

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 920

By: Justice and Shortey of the
Senate

and

Casey of the House

COMMITTEE SUBSTITUTE

[agriculture - Oklahoma Cottage Food Law - rules and
requirements - codification - noncodification -
effective date]

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 5-401 of Title 2, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma
Cottage Food Law".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 5-402 of Title 2, unless there
is created a duplication in numbering, reads as follows:

1 For purposes of the Oklahoma Cottage Food Law:

2 1. "Cottage food production operation" means an individual,
3 operating out of the individual's home, who produces a non-
4 time/temperature control for safety food product for direct-to-
5 consumer sales;

6 2. "Direct-to-consumer sales" means sales of food at the
7 location where the food is produced, a farmers market, roadside
8 stands and church and community bazaars or festivals; however, the
9 term shall not include sales at retail and grocery stores,
10 restaurants, bed and breakfasts or wholesalers;

11 3. "Home" means a primary residence that contains kitchen
12 appliances designed for common residential use;

13 4. "Non-time/temperature control for safety food" means a food
14 product that is not time/temperature control for safety food,
15 including but not limited to baked goods, jams and jellies, candies,
16 dried mixes, spices, some sauces and liquids, pickles and acidified
17 foods, and:

18 a. is prepared in the kitchen of a private home for
19 commercial purposes,

20 b. is packaged with a label that clearly states the
21 address and contact information of the maker,

22 c. lists all of the ingredients in the product, and

23 d. discloses that the product was prepared in a home;
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1 5. "Time/temperature control for safety food" means a food that
2 requires time/temperature control for safety to limit pathogenic
3 microorganism growth or toxin formation, including but not limited
4 to, refrigerated or frozen products, low-acid canned foods, dairy
5 products, seafood products and bottled water, and:

6 a. time/temperature control for safety food includes an
7 animal food, meaning a food of animal origin, that is
8 raw or heat-treated; a food of plant origin that is
9 heat-treated or consists of raw seed sprouts, cut
10 melons, cut leafy greens, cut tomatoes or mixtures of
11 cut tomatoes that are not modified in a way so that
12 they are unable to support pathogenic microorganism
13 growth or toxic formation, or garlic-in-oil mixtures
14 that are not modified in a way that results in
15 mixtures that do not support growth or toxin
16 formulation, and

17 b. time/temperature control for safety food does not
18 include an air-cooled hard-boiled egg with shell
19 intact, or a shell egg that is not hard-boiled, but
20 has been treated to destroy all viable Salmonellae, a
21 food with an aw value of 0.85 or less, a food with a
22 pH level of 4.6 or below when measured at twenty-four
23 degrees Celsius (24°C) or seventy-five degrees
24 Fahrenheit (75°F), a food in an unopened hermetically

1 sealed container that is commercially processed to
2 achieve and maintain commercial sterility under
3 conditions of nonrefrigerated storage and
4 distribution, a food for which laboratory evidence
5 demonstrates that the rapid and progressive growth of
6 infectious or toxigenic microorganisms or the growth
7 of *S. Enteritidis* in eggs or *C. botulinum* cannot
8 occur, such as a food that has an *a_w* and a pH that are
9 above the levels identified in this definition and
10 that may contain a preservative, other barrier to the
11 growth of microorganisms, or a combination of barriers
12 that inhibit the growth of microorganisms, or a food
13 that does not support the growth of microorganisms,
14 even though the food may contain an infectious or
15 toxigenic microorganism or chemical or physical
16 contaminant at a level sufficient to cause illness.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 5-403 of Title 2, unless there
19 is created a duplication in numbering, reads as follows:

20 The Oklahoma Department of Agriculture, Food, and Forestry is
21 authorized to promulgate rules specifying requirements for permits
22 for a cottage food production operation. The rules shall provide
23 for frequency of inspections, permit application requirements and
24 standards for cleanliness.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5-404 of Title 2, unless there
3 is created a duplication in numbering, reads as follows:

4 The Oklahoma Department of Agriculture, Food, and Forestry may
5 contract with any state or private entity for the administration of
6 the Oklahoma Cottage Food Law.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 5-405 of Title 2, unless there
9 is created a duplication in numbering, reads as follows:

10 It shall be unlawful for any person to sell any food product
11 without obtaining the appropriate permit, license or registration
12 from the Oklahoma Department of Agriculture, Food, and Forestry, the
13 State Department of Health, any other state entity or any
14 municipality or county entity. Provided, however, that a person
15 selling a food product from a cottage food production operation
16 generating gross annual sales of less than Twenty Thousand Dollars
17 (\$20,000.00) shall be exempt from the licensing requirements of the
18 Oklahoma Department of Agriculture, Food, and Forestry, the State
19 Department of Health, any other state entity or any municipality or
20 county entity.

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 5-406 of Title 2, unless there
23 is created a duplication in numbering, reads as follows:

1 The application fee for a permit to become a cottage food
2 production operation shall be One Hundred Seventy-five Dollars
3 (\$175.00). The renewal fee for a cottage food production operation
4 shall be One Hundred Twenty-five Dollars (\$125.00).

5 SECTION 7. NEW LAW A new section of law not to be
6 codified in the Oklahoma Statutes reads as follows:

7 The Oklahoma Department of Agriculture, Food, and Forestry shall
8 develop emergency rules to implement the provisions of this act.

9 SECTION 8. This act shall become effective November 1, 2013.

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