

1 **SENATE FLOOR VERSION**

2 February 17, 2014

3 **AS AMENDED**

4 SENATE BILL NO. 1851

By: Justice of the Senate

and

Biggs of the House

6  
7 **[ agriculture - Oklahoma Department of Agriculture,**  
8 **Food, and Forestry - inspection of farmer's market**  
9 **vendors - codification - effective date ]**

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

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

15 A. The Oklahoma Department of Agriculture, Food, and Forestry  
16 shall promulgate rules for the licensing and inspection of vendors  
17 at an Oklahoma or Tulsa County farmer's market. The rules shall  
18 specify types of licenses and other requirements that, as closely as  
19 possible, follow the rules of the State Department of Health, the  
20 Oklahoma City-County Health Department and the Tulsa city or county  
21 health department.

22 B. The Department shall charge the same fee as the State  
23 Department of Health, the Oklahoma City-County Health Department or  
24

1 the Tulsa city or county health department would for a similar  
2 license for a vendor at a farmer's market.

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

23       B. Vendors at farmer's markets in Oklahoma and Tulsa Counties  
24 shall only be subject to licensing and inspection by the Oklahoma

1 Department of Agriculture, Food, and Forestry and shall not be  
2 subject to licensing by the City of Oklahoma City or Tulsa or the  
3 Oklahoma City or Tulsa county health departments.

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

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

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

17 ~~(2) to 2.~~ To secure samples or specimens of any food after  
18 paying or offering to pay for such sample. It shall be the duty of  
19 the Commissioner to make or cause to be made examinations of samples  
20 secured under the provisions of this section to determine whether or  
21 not any provision of this article is being violated; provided, that  
22 a copy of the report thereof shall be furnished to the owner of such  
23 factory, warehouse, establishment, or vehicle upon written request  
24 to the Commissioner; and provided, further, that nothing in this

1 article shall be construed to limit, modify, repeal or affect in any  
2 way the powers, duties or functions of the State Board of  
3 Agriculture.

4 B. Vendors at farmer's markets in Oklahoma or Tulsa County  
5 shall not be subject to inspection by the State Commissioner of  
6 Health or authorized agent and shall only be subject to inspection  
7 by the Oklahoma Department of Agriculture, Food, and Forestry.

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

9 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT  
10 February 17, 2014 - DO PASS AS AMENDED

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