

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1414

By: Waldron

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; creating
8 the Oklahoma Micro Markets Act; defining terms;
9 requiring licensure; requiring information to be
10 displayed; providing for responsibilities of
11 licensee; authorizing sale of certain packaged food;
12 providing exceptions; providing for storage
13 requirements; requiring routine service of micro
14 market; providing for licensee assurances; providing
15 for limitations on location; requiring certain
16 security measures; requiring payment of certain fees;
17 directing the State Department of Health to
18 promulgate rules; providing for codification; and
19 providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-1150 of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Micro
Markets Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1-1151 of Title 63, unless there
is created a duplication in numbering, reads as follows:

As used in the Oklahoma Micro Markets Act:

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

3 2. "Micro market" means an unattended food establishment
4 operation that provides packaged foods or whole fruit using an
5 automated payment system and has controlled entry not accessible by
6 the general public; and

7 3. "Packaged" means bottled, canned, cartoned, bagged or
8 wrapped, whether packaged in a food establishment or a food
9 processing plant. Packaged does not include wrapped or placed in a
10 carry-out container, to protect the food during service or delivery
11 to the consumer, by a food employee upon consumer request.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-1152 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 A. No person shall engage or continue in the operation of a
16 micro market until a license has been obtained from the State
17 Commissioner of Health for each location or establishment pursuant
18 to Section 1-1118 of Title 63 of the Oklahoma Statutes and the
19 annual fee required by Section 6 of this act has been paid.

20 B. Each micro market shall have a sign readily visible at the
21 automated payment station stating:

22 1. The name and mailing address of the business entity
23 responsible for the establishment and to whom complaints and
24 comments should be addressed; and

1 2. The telephone, email or web information for the responsible
2 business entity.

3 C. The licensee bears all responsibilities for the operation of
4 a micro market. If the licensee is not the owner and/or operator of
5 the building where the micro market is located, the licensee and the
6 owner and/or operator of the building shall enter into a mutual
7 agreement that outlines the responsibilities for cleaning and
8 maintenance of all surfaces and equipment, provision of supportive
9 facilities or services such as janitorial and restroom facilities,
10 pest control and removal of waste.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1-1153 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 A. A micro market shall only be authorized to sell commercially
15 packaged foods or ready to eat fruit properly labeled for individual
16 retail sale per the federal Food, Drug, and Cosmetic Act, 21 U.S.C.,
17 Section 301 et seq. A micro market shall be subject to the
18 following conditions:

19 1. Packaged food shall be limited to heating and/or reheating
20 in a microwave oven;

21 2. A micro market shall be prohibited from the dispensing of
22 bulk food;

23 3. No unpackaged food is permitted except as provided by
24 Section 3-201.11(C) of the Code of Federal Regulations Food Code;

1 4. Packaged food shall be in tamper-evident packaging; and

2 5. All beverages dispensed shall be by individual serving only.

3 B. Refrigerated or frozen food sold in the micro market shall
4 be stored in a refrigerated cooler or freezer that:

5 1. Maintains an internal temperature:

6 a. of forty-one (41) degrees Fahrenheit or less, or

7 b. is otherwise necessary for food safety, as established
8 by the State Department of Health;

9 2. Has self-closing doors;

10 3. Allows the food to be viewed without opening the door to the
11 refrigerated cooler or freezer; and

12 4. Has an automatic self-locking feature that prevents a
13 consumer from accessing the food upon the occurrence of any
14 condition, including a power failure or mechanical failure, that
15 results in the failure of the refrigerated cooler or freezer to
16 maintain the internal temperature as provided in paragraph 1 of
17 subsection B of this section.

18 C. The licensee shall service the micro market on a scheduled
19 basis, to include, but not be limited to:

20 1. Checking food supplies and equipment for signs of product
21 damage and/or tampering;

22 2. Verifying refrigeration equipment is operating properly,
23 including the temperature display and self-locking mechanism;

1 3. Rotating foods to better ensure first-in/first-out of food
2 items;

3 4. Cleaning food service equipment and food display areas;

4 5. Stocking food and disposable single-use and single-service
5 supplies; and

6 6. Checking inventory for recalled foods.

7 D. The licensee shall assure:

8 1. Food is from an approved source;

9 2. Packaged food is provided in tamper-evident packaging;

10 3. Food is protected from potential sources of cross-
11 contamination;

12 4. Food is maintained at safe temperatures during transport and
13 display; and

14 5. Multiuse food-contact surfaces are cleaned on the frequency
15 consistent with the service per Section 4-202.11 of the Code of
16 Federal Regulations Food Code or can easily be removed and replaced
17 with clean surfaces.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-1154 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 A micro market shall be located in the interior of a building
22 that is not accessible to the general public. Access to the micro
23 market shall be limited to employees or occupants of the building
24 where the establishment is located.

1 A micro market shall implement the following security measures:

2 1. Video surveillance of areas where consumers view, select,
3 handle and purchase products that provides sufficient resolution to
4 identify situations that may compromise food safety or food defense;

5 2. Video surveillance that operates on a twenty-four-hour per
6 day, seven-day per week basis; and

7 3. Video surveillance that is maintained and shall be made
8 available upon the request by a representative of the State
9 Department of Health within twenty-four (24) hours of a request.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-1155 of Title 63, unless there
12 is created a duplication in numbering, reads as follows:

13 The State Department of Health shall collect the following
14 annual fees:

15 1. Fifty Dollars (\$50.00) for micro markets with annual gross
16 sales of less than One Hundred Thousand Dollars (\$100,000.00); and

17 2. One Hundred Dollars (\$100.00) for micro markets with annual
18 gross sales of One Hundred Thousand Dollars (\$100,000.00) or more.

19 SECTION 7. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1-1156 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 The State Department of Health shall promulgate rules to
23 implement the provisions of the Oklahoma Micro Markets Act.

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SECTION 8. This act shall become effective November 1, 2019.

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