

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1448

6 By: Dahm

7 COMMITTEE SUBSTITUTE

8 An Act relating to home and farm food production;
9 amending 2 O.S. 2011, Section 10-78, which relates to
10 the sale of eggs; deleting language; amending
11 Sections 1, 2, 4, 5 and 6, Chapter 40, O.S.L. 2013
12 (63 O.S. Supp. 2015, Sections 1-1440, 1-1440.1, 1-
13 1440.3, 1-1440.4 and 1-1440.5), which relate to the
14 Home Bakery Act of 2013; renaming act; adding and
15 modifying definitions; modifying labeling
16 requirements; providing for codification; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 2 O.S. 2011, Section 10-78, is
20 amended to read as follows:

21 Section 10-78. ~~A. Oklahoma producers of eggs selling ungraded~~
22 ~~eggs from their own flock production are exempt from this~~
23 ~~subarticle. Nothing in this subarticle shall prohibit the sale of~~
24 ~~eggs produced on the farm and sold direct to the consumer. Eggs~~
~~sold under this section shall be produced by hens maintained on the~~
~~farm from which the eggs are sold.~~

1 ~~B.~~ A producer of eggs may sell graded eggs if in compliance
2 with this subarticle.

3 SECTION 2. AMENDATORY Section 1, Chapter 40, O.S.L. 2013
4 (63 O.S. Supp. 2015, Section 1-1440), is amended to read as follows:

5 Section 1-1440. This act shall be known and may be cited as the
6 ~~"Home Bakery Act of 2013"~~ "Right to Commerce Act".

7 SECTION 3. AMENDATORY Section 2, Chapter 40, O.S.L. 2013
8 (63 O.S. Supp. 2015, Section 1-1440.1), is amended to read as
9 follows:

10 Section 1-1440.1. As used in the ~~Home Bakery Act of 2013~~ Right
11 to Commerce Act:

12 1. "Batch code" shall mean a five (5) digit numerical code
13 assigned to products. The numerical code is determined by the year
14 and the day the product was produced. The first two numbers in the
15 code represent the year in which the product is produced, and the
16 final three numbers represent the day of the year that the product
17 produced, from day one (001) to day three hundred sixty-six (366);

18 2. "Home food establishment" shall mean a business on the
19 premises of a residence in which prepared food is created for sale
20 or resale at farmer's markets, on site, cooperatives, membership-
21 based buying clubs or for delivery, for consumption off the
22 premises, if the business has gross annual sales of prepared food an
23 annual net income of less than Twenty Thousand Dollars (\$20,000.00)
24 Fifty Thousand Dollars (\$50,000.00). Gross annual sales includes

1 all sales of prepared food produced by the business at any location;
2 and

3 ~~2.~~ 3. "Prepared food" shall mean any baked goods ~~except for~~
4 ~~products that contain meat products or fresh fruit~~ or low pH food
5 products;

6 4. "Low pH food products" shall mean food with a pH of less
7 than 4.5, including jams, jellies, pickles and salsa from recipes
8 approved by the Food and Agricultural Products Center at Oklahoma
9 State University, bottled in new, single-use jars with tamper-proof
10 lids, composed of ingredients produced in the United States with
11 batch code documentation on the label; and

12 5. "Net income" shall mean the net gain from the operation of
13 the home food establishment after provision for all costs and
14 expenses incurred in the conduct thereof on the same basis as
15 provided for in the federal Internal Revenue Code.

16 SECTION 4. AMENDATORY Section 4, Chapter 40, O.S.L. 2013
17 (63 O.S. Supp. 2015, Section 1-1440.3), is amended to read as
18 follows:

19 Section 1-1440.3. A. A home food establishment that sells
20 prepared food shall affix a label that contains the following
21 information:

22 1. The name ~~and,~~ address and telephone number or web address of
23 the home food establishment;

24 2. The name of the prepared food; ~~and~~

1 3. Batch code documentation with matching records maintained on
2 file at the home food establishment; and

3 4. The following statement printed in at least 10-point type in
4 a color that provides a clear contrast to the background of the
5 label: "Made in a home food establishment that is not licensed by
6 the State Department of Health."

7 B. Upon any instance of food-borne illness attributable to its
8 products, a home food establishment shall submit the following to
9 the State Department of Health:

10 1. A record of annual food safety training by the home food
11 establishment;

12 2. A copy of the prepared food's label in a format approved by
13 the Food and Drug Administration;

14 3. A letter of approval for all low pH food products by the
15 Food and Agricultural Products Center at Oklahoma State University;

16 4. A list of ingredients;

17 5. A list of sales outlets for the prepared food; and

18 6. A certificate of successful completion of the canning course
19 from a county cooperative extension agent.

20 C. An annual certificate of food safety training for the home
21 food establishment must be on display at the point of sale.

22 SECTION 5. AMENDATORY Section 5, Chapter 40, O.S.L. 2013
23 (63 O.S. Supp. 2015, Section 1-1440.4), is amended to read as
24 follows:

1 Section 1-1440.4. Violation of Section 4 of the ~~Home Bakery Act~~
2 ~~of 2013~~ Right to Commerce Act shall be a misdemeanor and shall be
3 punishable by a fine not exceeding One Hundred Dollars (\$100.00).

4 SECTION 6. AMENDATORY Section 6, Chapter 40, O.S.L. 2013
5 (63 O.S. Supp. 2015, Section 1-1440.5), is amended to read as
6 follows:

7 Section 1-1440.5. A. The Department of Health is authorized to
8 inspect home food establishment operations in response to instances
9 of food-borne illness and may order and enforce remedial action
10 including cessation of operations as necessary to protect the public
11 against health hazards. The cessation of operations shall continue
12 until the operator of the home food establishment provides
13 documentation of successful completion of additional food safety
14 training.

15 B. Nothing in the ~~Home Bakery Act of 2013~~ Right to Commerce Act
16 shall be construed to prevent counties from enacting ordinances
17 regulating the operation of home food establishments, provided such
18 ordinances do not conflict with the provisions of the ~~Home Bakery~~
19 ~~Act of 2013~~ Right to Commerce Act.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-1440.7 of Title 63, unless
22 there is created a duplication in numbering, reads as follows:

23 Oklahoma producers of eggs selling ungraded eggs from their own
24 flock production are exempt from Sections 10-71 through 10-81 of

1 Title 2 of the Oklahoma Statutes. Nothing in Title 2 of the
2 Oklahoma Statutes shall prohibit the sale of eggs produced on the
3 farm or property and sold directly to the consumer. Eggs sold under
4 this section shall be produced by hens maintained on the farm or
5 property from which the eggs are sold. For the purposes of this
6 section, a flock shall be no more than thirty (30) hens.

7 SECTION 8. This act shall become effective November 1, 2016.

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