

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1147

By: Gumm

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6 AS INTRODUCED

7 An Act relating to crimes and punishments and the
8 State Department of Health; defining terms;
9 prohibiting a sex offender from ice cream truck
10 vending; setting penalty; authorizing warrantless
11 arrest for certain violation; requiring probable
12 cause; criminalizing operation of an ice cream truck
13 without certain permit; requiring operator permit in
14 addition to other licenses; requiring conspicuous
15 display of certain permit; setting penalty; directing
16 the State Department of Health to promulgate and
17 adopt rules for certain purpose; specifying
18 provisions of certain rules; providing for photo,
19 fingerprint, costs, uniform process, forms, criminal
20 history records search, and appeal process; providing
21 for codification; and providing an effective date.

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

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

29 A. For purposes of this act:

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

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

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

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

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

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

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

4 It is unlawful for any person to engage in ice cream truck
5 vending unless issued a valid operator permit to do so by the
6 permitting authority within a municipality, town or county wherein
7 the permit applicant lives or intends to operate such ice cream
8 truck. The ice cream truck vending operator permit shall be in
9 addition to any mobile food unit or food handler license required or
10 issued by a city, county or state health department or other
11 authority governing the inspection and approval of the ice cream
12 truck or for handling food or prepackaged products. A valid ice
13 cream truck operator permit shall be conspicuously displayed and
14 clearly visible on the windshield of the ice cream truck at all
15 times during operation or when driving on any road, street, or
16 passageway where vehicles are allowed. Any person violating the
17 provisions of this section shall be, upon conviction, guilty of a
18 misdemeanor punishable by a fine of Five Hundred Dollars (\$500.00).
19 Each day that the ice cream truck vending operator is in operation
20 in violation of the provisions of this section shall be considered a
21 separate violation.

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

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

6 1. All applications for an ice cream truck vending operator
7 license and for a renewal of such permit to include a current
8 photograph of the applicant and the applicant's fingerprints and to
9 require the applicant to pay the costs relating to obtaining and
10 submitting such photograph and fingerprints;

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

13 3. All permitting authorities as defined in this act to be
14 required to conduct a criminal history background search of the
15 applicant and to determine eligibility for an ice cream truck
16 vending operator permit or renewal and to further require the
17 applicant to pay the costs of conducting a criminal history
18 background search or other criminal history investigation through
19 the Oklahoma State Bureau of Investigation or local law enforcement
20 authority or both;

21 4. All permitting authorities to be prohibited from issuing an
22 ice cream truck vending operator permit to any sex offender and
23 setting penalties for violations; and
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1 5. An appeal process for any person denied an ice cream truck
2 vending operator permit.

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

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