

1 ENGROSSED SENATE  
2 BILL NO. 1448

By: Dahm of the Senate

3 and

4 Roberts (Sean) of the House

5  
6 [ home and farm food production - sale of eggs - Home  
7 Bakery Act of 2013 - codification - effective date ]  
8

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

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

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

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

20 SECTION 2. AMENDATORY Section 1, Chapter 40, O.S.L. 2013  
21 (63 O.S. Supp. 2015, Section 1-1440), is amended to read as follows:

22 Section 1-1440. This act shall be known and may be cited as the  
23 ~~"Home Bakery Act of 2013"~~ "Right to Commerce Act".  
24

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

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

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

12 2. "Home food establishment" shall mean a business on the  
13 premises of a residence in which prepared food is created for sale  
14 or resale at farmer's markets, on site, cooperatives, membership-  
15 based buying clubs or for delivery, for consumption off the  
16 premises, if the business has gross annual sales of prepared food an  
17 annual net income of less than ~~Twenty Thousand Dollars (\$20,000.00)~~  
18 Fifty Thousand Dollars (\$50,000.00). Gross annual sales includes  
19 all sales of prepared food produced by the business at any location;  
20 and

21 ~~2.~~ 3. "Prepared food" shall mean any baked goods except for  
22 products that contain meat products or fresh fruit or low pH food  
23 products;

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

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

11        SECTION 4.        AMENDATORY        Section 4, Chapter 40, O.S.L. 2013  
12 (63 O.S. Supp. 2015, Section 1-1440.3), is amended to read as  
13 follows:

14        Section 1-1440.3.    A. A home food establishment that sells  
15 prepared food shall affix a label that contains the following  
16 information:

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

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

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

22        4. The following statement printed in at least 10-point type in  
23 a color that provides a clear contrast to the background of the  
24

1 label: "Made in a home food establishment that is not licensed by  
2 the State Department of Health."

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

6 1. A record of annual food safety training by the home food  
7 establishment;

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

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

12 4. A list of ingredients;

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

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

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

18 SECTION 5. AMENDATORY Section 5, Chapter 40, O.S.L. 2013  
19 (63 O.S. Supp. 2015, Section 1-1440.4), is amended to read as  
20 follows:

21 Section 1-1440.4. Violation of Section 4 1-1440.3 of the ~~Home~~  
22 ~~Bakery Act of 2013~~ Right to Commerce Act shall be a misdemeanor and  
23 shall be punishable by a fine not exceeding One Hundred Dollars  
24 (\$100.00).

1 SECTION 6. AMENDATORY Section 6, Chapter 40, O.S.L. 2013  
2 (63 O.S. Supp. 2015, Section 1-1440.5), is amended to read as  
3 follows:

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

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

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

20 Oklahoma producers of eggs selling ungraded eggs from their own  
21 flock production are exempt from Sections 10-71 through 10-81 of  
22 Title 2 of the Oklahoma Statutes. Nothing in Title 2 of the  
23 Oklahoma Statutes shall prohibit the sale of eggs produced on the  
24 farm or property and sold directly to the consumer. Eggs sold under

1 this section shall be produced by hens maintained on the farm or  
2 property from which the eggs are sold. For the purposes of this  
3 section, a flock shall be no more than thirty (30) hens.

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

5 Passed the Senate the 8th day of March, 2016.

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\_\_\_\_\_  
Presiding Officer of the Senate

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9 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

10 2016.

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Presiding Officer of the House  
of Representatives

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