

1 **SENATE FLOOR VERSION**

2 April 4, 2019

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 1055

6 By: Bush, McEntire and Waldron  
7 of the House

8 and

9 McCortney of the Senate

10 **[ sellers of food - permit - criteria for food and  
11 beverages to be sold - sanitation and security - fees  
12 - sales tax - codification -**

13 **emergency ]**

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

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

18 A. As used in this section:

19 1. "Unattended food establishment" means an operation that  
20 provides packaged foods or whole fruit using an automated payment  
21 system and has controlled entry not accessible by the general  
22 public. An unattended food establishment shall not be considered a  
23 food establishment as used in Section 1-1118 of Title 63 of the  
24 Oklahoma Statutes; and

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

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

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

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

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

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

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

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

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

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

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

8           3. Freezer unit to maintain the product frozen, if the  
9 establishment contains frozen food.

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

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

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

21                   b. Video surveillance recordings shall be maintained and  
22                   made available for inspection upon request by a  
23                   representative of the State Department of Health or  
24

1 another applicable regulatory agency within twenty-  
2 four (24) hours of such request.

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

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

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

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

1       2. The permit holder shall ensure that:

2           a. food is from an approved source,

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

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

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

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

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

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

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

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

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

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
14 April 4, 2019 - DO PASS AS AMENDED  
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