

An Act

ENROLLED HOUSE
BILL NO. 1076

By: Hildebrant, Townley,
Fetgatter, Archer, and
Adams of the House

and

Gillespie of the Senate

An Act relating to public health and safety; creating the Food Truck Freedom Act; authorizing the State Commissioner of Health to promulgate rules; authorizing local authorities to regulate mobile food vendors; allowing administrative hearing upon suspension or revocation of certain license; establishing penalties; providing appeals process; amending 63 O.S. 2021, Section 1-1101, which relates to definitions; defining terms; amending 63 O.S. 2021, Section 1-1118, as last amended by Section 135, Chapter 452, O.S.L. 2024 (63 O.S. Supp. 2024, Section 1-1118), which relates to food establishment license, exemptions, expiration license, fee-exempt license, reasonable standards and rules for sanitation; allowing mobile food vendors to operate in certain locations; requiring mobile food vendors to operate in a certain manner; providing for noncodification; providing for codification; and providing an effective date.

SUBJECT: Public health and safety

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Food Truck Freedom Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1150 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A mobile food vendor with a food establishment license required under Section 1-1118 of Title 63 of the Oklahoma Statutes is authorized to operate in this state subject to this section. Mobile food vendors shall follow all state and local laws and regulations governing operations in the jurisdiction where the vendor is operating that are not in conflict with this act.

B. A mobile food vendor with a food establishment license required under Section 1-1118 of Title 63 of the Oklahoma Statutes shall provide a copy of its state license to a local authority for recognition by the local authority before operating in the local authority's jurisdiction. The local authority shall recognize a lawful and valid state license and authorize the mobile food vendor to operate in its jurisdiction within five (5) business days of receipt of the state license and verification of compliance with local regulations not in conflict with this act. Such recognition and authorization may include issuing a local license or permit to the mobile food vendor. Any local license or permit issued shall not impose additional requirements that conflict with this act.

C. Upon compliance with subsection B of this section, a mobile food vendor may operate in the following locations:

1. Any location allowed by the local authority; and
2. On private property under the following circumstances:
 - a. the property is located in a zoning district where food service establishments are permitted to operate and the vendor has permission of the property owner, designee, or lessor,
 - b. the property is located in a residential zoning district and the mobile food vendor has been invited by a resident or group of residents in that district to operate on their property for the purpose of serving food to that resident, group of residents, or their guests; provided, that the operation of mobile food vendors on the subject property not exceed twelve (12) days per year, and

c. the mobile food vendor would not cause a nuisance.

D. A mobile food vendor shall not operate in any manner which will interfere with or obstruct the free passage of pedestrians or vehicles along any street, sidewalk, or parkway.

E. A mobile food vendor shall not operate in a state park without having a contract or lease agreement approved by the Oklahoma Tourism and Recreation Commission.

F. When operating, a mobile food vendor shall:

1. Maintain a food vending vehicle in good operating order;

2. Provide a waste receptacle for customers that is visible and request that customers use it;

3. Remove and dispose of all refuse within a twenty-five-foot radius of the mobile food vendor's operating area at the conclusion of operation;

4. Display the mobile food vendor's food establishment license in a conspicuous location for public view; and

5. If serving food at a temporary mass gathering, notify the State Department of Health and the local authority in the jurisdiction where the gathering is to be located of the dates the mobile food vendor will operate at the temporary mass gathering at least ten (10) business days prior to the gathering.

G. The State Commissioner of Health may promulgate rules to enforce the provisions of this section. Rules adopted shall not:

1. Require a mobile food vendor to operate a specific distance from the perimeter of an existing commercial establishment or to enter into any agreement with a commercial establishment;

2. Require a mobile food vendor that serves only prepackaged food or that does not prepare or open food to have a handwashing sink in the food vending vehicle;

3. Require a mobile food vendor to associate with a commissary if the vendor carries all the equipment necessary to comply with health and safety standards and applicable regulations;

4. Limit the number of licensed mobile food vendors;

5. Require a mobile food vendor to obtain any additional permits from a local authority unless the mobile food vendor seeks to operate at an event which is permitted by a local authority or in a local, public park;

6. Require a mobile food vendor to be fingerprinted or to install a Global Positioning System (GPS) tracking device on the vendor's vehicle;

7. Require a mobile food vendor to stay in constant motion except for when serving customers;

8. Require a mobile food vendor to change locations unless the vendor is operating in violation of this act;

9. Require a mobile food vendor to maintain insurance that names a local authority as an additional insured unless the vendor is operating at an event sponsored by the local authority or operating in a local, public park;

10. Require a mobile food vendor to maintain a bond that names a local authority as a beneficiary unless the vendor is operating at an event sponsored by the local authority or operating in a local, public park;

11. Require a mobile food vendor to submit to health inspections beyond health inspections conducted by the Department or by a local authority collaborating with the Department, unless the Department is investigating a reported foodborne illness, or addressing a complaint of an imminent health or safety hazard to the public;

12. Require a health inspection of a food vending vehicle more than twice per year unless the Department is ensuring a mobile food vendor has corrected a violation detected during a prior inspection, is investigating a reported foodborne illness, or is conducting a nonobstructive spot inspection to ensure food safety;

13. Charge a mobile food vendor fees for a health inspection;
or

14. Require a mobile food vendor to submit to a state fire inspection if the vendor can demonstrate it passed a state or local fire inspection in the previous twelve (12) months.

SECTION 3. 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:

A. The local authority may regulate mobile food vendors in accordance with this section. In relation to a mobile food vendor's operations, a local authority may:

1. Restrict the operation of a noisemaking device that exceeds seventy-five (75) decibels measured at twenty-three (23) feet from the food vending vehicle during certain hours of the day;

2. Restrict a mobile food vendor from operating in a public park or require a special permit and payment of fees to operate in a public park;

3. Prohibit a mobile food vendor from blocking or restricting ingress to or egress from private property;

4. Develop a mobile food vendor metered parking pass for a fee that permits a mobile food vendor to operate from metered parking spaces for longer than the vendor would otherwise be permitted;

5. Investigate reports of foodborne illnesses;

6. Report a mobile food vendor's suspected violation of this act to the State Department of Health;

7. Issue citations and penalties to mobile food vendors for violations of state and local law not inconsistent with this act; and

8. Adopt and enforce other regulations in conformity to municipal powers that are not inconsistent with this act. Any regulation regarding mobile food vendors must address public health or safety risks.

B. In relation to a mobile food vendor's operations, a local authority may not:

1. Prohibit a mobile food vendor from lawfully operating in its jurisdiction if the vendor holds a food establishment license required under Section 1-1118 of Title 63 of the Oklahoma Statutes and is in compliance with this act and all other state and local laws not in conflict with this act;

2. Require a mobile food vendor to obtain any license or permit from the local authority to operate a food vending vehicle unless:

- a. the local authority is issuing a local license in recognition of a state license under subsection B of Section 2 of this act,
- b. the mobile food vendor seeks to operate at an event which has been permitted by the local authority, or
- c. the mobile food vendor seeks a food establishment license from a local authority required by Section 1-1118 of Title 63 of the Oklahoma Statutes;

3. Require a mobile food vendor that is operating on private property with the permission of the owner to operate a specific distance from commercial food or retail establishments;

4. Require a mobile food vendor to enter into any agreement with commercial food or retail establishments;

5. Require a mobile food vendor to be fingerprinted or to install a Global Positioning System (GPS) tracking device on the vendor's vehicle;

6. Require a mobile food vendor to stay in constant motion except for when serving customers;

7. Require a mobile food vendor to maintain an insurance policy that names the local authority as an additional insured unless the vendor is operating at an event sponsored by the local authority or operating in a local, public park;

8. Require a mobile food vendor to maintain a bond that names a local authority as a beneficiary unless the vendor is operating at an event sponsored by the local authority or operating in a local, public park;

9. Require a mobile food vendor to submit to health inspections beyond health inspections conducted by or in collaboration with the Department, unless the local authority is investigating a reported foodborne illness or addressing a complaint of an imminent health or safety hazard to the public;

10. Require a health inspection of a food vending vehicle more than twice per year unless the local authority, in collaboration with the Department under this act, is ensuring a mobile food vendor has corrected a violation detected during a prior inspection, is investigating a reported foodborne illness, or is conducting a nonobstructive spot inspection to ensure food safety;

11. Charge a mobile food vendor fees for additional health inspections;

12. Charge a mobile food vendor fees for any local license or permit allowed under Section 3 of this act beyond the administrative cost of issuing the local license or permit;

13. Require a mobile food vendor to submit to a state fire inspection if the vendor can demonstrate it passed a state fire inspection in the previous twelve (12) months;

14. Require a mobile food vendor to enter into any agreement with a commercial establishment or restaurant;

15. Regulate the equipment requirements for a food vending vehicle; or

16. Require a mobile food vendor to associate with a commissary if the vendor has all the equipment necessary to comply with state regulations pertaining to food vending vehicles.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1152 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any mobile food vendor who has been notified of a possible suspension or revocation of his or her state license may request an administrative hearing in accordance with the Administrative Procedures Act and rules promulgated by the State Commissioner of Health.

B. The State Department of Health may issue civil penalties to a person who operates as a mobile food vendor without a license, with a suspended license, or after a license is revoked.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1153 of Title 63, unless there is created a duplication in numbering, reads as follows:

A person aggrieved by a decision of the State Department of Health following a hearing has the right to appeal the decision as provided in the Administrative Procedures Act and rules promulgated by the State Commissioner of Health.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1154 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. This act shall not be construed to require a local authority to adopt a program regulating mobile food vendors or to modify its existing program regulating mobile food vendors; provided, the regulations do not conflict with this act.

B. This act shall not be construed to impede the State Department of Health or local authority in any investigation of a reported foodborne illness.

SECTION 7. AMENDATORY 63 O.S. 2021, Section 1-1101, is amended to read as follows:

Section 1-1101. For the purposes of this ~~article~~ section:

~~(a) The term "food" means (1) articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article~~

1. The term "food" means:

- a. articles used for food or drink for human consumption,
- b. chewing gum, and
- c. articles used for components of any such article.

~~(b)~~ 2. The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a

requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible through the outside container or wrapper.

~~(e)~~ 3. The term "immediate container" does not include package liners.

~~(d)~~ ~~The term "labeling" means all labels and other written, printed or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article~~

4. The term "labeling" means all labels and other written, printed or graphic matter:

a. upon an article or any of its containers or wrappers,
or

b. accompanying such article.

~~(e)~~ 5. If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates, under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual.

~~(f)~~ 6. The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food.

~~(g)~~ 7. The term "contaminated with filth" applies to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

~~(h)~~ 8. The provisions of this article regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food establishment.

~~(i)~~ 9. The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act.

10. The term "mobile food establishment" means a facility including a trailer, that prepares food and beverages, is vehicle mounted, is road-approved by the Department of Transportation including wheels and axles, is readily movable, and remains at one physical address for no more than twelve (12) hours at one time, unless the mobile food establishment is operating on private property. A mobile food establishment operating on private property may remain at one physical address for no more than fourteen (14) days.

11. The term "mobile push cart" means a non-self-propelled food unit that can be manually moved by an average person without being vehicle mounted.

12. The term "mobile retail food establishment" means a licensed enterprise which sells packaged foods from a stationary display at a location some distance from the establishment but still at the same physical address for no more than twelve (12) hours; provided, the licensed unit is on the premises and readily available for inspection and the food has been prepared in a facility that is regulated by the good manufacturing practices in Title 21 of the Code of Federal Regulations or pursuant to Section 310:260 of the Oklahoma Administrative Code, Good Manufacturing Practice Regulations, Oklahoma Department of Agriculture, Food, and Forestry, and United States Department of Agriculture, or this act.

13. The term "mobile food vendor" means any person who dispenses food or beverages from a mobile food establishment, mobile push cart, or mobile retail food establishment.

14. The term "mobile food vending" means dispensing food or beverages from a food vending vehicle.

15. The term "food vending vehicle" means a mobile food establishment, mobile push cart, or mobile retail food establishment.

16. The term "local authority" means any local government including any town, city, charter city, political subdivision, or county.

17. The term "public property" means any property owned and operated by this state or a local authority for the benefit of the public and includes all rights-of-way contained wholly within any state or local authority parks.

18. The term "temporary mass gathering" means an actual or reasonably anticipated assembly of three hundred (300) or more people for an event that continues, or reasonably can be expected to continue, for two (2) or more hours per day.

19. The term "nonobstructive spot inspection" means an inspection of a mobile food establishment at a temporary mass gathering that is conducted, if practicable, before the start of the temporary mass gathering and that does not exceed ten (10) minutes in length if conducted during a high-traffic time of the gathering.

SECTION 8. AMENDATORY 63 O.S. 2021, Section 1-1118, as last amended by Section 135, Chapter 452, O.S.L. 2024 (63 O.S. Supp. 2024, Section 1-1118), is amended to read as follows:

Section 1-1118. A. It shall be unlawful for any person to operate or maintain any establishment, stationary or otherwise, where food or drink is offered for sale, or sold, to the public, unless the person is the holder of a food establishment license issued for such purpose by the State Commissioner of Health or designee. A mobile food vendor that seeks to operate in a county that is governed by a city-county health department shall obtain a food establishment license from the local authority. This food establishment license shall be recognized by the State Commissioner of Health and all local authorities as a state food establishment license for purposes of this title. A food establishment license shall permit the mobile food vendor to operate in any local authority's jurisdiction upon the local authority's recognition of the license, the issuance of any relevant local license, and the vendor's compliance with all other municipal provisions not in conflict with this act. A food establishment license shall not be required for:

1. A produce stand that offers only whole, uncut and unprocessed fresh fruits, melons, vegetables and legumes and/or whole uncracked and unprocessed nuts;

2. A manufacturer, wholesaler or broker of food licensed pursuant to Section 1-1119 of this title;

3. A kitchen in a private home if only food that does not require time and temperature control for safety is prepared for sale or service at a function such as a nonprofit civic, charitable or religious organization's bake sale;

4. An area where food that is prepared as specified in paragraph 3 of this subsection is sold or offered for human consumption;

5. A private home that receives catered or home-delivered food;

6. A hotel licensed pursuant to Section 1-1201 of this title which provides limited food service in compliance with rules promulgated by the State Commissioner of Health;

7. A kitchen in a private home or in a bed and breakfast that prepares and offers food to guests, if the home is owner-occupied, the number of available guest bedrooms does not exceed four, and breakfast is the only meal offered;

8. A nonprofit civic, charitable or religious organization using unpaid individuals to prepare or serve food on its behalf, for occasional fundraising events sponsored and conducted by the organization. For the purposes of this paragraph, an "~~occasional fund-raising~~ fundraising event" shall be defined as an event that occurs four times a year or less;

9. Day care centers or family day care centers, and all other child care facilities as defined and licensed pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act;

10. Nursing facilities and specialized facilities, as defined in and licensed pursuant to the provisions of the Nursing Home Care Act, residential care homes as defined by the Residential Care Act, adult day care centers as defined by the Adult Day Care Act, and assisted living centers and continuum of care facilities licensed pursuant to the Continuum of Care and Assisted Living Act;

11. Vendors at farmers markets selling frozen meat that is either kept refrigerated or on ice; and

12. Other establishments exempted from food establishment licensure pursuant to state law.

B. Each license shall expire one (1) year following the date of its issuance. The State Department of Health shall charge and collect for each such license an annual fee to be fixed by the State Commissioner of Health by rule or as provided for in this section.

1. The Commissioner may provide by rule for a fee-exempt license for a food establishment operated by a nonprofit, civic, charitable or religious organization that uses unpaid persons to sell or offer food on a more frequent basis than the occasional fundraising event. A fee-exempt license shall not expire but shall remain in full force and effect until affirmatively revoked, suspended, annulled or withdrawn by the Department in accordance with applicable law.

2. The Commissioner may by rule also provide that licenses for establishments serving events of limited duration or operating on a seasonal basis shall extend only for the term of the event or season, and may by rule adjust the fees for such licenses accordingly.

3. The Commissioner shall provide by rule a three-day license for vendors who only sell at farmers markets as defined in 310:257-1-2 of the Oklahoma Administrative Code or at county fairs. Licenses for vendors who only sell at farmers markets or county fairs shall not exceed Fifty Dollars (\$50.00). Vendors who do not sell food and vendors who meet the exceptions provided in subsection A of this section shall not be required to obtain a three-day license or a food establishment license.

4. The Commissioner shall provide by rule a multiseasonal license for snow cone stands that sell hot beverages in addition to snow cones. A snow cone stand that does not sell hot beverages shall be considered a seasonal food establishment.

C. The State Commissioner of Health shall promulgate reasonable standards and rules for sanitation of establishments required to be licensed, which shall include the following: buildings, vehicles, and appurtenances thereto, including plumbing, ventilation and

lighting; construction, cleanliness and bactericidal treatment of equipment and utensils; cleanliness, wholesomeness, storage and refrigeration of food and drink sold or served; cleanliness and hygiene of personnel; toilet facilities; disposal of waste; water supply; and other items deemed necessary to safeguard the health, comfort, and safety of customers.

SECTION 9. This act shall become effective November 1, 2025.

Passed the House of Representatives the 13th day of March, 2025.

Presiding Officer of the House
of Representatives

Passed the Senate the 29th day of April, 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____