directly or on consignment by licensed or unlicensed seller at location used for farm direct marketing. Exempts sale of ungraded eggs from fee.

Requires that container used by egg handler for eggs state common or usual name of eggs.

A BILL FOR AN ACT

1
2 Relating to egg sales; amending ORS 616.683, 632.715, 632.741 and 632.771.

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

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

5 616.683. (1)(a) Except as provided in subsection (7) of this section, the sale, or exposure or of-
6 fering for sale, of agricultural products described in subsections (2) and (3) of this section by a farm
7 direct marketer does not make the space used by the farm direct marketer subject to ORS 616.695
8 to 616.755.

9 (b) Except as provided in subsection (7) of this section, the sale, or exposure or offering for sale,
10 of agricultural products described in subsections (2) and (3) of this section by a farm direct marketer
11 does not make the farm direct marketer or a consigning agricultural producer subject to ORS
12 616.695 to 616.755. Except as provided in subsection (7) of this section, the storage or preparation
13 of agricultural products identified for sale by a farm direct marketer does not make the farm direct
14 marketer subject to ORS 616.695 to 616.755.

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

17 (a) Fresh fruit, vegetables and herbs.

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

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

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

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

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

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

28 (A) Producer-processed products;

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

- 1 (B) Acidic foods;
- 2 (C) Labeled with a list of ingredients and the name and address of the agricultural producer;
- 3 and
- 4 (D) Bottled, packaged or canned by an agricultural producer that during the preceding calendar
- 5 year had annual sales of fruit-based syrups, preserves and jams, fruits and vegetables described in
- 6 subparagraphs (A) to (C) of this paragraph that in total did not exceed \$20,000 or a higher limit
- 7 established by State Department of Agriculture rule under ORS 616.686.
- 8 (f) Shell eggs.
- 9 (g) Honey, if not combined with other food ingredients.
- 10 (h) Whole, hulled, crushed or ground grains, legumes and seeds, if of a type customarily cooked
- 11 before consumption.
- 12 (i) Parched or roasted grains, if of a type customarily cooked before consumption.
- 13 (j) Popcorn, nuts, peppers and corn on the cob, if those items are roasted at the place of pur-
- 14 chase by the agricultural producer after purchase and not sold for immediate consumption.
- 15 (k) Products identified by the department by rule.
- 16 (3) Subsection (1) of this section applies to consignment sales of the following types of agricul-
- 17 tural products:
- 18 (a) Fresh fruits, vegetables and herbs.
- 19 (b) Fruit, vegetables and herbs, if those items are cured or dried by the agricultural producer
- 20 as part of routine post-harvest handling.
- 21 (c) Unshelled nuts that are cured or dried by the agricultural producer as part of routine post-
- 22 harvest handling.
- 23 *[(d) Subject to ORS 632.715, shell eggs.]*
- 24 **(d) Shell eggs if:**
- 25 **(A) The producer or the seller is licensed as an egg handler; or**
- 26 **(B) The eggs are ungraded, produced by a producer described in ORS 632.771 (5) and la-**
- 27 **beled and displayed as provided under ORS 632.771 (5) and (6).**
- 28 (e) Honey, if not combined with other food ingredients.
- 29 (f) Products identified by the department by rule.
- 30 (4) Subsection (1) of this section does not apply to foods that have been commingled.
- 31 (5) Title to agricultural products sold on consignment remains with the consigning agricultural
- 32 producer until the products are sold to consumers. Agricultural products sold on consignment must
- 33 be clearly and conspicuously labeled with the name and business address of the consigning agricul-
- 34 tural producer.
- 35 (6)(a) In addition to any other required labeling, agricultural products described in subsections
- 36 (2)(e) to (i) or (3)(d) or (e) of this section shall bear on the label a statement informing consumers
- 37 that the product is not prepared in an inspected food establishment. Except as provided in paragraph
- 38 (b) of this subsection, the required wording for the label statement is: "This product is homemade
- 39 and is not prepared in an inspected food establishment."
- 40 (b) The department may adopt rules specifying alternative wording for the label statement re-
- 41 quired under paragraph (a) of this subsection to the extent that the alternative wording is necessary
- 42 in order to comply with federal requirements.
- 43 (7) The department may require that a farm direct marketer or the space used by the farm direct
- 44 marketer be licensed under ORS 616.695 to 616.755, if the farm direct marketer or the person in
- 45 control of the space used by the farm direct marketer refuses to comply with a department rule

1 adopted under ORS 616.686 or 616.700 for keeping the space used by the farm direct marketer in a
 2 clean, healthful and sanitary condition or for ensuring the condition and safety of the food the farm
 3 direct marketer provides to retail purchasers.

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

5 632.715. (1) Unless the person holds a permit issued under ORS 632.730, a person may not sell
 6 or distribute within this state any eggs to consumers or to retailers without having first obtained
 7 an egg handler's license from the State Department of Agriculture. The license [*shall not be*] **is not**
 8 required:

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

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

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

14 **(d) For the sale of ungraded eggs under ORS 616.683 (3)(d).**

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

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

22 (4) The department, in accordance with ORS chapter 183, may refuse to issue, or may suspend
 23 or revoke, an egg handler's license issued under this section, or a permit issued under ORS 632.730,
 24 if the applicant, the permit holder or the licensee has violated or is violating the provisions of ORS
 25 632.705 to 632.815 or rules promulgated pursuant thereto.

26 **SECTION 3.** ORS 632.741 is amended to read:

27 632.741. (1) In addition to the license fee adopted by rule under ORS 632.720, each egg handler
 28 shall pay to the State Department of Agriculture a fee prescribed by the department, not to exceed
 29 two and one-half mills per dozen eggs sold by such egg handler. Such fee shall be paid by remitting
 30 monthly payments, on dates prescribed by the department, accompanied by such reports concerning
 31 egg sales as the department may prescribe. The egg handler utilizing this method shall prepare and
 32 maintain adequate books and records evidencing the egg sales, and shall keep the same for at least
 33 two years. The department is authorized to inspect and audit such books and records as provided
 34 in ORS 561.265 and the egg handler shall pay to the department its costs for the same. The depart-
 35 ment shall assign such egg handler a permit number to be placed on egg containers in the manner
 36 prescribed by the department.

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

39 (a) Eggs sold and shipped outside of this state;

40 (b) Eggs sold to the United States Government;

41 (c) Bulk sales of eggs;

42 (d) Eggs sold to another egg handler for processing into egg products; [*or*]

43 (e) Eggs sold by a producer to consumers at the place of production[.]; **or**

44 **(f) Eggs described in ORS 632.771 (5).**

45 **SECTION 4.** ORS 632.771 is amended to read:

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

3 (a) The full, correct and unabbreviated designation of size and grade or quality of the eggs;

4 (b) The common or usual name, if any there be, of the **eggs or** egg product;

5 (c) The lot or production code, number or date;

6 (d) The net contents;

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

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

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

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

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

19 **(5) Notwithstanding subsections (1) to (4) of this section and ORS 632.786, except as pro-**
20 **vided under subsection (6)(a) of this section, a producer may sell candled eggs using the**
21 **designation “ungraded” instead of designating the size and grade or quality of the eggs if:**

22 **(a) The producer:**

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

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

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

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

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

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

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