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February 18, 2013

SENATE BILL NO. 920

By: Justice of the Senate

and

# Casey of the House

An Act relating to agriculture; creating the Oklahoma Cottage Food Law; providing short title; defining terms; authorizing the Oklahoma Department of Agriculture, Food, and Forestry to promulgate rules and requirements for permits; authorizing inspections; allowing the Department to contract with other entities; prohibiting certain acts without a license; providing for fee; providing for codification; providing for noncodification; and providing an 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:

For purposes of the Oklahoma Cottage Food Law:

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

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

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

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

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

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

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

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

23       5. "Time/temperature control for safety food" means a food that  
24 requires time/temperature control for safety to limit pathogenic

1 microorganism growth or toxin formation, including but not limited  
2 to refrigerated or frozen products, low-acid canned foods, dairy  
3 products, seafood products, and bottled water, and:

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

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

1 conditions of non-refrigerated storage and  
2 distribution, a food for which laboratory evidence  
3 demonstrates that the rapid and progressive growth of  
4 infectious or toxigenic microorganisms or the growth  
5 of S. Enteritidis in eggs or C. botulinum cannot  
6 occur, such as a food that has an aw and a pH that are  
7 above the levels identified in this definition and  
8 that may contain a preservative, other barrier to the  
9 growth of microorganisms, or a combination of barriers  
10 that inhibit the growth of microorganisms; or a food  
11 that does not support the growth of microorganisms,  
12 even though the food may contain an infectious or  
13 toxigenic microorganism or chemical or physical  
14 contaminant at a level sufficient to cause illness.

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

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

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

18       The application fee for a permit to become a cottage food  
19 production operation shall be One Hundred Seventy-five Dollars  
20 (\$175.00). The renewal fee for a cottage food production operation  
21 shall be One Hundred Twenty-five Dollars (\$125.00).

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

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

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

4 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT  
5 February 18, 2013 - DO PASS  
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