

House Bill 2258

Sponsored by Representative OWENS (Pre-session filed.)

SUMMARY

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

Allows farm or ranch owner or operator to sell ownership interest in all or part of livestock to final consumer. Makes slaughtering facility regulations inapplicable to farm or ranch owner or operator slaughtering livestock if meat is for noncommercial use of holder of ownership interest in livestock.

Allows retail food establishment to sell producer-processed agricultural products. Allows restaurants and other facilities selling ready-to-eat food to sell food containing producer-processed products not requiring time or temperature control to prevent safety hazards.

Sets maximum annual production and sales for farm-direct marketer. Changes sales limit for bottler, packager or canner of certain fruit-based items sold by farm-direct marketer. Authorizes farm-direct sales of producer-processed products. Authorizes agricultural producer consignment sales of producer-processed products not requiring time or temperature control to prevent safety hazards.

A BILL FOR AN ACT

1
2 Relating to foods; creating new provisions; amending ORS 603.034, 603.038, 616.680, 616.683 and
3 616.711; and repealing ORS 616.686.

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

LIVESTOCK ANIMAL SHARES

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

8
9 (a) "Animal share" means an ownership interest in all or part of one or more livestock
10 animals held by a person seeking to obtain livestock meat for use as a final consumer.

11 (b) "Domesticated fowl" means chickens, ducks, geese, guinea fowl, ratites or turkeys.

12 (c) "Final consumer" means a person, other than an owner or operator of the farm or
13 ranch where the livestock was raised, that takes possession of livestock meat for purposes
14 other than resale, donation or institutional use.

15 (d) "Livestock" means one or more of the following that are raised on a farm or ranch
16 until ready for slaughter:

17 (A) Cattle;

18 (B) Domesticated elk;

19 (C) Domesticated fowl;

20 (D) Facility-propagated food fish;

21 (E) Goats;

22 (F) Rabbits;

23 (G) Sheep; or

24 (H) Swine.

25 (2) An animal share may be created only by a written contract that:

26 (a) Is formed between the farm or ranch owner or operator and a person seeking to ac-

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 **quire an ownership interest in unslaughtered livestock for purposes of being a final con-**
 2 **sumer;**

3 **(b) Includes a bill of sale identifying the livestock ownership interest the farm or ranch**
 4 **owner is transferring to the person under the contract;**

5 **(c) Includes an estimate of the minimum and maximum amounts of livestock meat the**
 6 **person is entitled to receive from the slaughtered livestock;**

7 **(d) If the contract is for specific types of meat cuts, specifies the types of meat cuts**
 8 **representing the ownership interest of the person;**

9 **(e) Authorizes the farm or ranch owner or operator to board the livestock on the farm**
 10 **or ranch until ready for slaughter;**

11 **(f) Authorizes the owner or operator to slaughter and process the livestock, or to ar-**
 12 **range for a licensed facility to slaughter and process the livestock, and estimates any**
 13 **slaughter or processing costs to be paid by the final consumer;**

14 **(g) Identifies the approximate date by which the farm owner or operator will deliver the**
 15 **meat to, or make the meat available for collection by, the final consumer; and**

16 **(h) Specifies that the meat is to be delivered or made available for collection only within**
 17 **this state.**

18 **(3) Notwithstanding any animal share contract in a livestock animal, a farm owner or**
 19 **operator that presents livestock to a custom slaughtering establishment or custom process-**
 20 **ing establishment is the owner of the livestock for the purpose of ORS chapter 603.**

21 **SECTION 2.** ORS 603.034 is amended to read:

22 603.034. (1) In accordance with the provisions of ORS chapter 183, the State Department of Ag-
 23 riculture may suspend, revoke[,] or refuse to issue a license to any applicant or licensee whose es-
 24 tablishment construction, equipment or sanitation does not meet the requirements of [*the State Meat*
 25 *Inspection Act as defined in ORS chapter 619, or of ORS 599.205 and this chapter, or of the rules*
 26 *promulgated thereunder*] **ORS 619.010 to 619.026 or 619.036 to 619.066 or this chapter, or of the**
 27 **rules adopted under ORS 619.010 to 619.026 or 619.036 to 619.066 or this chapter.**

28 [*(2) Notwithstanding the provisions of ORS chapter 183, upon conviction of a licensee of any vio-*
 29 *lation of the State Meat Inspection Act, as defined in ORS chapter 619, or of any provisions of ORS*
 30 *599.205 and this chapter, or of the rules promulgated thereunder, or upon determination by the de-*
 31 *partment that a licensee has failed to maintain the surety bond or letter of credit required by ORS*
 32 *603.025 (3), the department is authorized to forthwith suspend or revoke such license. The department*
 33 *shall, by certified mail addressed to such licensee at the address shown on the license, render notice*
 34 *that such license has been revoked or suspended.*]

35 **(2)(a) In addition to any authority of the department under ORS 183.430, the department**
 36 **may suspend or revoke a license without prior hearing:**

37 **(A) Upon the conviction of the licensee for a violation of ORS 619.010 to 619.026 or 619.036**
 38 **to 619.066 or this chapter, or a rule adopted under ORS 619.010 to 619.026 or 619.036 to 619.066**
 39 **or this chapter; or**

40 **(B) Upon determination by the department that a licensee has failed to maintain the**
 41 **surety bond or letter of credit required by ORS 603.025 (3).**

42 **(b) The department shall send notice of a suspension or revocation under this subsection**
 43 **to the licensee by certified mail addressed to the licensee at the address shown on the li-**
 44 **cence.**

45 **(c) The procedure described in ORS 183.430 (2) applies to a suspension or revocation un-**

1 **der this subsection.**

2 (3) Subject to ORS 603.025, [*authority to carry on*]**the department may allow** more than one
 3 type of activity **to be carried on** at the same establishment [*shall be approved by the department*
 4 *only*] if there is compliance with the laws and rules applicable to each separate activity.

5 (4) [*ORS 599.205 and*] This chapter [*shall*] **does** not require a person to obtain a license to
 6 slaughter on the person’s own premises a meat animal, owned by the person[,]:

7 (a) For the person’s consumption [*or for*];

8 (b) **For** consumption by members of the person’s household, nonpaying guests or employees; **or**

9 (c) **Pursuant to an animal share contract created as provided in section 1 of this 2021**
 10 **Act.**

11 **SECTION 3.** ORS 603.038 is amended to read:

12 603.038. (1) As used in this section, “poultry” means live or dead chickens, turkeys, ducks, geese,
 13 guinea fowl or other domesticated birds.

14 (2) ORS 603.025 and 616.706 do not apply to a person that complies with this subsection:

15 (a) During the calendar year, the person may slaughter not more than 1,000 poultry for use as
 16 human food. The person may slaughter and process only poultry that have been raised since two
 17 weeks of age by the person and that are free from disease. The person may not slaughter, process
 18 or sell poultry or poultry products except poultry described in this subsection and poultry eggs.

19 (b) The person must slaughter the poultry at the business premises of the person in an estab-
 20 lishment that meets the requirements in ORS 619.026 and any State Department of Agriculture rules
 21 adopted under ORS 619.046. The person may not allow other persons to use the establishment.

22 (c) The person must comply with any federal limitations or prohibitions on introducing the
 23 poultry or products produced from the poultry into interstate commerce.

24 (d) A person that claims exemption from ORS 603.025 and 616.706 under this section must
 25 maintain slaughtering, sales, sanitation and other records pertaining to the poultry as required by
 26 the department. The person shall allow the department to inspect the records and the slaughtering
 27 establishment upon request and as provided under ORS 576.024 and 619.036.

28 (3) The exemption described in this section is in addition to any exemption that a person may
 29 claim under ORS 603.034 (4)[*for the slaughtering and processing of poultry for personal use*].

30 **SECTION 4.** ORS 616.711 is amended to read:

31 616.711. (1) No license or duplicate of a license, as prescribed in ORS 616.706, is necessary for:

32 (a) Food establishments where the principal activity is the receiving, storage, sorting, cleaning
 33 and packing of fresh fruits and vegetables; **or**

34 (b) **Slaughter on the person’s own premises of a meat animal owned by the person:**

35 (A) **For the person’s consumption;**

36 (B) **For consumption by members of the person’s household, nonpaying guests or em-**
 37 **ployees; or**

38 (C) **Pursuant to an animal share contract created as provided in section 1 of this 2021**
 39 **Act.**

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

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

43 (a) Restaurants, bed and breakfast facilities, intermittent temporary restaurants, seasonal tem-
 44 porary restaurants, single-event temporary restaurants, commissaries, vending machines and mobile
 45 food and beverage units licensed under ORS 624.010 to 624.121, 624.310 to 624.430 or those that are

1 exempted under ORS 624.330.

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

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

6 (d) A person processing, manufacturing or packaging food for *[family use or consumption]* **the**
7 **person's consumption or consumption by members of the person's household, nonpaying**
8 **guests or employees.**

9 (e) **A person processing, manufacturing or packaging meat pursuant to an animal share**
10 **contract created as provided in section 1 of this 2021 Act.**

11 [(e)] (f) Commercial transit salvage operations not involving sale of food to the general public.

12
13 **RETAIL FOOD SELLERS**

14
15 **SECTION 5. (1) As used in this section:**

16 (a) "Agricultural producer," "consignment" and "producer-processed products" have the
17 meanings given those terms in ORS 616.680.

18 (b) "Retail food establishment" means a business that:

19 (A) Engages in selling food, other than ready-to-eat foods, to the public for off-premises
20 consumption; and

21 (B) Is not an agricultural producer.

22 (2) In addition to any other lawful sales, a retail food establishment may sell producer-
23 processed products at the establishment if:

24 (a) In the prior calendar year, the agricultural producer that processed the product:

25 (A) Produced not more than 250,000 agricultural product units, as defined by the State
26 Department of Agriculture by rule; and

27 (B) Had no more than \$250,000 in direct or consignment gross sales of producer-processed
28 products;

29 (b) The establishment posts signs as required by the department informing customers
30 that the products were prepared in an unlicensed facility, are not regulated and have not
31 been inspected;

32 (c) The producer-processed products are not displayed on the same shelf, rack or other
33 display unit as foods prepared in a licensed facility; and

34 (d) Producer-processed products that require time or temperature control to prevent
35 microorganism growth, toxin formation or other safety hazards:

36 (A) Except as provided in subsection (3) of this section, are displayed and sold in an area
37 of the retail food establishment that is physically separated from the rest of the establish-
38 ment, with a separate entrance and checkout;

39 (B) Do not share coolers, freezers or a warehouse with other foods; and

40 (C) Are handled, stored, displayed and sold in compliance with any additional require-
41 ments imposed by the department by rule.

42 (3) Subsection (2)(d) of this section does not prohibit the display and sale of producer-
43 processed products that do not require time or temperature control and unprocessed agri-
44 cultural products in the retail food establishment area used to display and sell
45 producer-processed products that require time or temperature control.

1 (4) If an agricultural producer ceases to qualify under subsection (2)(a) of this section,
2 the producer shall notify the retail food establishment and halt delivering producer-processed
3 products to the establishment. A retail food establishment that receives notice from an ag-
4 ricultural producer under this subsection may not accept new deliveries of producer-
5 processed products from the notifying agricultural producer, but may sell any
6 producer-processed products received prior to the notice.

7 **SECTION 6.** Section 7 of this 2021 Act is added to and made a part of ORS 624.010 to
8 624.121.

9 **SECTION 7.** (1) As used in this section:

10 (a) “Producer-processed products” has the meaning given that term in ORS 616.680.

11 (b) “Mobile unit” has the meaning given that term in ORS 624.310.

12 (2) A limited service restaurant, mobile unit, restaurant, seasonal temporary restaurant
13 or single-event temporary restaurant may sell ready-to-eat foods containing producer-
14 processed products if:

15 (a) The producer-processed products do not require time or temperature control to pre-
16 vent microorganism growth, toxin formation or other safety hazards;

17 (b) Producer-processed products are stored and labeled in a manner that prevents acci-
18 dental commingling with other food products; and

19 (c) Customers receive notice of the presence of the producer-processed products as re-
20 quired by Oregon Health Authority rules.

21
22 **FARM DIRECT MARKETING**

23
24 **SECTION 8.** ORS 616.680 is amended to read:

25 616.680. As used in this section and ORS 616.683[and 616.686]:

26 (1) “Acidic foods” means bottled, packaged or canned foods that:

27 (a) Have a natural pH level of 4.6 or less;

28 (b) Are lacto-fermented; or

29 (c) Have acidity and water activity levels that meet the acidity and water activity standards of
30 acidified foods as defined in 21 C.F.R. 114.3.

31 (2) “Agricultural producer” means a farmer, rancher or other person primarily responsible for
32 the growing, raising and harvesting of agricultural products to a point at which the products are
33 ready for direct sale.

34 (3) “Commingled” means that the agricultural products of more than one agricultural producer
35 are mixed, pooled or otherwise combined prior to the sale of the products.

36 (4) “Consignment” means an agreement under which an agricultural producer sells to the retail
37 purchaser the agricultural products of another agricultural producer that is located in the same
38 county as the agricultural producer, or in any county adjoining a county in which the agricultural
39 producer is located, without representing that the products were grown or raised by the seller.

40 (5) “Farm direct marketer” means an agricultural producer that:

41 (a) Sells directly to the retail purchaser the agricultural products grown, raised and harvested
42 by that producer; and

43 (b) In the preceding calendar year:

44 (A) Produced not more than 250,000 fresh or producer-processed product units as defined
45 by the State Department of Agriculture by rule; and

1 **(B) Had not more than \$250,000 in direct or consignment gross sales of agricultural pro-**
 2 **ducts.**

3 (6) “Producer-processed products” means foods:

4 (a) For which the principal ingredients are agricultural products grown, raised and harvested
 5 by the same agricultural producer that bottles, packages or cans the food; and

6 (b) For which ingredients other than principal ingredients are limited to herbs, spices, salt,
 7 vinegar, pectin, lemon or lime juice, honey and sugar.

8 **SECTION 9.** ORS 616.683 is amended to read:

9 616.683. (1)(a) Except as provided in subsection (7)(b) of this section, the sale, or exposure or
 10 offering for sale, of agricultural products described in subsections (2) and (3) of this section by a
 11 farm direct marketer does not make the space used by the farm direct marketer subject to ORS
 12 616.695 to 616.755.

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

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

21 (a) Fresh fruit, vegetables and herbs.

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

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

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

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

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

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

32 (A) Producer-processed products;

33 (B) Acidic foods;

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

36 (D) Bottled, packaged or canned by an agricultural producer that during the preceding calendar
 37 year had annual sales of fruit-based syrups, preserves and jams, fruits and vegetables described in
 38 subparagraphs (A) to (C) of this paragraph that in total did not exceed [~~\$20,000 or a higher limit~~
 39 *established by State Department of Agriculture rule under ORS 616.686*]**\$250,000.**

40 (f) Shell eggs.

41 (g) Honey, if not combined with other food ingredients.

42 (h) Olive oil.

43 (i) Whole, hulled, crushed or ground grains, legumes and seeds, if of a type customarily cooked
 44 before consumption.

45 (j) Parched or roasted grains, if of a type customarily cooked before consumption.

