

1 ENGROSSED HOUSE
2 BILL NO. 1055

By: Bush, McEntire and Waldron
of the House

3 and

4 McCortney of the Senate
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7 An Act relating to sellers of food; defining terms;
8 creating and requiring certain permit; specifying
9 location; setting forth criteria for food and
10 beverages to be sold; requiring certain features;
11 setting forth certain provisions related to
12 sanitation and security; requiring certain routine
13 service; requiring certain signage; assigning certain
responsibilities to permit holder and providing for
certain agreement; directing State Department of
Health to establish certain fees; requiring sales tax
permit and collection of sales tax; providing for
promulgation of rules; providing for codification;
and declaring an emergency.

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

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-1118.1 of Title 63, unless
19 there is created a duplication in numbering, reads as follows:

20 A. As used in this section:

21 1. "Unattended food establishment" means an operation that
22 provides packaged foods or whole fruit using an automated payment
23 system and has controlled entry not accessible by the general
24 public. An unattended food establishment shall not be considered a

1 food establishment as used in Section 1-1118 of Title 63 of the
2 Oklahoma Statutes; and

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

5 B. The State Department of Health shall create a permit for
6 unattended food establishments and establish criteria and a
7 procedure for approval or denial of such permits. No unattended
8 food establishment shall operate until the establishment has
9 obtained a permit.

10 C. The unattended food establishment shall be located in the
11 interior of a building that is not accessible by the general public.
12 Access to the establishment shall be limited to a defined
13 population, including but not limited to employees or occupants of
14 the building where the establishment is located.

15 D. 1. Only commercially packaged foods properly labeled for
16 individual retail sale, which meet the definition of "packaged and
17 labeled" under Section 3-201.11(C) of the Food and Drug
18 Administration (FDA) Food Code, shall be offered.

19 2. No unpackaged food shall be permitted except as provided by
20 Section 3-302.11(B)(1) of the FDA Food Code.

21 3. Food shall be such that preparation by consumers is limited
22 to heating or reheating food in a microwave oven.

23 4. No bulk food may be offered for sale.

24 5. Beverages may be dispensed by individual serving only.

1 E. An unattended food establishment shall be equipped with
2 refrigeration or freezer units that have the following features:

3 1. Self-closing doors that allow food to be viewed without
4 opening the door to the refrigerated cooler or freezer; and

5 2. Automatic self-locking mechanism that prevents the consumer
6 from accessing the food upon the occurrence of any condition that
7 results in the failure of the refrigeration unit to maintain the
8 internal product temperature specified under Section 3-501.16(A) of
9 the FDA Food Code; or

10 3. Freezer unit to maintain the product frozen, if the
11 establishment contains frozen food.

12 F. 1. Multi-use, food-contact surfaces shall be cleaned on the
13 frequency consistent with the service under Section 4-202.11 of the
14 FDA Food Code, or shall be easily removable and replaced with
15 cleaned surfaces.

16 2. No multi-use food-contact surfaces shall be used for foods
17 that require time and temperature control for safety (TCS).

18 G. 1. a. An unattended food establishment shall provide
19 continuous video surveillance of areas where consumers
20 view, select, handle and purchase products that
21 provides sufficient resolution to identify situations
22 that may compromise food safety or food defense.

23 b. Video surveillance recordings shall be maintained and
24 made available for inspection upon request by a

1 representative of the State Department of Health or
2 another applicable regulatory agency within twenty-
3 four (24) hours of such request.

4 c. Video surveillance recordings shall be held by the
5 establishment for a minimum of fourteen (14) calendar
6 days after the date of the surveillance.

7 2. The permit holder shall take reasonable steps necessary to
8 discourage individuals from returning food or beverages that have
9 not been selected for purchase.

10 H. 1. The permit holder shall service the unattended food
11 establishment on a scheduled basis and at a frequency acceptable to
12 the State Department of Health. Service may include, but is not
13 limited to, the following:

- 14 a. checking food supplies and equipment for signs of
- 15 product damage and tampering,
- 16 b. verifying refrigeration equipment is operating
- 17 properly, including the temperature display and self-
- 18 locking mechanism,
- 19 c. rotating foods to better ensure first-in/first-out of
- 20 food items,
- 21 d. cleaning food service equipment and food display
- 22 areas,
- 23 e. stocking food and disposable single-use and single-
- 24 service supplies, and

1 f. checking inventory for recalled foods.

2 2. The permit holder shall ensure that:

3 a. food is from an approved source,

4 b. packaged food is provided in tamper-evident packaging,

5 c. food is protected from potential sources of cross-
6 contamination, and

7 d. food is maintained at safe temperatures during
8 transport and display.

9 I. The unattended food establishment shall have a sign readily
10 visible at the automated payment station stating:

11 1. The name and mailing address of the business entity
12 responsible for the establishment and to whom complaints and
13 comments should be addressed; and

14 2. The telephone, email or web information for the responsible
15 business entity, when applicable.

16 J. The permit holder bears all responsibilities for the
17 operation of the unattended food establishment. If the permit
18 holder is not the owner or operator of the building where the food
19 establishment is located, a mutual agreement may be approved by the
20 State Department of Health that outlines the responsibilities for
21 cleaning and maintenance of all surfaces and equipment, provision of
22 supportive facilities or services such as janitorial and restroom
23 facilities, pest control and removal of solid waste. This agreement
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1 shall also outline what actions must be taken by both parties to
2 maintain the establishment in compliance with all requirements.

3 K. The State Department of Health shall establish an annual fee
4 structure for unattended food establishments, not to exceed One
5 Hundred Fifty Dollars (\$150.00) per location.

6 L. An unattended food establishment shall obtain an Oklahoma
7 sales tax permit prior to conducting any sales, and shall collect
8 and remit state sales tax as provided for in the Sales Tax Code.

9 M. The State Commissioner of Health shall promulgate such rules
10 as are necessary to implement the provisions of this section.

11 SECTION 2. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 Passed the House of Representatives the 13th day of March, 2019.

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Presiding Officer of the House
of Representatives

19 Passed the Senate the ____ day of _____, 2019.

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Presiding Officer of the Senate