

SB 1147

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THE STATE SENATE  
Monday, February 23, 2009

Senate Bill No. 1147  
As Amended

SENATE BILL NO. 1147 - By: Gumm of the Senate and Dorman of the House.

[ crimes and punishments and the State Department of Health - sex offender - certain violation - effective date ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2100 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this act:

1. "Ice cream" means any frozen dairy or water-based food product;

2. "Ice cream truck" means any motor vehicle used for selling, displaying or offering to sell ice cream or any other frozen dairy or frozen water-based food product;

3. "Ice cream truck vending" means the selling, displaying or offering to sell ice cream, water-based food product or any other prepackaged food product from an ice cream truck;

4. "Permitting authority" means the chief of police or other board or officer having control of the police in a municipality or town or person authorized by such chief of police, board or officer;

1 in unincorporated areas, the permitting authority shall be the  
2 county sheriff or deputy authorized by such sheriff.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2100.1 of Title 21, unless there  
5 is created a duplication in numbering, reads as follows:

6 Any sex offender required to be registered pursuant to the  
7 Oklahoma Sex Offenders Registration Act who engages in ice cream  
8 truck vending, whether or not licensed in this state as a mobile  
9 food unit, shall be, upon conviction, punished by imprisonment in  
10 the custody of the Department of Corrections for a term up to two  
11 and one-half (2 1/2) years, or by a fine in an amount not exceeding  
12 One Thousand Dollars (\$1,000.00), or by both such fine and  
13 imprisonment. A sheriff or police officer may arrest without a  
14 warrant any person who the officer has probable cause to believe has  
15 violated the provisions of this section.

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2100.2 of Title 21, unless there  
18 is created a duplication in numbering, reads as follows:

19 It is unlawful for any person to engage in ice cream truck  
20 vending unless issued a valid operator permit to do so by the  
21 permitting authority within a municipality, town or county wherein  
22 the permit applicant lives or intends to operate such ice cream  
23 truck. The ice cream truck vending operator permit shall be in

1 addition to any mobile food unit or food handler license required or  
2 issued by a city, county or state health department or other  
3 authority governing the inspection and approval of the ice cream  
4 truck or for handling food or prepackaged products. A valid ice  
5 cream truck operator permit shall be conspicuously displayed and  
6 clearly visible on the windshield of the ice cream truck at all  
7 times during operation or when driving on any road, street, or  
8 passageway where vehicles are allowed. Any person violating the  
9 provisions of this section shall be, upon conviction, guilty of a  
10 misdemeanor punishable by a fine of Five Hundred Dollars (\$500.00).  
11 Each day that the ice cream truck vending operator is in operation  
12 in violation of the provisions of this section shall be considered a  
13 separate violation.

14 SECTION 4. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 2100.3 of Title 63, unless there  
16 is created a duplication in numbering, reads as follows:

17 Within thirty (30) days of the effective date of this act, the  
18 State Department of Health shall promulgate and adopt rules and  
19 forms relative to the annual permitting of ice cream truck vending  
20 operators. Such rules shall include, but shall not be limited to,  
21 provisions for:

22 1. All applications for an ice cream truck vending operator  
23 license and for a renewal of such permit to include a current

1 photograph of the applicant and the applicant's fingerprints and to  
2 require the applicant to pay the costs relating to obtaining and  
3 submitting such photograph and fingerprints;

4 2. Uniform permit application and renewal procedures and permit  
5 forms to be used by all municipalities and counties;

6 3. All permitting authorities as defined in this act to be  
7 required to conduct a criminal history background search of the  
8 applicant and to determine eligibility for an ice cream truck  
9 vending operator permit or renewal and to further require the  
10 applicant to pay the costs of conducting a criminal history  
11 background search or other criminal history investigation through  
12 the Oklahoma State Bureau of Investigation or local law enforcement  
13 authority or both;

14 4. All permitting authorities to be prohibited from issuing an  
15 ice cream truck vending operator permit to any sex offender and  
16 setting penalties for violations; and

17 5. An appeal process for any person denied an ice cream truck  
18 vending operator permit.

19 SECTION 5. This act shall become effective November 1, 2009.

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-18-09 - DO  
21 PASS, As Amended and Coauthored.