

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 606

By: McCortney of the Senate

and

Bush of the House

COMMITTEE SUBSTITUTE

An Act relating to sellers of food; defining terms; creating and requiring certain permit; specifying location; setting forth criteria for food and beverages to be sold; requiring certain features; setting forth certain provisions related to sanitation and security; requiring certain routine service; requiring certain signage; assigning certain responsibilities to permit holder and providing for certain agreement; directing State Department of Health to establish certain fees; requiring sales tax permit and collection of sales tax; providing for promulgation of rules; providing for codification; 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 1-1118.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1        1. "Unattended food establishment" means an operation that  
2 provides packaged foods or whole fruit using an automated payment  
3 system and has controlled entry not accessible by the general  
4 public. An unattended food establishment shall not be considered a  
5 food establishment as used in Section 1-1118 of Title 63 of the  
6 Oklahoma Statutes; and

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

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

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

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

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

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

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

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

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

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

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

14        3. Freezer unit to maintain the product frozen, if the  
15 establishment contains frozen food.

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

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

22        G. 1. a. An unattended food establishment shall provide  
23                continuous video surveillance of areas where consumers  
24                view, select, handle and purchase products that

1 provides sufficient resolution to identify situations  
2 that may compromise food safety or food defense.

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

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

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

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

18 a. checking food supplies and equipment for signs of  
19 product damage and tampering,

20 b. verifying refrigeration equipment is operating  
21 properly, including the temperature display and self-  
22 locking mechanism,

23 c. rotating foods to better ensure first in/first out of  
24 food items,

1           d.    cleaning food service equipment and food display  
2                areas,

3           e.    stocking food and disposable single-use and single-  
4                service supplies, and

5           f.    checking inventory for recalled foods.

6        2.    The permit holder shall ensure that:

7           a.    food is from an approved source,

8           b.    packaged food is provided in tamper-evident packaging,

9           c.    food is protected from potential sources of cross  
10               contamination, and

11          d.    food is maintained at safe temperatures during  
12               transport and display.

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

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

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

20        J.    The permit holder bears all responsibilities for the  
21   operation of the unattended food establishment.  If the permit  
22   holder is not the owner or operator of the building where the food  
23   establishment is located, a mutual agreement may be approved by the  
24   State Department of Health that outlines the responsibilities for

1 cleaning and maintenance of all surfaces and equipment, provision of  
2 supportive facilities or services such as janitorial and restroom  
3 facilities, pest control and removal of solid waste. This agreement  
4 shall also outline what actions must be taken by both parties to  
5 maintain the establishment in compliance with all requirements.

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

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

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

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

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