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February 24, 2020

AS AMENDED

SENATE BILL NO. 1765

By: Dossett

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[ home food production - Home Bakery Act of 2013 -
frozen foods - Internet or mail order - records -
codification - effective date ]
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 40, O.S.L.
2013, as renumbered by Section 3, Chapter 85, O.S.L. 2017 (2 O.S.
Supp. 2019, Section 5-4.1), is amended to read as follows:

Section 5-4.1. This act shall be known and may be cited as the
~~"Home Bakery Cottage Food Act of 2013".~~

SECTION 2. AMENDATORY Section 2, Chapter 40, O.S.L. 2013, as amended by Section 1, Chapter 85, O.S.L. 2017, and as renumbered by Section 4, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2019, Section 5-4.2), is amended to read as follows:

Section 5-4.2. As used in the ~~Home Bakery~~ Cottage Food Act of 2013:

1 1. "Acidified canned goods" shall mean food with a finished
2 equilibrium pH value of 4.6 or less that is thermally processed
3 before being placed in an airtight container;

4 2. "Fermented vegetable product" shall mean a low-acid
5 vegetable food product subjected to the action of certain
6 microorganisms that produce acid during their growth and reduce the
7 pH value of the food to 4.6 or less;

8 3. "Home food establishment" shall mean a business on the
9 premises of a residence in which prepared food is created for sale
10 or resale at farmers markets, on site, at cooperatives, through
11 membership-based buying clubs, through the Internet or for delivery,
12 if the business has gross annual sales of prepared food of less than
13 Twenty Thousand Dollars (\$20,000.00) Fifty Thousand Dollars
14 (\$50,000.00). Gross annual sales includes all sales of prepared
15 food produced by the business at any location; and

16 ~~2.~~ 4. "Prepared food" shall mean any baked goods except for
17 products that contain meat products or fresh fruit that are not time
18 and temperature control for safety and the following foods:

- 19 a. candy,
- 20 b. coated and uncoated nuts,
- 21 c. unroasted nut butters,
- 22 d. fruit butters,
- 23 e. canned jam or jelly,
- 24 f. fruit pie,

- g. dehydrated fruit or vegetables, including dried beans,
- h. popcorn and popcorn snacks,
- i. cereal, including granola,
- j. dry mixes,
- k. vinegar,
- l. pickled fruit or vegetables that are preserved in
vinegar, brine or a similar solution at an equilibrium
pH value of 4.6 or less,
- m. mustard,
- n. roasted coffee or dry tea,
- o. dried herbs or dried herb mixes,
- p. plant based acidified canned goods,
- q. fermented vegetable products, including products that
are refrigerated to preserved quality,
- r. frozen raw and uncut fruit or vegetables, or
- s. any other food that is not a time and temperature
control for safety food; and

5. "Time and temperature control for safety food" shall mean a
food that requires time and temperature control for safety to limit
pathogen growth or toxin production. The term includes a food that
must be held under proper temperature controls, such as
refrigeration, to prevent the growth of bacteria that may cause
human illness. A time and temperature control for safety food may
include a food that contains protein and moisture and is neutral or

1 slightly acidic, such as meat, poultry, fish, and shellfish
2 products, pasteurized and unpasteurized milk and dairy products, raw
3 seed sprouts, baked goods that require refrigeration including cream
4 or custard pies or cakes and ice products. The term does not
5 include a food that uses time and temperature control for safety
6 food as ingredients if the final food product does not require time
7 or temperature control for safety to limit pathogen growth or toxin
8 production.

9 SECTION 3. AMENDATORY Section 3, Chapter 40, O.S.L.
10 2013, as amended by Section 2, Chapter 85, O.S.L. 2017, and as
11 renumbered by Section 5, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2019,
12 Section 5-4.3), is amended to read as follows:

13 Section 5-4.3. A. A home food establishment may sell prepared
14 food on site, by delivery, at a farmers market, through a
15 cooperative, through the Internet or through a membership-based
16 buying club. The Oklahoma Department of Agriculture, Food, and
17 Forestry may promulgate rules to allow sales at other locations or
18 by other means.

19 B. A home food establishment shall be exempt from the licensing
20 and other requirements of the State Department of Health.

21 C. The Oklahoma Department of Agriculture, Food, and Forestry
22 may, upon a consumer complaint, request written documentation to
23 verify the gross annual sales of a home food establishment.
24

SECTION 4. AMENDATORY Section 4, Chapter 40, O.S.L.

2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2019, Section 5-4.4), is amended to read as follows:

Section 5-4.4. A. A home food establishment that sells prepared food shall affix a label that contains the following information:

1. The name and address of the home food establishment;

2. The name of the prepared food; and

3. The following statement printed in at least 10-point type in a color that provides a clear contrast to the background of the label: "Made in a home food establishment that is not licensed by the State Department of Health."

B. A home food establishment that sells frozen raw and uncut fruit or vegetables shall:

1. Only be delivered by the operator of the home food establishment directly to the customer;

2. Store the frozen fruit or vegetables at an air temperature no greater than thirty-two (32) degrees Fahrenheit until received by the customer; and

3. include on the label of the frozen fruit or vegetables or on an invoice or receipt provided with the frozen fruit or vegetables when sold the following statement in at least 12-point type: "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria, keep this food frozen until preparing for consumption".

SECTION 5. AMENDATORY Section 5, Chapter 40, O.S.L.

2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2019, Section 5-4.5), is amended to read as follows:

Section 5-4.5. ~~Violation of Section 4 of~~ Violations of the Home Bakery Cottage Food Act of 2013 shall be a misdemeanor and shall be punishable by a fine not exceeding One Hundred Dollars (\$100.00).

SECTION 6. AMENDATORY Section 6, Chapter 40, O.S.L.

2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2019, Section 5-4.6), is amended to read as follows:

Section 5-4.6. Nothing in the ~~Home Bakery Cottage Food Act of 2013~~ shall be construed to prevent counties from enacting ordinances regulating the operation of home food establishments, provided such ordinances do not conflict with the provisions of the ~~Home Bakery Cottage Food Act of 2013~~.

SECTION 7. NEW LAW A new section of law to be codified

in the Oklahoma Statutes as Section 5-4.7 of Title 2, unless there is created a duplication in numbering, reads as follows:

A home food establishment that sells prepared food through the Internet or by mail order shall:

1. Only accept purchases through the Internet on the home food establishment's website;

2. Be delivered by the operator of the home food establishment;

and

1 3. Before the operator of the home food establishment accepts
2 payment, provide all labeling information required by subsections A
3 and B of Section 5-4.4 of Title 2 of the Oklahoma Statutes, except
4 the home food establishment's address, to the customer by:

5 a. posting a legible statement on the home food
6 establishment's website, or

7 b. publishing the information in a catalog.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 5-4.8 of Title 2, unless there
10 is created a duplication in numbering, reads as follows:

11 A home food establishment that sells to consumers pickled fruit
12 or vegetables, fermented vegetable products or plant-based acidified
13 canned goods shall:

14 1. Use a recipe approved by the Robert M. Kerr Food and
15 Agriculture Products Center at Oklahoma State University or a recipe
16 tested by the Robert M. Kerr Food and Agriculture Products Center at
17 Oklahoma State University or a food laboratory approved by the
18 Oklahoma Department of Agriculture, Food, and Forestry to confirm
19 the finished product has an equilibrium pH value of 4.6 or less; and

20 2. For each batch:

21 a. affix a label to the units produced in each batch with
22 a unique batch number, and

23 b. create and maintain a record of each batch, for a
24 period of at least twelve (12) months, containing the

1 batch number, recipe used, the source of the recipe or
2 test results and the date the batch was prepared.

3 SECTION 9. This act shall become effective November 1, 2020.

4 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
5 February 24, 2020 - DO PASS AS AMENDED
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