

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE
5 BILL NO. 854

 By: Dahm, Hamilton and
 Bergstrom of the Senate

6 and

7 Crosswhite Hader of the
8 House

9
10 [home food processing - Home Bakery Act of 2013 -
11 Home Food Processing Act - effective date]

12
13 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

14 SECTION 1. AMENDATORY Section 1, Chapter 40, O.S.L.
15 2013, as renumbered by Section 3, Chapter 85, O.S.L. 2017 (2 O.S.
16 Supp. 2020, Section 5-4.1), is amended to read as follows:

17 Section 5-4.1. This act shall be known and may be cited as the
18 "Home ~~Bakery~~ Food Processing Act ~~of 2013~~".

19 SECTION 2. AMENDATORY Section 2, Chapter 40, O.S.L.
20 2013, as amended by Section 1, Chapter 85, O.S.L. 2017, and as
21 renumbered by Section 4, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2020,
22 Section 5-4.2), is amended to read as follows:

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

1 1. "Department" means the Oklahoma Department of Agriculture,
2 Food, and Forestry;

3 2. "Home food establishment" shall mean means a business on the
4 premises of a residence in which prepared non-time/non-temperature
5 control for safety food is created for sale or resale at farmers
6 markets, on site, at cooperatives, through membership-based buying
7 clubs, at retail establishments, at restaurants or for delivery, if
8 the business has gross annual sales of prepared non-time/non-
9 temperature control for safety food of less than Twenty Thousand
10 Dollars (\$20,000.00) One Hundred Thousand Dollars (\$100,000.00).
11 Gross annual sales includes all sales of prepared food produced by
12 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~~ 3. "Non-
15 time/non-temperature control for safety food" means a food product
16 that is not time/temperature control for safety food including, but
17 not limited to, baked goods, jams and jellies, candies, dried mixes,
18 spices, some sauces and liquids, pickles and acidified foods; and

19 4. "Time/temperature control for safety food" means a food that
20 requires time/temperature control for safety to limit pathogenic
21 microorganism growth or toxin formation including but not limited to
22 refrigerated or frozen products, low-acid canned foods, dairy
23 products, seafood products and bottled water, and:

24

1 a. time/temperature control for safety food includes an
2 animal food, meaning a food of animal origin, that is
3 raw or heat-treated, a food of plant origin that is
4 heat-treated or consists of raw seed sprouts, cut
5 melons, cut leafy greens, cut tomatoes or mixtures of
6 cut tomatoes that are not modified in a way so that
7 they are unable to support pathogenic microorganism
8 growth or toxic formation, or garlic-in-oil mixtures
9 that are not modified in a way that results in
10 mixtures that do not support growth or toxin
11 formulation, and

12 b. time/temperature control for safety food does not
13 include an air-cooled hard-boiled egg with shell
14 intact, or a shell egg that is not hard-boiled, but
15 has been treated to destroy all viable Salmonellae, a
16 food with a water activity (aw) value of 0.85 or less,
17 a food with a potential of Hydrogen (pH) level of 4.6
18 or below when measured at twenty-four degrees Celsius
19 (24°C) or seventy-five degrees Fahrenheit (75°F), a
20 food, in an unopened hermetically sealed container,
21 that is commercially processed to achieve and maintain
22 commercial sterility under conditions of non-
23 refrigerated storage and distribution, a food for
24 which laboratory evidence demonstrates that the rapid

1 and progressive growth of infectious or toxigenic
2 microorganisms or the growth of S. Enteritidis in eggs
3 or C. botulinum cannot occur, such as a food that has
4 an aw and a pH that are above the levels identified in
5 this definition and that may contain a preservative,
6 other barrier to the growth of microorganisms, or a
7 combination of barriers that inhibit the growth of
8 microorganisms, or a food that does not support the
9 growth of microorganisms, even though the food may
10 contain an infectious or toxigenic microorganism or
11 chemical or physical contaminant at a level sufficient
12 to cause illness.

13 SECTION 3. AMENDATORY Section 3, Chapter 40, O.S.L.

14 2013, as amended by Section 2, Chapter 85, O.S.L. 2017, and as
15 renumbered by Section 5, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2020,
16 Section 5-4.3), is amended to read as follows:

17 Section 5-4.3. A. A home food establishment may sell prepared
18 non-time/non-temperature control for safety food on site, by
19 delivery, at a farmers market, through a cooperative, at retail
20 establishments, at restaurants or through a membership-based buying
21 club. ~~The Oklahoma Department of Agriculture, Food, and Forestry~~
22 may promulgate rules to allow sales at other locations or by other
23 means.

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

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

6 SECTION 4. AMENDATORY Section 4, Chapter 40, O.S.L.
7 2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S.
8 Supp. 2020, Section 5-4.4), is amended to read as follows:

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

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

19 The following statement printed in at least 10-point type in a
20 color that provides a clear contrast to the background of the label:
21 "Made in a home food establishment that is not licensed by the State
22 Department of Health."
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1 SECTION 5. AMENDATORY Section 5, Chapter 40, O.S.L.
2 2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S.
3 Supp. 2020, Section 5-4.5), is amended to read as follows:

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

7 SECTION 6. AMENDATORY Section 6, Chapter 40, O.S.L.
8 2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S.
9 Supp. 2020, Section 5-4.6), is amended to read as follows:

10 Section 5-4.6. Nothing in the Home ~~Bakery~~ Food Processing Act
11 ~~of 2013~~ shall be construed to prevent counties from enacting
12 ordinances regulating the operation of home food establishments,
13 provided such ordinances do not conflict with the provisions of the
14 Home ~~Bakery~~ Food Processing Act ~~of 2013~~.

15 SECTION 7. This act shall become effective November 1, 2021.

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17 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/07/2021 -
18 DO PASS, As Amended and Coauthored.

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