

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 976

By: Dahm

AS INTRODUCED

An Act relating to home food processing; amending Section 1, Chapter 40, O.S.L. 2013, as renumbered by Section 3, Chapter 85, O.S.L. 2017, Sections 2 and 3, Chapter 40, O.S.L. 2013, as amended by Sections 1 and 2, Chapter 85, O.S.L. 2017, and as renumbered by Sections 4 and 5, Chapter 85, O.S.L. 2017 and Sections 4, 5 and 6, Chapter 40, O.S.L. 2013, as renumbered by Section 6, Chapter 40, O.S.L. 2017 (2 O.S. Supp. 2018, Sections 5-4.1, 5-4.2, 5-4.3, 5-4.4, 5-4.5 and 5-4.6), which relate to the Home Bakery Act of 2013; creating the Home Processing Act; adding, modifying and deleting definitions; adding places where certain food products can be sold; clarifying statutory language; adding labeling requirements; requiring the maintenance of certain records; requiring submission of records to the Oklahoma Department of Agriculture, Food, and Forestry; and providing an effective date.

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. 2018, 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~~ Food Processing 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. 2018, Section 5-4.2), is amended to read as follows:

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

1. "Department" shall mean the Oklahoma Department of Agriculture, Food, and Forestry;

2. "Home food establishment" shall mean a business on the premises of a residence in which prepared non-time/non-temperature control for safety food is created for sale or resale at farmers markets, on site, at cooperatives, through membership-based buying clubs, at retail establishments, at restaurants or for delivery, if the business has gross annual sales of prepared non-time/non-temperature control for safety food of less than ~~Twenty Thousand Dollars (\$20,000.00)~~ One Hundred Thousand Dollars (\$100,000.00).

Gross annual sales includes all sales of prepared food produced by the business at any location; ~~and~~

~~2. "Prepared food" shall mean any baked goods except for products that contain meat products or fresh fruit~~ 3. "Non-time/non-temperature control for safety food" means a food product that is not time/temperature control for safety food including but not limited to baked goods, jams and jellies, candies, dried mixes, spices, some sauces and liquids, pickles and acidified foods; and

1 4. "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 to
4 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 a water activity (aw) value of 0.85 or less,
22 a food with a potential of Hydrogen (pH) level of 4.6
23 or below when measured at twenty-four degrees Celsius
24 (24°C) or seventy-five degrees Fahrenheit (75°F), a

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

18 SECTION 3. AMENDATORY Section 3, Chapter 40, O.S.L.
19 2013, as amended by Section 2, Chapter 85, O.S.L. 2017, and as
20 renumbered by Section 5, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2018,
21 Section 5-4.3), is amended to read as follows:

22 Section 5-4.3. A. A home food establishment may sell ~~prepared~~
23 non-time/non-temperature control for safety food on site, by
24 delivery, at a farmers market, through a cooperative, at retail

1 establishments, at restaurants or through a membership-based buying
2 club. The ~~Oklahoma Department of Agriculture, Food, and Forestry~~
3 may promulgate rules to allow sales at other locations or by other
4 means.

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

7 C. The ~~Oklahoma Department of Agriculture, Food, and Forestry~~
8 may, upon a consumer complaint, request written documentation to
9 verify the gross annual sales of a home food establishment.

10 SECTION 4. AMENDATORY Section 4, Chapter 40, O.S.L.
11 2013, as renumbered by Section 6, Chapter 40, O.S.L. 2017 (2 O.S.
12 Supp. 2018, Section 5-4.4), is amended to read as follows:

13 Section 5-4.4. A. A home food establishment that sells
14 ~~prepared~~ non-time/non-temperature control for safety food shall
15 affix a label, in a format approved by the Food and Drug
16 Administration, that contains the following information:

- 17 1. The name ~~and~~, address and telephone number or web address of
18 the home food establishment;
- 19 2. The name of the prepared food; ~~and~~
- 20 3. Batch code documentation with matching records maintained on
21 file at the home food establishment; and
- 22 4. A list of ingredients.

23 The following statement printed in at least 10-point type in a
24 color that provides a clear contrast to the background of the label:

1 "Made in a home food establishment that is not licensed by the State
2 Department of Health."

3 B. The home food establishment shall submit to the Department
4 and the Department shall maintain a record of the following:

5 1. A copy of the non-time/non-temperature control for safety
6 food's label in a format approved by the Food and Drug
7 Administration; and

8 2. A list of sales outlets for the non-time/non-temperature
9 control for safety food.

10 SECTION 5. AMENDATORY Section 5, Chapter 40, O.S.L.
11 2013, as renumbered by Section 6, Chapter 40, O.S.L. 2017 (2 O.S.
12 Supp. 2018, Section 5-4.5), is amended to read as follows:

13 Section 5-4.5. Violation of Section ~~4~~ 5-4.4 of ~~the Home Bakery~~
14 ~~Act of 2013~~ this title shall be a misdemeanor and shall be
15 punishable by a fine not exceeding One Hundred Dollars (\$100.00).

16 SECTION 6. AMENDATORY Section 6, Chapter 40, O.S.L.
17 2013, as renumbered by Section 6, Chapter 40, O.S.L. 2017 (2 O.S.
18 Supp. 2018, Section 5-4.6), is amended to read as follows:

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

SECTION 7. This act shall become effective November 1, 2019.

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