

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 54th Legislature (2014)

4   COMMITTEE SUBSTITUTE  
5   FOR ENGROSSED  
6   SENATE BILL NO. 1851

By: Justice of the Senate

and

Biggs of the House

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10                                   COMMITTEE SUBSTITUTE

11           An Act relating to agriculture; requiring the  
12           Oklahoma Department of Agriculture, Food, and  
13           Forestry to promulgate rules for the licensing and  
14           inspection of farmer's market vendors; amending 63  
15           O.S. 2011, Sections 1-1102 and 1-1115, which relate  
16           to food; providing for licensing and inspection of  
17           farmer's market vendors by the Oklahoma Department of  
18           Agriculture, Food, and Forestry; prohibiting  
19           licensing and inspection of farmer's market vendors  
20           by any city or county health departments or State  
21           Commissioner of Health; providing for codification;  
22           and providing an effective date.

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

24           SECTION 1.       NEW LAW       A new section of law to be codified  
in the Oklahoma Statutes as Section 5-601 of Title 2, unless there  
is created a duplication in numbering, reads as follows:

The Oklahoma Department of Agriculture, Food, and Forestry shall  
promulgate rules for the licensing and inspection of vendors at an

1 Oklahoma farmer's market. The rules shall specify types of licenses  
2 and other requirements that, as closely as possible, follow the  
3 rules of the State Department of Health, the Oklahoma City-County  
4 Health Department and the Tulsa city or county health department.

5 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1102, is  
6 amended to read as follows:

7 Section 1-1102. A. The following acts and the causing thereof  
8 within the State of Oklahoma are hereby prohibited:

9 ~~(a) the~~ 1. The manufacture, sale, or delivery, holding or  
10 offering for sale of any food that is adulterated or misbranded-;

11 ~~(b) the~~ 2. The adulteration or misbranding of any food-;

12 ~~(c) the~~ 3. The receipt in commerce of any food that is  
13 adulterated or misbranded, and the delivery or proffered delivery  
14 thereof for pay or otherwise-;

15 ~~(d) the~~ 4. The sale of food, or the offer to sell it, or its  
16 receipt into commerce, in capped glass containers, or perishable or  
17 flexible containers such as, but not limited to, paper cardboard  
18 containers, when the container has been damaged by fire or water-;

19 ~~(e) the~~ 5. The sale, delivery for sale, holding for sale, or  
20 offering for sale of any article in violation of Section 1-1111 of  
21 the title-;

22 ~~(f) the~~ 6. The dissemination of any false advertisement-;

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1       ~~(g) the~~ 7. The refusal to permit entry or inspection, or to  
2 permit the taking of a sample, as authorized by Section 1-1115 of  
3 the title-;

4       ~~(h) the~~ 8. The giving of a guaranty or undertaking which  
5 guaranty or undertaking is false, except by a person who relied on a  
6 guaranty or undertaking to the same effect signed by, and containing  
7 the name and address of, the person residing in the United States  
8 from whom he received in good faith the food-;

9       ~~(i) the~~ 9. The removal or disposal of a detained or embargoed  
10 article in violation of Section 1-1105 of this title-;

11       ~~(j) the~~ 10. The alteration, mutilation, destruction,  
12 obliteration, or removal of the whole or any part of the labeling of  
13 or the doing of any other act with respect to a food, if such act is  
14 done while such article is held for sale and results in such article  
15 being misbranded-;

16       ~~(k) forging~~ 11. Forging, counterfeiting, simulating, or falsely  
17 representing, or without proper authority using any mark, stamp,  
18 tag, label, or other identification devise authorized or required by  
19 reasonable rules and regulations promulgated under the provisions of  
20 this title-; and

21       ~~(l) the~~ 12. The sale, offer to sell, dispense or release into  
22 commerce of any food or confection under a name, label or brand when  
23 the name, label or brand either precisely or by slang term or  
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1 popular usage, is the name, label or brand of a controlled dangerous  
2 drug or a controlled dangerous substance by law.

3 B. Vendors at farmer's markets in Oklahoma shall only be  
4 subject to licensing and inspection by the Oklahoma Department of  
5 Agriculture, Food, and Forestry and shall not be subject to  
6 licensing by any city or county health departments.

7 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1115, is  
8 amended to read as follows:

9 Section 1-1115. A. The State Commissioner of Health or his  
10 duly-authorized agent shall have free access at all reasonable hours  
11 to any factory, warehouse, or establishment in which foods are  
12 manufactured, processed, packed, or held for introduction into  
13 commerce, or to enter any vehicle being used to transport or hold  
14 such foods in commerce after notice to the owner, or person in  
15 charge of such factory, warehouse, establishment, or vehicle, for  
16 the purpose:

17 ~~(1) of 1.~~ Of inspecting such factory, warehouse, establishment  
18 or vehicle to determine if any of the provisions of this article are  
19 being violated~~;~~; and

20 ~~(2) to 2.~~ To secure samples or specimens of any food after  
21 paying or offering to pay for such sample. It shall be the duty of  
22 the Commissioner to make or cause to be made examinations of samples  
23 secured under the provisions of this section to determine whether or  
24 not any provision of this article is being violated; provided, that

1 a copy of the report thereof shall be furnished to the owner of such  
2 factory, warehouse, establishment, or vehicle upon written request  
3 to the Commissioner; and provided, further, that nothing in this  
4 article shall be construed to limit, modify, repeal or affect in any  
5 way the powers, duties or functions of the State Board of  
6 Agriculture.

7 B. Vendors at farmer's markets shall not be subject to  
8 inspection by the State Commissioner of Health or authorized agent  
9 and shall only be subject to inspection by the Oklahoma Department  
10 of Agriculture, Food, and Forestry.

11 SECTION 4. This act shall become effective November 1, 2014.

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13 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE, dated  
14 03/27/2014 - DO PASS, As Amended.

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