



1 (a) The term "food" means:

2 (1) articles used for food or drink for man,

3 (2) chewing gum, and

4 (3) articles used for components of any such article.

5 (b) The term "label" means a display of written, printed or  
6 graphic matter upon the immediate container of any article; and a  
7 requirement made by or under authority of this article that any  
8 word, statement, or other information appearing on the label shall  
9 not be considered to be complied with unless such word, statement,  
10 or other information also appears on the outside container or  
11 wrapper, if there be any, of the retail package of such article, or  
12 is easily legible through the outside container or wrapper.

13 (c) The term "immediate container" does not include package  
14 liners.

15 (d) The term "labeling" means all labels and other written,  
16 printed or graphic matter:

17 (1) upon an article or any of its containers or wrappers, or

18 (2) accompanying such article.

19 (e) If an article is alleged to be misbranded because the  
20 labeling is misleading, or if an advertisement is alleged to be  
21 false because it is misleading, then in determining whether the  
22 labeling or advertisement is misleading there shall be taken into  
23 account (among other things) not only representations made or  
24 suggested by statement, word, design, device, sound, or in any

1 combination thereof, but also the extent to which the labeling or  
2 advertisement fails to reveal facts material in the light of such  
3 representations or material with respect to consequences which may  
4 result from the use of the article to which the labeling or  
5 advertisement relates, under the conditions of use prescribed in the  
6 labeling or advertisement thereof, or under such conditions of use  
7 as are customary or usual.

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

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

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

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

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1       (j) The term "mobile food establishment" means a facility,  
2 including a trailer, that prepares food and beverages, is vehicle  
3 mounted, is Department of Transportation road approved, including  
4 wheels and axles, is readily moveable and remains at one physical  
5 address for no more than twelve (12) hours at one time, unless the  
6 truck is operating on private property. A mobile food establishment  
7 operating on private property may remain at one physical address for  
8 no more than fourteen (14) days.

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

12       (l) The term "mobile retail food establishment" means a licensed  
13 unit which sells packaged foods from a stationary display at a  
14 location some distance from the unit but still at the same physical  
15 address for no more than twelve (12) hours, provided the licensed  
16 unit is on the premises and readily available for inspection and the  
17 food has been prepared in a facility that is regulated by the Good  
18 Manufacturing Practices in Title 21 of the Code of Federal  
19 Regulations or regulated as a license holder pursuant to Section  
20 310:260 of the Oklahoma Administrative Code, Good Manufacturing  
21 Practice Regulations, Oklahoma Department of Agriculture, Food and  
22 Forestry, and United States Department of Agriculture, or this act.

1       (m) The term "mobile food vendor" means any person who dispenses  
2 food or beverages from a mobile food establishment, mobile push cart  
3 or mobile retail food establishment.

4       (n) The term "mobile food vending" means dispensing food or  
5 beverages from a food vending vehicle.

6       (o) The term "food vending vehicle" means a mobile food  
7 establishment, mobile push cart or mobile retail food establishment.

8       (p) The term "local authority" means any local government,  
9 including any town, city, charter city, political subdivision or  
10 county.

11       (q) The term "public property" means any property owned and  
12 operated by this state or a local authority for the benefit of the  
13 public and includes all rights-of-way contained wholly within any  
14 state or local authority parks.

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

19       (s) The term "nonobstructive spot inspection" means an  
20 inspection of a mobile food establishment at a temporary mass  
21 gathering that is conducted, if practicable, before the start of the  
22 temporary mass gathering, and that does not exceed ten (10) minutes  
23 in length if conducted during a high-traffic time of the gathering.  
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1 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1118, as  
2 last amended by Section 1, Chapter 505, O.S.L. 2019 (63 O.S. Supp.  
3 2020, Section 1-1118), is amended to read as follows:

4 Section 1-1118. A. It shall be unlawful for any person to  
5 operate or maintain any establishment, stationary or otherwise,  
6 where food or drink is offered for sale, or sold, to the public,  
7 unless the person is the holder of a food establishment license  
8 issued for such purpose by the State Commissioner of Health or  
9 designee. A food establishment license shall not be required for:

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

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

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

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

22 5. A private home that receives catered or home-delivered food;  
23  
24

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

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

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

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

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

23       11. Other establishments exempted from food establishment  
24 licensure pursuant to state law.

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

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

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

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



1 section shall not be required to obtain a three-day license or a  
2 food establishment license.

3 C. The State Board of Health shall promulgate reasonable  
4 standards and rules for sanitation of establishments required to be  
5 licensed, which shall include the following: buildings, vehicles,  
6 and appurtenances thereto, including plumbing, ventilation and  
7 lighting; construction, cleanliness and bactericidal treatment of  
8 equipment and utensils; cleanliness, wholesomeness, storage and  
9 refrigeration of food and drink sold or served; cleanliness and  
10 hygiene of personnel; toilet facilities; disposal of waste; water  
11 supply; and other items deemed necessary to safeguard the health,  
12 comfort, and safety of customers.

13 SECTION 3. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1-1150 of Title 63, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. Mobile food vendors shall follow all state and local laws  
17 and regulations governing operations in the jurisdiction where the  
18 vendor is operating that are not in conflict with this section.

19 B. A mobile food vendor may operate in the following locations:

20 1. On public property, so long as the vending vehicle is not  
21 parked within twenty (20) feet of an intersection. A mobile food  
22 vendor may operate from legal parking spaces on the public right-of-  
23 way, including metered spaces, upon payment of appropriate fees.

24 When operating on public property, a mobile food vendor is subject

1 to the same parking rules, restrictions and obligations as other  
2 commercial vehicles; and

3 2. On private property under the following circumstances:

4 a. the property is located in a zoning district where  
5 food service establishments are permitted to operate  
6 and the vendor has permission of the property owner,  
7 designee or lessor, and

8 b. the property is located in a residential zoning  
9 district and the mobile food vendor has been invited  
10 by a resident or group of residents in that district  
11 to operate on their property for the purpose of  
12 serving food to that resident, group of residents or  
13 their guests.

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

17 D. When operating, a mobile food vendor shall:

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

19 2. Provide a waste receptacle for customers which is visible  
20 and request its use by customers;

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

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

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

8           E. The State Department of Health may promulgate rules to  
9 enforce the provisions of this section. Rules adopted shall not:

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

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

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

19           4. Limit the number of licensed mobile food vendors;

20           5. Require a mobile food vendor to obtain any additional  
21 permits from a local authority unless the mobile food vendor seeks  
22 to operate at an event sponsored by a local authority or in a local,  
23 public park;

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1           6.   Require a mobile food vendor to be fingerprinted or to  
2 install a GPS tracking device on the vendor's vehicle;

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

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

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

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

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

21          12.  Require a health inspection of a food vending vehicle more  
22 than twice per year unless the Department is ensuring a mobile food  
23 vendor has corrected a violation detected during a prior inspection,  
24

1 is investigating a reported foodborne illness or is conducting a  
2 nonobstructive spot inspection to ensure food safety;

3 13. Charge a mobile food vendor fees for a health inspection;  
4 and

5 14. Require a mobile food vendor to submit to a state or local  
6 fire inspection if the vendor can demonstrate it passed a state or  
7 local fire inspection in the previous year.

8 SECTION 4. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1-1151 of Title 63, unless there  
10 is created a duplication in numbering, reads as follows:

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

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

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

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

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

1 5. Investigate reports of foodborne illnesses;

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

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

6 B. In relation to a state-licensed mobile food vendor's  
7 operations, a local authority may not:

8 1. Prohibit a mobile food vendor from lawfully operating in its  
9 jurisdiction if the vendor holds a food establishment license and is  
10 in compliance with all other state laws and local laws not in  
11 conflict with this act;

12 2. Require a mobile food vendor to obtain any license or permit  
13 from a local authority to operate a food vending vehicle unless the  
14 mobile food vendor seeks to operate at an event sponsored by the  
15 local authority or in a local, public park;

16 3. Restrict the duration of time a mobile food vendor may  
17 operate on private property in a district where food vending is  
18 permitted unless the mobile food vendor is in violation of this act;

19 4. Require a mobile food vendor to operate a specific distance  
20 from commercial food or retail establishments or to enter into any  
21 agreement with commercial food or retail establishments;

22 5. Require a mobile food vendor to be fingerprinted or to  
23 install a Global Positioning System (GPS) tracking device on its  
24 vehicle;

- 1       6. Require a mobile food vendor to stay in constant motion  
2 except for when serving customers;
- 3       7. Require a mobile food vendor to change locations unless the  
4 vendor is operating in violation of this act;
- 5       8. Require a mobile food vendor to maintain an insurance policy  
6 that names the local authority as an additional insured unless the  
7 vendor is attending an event sponsored by the local authority or  
8 operating in a local, public park;
- 9       9. Require a mobile food vendor to maintain a bond that names a  
10 local authority as a beneficiary unless the vendor is attending an  
11 event sponsored by the local authority or operating in a local,  
12 public park;
- 13       10. Require a mobile food vendor to submit to health  
14 inspections beyond health inspections conducted by or in  
15 collaboration with the Department, unless the local authority is  
16 investigating a reported foodborne illness or addressing a complaint  
17 of an imminent health or safety hazard to the public;
- 18       11. Require a health inspection of a food vending vehicle more  
19 than twice per year unless the local authority, in collaboration  
20 with the Department under this act, is ensuring a mobile food vendor  
21 has corrected a violation detected during a prior inspection, is  
22 investigating a reported foodborne illness or is conducting a  
23 nonobstructive spot inspection to ensure food safety;
- 24       12. Charge a mobile food vendor fees for a health inspection;

1       13. Require a mobile food vendor to submit to a state or local  
2 fire inspection if the vendor can demonstrate it passed a state or  
3 local fire inspection in the previous year;

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

6       15. Regulate the equipment requirements for a food vending  
7 vehicle; and

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

11       SECTION 5.       NEW LAW       A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-1152 of Title 63, unless there  
13 is created a duplication in numbering, reads as follows:

14       A. Any mobile food vendor who has been notified of a possible  
15 suspension or revocation of his or her license may request an  
16 administrative hearing in accordance with the Administrative  
17 Procedures Act and the State Department of Health's rules.

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

21       SECTION 6.       NEW LAW       A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-1153 of Title 63, unless there  
23 is created a duplication in numbering, reads as follows:



1 A person aggrieved by an agency decision following a hearing has  
2 the right to appeal the decision in accordance with the  
3 Administrative Procedures Act and the State Department of Health's  
4 rules.

5 SECTION 7. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-1154 of Title 63, unless there  
7 is created a duplication in numbering, reads as follows:

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

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

15 SECTION 8. This act shall become effective November 1, 2021.

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17 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/24/2021 -  
18 DO PASS, As Coauthored.

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