

1 **SENATE FLOOR VERSION**

February 8, 2021

2 **AS AMENDED**

3 SENATE BILL NO. 854

By: Dahm

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5
6 **[home food processing - Home Bakery Act of 2013 -**
7 **Home Processing Act - effective date]**
8

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

10 SECTION 1. AMENDATORY Section 1, Chapter 40, O.S.L.
11 2013, as renumbered by Section 3, Chapter 85, O.S.L. 2017 (2 O.S.
12 Supp. 2020, Section 5-4.1), is amended to read as follows:

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

15 SECTION 2. AMENDATORY Section 2, Chapter 40, O.S.L.
16 2013, as amended by Section 1, Chapter 85, O.S.L. 2017, and as
17 renumbered by Section 4, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2020,
18 Section 5-4.2), is amended to read as follows:

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

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

23 2. "Home food establishment" shall mean means a business on the
24 premises of a residence in which ~~prepared~~ non-time/non-temperature

1 control for safety food is created for sale or resale at farmers
2 markets, on site, at cooperatives, through membership-based buying
3 clubs, at retail establishments, at restaurants or for delivery, if
4 the business has gross annual sales of prepared non-time/non-
5 temperature control for safety food of less than ~~Twenty Thousand~~
6 ~~Dollars (\$20,000.00) One Hundred Thousand Dollars (\$100,000.00).~~

7 Gross annual sales includes all sales of prepared food produced by
8 the business at any location; and

9 2. ~~“Prepared food” shall mean any baked goods except for~~
10 ~~products that contain meat products or fresh fruit~~ 3. “Non-
11 time/non-temperature control for safety food” means a food product
12 that is not time/temperature control for safety food including, but
13 not limited to, baked goods, jams and jellies, candies, dried mixes,
14 spices, some sauces and liquids, pickles and acidified foods; and

15 4. “Time/temperature control for safety food” means a food that
16 requires time/temperature control for safety to limit pathogenic
17 microorganism growth or toxin formation including but not limited to
18 refrigerated or frozen products, low-acid canned foods, dairy
19 products, seafood products, and bottled water, and:

20 a. time/temperature control for safety food includes an
21 animal food, meaning a food of animal origin, that is
22 raw or heat-treated, a food of plant origin that is
23 heat-treated or consists of raw seed sprouts, cut
24 melons, cut leafy greens, cut tomatoes or mixtures of

1 cut tomatoes that are not modified in a way so that
2 they are unable to support pathogenic microorganism
3 growth or toxic formation, or garlic-in-oil mixtures
4 that are not modified in a way that results in
5 mixtures that do not support growth or toxin
6 formulation, and

7 b. time/temperature control for safety food does not
8 include an air-cooled hard-boiled egg with shell
9 intact, or a shell egg that is not hard-boiled, but
10 has been treated to destroy all viable Salmonellae, a
11 food with a water activity (aw) value of 0.85 or less,
12 a food with a potential of Hydrogen (pH) level of 4.6
13 or below when measured at twenty-four degrees Celsius
14 (24°C) or seventy-five degrees Fahrenheit (75°F), a
15 food, in an unopened hermetically sealed container,
16 that is commercially processed to achieve and maintain
17 commercial sterility under conditions of non-
18 refrigerated storage and distribution, a food for
19 which laboratory evidence demonstrates that the rapid
20 and progressive growth of infectious or toxigenic
21 microorganisms or the growth of S. Enteritidis in eggs
22 or C. botulinum cannot occur, such as a food that has
23 an aw and a pH that are above the levels identified in
24 this definition and that may contain a preservative,

1 other barrier to the growth of microorganisms, or a
2 combination of barriers that inhibit the growth of
3 microorganisms, or a food that does not support the
4 growth of microorganisms, even though the food may
5 contain an infectious or toxigenic microorganism or
6 chemical or physical contaminant at a level sufficient
7 to cause illness.

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

9 2013, as amended by Section 2, Chapter 85, O.S.L. 2017, and as
10 renumbered by Section 5, Chapter 85, O.S.L. 2017 (2 O.S. Supp. 2020,
11 Section 5-4.3), is amended to read as follows:

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

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

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

1 SECTION 4. AMENDATORY Section 4, 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 5-4.4), is amended to read as follows:

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

- 8 1. The name ~~and~~, address and telephone number or web address of
9 the home food establishment;
- 10 2. The name of the prepared food; ~~and~~
- 11 3. Batch code documentation with matching records maintained on
12 file at the home food establishment; and
- 13 4. A list of ingredients.

14 The following statement printed in at least 10-point type in a
15 color that provides a clear contrast to the background of the label:
16 "Made in a home food establishment that is not licensed by the State
17 Department of Health."

18 SECTION 5. AMENDATORY Section 5, Chapter 40, O.S.L.
19 2013, as renumbered by Section 6, Chapter 85, O.S.L. 2017 (2 O.S.
20 Supp. 2020, Section 5-4.5), is amended to read as follows:

21 Section 5-4.5. Violation of Section 4 5-4.4 of ~~the Home Bakery~~
22 ~~Act of 2013~~ this title shall be a misdemeanor and shall be
23 punishable by a fine not exceeding One Hundred Dollars (\$100.00).
24

1 SECTION 6. AMENDATORY Section 6, 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 5-4.6), is amended to read as follows:

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
11 February 8, 2021 - DO PASS AS AMENDED
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