

FOOD SAFETY

State and Federal Standards and Regulations

Oregon

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OREGON

Oregon food safety statutes are found in Title 49, “Food and Other Commodities.” The State Department of Agriculture is the administering agency of Oregon’s Food Law in regards to the production, processing, and distribution of all food products or commodities of agricultural origin, while the Health Department is responsible for the sanitation of food/drink establishments.²²⁰⁴ The Health Department and the State Department of Agriculture shall cooperate fully due to the relationship between the production, processing, and distribution of food and public health.²²⁰⁵ References to Director means the Director of Agriculture. Federal Act means the Federal Food, Drug, and Cosmetic Act (Title 21 U.S.C. §§301 et seq., 52 Stat. 1040 et seq.).²²⁰⁶

Food

Food means:(1) anything used for food or drink, including ice, for human consumption or food for dogs and cats; (2) chewing gum; and (3) anything used for components of such.

“Contaminated with filth” means the condition of any food not securely protected from dust, dirt, reasonably protected from all foreign or injurious substances.

“Food establishment” means: (1) any room, building, structure or place, used or intended for use, or operated for storing, preparing, compounding, manufacturing, processing, freezing, packaging, distributing, handling or displaying food; (2) the ground on which such place or business is operated or used and any adjacent ground that is used in carrying on the business of

²²⁰⁴ OR. REV. STAT. § 616.010(1) (1988 & Supp. 1998).

²²⁰⁵ § 616.015.

²²⁰⁶ § 616.205.

the establishment; (3) other areas or places prescribed by the Department of Agriculture; and (4) vehicles, machinery, equipment, utensils, tools, fixtures, implements and all other articles or items used in operating or carrying on the business of a food establishment.²²⁰⁷

The selling of food include[s] the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale; and the sale, dispensing and giving of any such article, and the supplying or applying of any such articles in the conduct of any food establishment.²²⁰⁸

Adulteration

The adulteration of any food is prohibited as is the receipt in commerce of any adulterated food and the delivery or proffered delivery thereof.²²⁰⁹

A food is adulterated:

- (1) if it has any poisonous or deleterious substance that may be harmful to health.

However, such food is not considered adulterated, if the substance is not an added substance and the quantity does not ordinarily render it injurious to health;

- (2) if it bears or contains any added poisonous or deleterious substance, or any pesticide chemical in or on a raw agricultural commodity, a food additive or color additive, which is unsafe;
- (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or otherwise unfit for food;

²²⁰⁷ § 616.205(9)(a), (b), (c).

²²⁰⁸ § 616.210.

²²⁰⁹ § 616.215(3).

- (4) if it is contaminated with filth, rendered diseased, unwholesome or unhealthy due to being produced, prepared, packed, or held under unsanitary conditions;
- (5) if it is the product of a diseased animal, an animal that did not die by slaughter, or an animal fed uncooked offal from a slaughterhouse;
- (6) if the container is made of any poisonous or deleterious substance that might make the contents injurious to health;
- (7) if any valuable part has been in whole or in part omitted or withdrawn;
- (8) if any substance has been in whole or in part substituted;
- (9) if any damage or inferiority has been concealed in any manner; or
- (10) if anything has been added, mixed, or packed so as to increase bulk, reduce quality, reduce strength, or make it appear better or more valuable than it is.²²¹⁰

A confection is adulterated if:

- (1) it contains any nonnutritive object or substance, unless the nonnutritive substance is deemed to serve some practical functional value in the manufacture, packaging or storing of such confectionery;
- (2) it has any nonnutritive objects either partially or completely embedded in the confection;
- (3) it contains any alcohol in excess of one half of one percent by weight;
- (4) it bears or contains any color additive which is unsafe.²²¹¹

²²¹⁰ § 616.235.

²²¹¹ § 616.235(3).

Additives

Added Poisonous & Deleterious

Any poisonous or deleterious substance, other than a pesticide, added to any food is unsafe, unless required in the production or cannot be avoided by good manufacturing practice. However, when such a substance cannot be avoided, or if it is required, the Department of Agriculture will establish rules limiting the quantity in or on the food for the protection of public health. In determining the quantity of such added substance, the department shall take into account the extent to which the use of such substances is required or cannot be avoided in the production and the effects on the consumer.²²¹²

Color Additives

A color additive is a dye or pigment, anything made by synthesis or similar process, or anything that has been extracted, isolated, or derived from a vegetable, animal, mineral, or other source regardless of any change of identity. A color additive is also anything that is capable of imparting color and includes black, white, and greys.²²¹³

Food Additives

A food additive is to any substance the use of which results in it becoming a component of any food or affecting the characteristics of any food.

However, the following are not food additives: (1) a pesticide chemical in or on a raw agricultural commodity; (2) a pesticide chemical intended for use or is used in the production,

²²¹² § 616.245.

²²¹³ § 616.205(2).

storage or transportation of any raw agricultural commodity; (3) a color additive.²²¹⁴

Misbranded

The misbranding of food is prohibited.²²¹⁵ A food shall be deemed misbranded if:

- (1) its label is false or misleading in any particular, or fails to conform with OR. REV. STAT. § 616.325;
- (2) it is offered for sale under the name of another food;
- (3) it is an imitation product and its label does not clearly and prominently state such, including the name of the product imitated;
- (4) it is represented as a food which has an established definition and standard of quality or fill of container and it falls below the standards, unless its label states that it falls below the standard;
- (5) it is represented as a food for which a definition and standard of identity has been prescribed by rule, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard, and, if required, the common names of optional ingredients, other than spices, flavoring and coloring present in such food.
- (6) it is in package form and its label does not contain the required information such as names and addresses, accurate statements of net quantity, and required placement of information;
- (7) any required information does not appear on the label or the labeling is not

²²¹⁴ § 616.205(8).

²²¹⁵ § 616.215.

prominently placed as to render it likely to be read and understood by the ordinary individual;

- (8) it is represented as for special dietary uses and its label does not contain information as to its vitamin, mineral, and other required dietary attributes;
- (9) its container is made, formed, or filled as to be misleading;
- (10) it contains any artificial flavoring, coloring, or chemical preservative and its label does not state such fact, unless impractical, and the department establishes exemptions;
- (11) it is fabricated from two or more ingredients and the common or usual name of each ingredient does not appear on the label, excluding added spices, flavorings and colorings.
- (12) a raw agricultural commodity of the soil, bearing or containing a pesticide chemical applied after harvest, does not bear a label indicating the presence of such chemical on the shipping container, unless it is a commodity held or displayed for retail sale and has been removed from its shipping container in accordance with the custom of the trade;
- (13) the labeled directions or instructions on the product will result in the final food being adulterated or misbranded;
- (14) it is a color additive, unless its packaging and labeling are in conformity with the packaging and labeling requirements;
- (15) it has been salvaged, unless its label states that fact;
- (16) it purports to be or is represented as organically grown or processed and is not in

compliance; or

(17) it purports to be or is represented as a food that is transitional and is not.²²¹⁶

Mislabeled or Labeling

The Oregon Food Law has no section designated as “mislabeled or mislabeling.” There are however sections detailing various labeling requirements. These include requirements regarding quantity, size, slack-fill, pull-date, and sale after pull-date, and labeling requirements for organic products.²²¹⁷

Enforcement

Inspection

The Department of Agriculture is authorized to enter and inspect, during all reasonable hours, any food establishment, warehouse, or vehicle used to transport, hold, or introduce food into commerce. The inspection can include all pertinent equipment, finished and unfinished materials, containers and labeling. The department must be allowed access to all records and can copy all records pertaining to food in commerce, including the carriers of such food. Samples can be obtained; however, payment shall be offered for obtained samples.²²¹⁸

If an authorized representative of the department finds, or has probable cause to believe, that any food or consumer commodity is adulterated, or so misbranded as to be dangerous or fraudulent, the representative shall attach a tag, to provide notice that such article is, or is suspected of being adulterated or misbranded and, has been detained, embargoed or seized. The

²²¹⁶ § 616.250.

²²¹⁷ See OR. REV. STAT. §§ 616.256, 616.325, 616.800 to 616.835 (Open Date Labeling Law), 616.850 to 616.890 (Unit Pricing Law), 616.406 to 616.426 (Organic Food Regulation).

²²¹⁸ § 616.286(3).

notice shall warn all persons not to remove, dispose, or sell the food until permission is given by the department.²²¹⁹ The department may also apply to the circuit court for a temporary or permanent injunction.²²²⁰

If the department or any of its authorized representatives finds in any room, building, vehicle of transportation, or other structure, any meat, fluid milk, dairy product, seafood, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, a nuisance shall be declared and the food shall be condemned, destroyed, or rendered unsalable as human food.²²²¹

Sanitary Conditions

A food establishment shall be considered unclean, unhealthful and insanitary if:

- (1) food in the food establishments is not protected from adulteration;
- (2) refuse, dirt and waste products, subject to decomposition or fermentation are not removed as required by the department;
- (3) all trunks, trays, boxes, baskets, buckets, or other receptacles, chutes, platforms, racks, troughs, shelves and all knives, saws, cleavers and other utensils and machinery used in the operation of the food establishment are not thoroughly cleaned;
- (4) proper toilet and lavatory facilities are not provided for employees, or not

²²¹⁹ § 616.225.

²²²⁰ § 616.220.

²²²¹ § 616.225(2).

maintained and kept in a clean and sanitary condition; or

- (5) the clothing and persons of operatives, employees, clerks or other employed persons are unclean.²²²²

Whenever the department finds any food establishment is kept in an unclean, unhealthful or insanitary condition, the department shall notify the owner that such establishment not be used until it is put in a sanitary condition, and post a notice upon such food establishment that it is condemned. Such notice shall not be removed nor shall such establishment be used until it has been put a sanitary condition.²²²³

Meat and Meat Products

Meat and meat products are regulated under the Oregon Food Laws, the State Meat Act, and Custom Slaughtering. "Adulterated," and "misbranded" have the same meaning and are defined the same as detailed above. The following terms and definitions are used in the State Meat Act:

- ! “Animal food slaughtering or processing establishment” means any establishment where animals are slaughtered or parts of such are prepared, offered for sale, sold or used in any manner as animal food.
- ! “Capable of use as human food” means any carcass, part of a carcass or meat product of any meat animal, which has not been denatured, or which is naturally inedible by humans.”
- ! Custom processing establishment means a stationary establishment where slaughtered

²²²² § 616.735.

²²²³ § 616.740.

animals or meat is delivered by the owners and are prepared as meat for compensation and after such are returned to the owner. A custom slaughtering establishment is defined similarly, however, it may be mobile or stationary and animals are slaughtered in such.

- ! "Department" means the State Department of Agriculture.
- ! "Equipment" means all machinery, fixtures, containers, vessels, tools, implements and apparatus used in and about an establishment.
- ! "Food" means any article used for food or drink for man or for dogs and cats.
- ! "Meat animal" means any vertebrate animal, except fish and aquatic mammals.
- ! "Meat" or "meat product" means any edible muscle, except any muscle found in the lips, snout or ears of meat animals
- ! "Official mark" means the official inspection legend or any other symbol prescribed by regulations of the department.
- ! "Poultry" means chickens, ducks, geese, turkeys, and all other domesticated fowls or birds.
- ! "Unwholesome" includes all meat or meat products which are diseased, contaminated, including drug or chemical residue, putrid, unsound, unhealthful or unfit for food.²²²⁴

All animal slaughtering or processing establishments, including custom slaughtering or processing establishments, shall not be operated unless it is licensed by the department.²²²⁵ All establishments and equipment shall be kept in a healthful and sanitary condition.²²²⁶

²²²⁴ § 619.010.

²²²⁵ § 619.031(1).

²²²⁶ § 619.026(1).

The department is authorized to inspect, at reasonable times, the equipment, meat and meat products, premises and records of establishments, meat seller establishments, grocery stores, or other places of business, to enforce minimum sanitary requirements and wholesomeness of meat and meat products. Also, upon finding a violation, the department can seize, embargo or detain any food commodity, or quarantine any building, equipment, vehicle or facility.²²²⁷

The following are prohibited acts:

- (1) possession of unwholesome meat or meat products that are not denatured and properly identified;
- (2) transportation of the carcass or meat of any meat animal destined for sale or distribution as food that is not protected from dust, dirt, flies or other contaminants;
- (3) selling, holding or offering for sale any meat product from a meat animal not slaughtered under the auspices of the USDA meat and poultry inspection program, if established; or
- (4) engaging in an activity requiring a license without procuring such license.²²²⁸

The operator of a retail meat seller establishment, in conjunction with a custom slaughtering establishment or custom processing establishment shall mark, tag or identify all individually wrapped packages or containers of meat or meat products slaughtered, wrapped, prepared or handled for the owner of a meat animal, prescribed by the State Department of

²²²⁷ § 619.036.

²²²⁸ § 619.051.

Agriculture.²²²⁹

Dairies and Dairy Products

Under Oregon's dairy statutes, the Department of Agriculture has established standards of quality for fluid, sterilized, pasteurized and unpasteurized milk.²²³⁰ No person can sell, distribute or offer for sale any fluid milk which does not conform to the set standards.²²³¹ Moreover, any grade designation by any person engaged in the production or distribution of fluid milk must be licensed.²²³² A prohibition also exists for the possession or delivery to another of any milk or cream which has had water added, unless such action has been permitted by the Department.²²³³

Additionally, fluid milk which contains sediment in excess of established tolerance levels or contains foreign matter or deleterious substances which make it unfit for human consumption is deemed to be unlawful milk and cannot be sold or offered for sale for human consumption. Fluid milk deemed to be unlawful shall be condemned and must be mixed with a harmless red coloring matter to prevent its sale or exposure for human consumption.²²³⁴ Furthermore, the Department is authorized to prescribe standards for the construction and operation of dairy products plants in order to assure a sanitary environment and freedom from contamination.²²³⁵

²²²⁹ § 619.061.

²²³⁰ § 621.060.

²²³¹ § 621.062.

²²³² §§ 621.070, 621.072.

²²³³ § 621.088.

²²³⁴ § 621.085.

²²³⁵ §§ 621.176, 621.181.

Enforcement

In order to enforce the milk provisions (§§ 621.055 to 621.124, 621.151 to 621.291) the Department can apply for permanent or temporary injunctions in the circuit court in which the violator is engaged in an unlawful act or practice. In cases where a license is required, the Department can refuse, suspend or revoke the license.²²³⁶

Frozen Desserts

By the same token, the Department is also authorized to establish standards for frozen desserts. In establishing the standards, the Department will consider the following: (a) the list of ingredients, (b) percentage of butterfat, (c) percentage of animal or vegetable fat content of mellorine, (d) percentage of total milk solids, (e) percentage of total food solids, (f) weight per gallon, and (g) the flavor or color labeling.²²³⁷ Any person in the business of freezing and selling frozen desserts—retail or wholesale—must be licensed by the Department. Any violation of the statutes—§§ 621.305 to 621.369—can result in the revocation of a license, and seizure or embargo can result in products not properly labeled or not meeting the minimum weight requirements.²²³⁸

Condensed Milk

No person within Oregon shall manufacture for sale, sell or exchange, or offer for sale or exchange any condensed milk or milk products to be used for condensed or evaporated milk, unless the milk use in the manufacture is clean, pure, unadulterated and contains no vegetable

²²³⁶ § 621.010.

²²³⁷ § 621.311.

²²³⁸ §§ 621.376, 621.368.

fat.²²³⁹

Poultry and Poultry Products

Poultry and poultry products are included or covered by the meat and meat products section detailed above. The only exceptions apply to fryers. Oregon grown fryers must be identified to the consumer as such, except those sold to the consumer at the farm or ranch where they were produced.²²⁴⁰ Fryers cannot be represented as “fresh” if after slaughter they have ever been frozen.²²⁴¹

All fryers must be labeled accordingly if exposed to chemical preservatives.²²⁴²

Eggs

Under Oregon’s statutes regarding eggs the following are prohibited acts and no person shall: (1) sell eggs for human consumption in previously used consumer containers bearing the brand, trademark or officially designated number of another egg handler, unless the same is removed or defaced; (2) fail to pay the required fees, obtain a required permit required, fail to provide required invoices; or follow the labeling requirements; (3) deliver or sell eggs for human consumption that have been incubated or have been in either an artificial or natural incubator; (4) deliver or sell for human consumption ova from slaughtered birds of any specie; (5) sell any eggs or egg products that are adulterated or misbranded; (6) sell any eggs as fresh eggs unless they are of the quality or grade prescribed” by the department or the federal Act for fresh eggs; (7) sell

²²³⁹ § 621.410.

²²⁴⁰ § 619.355.

²²⁴¹ § 619.365.

²²⁴² § 619.370.

egg products for human consumption unless they have been pasteurized, nor as a food processor purchase egg products that have not been pasteurized; (8) advertise eggs or egg products in violation of the standards or requirements prescribed by the department; (9) otherwise violate any of the provisions of OR. REV. STAT. § 632.705 to 632.815; or (10) use containers in the bulk sale of eggs that bear the trademark of another egg handler without the consent of the registrant of such trademark.²²⁴³

Distributors of eggs must obtain an egg handler's license, unless they are selling and delivering their own production direct to an individual consumer, or for the sale of uncandled eggs to other than a consumer, or retailer's sale to a consumer of eggs which previously have been candled and graded by an egg handler.²²⁴⁴

Under the egg provisions, the Department of Agriculture is authorized to: (1) inspect at reasonable times plant premises, facilities, equipment, containers and vehicles and to inspect and sample eggs and egg products; (2) seize, embargo or detain any eggs or egg products determined to be in violation of the provisions ; (3) condemn any plant premises, facilities, equipment, containers or vehicles determined to be in violation of the provisions ; (4) enter into cooperative and reciprocal agreements with any federal, state or other governmental agency.²²⁴⁵

Seafood

Under the provisions regulating seafood no person shall act as a dealer without the

²²⁴³ § 619.786.

²²⁴⁴ § 632.715.

²²⁴⁵ § 632.761.

certificate or certificates of shellfish sanitation issued by the Department of Agriculture.²²⁴⁶

However, retailers selling to the ultimate consumer, and out-of-state dealers operating under a state shellfish program by the United States Public Health Service are exempt from the provisions.²²⁴⁷ The department may suspend, revoke, or deny any certificate of shellfish sanitation for violation of this chapter.²²⁴⁸ Dealers must keep records of the amount and source of shellfish and the department shall have access to all records for inspection.²²⁴⁹

²²⁴⁶ § 622.020.

²²⁴⁷ § 622.030.

²²⁴⁸ § 622.065.

²²⁴⁹ § 622.170.