

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1055 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Carol Bush

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1055

By: McEntire

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to sellers of food; defining terms;  
9 creating and requiring certain permit; specifying  
10 location; setting forth criteria for food and  
11 beverages to be sold; requiring certain features;  
12 setting forth certain provisions related to  
13 sanitation and security; requiring certain routine  
14 service; requiring certain signage; assigning certain  
15 responsibilities to permit holder and providing for  
16 certain agreement; directing State Department of  
17 Health to establish certain fees; requiring sales tax  
18 permit and collection of sales tax; providing for  
19 promulgation of rules; providing for codification;  
20 and providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-1118.1 of Title 63, unless  
24 there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Unattended food establishment" means an operation that  
provides packaged foods or whole fruit using an automated payment  
system and has controlled entry not accessible by the general

1 public. An unattended food establishment shall not be considered a  
2 food establishment as used in Section 1-1118 of Title 63 of the  
3 Oklahoma Statutes; and

4 2. "Controlled entry" means selective restriction or limitation  
5 of access to a place or location.

6 B. The State Department of Health shall create a permit for  
7 unattended food establishments and establish criteria and a  
8 procedure for approval or denial of such permits. No unattended  
9 food establishment shall operate until the establishment has  
10 obtained a permit.

11 C. The unattended food establishment shall be located in the  
12 interior of a building that is not accessible by the general public.  
13 Access to the establishment shall be limited to a defined  
14 population, including but not limited to employees or occupants of  
15 the building where the establishment is located.

16 D. 1. Only commercially packaged foods properly labeled for  
17 individual retail sale, which meet the definition of "packaged and  
18 labeled" under Section 3-201.11(C) of the Food and Drug  
19 Administration (FDA) Food Code, shall be offered.

20 2. No unpackaged food shall be permitted except as provided by  
21 Section 3-302.11(B) (1) of the FDA Food Code.

22 3. Food shall be such that preparation by consumers is limited  
23 to heating or reheating food in a microwave oven.

24 4. No bulk food may be offered for sale.

1 5. Beverages may be dispensed by individual serving only.

2 E. An unattended food establishment shall be equipped with  
3 refrigeration or freezer units that have the following features:

4 1. Self-closing doors that allow food to be viewed without  
5 opening the door to the refrigerated cooler or freezer; and

6 2. Automatic self-locking mechanism that prevents the consumer  
7 from accessing the food upon the occurrence of any condition that  
8 results in the failure of the refrigeration unit to maintain the  
9 internal product temperature specified under Section 3-501.16(A) of  
10 the FDA Food Code; or

11 3. Freezer unit to maintain the product frozen, if the  
12 establishment contains frozen food.

13 F. 1. Multi-use, food-contact surfaces shall be cleaned on the  
14 frequency consistent with the service under Section 4-202.11 of the  
15 FDA Food Code, or shall be easily removable and replaced with  
16 cleaned surfaces.

17 2. No multi-use food-contact surfaces shall be used for foods  
18 that require time and temperature control for safety (TCS).

19 G. 1. a. An unattended food establishment shall provide  
20 continuous video surveillance of areas where consumers  
21 view, select, handle and purchase products that  
22 provides sufficient resolution to identify situations  
23 that may compromise food safety or food defense.  
24

1           b. Video surveillance recordings shall be maintained and  
2           made available for inspection upon request by a  
3           representative of the State Department of Health or  
4           another applicable regulatory agency within twenty-  
5           four (24) hours of such request.

6           c. Video surveillance recordings shall be held by the  
7           establishment for a minimum of fourteen calendar (14)  
8           days after the date of the surveillance.

9           2. The permit holder shall take reasonable steps necessary to  
10          discourage individuals from returning food or beverages that have  
11          not been selected for purchase.

12          H. 1. The permit holder shall service the unattended food  
13          establishment on a scheduled basis and at a frequency acceptable to  
14          the State Department of Health. Service may include, but is not  
15          limited to, the following:

- 16           a. checking food supplies and equipment for signs of  
17           product damage and tampering,
- 18           b. verifying refrigeration equipment is operating  
19           properly, including the temperature display and self-  
20           locking mechanism,
- 21           c. rotating foods to better ensure first-in/first-out of  
22           food items,
- 23           d. cleaning food service equipment and food display  
24           areas,

- e. stocking food and disposable single-use and single-service supplies, and
- f. checking inventory for recalled foods.

2. The permit holder shall ensure that:

- a. food is from an approved source,
- b. packaged food is provided in tamper-evident packaging,
- c. food is protected from potential sources of cross-contamination, and
- d. food is maintained at safe temperatures during transport and display.

I. The unattended food establishment shall have a sign readily visible at the automated payment station stating:

1. The name and mailing address of the business entity responsible for the establishment and to whom complaints and comments should be addressed; and

2. The telephone, email or web information for the responsible business entity, when applicable.

J. The permit holder bears all responsibilities for the operation of the unattended food establishment. If the permit holder is not the owner or operator of the building where the food establishment is located, a mutual agreement may be approved by the State Department of Health that outlines the responsibilities for cleaning and maintenance of all surfaces and equipment, provision of supportive facilities or services such as janitorial and restroom

1 facilities, pest control and removal of solid waste. This agreement  
2 shall also outline what actions must be taken by both parties to  
3 maintain the establishment in compliance with all requirements.

4 K. The State Department of Health shall establish an annual fee  
5 structure for unattended food establishments, not to exceed One  
6 Hundred Fifty Dollars (\$150.00) per location.

7 L. An unattended food establishment shall obtain an Oklahoma  
8 sales tax permit prior to conducting any sales, and shall collect  
9 and remit state sales tax as provided for in the Sales Tax Code.

10 M. The State Commissioner of Health shall promulgate such rules  
11 as are necessary to implement the provisions of this section.

12 SECTION 2. This act shall become effective November 1, 2019.

13

14 57-1-8296 SH 02/27/19

15

16

17

18

19

20

21

22

23

24