

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1851

By: Justice

4
5
6 AS INTRODUCED

7 An Act relating to agriculture; requiring the
8 Oklahoma Department of Agriculture, Food, and
9 Forestry to promulgate rules for the licensing and
10 inspection of vendors at Oklahoma and Tulsa County
11 farmers markets; standardizing fees; amending 63 O.S.
12 2011, Sections 1-1102 and 1-1115, which relate to
13 food; prohibiting licensing and inspection of
14 farmer's market vendors by Tulsa and Oklahoma County
15 Health Departments; providing for licensing and
16 inspection of farmer's market vendors in Oklahoma and
17 Tulsa Counties by the Oklahoma Department of
18 Agriculture, Food, and Forestry; providing for
19 codification; and providing an effective date.

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

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

24 A. The Oklahoma Department of Agriculture, Food, and Forestry
shall promulgate rules for the licensing and inspection of vendors
at an Oklahoma or Tulsa County farmer's market. The rules shall
specify types of licenses and other requirements that, as closely as
possible, follow the rules of the State Department of Health, the

1 Oklahoma City-County Health Department and the Tulsa city or county
2 health department.

3 B. The Department shall charge the same fee as the State
4 Department of Health, the Oklahoma City-County Health Department or
5 the Tulsa city or county health department would for a similar
6 license for a vendor at a farmer's market.

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

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

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

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

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

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

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

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

1 ~~(g)~~ 7. ~~the~~ 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)~~ 8. ~~the~~ 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)~~ 9. ~~the~~ The removal or disposal of a detained or embargoed
10 article in violation of Section 1-1105 of this title-;

11 ~~(j)~~ 10. ~~the~~ 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)~~ 11. ~~forging~~ 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)~~ 12. ~~the~~ 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
24

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 and Tulsa Counties
4 shall only be subject to licensing and inspection by the Oklahoma
5 Department of Agriculture, Food, and Forestry and shall not be
6 subject to licensing by the City of Oklahoma City or Tulsa or the
7 Oklahoma City or Tulsa county health departments.

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

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

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

21 ~~(2)~~ 2. ~~to~~ To secure samples or specimens of any food after
22 paying or offering to pay for such sample. It shall be the duty of
23 the Commissioner to make or cause to be made examinations of samples
24 secured under the provisions of this section to determine whether or

1 not any provision of this article is being violated; provided, that
2 a copy of the report thereof shall be furnished to the owner of such
3 factory, warehouse, establishment, or vehicle upon written request
4 to the Commissioner; and provided, further, that nothing in this
5 article shall be construed to limit, modify, repeal or affect in any
6 way the powers, duties or functions of the State Board of
7 Agriculture.

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

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

13
14 53-2-2982 QD 1/16/2014 3:13:46 PM

15
16
17
18
19
20
21
22
23
24