

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 1038

By: Dahm

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5
6 AS INTRODUCED

7 An Act relating to homemade food; creating the
8 Oklahoma Food Freedom Act; providing short title;
9 defining terms; exempting certain homemade food
10 products from state licensure, permitting,
11 inspection, packaging, and labeling requirements;
12 providing for transactions; prohibiting the sale of
13 meat products with exceptions; prohibiting sale of
14 food to commercial food establishments; authorizing
15 the sale of products in certain retail spaces under
16 certain conditions; requiring producer to provide
17 information to the consumer; stating the act shall
18 not be construed to impede certain investigations,
19 change requirements for livestock brand or animal
20 health inspections, or preclude state agency
21 assistance at the request of the producer; stating
22 the act shall not be construed to prohibit other food
23 sales in compliance with statutes; authorizing the
24 Oklahoma Department of Agriculture, Food, and
Forestry to promulgate rules; providing for
codification; and declaring an emergency.

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

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 5-5.1 of Title 2, unless there
22 is created a duplication in numbering, reads as follows:

23 This act shall be known and may be cited as the "Oklahoma Food
24 Freedom Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5-5.2 of Title 2, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Oklahoma Food Freedom Act:

5 1. "Delivery" shall mean the transfer of a product resulting
6 from a transaction between a producer and an informed end consumer.
7 The delivery may occur by the producer's designated agent at a farm,
8 ranch, farmers market, home, office, or any location agreed to
9 between the producer and the informed end consumer;

10 2. "Home consumption" shall mean food products consumed within
11 a private home, or food from a private home that is only consumed by
12 family members, employees, or nonpaying guests;

13 3. "Homemade" shall mean food that is prepared or processed in
14 a private home kitchen, that is not licensed, inspected, or
15 regulated;

16 4. "Informed end consumer" shall mean a person who is the last
17 person to purchase any product, who does not resell the product, and
18 who has been informed that the product is not licensed, regulated,
19 or inspected;

20 5. "Process" shall mean operations a producer performs in the
21 making or treatment of the producer's food or drink products;

22 6. "Producer" shall mean any person who grows, harvests,
23 prepares, or processes any food or drink products on the person's
24 owned or leased property; and

1 7. "Transaction" shall mean the exchange of buying and selling.

2 SECTION 3. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 5-5.3 of Title 2, unless there
4 is created a duplication in numbering, reads as follows:

5 A. Homemade food products produced, sold, and consumed in
6 compliance with the Oklahoma Food Freedom Act shall be exempt from
7 state licensure, permitting, inspection, packaging, and labeling
8 requirements, except as otherwise provided in this act.

9 B. Transactions under this act shall:

10 1. Be directly between the producer and the informed end
11 consumer;

12 2. Only be for home consumption;

13 3. Occur only in this state;

14 4. Not involve interstate commerce;

15 5. Not involve the sale of meat products, except:

16 a. the sale of poultry products, provided:

17 (1) the producer slaughters no more than one thousand
18 (1,000) poultry of their own raising on their own
19 farm during any one (1) calendar year,

20 (2) the producer does not engage in buying or selling
21 poultry products other than those produced from
22 poultry of their own raising on their own farm,
23 and

1 (3) the poultry product is not adulterated or
2 misbranded,

3 b. the sale of live animals,

4 c. the sale of portions of live animals before slaughter
5 for future delivery,

6 d. the sale of domestic rabbit meat, and

7 e. the sale of farm-raised fish, provided the fish is
8 raised in compliance with Section 6-311 et seq. of
9 Title 2 of the Oklahoma Statutes; and

10 6. Only occur at farmers markets, farms, ranches, producers'
11 homes or offices, or any location the producer and the informed end
12 consumer agree to.

13 C. Except for raw, unprocessed fruits and vegetables, food
14 shall not be sold or used in any commercial food establishment
15 unless the food has been labeled, licensed, packaged, regulated, or
16 inspected as required by law.

17 D. The provisions of the Oklahoma Food Freedom Act shall not
18 prohibit the sale of homemade food for home consumption from a
19 retail space located at the ranch, farm, or home where the food is
20 produced. A retail space selling homemade food under the provisions
21 of the Oklahoma Food Freedom Act shall inform the end consumer that
22 the homemade food has not been inspected and shall display a sign
23 indicating that the homemade food has not been inspected. If the
24 retail space is in any way associated with a commercial food

1 establishment or offers for sale any inspected product, the retail
2 space selling homemade food shall comply with rules adopted by the
3 Oklahoma Department of Agriculture, Food, and Forestry which shall
4 require:

5 1. That the retail space be physically separated from the
6 commercial food establishment with a separate door and separate cash
7 register or point of sale;

8 2. That each separate space shall include signs or other
9 markings clearly indicating which spaces are offering inspected
10 items for sale and which spaces are uninspected;

11 3. Coolers, freezers, and warehouse or other storage areas
12 shall be separated to prohibit the intermingling of inspected and
13 uninspected products; and

14 4. Any other requirements specified by the Department to ensure
15 the sale of homemade foods is made to an informed end consumer.

16 E. The producer shall inform the end consumer that any food
17 product or food sold at a farmers market or through ranch, farm, or
18 home-based sales pursuant to the provisions of the Oklahoma Food
19 Freedom Act is not certified, labeled, licensed, packaged,
20 regulated, or inspected.

21 F. The provisions of the Oklahoma Food Freedom Act shall not be
22 construed to:

23 1. Impede the State Department of Health in any investigation
24 of foodborne illness;

1 2. Change the requirements for brand inspection or animal
2 health inspections; or

3 3. Preclude an agency from providing assistance, consultation,
4 or inspection, at the request of the producer.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5-5.4 of Title 2, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The provisions of the Oklahoma Food Freedom Act shall not be
9 construed to prevent the sale of prepared foods in compliance with
10 the Homemade Food Freedom Act.

11 B. The Oklahoma Department of Agriculture, Food, and Forestry
12 may promulgate rules to enforce the provisions of the Oklahoma Food
13 Freedom Act.

14 SECTION 5. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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