

Enrolled
House Bill 2060

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for State Department of Agriculture)

CHAPTER

AN ACT

Relating to food establishments lacking valid authorizations required for operation; creating new provisions; and amending ORS 616.997.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 616.

SECTION 2. (1) As used in this section:

(a) “Authorization” means a license, permit, certificate or other approval for the operation of a food establishment.

(b) “Food establishment” has the meaning given that term in ORS 616.695.

(2) In addition to any other authority granted to the State Department of Agriculture, including, but not limited to, condemnation or closure authority under ORS 632.705 to 632.815 or this chapter or ORS chapter 619, 621, 622, 624 or 625, the department may order the closure of a food establishment if:

(a) Department authorization for operation of the food establishment is required by law; and

(b) The authorization has not been obtained or has lapsed.

(3) Prior to ordering the closure of a food establishment under this section, the department shall give notice:

(a) As required under ORS 561.300, if the authorization to operate the food establishment has lapsed.

(b) As provided by a rule of the department that allows not less than 45 days for compliance, if an authorization to operate the food establishment has not been obtained.

(4) After providing the notice required under subsection (3) of this section and prior to ordering the closure of a food establishment under this section, the department shall give notice to the owner or operator of the food establishment that the authorization required for operating the food establishment has not been obtained or has lapsed. The department shall send the notice to the owner or operator by certified mail addressed to the last-known address of the person on file with the department or, if none, to the address of the food establishment. The date of mailing must be at least 30 days prior to any order issued by the department under this section for closure of the food establishment.

(5) Food establishments for which the department may issue an order for closure under this section include, but are not limited to, establishments for which department authorization is required under ORS 603.025, 616.706, 619.031, 621.161, 621.335, 622.080, 625.020, 625.080, 625.180, 628.220, 632.715, 632.730 or 635.027.

SECTION 3. ORS 616.997 is amended to read:

616.997. (1) In addition to any penalty available under ORS 561.190, 616.992 or 616.994, the State Department of Agriculture may impose a civil penalty for a violation of this chapter, [or] of rules, regulations or standards adopted under this chapter **or of an order issued under section 2 of this 2019 Act**. For the purposes of this section, each day a violation continues after the period of time established for compliance shall be considered a separate violation unless the department finds that a different period of time is more appropriate to describe a specific violation event.

(2) The department may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed \$10,000 for each violation.

(3) When the department imposes a civil penalty under subsection (1) of this section, the department shall impose the penalty in the manner provided by ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the date of mailing or personal service of the notice of civil penalty.

(4) Moneys received by the department from civil penalties imposed under this section shall be deposited in the General Fund to the credit of the Department of Agriculture Account.

Passed by House February 27, 2019

Received by Governor:

Repassed by House June 5, 2019

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Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2019

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate May 16, 2019

Filed in Office of Secretary of State:

.....M.,....., 2019

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Peter Courtney, President of Senate

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Bev Clarno, Secretary of State