

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 920

By: Justice and Shortey of the
Senate

and

Casey and Pittman of the
House

11 COMMITTEE SUBSTITUTE

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

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

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

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

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

4 For purposes of the Oklahoma Cottage Food Law:

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

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

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

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

21 a. is prepared in the kitchen of a private home for
22 commercial purposes,

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

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

2 d. discloses that the product was prepared in a home;

3 5. "Time/temperature control for safety food" means a food that
4 requires time/temperature control for safety to limit pathogenic
5 microorganism growth or toxin formation, including but not limited
6 to, refrigerated or frozen products, low-acid canned foods, dairy
7 products, seafood products and bottled water, and:

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

19 b. time/temperature control for safety food does not
20 include an air-cooled hard-boiled egg with shell
21 intact, or a shell egg that is not hard-boiled, but
22 has been treated to destroy all viable Salmonellae, a
23 food with an aw value of 0.85 or less, a food with a
24 pH level of 4.6 or below when measured at twenty-four

1 degrees Celsius (24°C) or seventy-five degrees
2 Fahrenheit (75°F), a food in an unopened hermetically
3 sealed container that is commercially processed to
4 achieve and maintain commercial sterility under
5 conditions of nonrefrigerated storage and
6 distribution, a food for which laboratory evidence
7 demonstrates that the rapid and progressive growth of
8 infectious or toxigenic microorganisms or the growth
9 of S. Enteritidis in eggs or C. botulinum cannot
10 occur, such as a food that has an aw and a pH that are
11 above the levels identified in this definition and
12 that may contain a preservative, other barrier to the
13 growth of microorganisms, or a combination of barriers
14 that inhibit the growth of microorganisms, or a food
15 that does not support the growth of microorganisms,
16 even though the food may contain an infectious or
17 toxigenic microorganism or chemical or physical
18 contaminant at a level sufficient to cause illness.

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

22 The Oklahoma Department of Agriculture, Food, and Forestry is
23 authorized to promulgate rules specifying requirements for permits
24 for a cottage food production operation. The rules shall provide

1 for frequency of inspections, permit application requirements and
2 standards for cleanliness.

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

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

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

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

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

4 The application fee for a permit to become a cottage food
5 production operation shall be One Hundred Seventy-five Dollars
6 (\$175.00). The renewal fee for a cottage food production operation
7 shall be One Hundred Twenty-five Dollars (\$125.00).

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

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

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

13
14 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/03/2013 -
15 DO PASS, As Amended and Coauthored.