

1 **SENATE FLOOR VERSION**

2 March 29, 2021

3 ENGROSSED HOUSE  
4 BILL NO. 1032

5 By: Mize, Davis, Bennett,  
6 Blancett, Steagall, Lepak,  
7 Bashore, Hill, Humphrey,  
8 West (Tammy), Kendrix,  
9 Osburn, Grego, Dempsey,  
10 Stark, Roberts (Eric) and  
11 Rosecrants of the House

12 and

13 Pugh and Bullard of the  
14 Senate

15  
16 [ public health and safety - renaming the Home Bakery  
17 Act of 2013 - licensing of home food establishments -  
18 effective date ]

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

20 SECTION 1. AMENDATORY Section 1, Chapter 40, O.S.L.  
21 2013, as renumbered by Section 3, Chapter 85, O.S.L. 2017 (2 O.S.  
22 Supp. 2020, Section 5-4.1), is amended to read as follows:

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

SECTION 2. AMENDATORY Section 2, Chapter 40, O.S.L.  
2013, as amended by Section 1, Chapter 85, O.S.L. 2017, and as

1 renumbered by Section 4, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2020,  
2 Section 5-4.2), is amended to read as follows:

3 Section 5-4.2. As used in the ~~Home Bakery Act of 2013~~ Homemade  
4 Food Freedom Act:

5 1. "Home food establishment" shall mean a business on the  
6 premises of a residence in which ~~prepared~~ homemade food products ~~is~~  
7 are created for sale or resale ~~at farmers markets, on site, at~~  
8 ~~cooperatives, through membership-based buying clubs or for delivery,~~  
9 if the business has gross annual sales of prepared food of less than  
10 ~~Twenty Thousand Dollars (\$20,000.00)~~ Seventy-five Thousand Dollars  
11 (\$75,000.00). Gross annual sales includes all sales of prepared  
12 food produced by the business at any location; ~~and~~

13 2. ~~"Prepared food" shall mean any baked goods except for~~  
14 ~~products that contain meat products or fresh fruit~~ "Delivered" shall  
15 mean transferred to the customer, either immediately upon sale or at  
16 a time thereafter;

17 3. "Homemade food product" shall mean food including a  
18 beverage, which is produced and, if packaged, packaged at a  
19 residence; provided, however, homemade food product shall not mean  
20 alcoholic beverages or unpasteurized milk or cannabis or marijuana  
21 products;

22 4. "Non-time- or -temperature-controlled for safety" shall mean  
23 food that does not require time or temperature control for safety to  
24 limit the rapid and progressive growth of infectious or toxigenic

1 microorganisms including foods that have a pH level of four and six-  
2 tenths (4.6) or below or a water activity (aw) value of eighty-five  
3 one-hundredths (0.85) or less;

4 5. "Time- or temperature-controlled for safety" shall mean a  
5 food that requires time or temperature control for safety to limit  
6 infectious or toxigenic microorganisms and is in a form capable of  
7 supporting rapid and progressive growth of infectious or toxigenic  
8 microorganisms; provided, however, time- or temperature-controlled  
9 for safety shall not include foods that have a pH level of four and  
10 six-tenths (4.6) or below or a water activity (aw) value of eighty-  
11 five one-hundredths (0.85) or less;

12 6. "Produce" shall mean to prepare a food product by cooking,  
13 baking, drying, mixing, cutting, canning, fermenting, preserving,  
14 dehydrating, growing, raising or other process; and

15 7. "Producer" shall mean the person who produces a homemade  
16 food product in a home food establishment.

17 SECTION 3. AMENDATORY Section 3, Chapter 40, O.S.L.  
18 2013, as amended by Section 2, Chapter 85, O.S.L. 2017, and as  
19 renumbered by Section 5, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2020,  
20 Section 5-4.3), is amended to read as follows:

21 Section 5-4.3. A. ~~A home food establishment may sell prepared~~  
22 ~~food on site, by delivery, at a farmers market, through a~~  
23 ~~cooperative, or through a membership-based buying club. The~~  
24 ~~Oklahoma Department of Agriculture, Food, and Forestry may~~

1 ~~promulgate rules to allow sales at other locations or by other~~  
2 ~~means.~~

3 ~~B. A home food establishment~~ The production and sale of  
4 homemade food products that meet the following conditions shall be  
5 exempt from ~~the~~ all licensing and other requirements of the State  
6 Department of Health and the Oklahoma Department of Agriculture,  
7 Food, and Forestry:

8 1. Non-time- or -temperature-controlled-for-safety homemade  
9 food products shall be sold:

10 a. by the producer directly to the consumer, either in  
11 person or by remote means including, but not limited  
12 to, the Internet or telephone, or

13 b. by a producer's designated agent or a third-party  
14 vendor, such as a retail or grocery store, farm, farm  
15 stand, farmers market, membership-based buying club,  
16 craft fair or flea market, to the consumer; provided,  
17 the third-party vendor displays a placard where  
18 homemade food products are displayed for sale with the  
19 following disclosure: "This product was produced in a  
20 private residence that is exempt from government  
21 licensing and inspection. This product may contain  
22 allergens.";

23 2. Non-time- or -temperature-controlled-for-safety homemade  
24 food products shall be delivered:

1           a. by the producer or producer's designated agent  
2           directly to the consumer or third-party vendor, or

3           b. by a third-party vendor or a third-party carrier, such  
4           as a parcel delivery service, to the consumer or a  
5           third-party vendor;

6           3. Time- or temperature-controlled-for-safety homemade food  
7 products shall be sold by the producer directly to the consumer,  
8 either in person or by remote means including, but not limited to,  
9 the Internet or telephone;

10           4. Time- or temperature-controlled-for-safety homemade food  
11 products shall be delivered by the producer directly to the  
12 consumer;

13           5. Before a producer produces and sells time- or temperature-  
14 controlled-for-safety homemade food products, the producer shall  
15 complete and pass food safety training from a list of providers  
16 including the ServSafe Food Handler Training, approved by the  
17 Oklahoma Department of Agriculture, Food, and Forestry. The food  
18 safety training shall be available to complete online and shall not  
19 exceed eight (8) hours in length. The Oklahoma Department of  
20 Agriculture, Food, and Forestry shall make the list of approved  
21 training available on its website by the effective date of this act;

22           6. The following information shall be provided to the consumer  
23 in the format required by subsection B of this section:

24           a. the name and phone number of the producer,

- b. the physical address where the product was produced,
- c. a description of the homemade food product,
- d. the ingredients of the homemade food product in descending order of proportion,
- e. a statement indicating the presence of any of the eight most common allergens, including milk, eggs, peanuts, tree nuts, soy and wheat, and
- f. legible print stating, "This product was produced in a private residence that is exempt from government licensing and inspection.";

7. If the homemade food product is packaged and distributed in interstate commerce, it shall also be sold and labeled in accordance with federal law; and

8. Homemade food products shall not contain seafood or meat, meat byproducts or meat food products as defined by Section 301.2 of Title 9 of the Code of Federal Regulations or poultry, poultry products or poultry food products as defined for purposes of the federal Poultry Products Inspection Act.

B. The information required by paragraph 6 of subsection A of this section shall be provided in a legible format of at least 10-point font, in the following manner:

1. On a label affixed to the package if the homemade food product is packaged;

1        2. On a label affixed to a container, if the homemade food  
2 product is offered for sale from a bulk container directly to the  
3 consumer;

4        3. On a placard displayed at the point of sale, and on a card  
5 or other item that is made available to the consumer and is readily  
6 carriable if the homemade food product is not packaged; and

7        4. Displayed on the webpage from which the homemade food  
8 product is offered for sale if it is sold on the Internet, provided,  
9 that each item sold over the Internet shall be properly labeled or  
10 shall have a label included in the shipping container.

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

14        SECTION 4.        AMENDATORY        Section 4, Chapter 40, O.S.L.  
15 2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S.  
16 Supp. 2020, Section 5-4.4), is amended to read as follows:

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

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

20        ~~2. The name of the prepared food; and~~

21        ~~3. The following statement printed in at least 10-point type in~~  
22 ~~a color that provides a clear contrast to the background of the~~  
23 ~~label: "Made in a home food establishment that is not licensed by~~  
24 ~~the State Department of Health."        Nothing in the Homemade Food~~

1 Freedom Act shall be construed to impede the State Department of  
2 Health in any investigation of a reported foodborne illness. Upon  
3 receipt of a consumer complaint, the Oklahoma Department of  
4 Agriculture, Food, and Forestry shall have the authority to request  
5 proof of completion of the food safety training, verify a producer's  
6 gross sales, and ensure a producer has complied with the act's  
7 labeling and delivery requirements. The Oklahoma Department of  
8 Agriculture, Food, and Forestry may fine a producer who violates  
9 this act in accordance with Section 5-4.5 of this title.

10 SECTION 5. AMENDATORY Section 5, Chapter 40, O.S.L.  
11 2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S.  
12 Supp. 2020, Section 5-4.5), is amended to read as follows:

13 Section 5-4.5. Violation of ~~Section 4 of the Home Bakery Act of~~  
14 ~~2013~~ Homemade Food Freedom Act shall be ~~a misdemeanor and shall be~~  
15 ~~punishable by a fine not exceeding One Hundred Dollars (\$100.00)~~  
16 Three Hundred Dollars (\$300.00).

17 SECTION 6. AMENDATORY Section 6, Chapter 40, O.S.L.  
18 2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S.  
19 Supp. 2020, Section 5-4.6), is amended to read as follows:

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



1 or impede or restrict the sale of homemade food products in  
2 compliance with the law.

3 SECTION 7. AMENDATORY Section 2, Chapter 20, O.S.L. 2013  
4 (63 O.S. Supp. 2020, Section 1-1331), is amended to read as follows:

5 Section 1-1331. A. Beekeepers with annual production of less  
6 than five hundred (500) gallons who do not qualify for the exemption  
7 provided in Section 5-4.3 of Title 2 of the Oklahoma Statutes shall  
8 be exempt from regulation and inspection by the State Department of  
9 Health for the manufacture, sale, and distribution of honey and  
10 honeycomb products in ~~Oklahoma~~ this state if they meet the following  
11 requirements:

12 1. The beekeeper shall only sell or distribute honey or  
13 honeycomb produced from hives located wholly within ~~the State of~~  
14 ~~Oklahoma~~ this state which are owned and managed by the beekeeper;

15 2. The honey, honeycomb, or combination thereof is raw and not  
16 blended with other products or otherwise adulterated. The honey may  
17 be in liquid or solid form or a combination of the two;

18 3. The honey or honeycomb shall ~~only~~ be sold in-person or by a  
19 designated agent of the beekeeper to the end-use customer, or online  
20 by the beekeeper, or distributed in person to the end-use customer  
21 ~~at the beekeeper's home, farmer's markets, roadside stands, county~~  
22 ~~fairs, or similar events; by the beekeeper or members of the~~  
23 ~~beekeeper's immediate family~~ by an employee of the beekeeper, or  
24 distributed by a carrier, such as a parcel delivery service, to the

1 end-use customer or to a vendor or retail establishment for resale;  
2 and

3 4. Honey products shall be labeled with the common food product  
4 name, net weight of the honey, the beekeeper's name, current ten  
5 (10) digit phone number, an address where the honey or honeycomb was  
6 produced, and shall include the statement, "Bottled or packaged in a  
7 facility not inspected by the Oklahoma Department of Health." The  
8 statement shall be in 10-point type or greater in a color that  
9 provides clear contrast to the background label.

10 B. No county, municipal corporation, consolidated government,  
11 or political subdivision of this state shall adopt or continue in  
12 effect any ordinance, rule, regulation, or resolution prohibiting,  
13 impeding, or restricting honey sales or distribution in compliance  
14 with this law.

15 SECTION 8. This act shall become effective November 1, 2021.

16 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE  
17 March 29, 2021 - DO PASS  
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