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## Cottage Food Law Statutes: *Oregon*



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A National Agricultural Law Center Research Publication  
Cottage Food Law Statutes: Oregon

OR Rev. Stat. 616.723  
OR Admin. Rules § 603-025-0200 through 0500

*Current through Register Vol. 63, No. 3, March 1, 2024.*

**OR Rev. Stat. § 616.723. Exemption from ORS 616.695 to 616.755 for establishments in residential dwellings; rules.**

(1) As used in this section:

- (a) “Food” and “food establishment” have the meanings given those terms in ORS 616.695. “Food” does not include any article containing cannabis.
- (b) “Potentially hazardous” means requiring temperature control due to the capacity to support the rapid and progressive growth of infectious microorganisms or the growth of toxic microorganisms.
- (c) “Retailer” means a person who engages in the business of selling consumer goods to retail buyers. “Retailer” includes coffee shops and excludes restaurants.

(2) ORS 616.695 to 616.755 do not apply to a food establishment if:

- (a) The food establishment is located in a residential dwelling;
- (b) The foods prepared at the food establishment for public distribution are packaged and not potentially hazardous, including but not limited to baked goods, confectionary items, coffee beans, teas, popcorn, jams, jellies, honey, syrups, fruit butters, nut mixes, repackaged freeze-dried foods, repackaged dried and dehydrated foods and powdered drink mixes;
- (c) The food bears on its label a statement and product information as described in subsection (6) of this section informing consumers that the product is not prepared in an inspected food establishment;
- (d) The annual gross sales of foods prepared at the food establishment do not exceed \$50,000, adjusted annually for inflation pursuant to the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor and rounded to the nearest \$100; and



(e) Each individual involved in the preparation of food at the food establishment for public distribution has successfully completed a food handler training program and holds a certificate issued under ORS 624.570.

(3) A person may not sell foods prepared in a food establishment described in subsection (2) of this section to an institution including, but not limited to, a caterer, school, day care center, hospital, nursing home, correctional facility or restaurant.

(4) A person may sell foods prepared in a food establishment described in subsection (2) of this section directly to the end user in any manner, including from the home, online, through the mail and at events.

(5) A person may sell packaged foods prepared in a food establishment described in subsection (2) of this section to a retailer if the retailer agrees to:

(a) Store and display the foods separately from other foods; and

(b) Clearly indicate in displaying the foods that the foods are homemade and not prepared in an inspected food establishment.

(6)

(a) Except as provided in this paragraph, the label statement required under subsection (2) of this section is “This product is homemade, is not prepared in an inspected food establishment and must be stored and displayed separately if merchandised by a retailer.” The State Department of Agriculture may adopt rules specifying alternative wording for the label statement to the extent that alternative wording is necessary in order to comply with federal requirements.

(b) In addition to the statement required under paragraph (a) of this subsection, the label must disclose the following product information:

(A) The name and phone number for the food establishment;

(B) The address of the food establishment or the unique identification number for the food establishment provided under subsection (7) of this section;

(C) The name of the product;

(D) The ingredients of the product in descending order by weight;

(E) The net weight or net volume of the product;

(F) Any applicable allergen warnings as specified under federal labeling requirements;



(G) If the label provides any nutrient content claim, health claim or other nutritional information, product nutritional information as described in federal labeling requirements; and

(H) The presence of pets in the residential dwelling in which the food establishment is located, if any, and the potential for pet allergens.

(7) At the request of a food establishment described in subsection (2) of this section, the department shall provide to the food establishment a unique identification number that the food establishment may use on the label of a product under subsection (6) of this section. The department may establish and collect a reasonable fee to cover the cost of administering this subsection.

(8) Notwithstanding subsection (2) of this section, the department may require a food establishment described in subsection (2) of this section to become licensed under ORS 616.695 to 616.755, if the food establishment refuses to comply with department rules requiring that the food establishment be constructed and maintained in a clean, healthful and sanitary condition.

(9) The department shall adjust annually the maximum dollar amount of annual gross sales described in subsection (2)(d) of this section.

(10) The department may not prohibit a food establishment located in a residential dwelling, including a food establishment licensed as a domestic kitchen, from selling foods on the basis that there are pets in the residential dwelling. The department shall prohibit pets from being in the food preparation area.

(11) A person operating a food establishment described in subsection (2) of this section must maintain accurate records of annual sales and the types of foods produced by the food establishment. The person must retain the records for not less than three years and make the records available for inspection by the department upon request. [2015 c.453 §2; 2017 c.21 §120; 2019 c.57 §31; 2023 c.211 §1]

### **OR Admin. Rules § 603-025-0200. Establishments Utilizing Domestic Kitchen Facilities.**

(1) In addition to the provisions of OAR 603-025-0020, a food establishment that is part of a domestic kitchen shall comply with the provisions of section (2) of this rule.

(2)

(a) All doors or openings from the domestic kitchen to other rooms of the building or structure, if applicable, shall be kept closed during the processing, preparing, packaging, or handling of commercial foods;



(b) No person other than the operator, or an employee, shall directly engage in the processing, preparing, packaging, or handling of commercial foods and no other person shall be allowed in the domestic kitchen during such periods of operation;

(c) If there are pets in the residential dwelling the food label must include a statement that:

(A) Pets were present in the residential dwelling;

(B) Is prominently displayed and not be obscured, hidden, or detracted by logos or artwork;

(C) Includes the species using the common or usual name of the pet. Examples include, but are not limited to: cat, dog, or rabbit; and

(D) Is a font size must be at least equal to the average size used on the label or a minimum height of 1/16" of a lower case "o".

(d) No processing, preparing, packaging, or handling of commercial foods shall be carried on in a domestic kitchen while pets are present or while other domestic activities are being carried on in such domestic kitchen, including, but not limited to;

(A) Family meal preparation, serving, dishwashing, or eating;

(B) Clothes washing or ironing;

(C) Cleaning of floors, walls, cabinets or appliances; or

(D) Entertaining guests.

(e) The physical facilities of a licensed domestic kitchen must include:

(A) Closed storage space for ingredients, finished product containers, and labels for commercial foods separate from those for domestic use;

(B) Refrigerated facilities for storage of perishable products or ingredients utilized in the processing, preparing, or handling of commercial foods separate from those for domestic use; and

(C) A storage area for household cleaning materials and other chemicals or toxic substances that is separate from foods.

(f) Medical supplies or equipment must not be in the domestic kitchen;

(g) All domestic kitchens must be available for inspection by the Department between the week-day hours of 8 a.m. to 5 p.m., and the Department may, if it deems it advisable or necessary, inspect



such premises on weekends or holidays or other times commercial foods are being processed, prepared, packaged, or handled.

### **OR Admin. Rules § 603-025-0215. Purpose.**

OAR 603-025-0215 through 603-025-0275 recognize farm direct marketing, including consignment between farm direct marketers, as a modern and accepted method of producing and selling food products, and of maintaining the integrity of food safety principles as required by state and federal laws. The legislative mandates in ORS 616.680 through 616.686 are accomplished by exempting from licensure and inspection only those that raise their own products, that limit their food processing activities to only those identified by the Legislature as permissible without a license, and that sell to a consumer a limited amount of products produced without a license and regulatory oversight.

### **OR Admin. Rules § 603-025-0225. Definitions.**

For purposes of OAR 603-025-0215 through 603-025-0275, the following definitions apply, in addition to those provided in ORS 616.680:

- (1) "Acidic foods" means bottled, packaged or canned foods that meet any of the following requirements:
  - (a) Having a naturally occurring equilibrium pH of 4.6 or below; or
  - (b) Having been lacto-fermented to decrease the equilibrium pH of the food to 4.6 or below; or
  - (c) Having a water activity (aw) greater than 0.85 and having been acidified to decrease the equilibrium pH of the food to 4.6 or below.
- (2) "Address" means physical street address, city, county, state, and zip code.
- (3) "Agricultural producer" means a person, including family members and employees, who are primarily responsible for the growing, raising, and the harvesting agricultural products to the point at which the products are ready for sale to a consumer.
- (4) "Approved" means conforming to scientific principles, applicable state and federal laws, and generally recognized industry standards that protect public health.
- (5) "Canned" means an acidic food that has been preserved by placing it in a hermetically sealed container to which boiling water or steam is applied to reduce pathogenic and spoilage organisms.
- (6) "Commingle" means to mix, pool, or combine agricultural products of more than one agricultural producer prior to the sale of the products.
- (7) "Consign" means to send a farm direct product to market to be sold by a farm direct marketer who did not produce the product. Ownership of



consigned products remains with the agricultural producer who produced the product until the product is sold to a consumer.

(8) "Consigning agricultural producer" means an agricultural producer that sells directly to the consumer farm direct products produced by another agricultural producer.

(9) "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment, and does not offer the food for resale. "Consumer" does not include restaurants, grocery stores, schools, daycare centers, caterers, or any other institutions, such as prisons, hospitals, or nursing homes.

(10) "Cure" means to ripen naturally or by controlled environmental storage whereby the taste, smell, texture, or appearance of the product is altered without causing the product to become adulterated or processed to an extent that the product changes significantly from its original form. Examples of agricultural products that may be cured include, but are not limited to, garlic, potatoes, and sweet potatoes.

(11) "Department" means the Oregon Department of Agriculture.

(12) "Dried" and "dehydrated" mean the removal of moisture from the food to ensure that the finished product has a water activity of 0.85 or below, so that bacteria, yeast and molds cannot grow.

(13) "Farm direct marketer" means an agricultural producer that sells directly to the consumer the agricultural products grown, raised and harvested by that producer. A farm direct marketer may also sell, on consignment, farm direct products produced by another agricultural producer. When a farm direct marketer is selling, on consignment, the farm direct products of another agricultural producer, the farm direct marketer may be referred to as a "consigning agricultural producer."

(14) "Farm direct product" means an agricultural product grown, raised, and harvested by an agricultural producer to the point at which the product is ready for direct, retail sale to a consumer by the agricultural producer, through consignment, or through a third party service that actively manages the aggregation, distribution, marketing, and facilitation of sales.

(15) "Fresh" means not altered by processing. "Fresh" excludes potentially hazardous foods, including, but not limited to, raw seed sprouts of all kinds, raw melons that have been cut in any way, raw leafy greens that have been cut in any way, and raw tomatoes that have been cut in any way.

(16) "Herbs" means the aromatic leaves and flowers of herbaceous plants that enhance the flavor and fragrance of food. Herbs include, but are not limited to, all varieties of: basil, chervil, chives, cilantro, dill, lemon





verbena, marjoram, mint, oregano, parsley, rosemary, sage, savory, sorrel, tarragon, and thyme.

(17) "Lacto-fermented" means food processed by lactobacilli whereby the lactic acid content of the food decreases the equilibrium pH to 4.6 or below. Examples of lacto-fermented products include sauerkraut and kimchi.

(18) "Major food allergens" means the eight most common food allergens defined in the Food Allergen Labeling Protection Act of 2004 (FALCPA). The major food allergens that may be used in farm direct products, if all other requirements of relevant statutes and rules are met, are peanuts, tree nuts, soy, wheat, and sesame.

(19) "Principal ingredients" means the farm direct products that comprise a producer-processed product. For example, jalapeno peppers produced by a farm direct marketer would be a principal ingredient in pepper jelly, and tomatoes, onions, peppers, and garlic would be principal ingredients in salsa.

(20) "Producer-processed products" means foods:

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

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

(c) For which every step necessary to prepare the farm direct products for sale will must be conducted in a facility located where the farm direct products were grown.

(21) "Retail purchaser," as used in ORS 616.680 through 616.686, means "consumer," as defined in this rule.

(22) "Spices" means any aromatic vegetable substance in the whole, broken, or ground form, except for those substances which have been traditionally regarded as foods, such as onions, garlic, and celery; whose significant function in food is seasoning rather than nutritional; that is true to name; and from which no portion of any volatile oil or other flavoring principle has been removed.

(23) "Water activity" means the measure of free moisture in a product and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

### **OR Admin. Rules § 603-025-0235. Farm Direct Marketer Exemption.**

(1) ORS 616.695 to 616.755 do not apply to a farm direct marketer, a consigning agricultural producer, or the location(s) used by a farm direct





marketer or a consigning agricultural producer to prepare, store, sell, expose for sale or offer for sale the following agricultural products:

(a) Fruits, vegetables, edible flowers and herbs that are:

(A) Fresh; or

(B) Cured or dried by the agricultural producer as part of routine post-harvest handling.

(b) Dried or cured fruits, vegetables, edible flowers, herbs or blends of herbs, and herbal tea for which drying or curing is not part of routine post-harvest handling, if:

(A) Not combined with other ingredients; and

(B) Control parameters as described in OAR 603-025-0275(3) are recorded.

(c) Shelled nuts and unshelled nuts cured or dried by an agricultural producer as part of routine post-harvest handling;

(d) Shell eggs;

(e) Honey, only when not combined with other ingredients;

(f) Olive oil;

(g) Whole, hulled, crushed or ground grain, legumes and seeds, if of a type customarily cooked before eating;

(h) Parched or roasted grains, if of a type customarily cooked before eating;

(i) Popcorn, nuts, peppers and corn on the cob, if those items are:

(A) Roasted at the place of purchase;

(B) By a farm direct marketer;

(C) After purchase; and

(D) Not sold for immediate consumption.

(j) Tree-sap-based solid sugar, cream and liquid syrup products that are made by heating sap from trees of the genuses *Acer* or *Juglans* and have a solids content of not less than 66 percent by weight, or 66 degrees Brix, and not combined with other ingredients.

(2) ORS 616.695 to 616.755 do not apply to a farm direct marketer, a consigning agricultural producer, or the location(s) used by a farm direct marketer or a consigning agricultural producer to prepare, store, sell, expose for sale or offer for sale the following producer-processed products:



- (a) Fruit-based syrups, fruit in syrup, preserves, jams, or jellies;
  - (b) Processed fruits or processed vegetables; or
  - (c) Fruit or vegetable juices.
- (3) Producer-processed products described in Section (2) of this rule must meet all of the following conditions:
- (a) They are acidic foods;
  - (b) Products having a water activity (aw) greater than 0.85 and having been acidified to decrease the equilibrium pH of the food to 4.6 or below must be processed using:
    - (A) A published process and product formulation that has been approved by a recognized process authority. Examples of published processes and product formulations that have been approved by a recognized process authority can be found in:
      - (i) United States Department of Agriculture Complete Guide to Home Canning, 2009 Revision;
      - (ii) Pacific Northwest Extension publications. The Pacific Northwest Extension publications are produced cooperatively by Oregon State University, Washington State University, and the University of Idaho; or
      - (iii) So Easy to Preserve, 5th Edition, which is offered by the University of Georgia Cooperative Extension.
    - (B) Any process and product formulation that has been submitted to and approved by a recognized process authority. A recognized process authority may be contacted through the Oregon State University, Department of Food Science and Technology Extension Service.
  - (b) Bottling, packaging and canning supplies must be made from food grade materials.
  - (c) Ingredients other than the principal ingredients are limited to herbs, spices, salt, vinegar, pectin, lemon or lime juice, honey and sugar, and must be:
    - (A) From an approved source; or
    - (B) Farmed or produced by the agricultural producer.
  - (d) During the preceding calendar year, the agricultural producer had annual sales of producer-processed products that in total did not exceed \$50,000.



(4) The exemptions provided in Sections (1) through (3) of this rule may be revoked by the Department if it determines that the location used by a farm direct marketer or consigning agricultural producer does not comply with OAR 603-025-0215 to 603-025-0275, OAR 603-025-0020, or 603-025-0150.

#### **OR Admin. Rules § 603-025-0245. Farm Direct Consignment and Other Sales.**

(1) Consigning agricultural producers are limited to sales of the products listed in OAR 603-025-0235(1)-(3).

(a) Consignment is limited to farm direct marketers who are from the same county or from adjoining counties.

(b) A farm direct marketer is prohibited from representing that products offered for sale on consignment are his/her own.

(2) An agricultural producer must provide a consigning agricultural producer with documentation to be clearly and conspicuously posted during the sale of the products on consignment. The documentation must include:

(a) The name of the agricultural producer that produced the product;

(b) The product consigned by the agricultural producer; and

(c) The address of the agricultural producer that produced the product.

(3) A consigning agricultural producer must maintain separate sales logs for products sold on consignment. Sales logs must include, but are not limited to, the following information:

(a) The name of the agricultural producer that produced the product;

(b) The contact information of the agricultural producer that produced the product, including the address and phone number;

(c) Item(s) sold on consignment; and

(d) Quantity of item(s) sold on consignment.

(4) Farm direct marketers and consigning agricultural producers may engage in Internet-based sales and consignment sales, but only if:

(a) They sell directly to consumers within Oregon; or

(b) They comply with any applicable federal requirements concerning interstate sales of agricultural products.

(5) Third party organizations may actively manage the aggregation, distribution, marketing, and facilitation of sales of products described in OAR 603-025-0235(1)-(3) but may not consign, store, warehouse, or purchase for sale said products.



## **OR Admin. Rules § 603-025-0255. Farm Direct Exemption Prohibitions.**

A farm direct marketer may not:

- (1) Sell, offer for sale, or expose for sale foods that are adulterated or misbranded under ORS 616.205 to 616.385 (Sale of Adulterated, Misbranded or Imitation Foods);
- (2) Receive, accept, possess, sell, offer for sale, or expose for sale food from another agricultural producer that is adulterated or misbranded under ORS 616.205 to 616.385 (Sale of Adulterated, Misbranded or Imitation Foods);
- (3) Commingle products;
- (4) Knowingly sell or offer for sale foods covered by the farm direct sales exemption to a person that is not a consumer;
  - (a) This requirement does not apply to an agricultural producer extracting only their own honey from 20 or fewer hives; or
  - (b) Licensed honey producers.
- (5) Sell foods other than those covered by the farm direct sales exemption found at OAR 603-025-0235 without an appropriate license.

## **OR Admin. Rules § 603-025-0265. Farm Direct Product Labeling Requirements**

- (1) The principal display panel of producer-processed products must contain in a prominent location the following statements in legible, all capital, and bold-face type no less than one-eighth inch:
  - (a) "THIS PRODUCT IS HOMEMADE AND IS NOT PREPARED IN AN INSPECTED FOOD ESTABLISHMENT" and
  - (b) "NOT FOR RESALE."
- (2) The principal display panel of agricultural products described under OAR 603-025-0235(1)(d) to (g) and (j) must contain in a prominent location the following statements in legible, all capital, and bold-face type no less than one-eighth inch:
  - (a) "THIS PRODUCT IS NOT PREPARED IN AN INSPECTED FOOD ESTABLISHMENT" and
  - (b) "NOT FOR RESALE."
  - (c) An agricultural producer extracting only their own honey from 20 or fewer hives and licensed honey producers are exempt from the labeling requirements in (a) and (b).



(3) All bottled, packaged, and canned food products described under OAR 603-025-0235 must be labeled with all of the following:

- (a) A product identity, which is a truthful or common name of the product that is contained in the package;
- (b) The net weight of the product. Net weight or volume must be in both the US lbs./oz. and metric scale. For example, "Net Wt. 12 oz. (340 g)" for a dry product and "Net Wt. 32 fl. Oz (1 QT) 946 ml" for a liquid product;
- (c) An ingredient statement that properly declares all major food allergens. All ingredients must be listed in descending order of predominance by weight or volume.

(A) Major food allergens allowed in producer-processed products under this rule are peanuts, tree nuts, soy, sesame, and wheat;

(B) Major food allergens must be labeled:

(i) Using the appropriate major food allergen in parenthesis within the ingredient list after the common or usual name of the ingredient derived from that major food allergen (for example, if a product contained semolina, the ingredient list could read: semolina (wheat)); or

(ii) Using a "Contains" statement to summarize the allergen information in a statement at the end of, or immediately adjacent to, the ingredient list.

(d) The address of the agricultural producer that produced the principal ingredients and bottled, packaged, or canned the food products.

(e) For acidic fruit and vegetable juices that have not received a 5-log reduction of the most resistant microorganism of public health significance, the following warning statement must be used: "WARNING: This product has not been pasteurized and therefore may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems. Keep refrigerated."

(A) The word "WARNING" shall be capitalized and shall appear in bold type.

(B) The warning statement shall be set off in a box by use of hairlines.

(3) Farm direct products offered for sale or consignment using the internet must be described on websites with the information listed in OAR 603-025-0265(1) and (2)(a) to (c) and (e). This provision does not exempt such products from also being physically labeled as described in this rule.



(4) When Oregon or the federal government has adopted a standard of identity for any labeled product covered by the farm direct marketer exemption, that product must specifically meet those standards of identity found in ORS Chapters 616 (Food and Other Commodities) and 632 (Agricultural and Horticultural Products) and in OAR 603-025-0190 (Standards of Identity).

### **OR Admin. Rules § 603-025-0275. Farm Direct Product Records**

(1) Raw materials, packaging materials, and finished products that are not in compliance with United States Food and Drug Administration (FDA) regulations may be considered adulterated.

(2) Processing and production records for products having a water activity (aw) greater than 0.85 and having been acidified to decrease the equilibrium pH of the food to 4.6 or below must show that the process and product formulations comply with all critical factors mandated by an approved process.

(a) To demonstrate compliance with acceptable equilibrium pH measurements, batch-by-batch records of pH meter calibration and batch-by-batch records of finished product testing must be maintained.

(A) Finished product testing must be performed following the requirements of the 2010 version of 21 CFR 114.90(a) and (b) (Methodology). A pH meter or potentiometer is the primary instrument used in determining product pH.

(B) Colorimetric methods including, but not limited to, indicator solutions and indicator paper may be used if the equilibrium pH of the product is 4.0 or lower.

(b) Processing and production records must be associated with production dates and batches.

(c) Any deviation from an approved process and the corrective action taken to remedy the deviation must be recorded and maintained. A product produced with a processing deviation:

(A) Must not be sold for human consumption; or

(B) May be sold for human consumption only if the product is reprocessed to rectify the deviation in a manner approved by a recognized process authority.

(3) Processing and production records for dried or cured fruits, vegetables, edible flowers, herbs or blends of herbs, and herbal tea for which drying or curing is not part of routine post-harvest handling must show that the process ensures the removal of moisture from the food to ensure that the finished product has a water activity of 0.85 or below so bacteria, yeast and molds cannot grow.



(4) Farm direct marketers must maintain sales records of products described in OAR 603-025-0235(2)-(3). Sales records must include, but need not be limited to, the following information:

- (a) Product(s) sold;
- (b) Price;
- (c) Quantity sold;
- (d) Current, rolling total of year-to-date sales.

(5) Copies of all records required by OAR 603-025-0215 through 603-025-0275 must be retained at the processing facility or other reasonably accessible location for a period of three years from the date of manufacture.

- (a) Records must be made available to the Department upon request.
- (b) Failure to provide records to the Department upon request may result in the revocation of the farm direct marketer exemption.

#### **OR Admin. Rules § 603-025-0311. Cottage Food Exemption Purpose**

(1) The Department recognizes cottage food establishments as a modern method of producing and selling food products. The legislative mandate in ORS 616.723 is accomplished by exempting from licensure and routine inspection of cottage food establishments that;

- (a) Limit their food processing activities to only those identified in OAR 603-025-0320 as permissible without a license;
- (b) Sell a quantity as described in OAR 603-025-0320 of products; and
- (c) Otherwise meet the regulatory requirements detailed in OAR 603-025-0310 to 603-025-0330.

(2) The Department retains the responsibility and authority to protect public health by the enforcement of regulations consistent with interstate food safety systems associated with the production, processing, and distribution of all food products or commodities of agricultural origin.

#### **OR Admin. Rules § 603-025-0315. Definitions for Cottage Food Exempt Activities**

In addition to the definitions set forth in ORS 616.695, ORS 616.723, and OAR 603-025-0010, the following shall apply to OAR 603-025-0311 to 603-025-0330:

- (1) "Annual gross sales" means the annual retail sale value of food sold by the person or persons operating a Cottage Food establishment.
- (2) "Baked goods" means bakery products, as defined in ORS 625.010(2), that are not time/temperature controlled for safety foods.





- (3) "Confectionary items" mean candy or sweets, that are not time/temperature controlled for safety foods.
- (4) "Cottage Food" means food prepared at a cottage food establishment for public distribution.
- (5) "Cottage Food Establishment" means a food establishment that meets the requirements under OAR 603-025-0320(1).
- (6) "Event" means a singular location where in-person sales occur.
- (7) "Food handler training program" means a food handler training program offered by the Oregon Health Authority or designated agent of the Oregon Health Authority, or offered by a local public health authority or designated agent of the local public health authority that has been approved by the Oregon Health Authority.
- (8) "Freeze dried food" means food that has gone through a process of having water removed by being frozen and placed under a vacuum, allowing the ice to change directly from solid to vapor without passing through a liquid phase.
- (9) "Marijuana", "Marijuana item", "Cannabinoid product", "Cannabinoid concentrate", and "Cannabinoid extract" have the meaning given those terms in ORS 475C.009.
- (10) "Package" means to place food into a container that directly contacts the food and that the end user receives.
- (11) "Potentially hazardous food" or "time/temperature controlled for safety food" means food requiring temperature control due to the capacity to support the rapid and progressive growth of infectious microorganisms or the growth of toxic microorganisms. These foods include, but are not limited to:
- (a) Food containing fresh, frozen, or dried meat (including jerky);
  - (b) Food made with fish or shellfish products;
  - (c) Food that requires any type of refrigeration after production;
  - (d) Focaccia-style breads made with vegetables or cheese; and
  - (e) Candied fresh fruit products including caramel and candy apples.
  - (f) Foods;
    - (A) That have been heat-treated to destroy vegetative cells and subsequently packaged with a pH level greater than 4.60; or
    - (B) With a water activity (Aw) greater than 0.850.
- (12) "Repackage" means transfer of a food from one container to another without any processing to alter the food's state or characteristics.



## **OR Admin. Rules § 603-025-0320. Cottage Food Establishment Exemption**

(1) A Cottage Food Establishment must:

- (a) Operate from a domestic kitchen;
- (b) Prepare foods for public distribution that are not time/temperature controlled for safety, and do not contain marijuana or marijuana items;
- (c) The foods prepared for public distribution are only:
  - (A) Baked goods;
  - (B) Confectionary items, including freeze dried confectionary items;
  - (C) Coffee beans;
  - (D) Dried tea, spice, or seasoning blends from commercial food;
  - (E) Popcorn;
  - (F) Jams and jellies made only with fruit that has a natural pH that is less than 4.60;
  - (G) Honey or honey products using commercial food;
  - (H) Syrups;
  - (I) Fruit butters made only with fruit that has a natural pH that is less than 4.60;
  - (J) Nut mixes;
  - (K) Repackaged freeze-dried foods from commercial food;
  - (L) Repackaged dried and dehydrated foods from commercial food; or
  - (M) Powdered drink mixes from commercial food;
- (d) The domestic kitchen is maintained in a clean, healthful, and sanitary condition, by maintaining or complying with all the following:
  - (A) Separate closed storage space for ingredients, finished product containers, and labels used in the manufacture of cottage food(s);
  - (B) Separate refrigerated storage of perishable ingredients utilized in the processing, preparing, or handling of cottage food(s);
  - (C) A separate storage area for household cleaning materials and other chemicals or toxic substances;



(D) Medical supplies or equipment shall not be stored or allowed in the domestic kitchen;

(E) No processing, preparing, packaging, or handling of cottage foods shall be carried on in a domestic kitchen while pets are present or while other domestic activities are being carried on in such domestic kitchen, including, but not limited to;

(i) Family meal preparation, serving, dishwashing, or eating;

(ii) Clothes washing or ironing;

(iii) Cleaning of floors, walls, cabinets, or appliances; or

(iv) Entertaining guests.

(e) The annual gross sales of cottage foods do not exceed \$50,000; and

(f) Each employee of the cottage food establishment has successfully completed a food handler training program and holds a certificate issued pursuant to ORS 624.570 and OAR chapter 333 division 175.

(2) The Department may require that an operator have a food item prepared in a cottage food establishment assessed or tested to ensure that it is not a time/temperature controlled for safety food. If an assessment or test is ordered, the operator shall ensure:

(a) That the assessment is done by a recognized Process Authority and be supported with a written document provided by the operator to the Department upon request; or

(b) That testing is conducted at a certified food testing laboratory; and

(c) Test results for water activity and pH are required for each recipe with results demonstrating:

(A) pH level of 4.60 or less; or

(B) Water Activity (Aw) of 0.850 or less.

(3) Cottage foods may not be sold to an institution, including, but not limited to, a:

(a) Restaurant, which means any place licensed as a restaurant under ORS chapter 624 but does not include any place licensed under ORS chapter 616;

(b) Caterer;

(c) School;



- (d) Day care center;
  - (e) Hospital;
  - (f) Nursing home; or
  - (g) Correctional facility.
- (4) Cottage foods may be sold to a retailer only if:
- (a) The food is packaged as defined in OAR 603-025-0315(10) and labeled as required by OAR 603-025-0325;
  - (b) The retailer agrees to;
    - (A) Store and display the cottage foods separately from other foods; and
    - (B) Use signage to clearly indicate in the display area that the cottage foods are homemade and not prepared in an inspected food establishment. This signage must be in addition to the statement on the cottage food label; and
  - (c) The cottage food establishment;
    - (A) Maintains a record of the agreement of the retailer to comply with this section; and
    - (B) Maintains records as described in OAR 603-025-0328.

### **OR Admin. Rules § 603-025-0325. Labeling**

- (1) The label's principal display panel for cottage food must contain the following statement, "This product is homemade, is not prepared in an inspected food establishment, and must be stored and displayed separately if merchandised by a retailer."
- (2) The label of food prepared in a licensed domestic kitchen, or a cottage food establishment must include:
  - (a) The name of the food;
  - (b) The ingredients (and sub-ingredients) of the food in descending order by weight or volume;
  - (c) Any applicable allergen warnings as specified in The Food Allergen Labeling & Consumer Protection Act of 2004 (FALCPA);
  - (d) The business name for the food establishment;
  - (e) The address of the food establishment, including;
    - (A) The full street address, city, state, and zip code;



- (B) The city, state, and zip code if the name and address of the food establishment are listed in a city directory; or
- (C) The Unique Identification number provided by the Department as detailed in OAR 603-025-0335;
- (f) The phone number for the cottage food establishment;
- (g) The net weight or net volume of the product in both English and metric units;
- (h) If the label provides any nutrient content claim, health claim or other nutritional information, product nutritional information as described in Title 21, Part 101 of the Code of Federal Regulations (2015); and
- (i) If there are pets in the residential dwelling the food label must include a statement that:
  - (A) Pets were present in the residential dwelling;
  - (B) Includes the species using the common or usual name of the pet. Examples include, but are not limited to: cat, dog, or rabbit; and
- (3) All labeling must be done with a print or type size that is conspicuous and easy to read and;
  - (a) Such a font size must be a minimum height of 1/16" of a lower case "o"; and
  - (b) Must be prominently displayed and may not be obscured, hidden, or detracted by logos or artwork.

### **OR Admin. Rules § 603-025-0328. Record Requirements**

- (1) The cottage food establishment must maintain sales records -that include the following information:
  - (a) Location of sale;
    - (A) Grouped sales associated with an event may be a single address and must include event organizer contact details if applicable;
    - (B) Food establishment sales outlet address, including point of contact information; or
    - (C) Individual online sales address and contact information.
  - (b) Date sold or shipped;
  - (c) Food(s) sold;



- (d) Price; and
  - (e) Quantity.
- (2) A record of the cottage food establishments calculation of annual gross sales ensuring that sales meet the requirements of OAR 603-025-0320(e).
- (3) Documents that demonstrate that the cottage food establishment complied with the requirements of OAR 603-025-0320.
- (4) Copies of all required records must be retained at a reasonably accessible location for a period of three years and must be made available to the Department for review within five business days.

### **OR Admin. Rules § 603-025-0330. Revocation of Exemption**

(1) The cottage food establishment must maintain sales records –that include the following information:

- (a) Location of sale;
  - (A) Grouped sales associated with an event may be a single address and must include event organizer contact details if applicable;
  - (B) Food establishment sales outlet address, including point of contact information; or
  - (C) Individual online sales address and contact information.
- (b) Date sold or shipped;
- (c) Food(s) sold;
- (d) Price; and
- (e) Quantity.

- (2) A record of the cottage food establishments calculation of annual gross sales ensuring that sales meet the requirements of OAR 603-025-0320(e).
- (3) Documents that demonstrate that the cottage food establishment complied with the requirements of OAR 603-025-0320.
- (4) Copies of all required records must be retained at a reasonably accessible location for a period of three years and must be made available to the Department for review within five business days.

### **OR Admin. Rules § 603-025-0335. Unique Identification Number**

(1) A cottage food establishment or licensed domestic kitchen may request a unique identification number from the Department to use on a food label as an alternative to a business address by:



- (a) Submitting the complete form designated by the Department, along with any requested information or documentation; and
  - (b) Payment of a \$25 fee.
- (2) Each unique identification number shall expire on June 30 next following the date of issuance and may be renewed by payment of a fee of \$25 prior to the expiration of the number, except that registration issued before June 30th of 2024 shall be valid until June 30th of 2025.
- (3) The use of expired or unauthorized unique identification numbers constitutes misbranding.
- (4) The unique identification number is personal to the applicant and may not be transferred. A new number is necessary if the business entity is changed, or if the membership of a partnership is changed, irrespective of whether or not the business name is changed.

### **OR Admin. Rules § 603-025-0500. License Fees and Categories for Food Establishments**

Except as otherwise provided in ORS 616.695 to 616.755, a person may not operate a "food establishment," as defined in ORS 616.695(2), without first obtaining and thereafter maintaining a license from the department. Pursuant to ORS 616.706, the department may establish license fees for food establishments based on the license applicant's annual gross dollar volume of sales of covered operations in Oregon. The annual license fees for food establishments are as follows:

- (1) Retail food establishment, as defined in OAR 603-025-0010(11) (annual gross dollar volume of sales):
  - (a) \$0-\$5,000: \$159
  - (b) \$5,001 - \$50,000: \$159
  - (c) \$50,001 - \$500,000: \$317
  - (d) \$500,001 - \$1,000,000: \$381
  - (e) \$1,000,001 - \$5,000,000: \$571
  - (f) \$5,000,001 - \$10,000,000: \$696
  - (g) Greater than \$10,000,000: \$824
- (2) Food storage warehouse, as defined in OAR 603-025-0010(13) (annual gross dollar volume of sales):
  - (a) \$0 - \$5,000 - \$127
  - (b) \$5,001 - \$50,000 - \$127





- (c) \$50,001 - \$500,000 - \$159
- (d) \$500,001 - \$1,000,000 - \$159
- (e) \$1,000,001 - \$5,000,000 - \$159
- (f) \$5,000,001 - \$10,000,000 - \$159
- (g) Greater than \$10,000,000 - \$191

(3) Food processing establishment, as defined in OAR 603-025-0010(10) (annual gross dollar volume of sales):

- (a) \$0 - \$5,000 - \$381
- (b) \$5,001 - \$50,000 - \$381
- (c) \$50,001 - \$500,000 - \$539
- (d) \$500,001 - \$1,000,000 - \$634
- (e) \$1,000,001 - \$5,000,000 - \$824
- (f) \$5,000,001 - \$10,000,000 - \$950
- (g) Greater than \$10,000,000 - \$1,077

(4) Farm mixed-type facility, as defined in OAR 603-025-0010(8) (annual gross dollar volume of sales):

- (a) \$0 - \$5,000 - \$381
- (b) \$5,001 - \$50,000 - \$381
- (c) \$50,001 - \$500,000 - \$539
- (d) \$500,001 - \$1,000,000 - \$634
- (e) \$1,000,001 - \$5,000,000 - \$824
- (f) \$5,000,001 - \$10,000,000 - \$950
- (g) Greater than \$10,000,000 - \$1,077

(5) Domestic kitchen establishment, as defined in OAR 603-025-0200(1): \$223

