

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1076

By: Hildebrant

6 AS INTRODUCED

7 An Act relating to public health and safety;
8 authorizing the State Commissioner of Health to
9 promulgate rules; authorizing local authorities to
10 regulate mobile food vendors; allowing administrative
11 hearing upon suspension or revocation of certain
12 license; establishing penalties; providing appeals
13 process; amending 63 O.S. 2021, Section 1-1101, which
14 relates to definitions; defining terms; amending 63
15 O.S. 2021, Section 1-1118, as last amended by Section
135, Chapter 452, O.S.L. 2024 (63 O.S. Supp. 2024,
Section 1-1118), which relates to food establishment
license, exemptions, expiration license, fee-exempt
license, reasonable standards and rules for
sanitation; allowing mobile food vendors to operate
in certain locations; requiring mobile food vendors
operate in a certain manner; providing for
codification; and providing an effective date.

16
17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified

19 in the Oklahoma Statutes as Section 1-1150 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 A. A mobile food vendor with a food establishment license
22 required under Section 1-1118 of Title 63 of the Oklahoma Statutes
23 is authorized to operate in this state subject to this section.

1 Mobile food vendors shall follow all state and local laws and
2 regulations governing operations in the jurisdiction where the
3 vendor is operating that are not in conflict with this act.

4 B. A mobile food vendor with a food establishment license
5 required under Section 1-1118 of Title 63 of the Oklahoma Statutes
6 shall provide a copy of its state license to a local authority for
7 recognition by the local authority before operating in the local
8 authority's jurisdiction. The local authority shall recognize a
9 lawful and valid state license and authorize the mobile food vendor
10 to operate in its jurisdiction within five (5) business days of
11 receipt of the state license and verification of compliance with
12 local regulations not in conflict with this act. Such recognition
13 and authorization may include issuing a local license or permit to
14 the mobile food vendor. Any local license or permit issued shall
15 not impose additional requirements that conflict with this act.

16 C. Upon compliance with subsection B of this section, a mobile
17 food vendor may operate in the following locations:

18 1. Any location allowed by the local authority; and

19 2. On private property under the following circumstances:

20 a. the property is located in a zoning district where
21 food service establishments are permitted to operate
22 and the vendor has permission of the property owner,
23 designee, or lessor,

1 b. the property is located in a residential zoning
2 district and the mobile food vendor has been invited
3 by a resident or group of residents in that district
4 to operate on their property for the purpose of
5 serving food to that resident, group of residents, or
6 their guests; provided, that the operation of mobile
7 food vendors on the subject property not exceed twelve
8 (12) days per year, and

9 c. the mobile food vendor would not cause a nuisance.

10 D. A mobile food vendor shall not operate in any manner which
11 will interfere with or obstruct the free passage of pedestrians or
12 vehicles along any street, sidewalk, or parkway.

13 E. A mobile food vendor shall not operate in a state park
14 without having a contract or lease agreement approved by the
15 Oklahoma Tourism and Recreation Commission.

16 F. When operating, a mobile food vendor shall:

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

18 2. Provide a waste receptacle for customers that is visible and
19 request that customers use it;

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

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

1 5. If serving food at a temporary mass gathering, notify the
2 State Department of Health and the local authority in the
3 jurisdiction where the gathering is to be located of the dates the
4 mobile food vendor will operate at the temporary mass gathering at
5 least ten (10) business days prior to the gathering.

6 G. The State Commissioner of Health may promulgate rules to
7 enforce the provisions of this section. Rules adopted shall not:

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

11 2. Require a mobile food vendor that serves only prepackaged
12 food or that does not prepare or open food to have a handwashing
13 sink in the food vending vehicle;

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

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

18 5. Require a mobile food vendor to obtain any additional
19 permits from a local authority unless the mobile food vendor seeks
20 to operate at an event which is permitted by a local authority or in
21 a local, public park;

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

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

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

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

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

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

19 12. Require a health inspection of a food vending vehicle more
20 than twice per year unless the Department is ensuring a mobile food
21 vendor has corrected a violation detected during a prior inspection,
22 is investigating a reported foodborne illness, or is conducting a
23 nonobstructive spot inspection to ensure food safety;

1 13. Charge a mobile food vendor fees for a health inspection;
2 or

3 14. Require a mobile food vendor to submit to a state fire
4 inspection if the vendor can demonstrate it passed a state or local
5 fire inspection in the previous twelve (12) months.

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-1151 of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 A. The local authority may regulate mobile food vendors in
10 accordance with this section. In relation to a mobile food vendor's
11 operations, a local authority may:

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

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

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

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

23 5. Investigate reports of foodborne illnesses;

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

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

6 8. Adopt and enforce other regulations in conformity to
7 municipal powers that are not inconsistent with this act. Any
8 regulation regarding mobile food vendors must address public health
9 or safety risks.

10 B. In relation to a mobile food vendor's operations, a local
11 authority may not:

12 1. Prohibit a mobile food vendor from lawfully operating in its
13 jurisdiction if the vendor holds a food establishment license
14 required under Section 1-1118 of Title 63 of the Oklahoma Statutes
15 and is in compliance with this act and all other state and local
16 laws not in conflict with this act;

17 2. Require a mobile food vendor to obtain any license or permit
18 from the local authority to operate a food vending vehicle unless:

19 a. the local authority is issuing a local license in
20 recognition of a state license under subsection B of
21 Section 3 of this act,

22 b. the mobile food vendor seeks to operate at an event
23 which has been permitted by the local authority, or

1 c. the mobile food vendor seeks a food establishment
2 license from a local authority required by Section 1-
3 1118 of Title 63 of the Oklahoma Statutes;

4 3. Require a mobile food vendor that is operating on private
5 property with the permission of the owner to operate a specific
6 distance from commercial food or retail establishments;

7 4. Require a mobile food vendor to enter into any agreement
8 with commercial food or retail establishments;

9 5. Require a mobile food vendor to be fingerprinted or to
10 install a Global Positioning System (GPS) tracking device on the
11 vendor's vehicle;

12 6. Require a mobile food vendor to stay in constant motion
13 except for when serving customers;

14 7. Require a mobile food vendor to maintain an insurance policy
15 that names the local authority as an additional insured unless the
16 vendor is operating at an event sponsored by the local authority or
17 operating in a local, public park;

18 8. Require a mobile food vendor to maintain a bond that names a
19 local authority as a beneficiary unless the vendor is operating at
20 an event sponsored by the local authority or operating in a local,
21 public park;

22 9. Require a mobile food vendor to submit to health inspections
23 beyond health inspections conducted by or in collaboration with the
24 Department, unless the local authority is investigating a reported

1 foodborne illness or addressing a complaint of an imminent health or
2 safety hazard to the public;

3 10. Require a health inspection of a food vending vehicle more
4 than twice per year unless the local authority, in collaboration
5 with the Department under this act, is ensuring a mobile food vendor
6 has corrected a violation detected during a prior inspection, is
7 investigating a reported foodborne illness, or is conducting a
8 nonobstructive spot inspection to ensure food safety;

9 11. Charge a mobile food vendor fees for additional health
10 inspections;

11 12. Charge a mobile food vendor fees for any local license or
12 permit allowed under Section 3 of this act beyond the administrative
13 cost of issuing the local license or permit;

14 13. Require a mobile food vendor to submit to a state fire
15 inspection if the vendor can demonstrate it passed a state fire
16 inspection in the previous twelve (12) months;

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

19 15. Regulate the equipment requirements for a food vending
20 vehicle; or

21 16. Require a mobile food vendor to associate with a commissary
22 if the vendor has all the equipment necessary to comply with state
23 regulations pertaining to food vending vehicles.

1 SECTION 3. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 1-1152 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Any mobile food vendor who has been notified of a possible
5 suspension or revocation of his or her state license may request an
6 administrative hearing in accordance with the Administrative
7 Procedures Act and rules promulgated by the State Commissioner of
8 Health.

9 B. The State Department of Health may issue civil penalties to
10 a person who operates as a mobile food vendor without a license,
11 with a suspended license, or after a license is revoked.

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1-1153 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 A person aggrieved by a decision of the State Department of
16 Health following a hearing has the right to appeal the decision as
17 provided in the Administrative Procedures Act and rules promulgated
18 by the State Commissioner of Health.

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

22 A. This act shall not be construed to require a local authority
23 to adopt a program regulating mobile food vendors or to modify its
24

1 existing program regulating mobile food vendors; provided, the
2 regulations do not conflict with this act.

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

6 SECTION 6. AMENDATORY 63 O.S. 2021, Section 1-1101, is
7 amended to read as follows:

8 Section 1-1101. For the purposes of this article section:

9 (a) ~~The term "food" means (1) articles used for food or drink
for man, (2) chewing gum, and (3) articles used for components of
any such article~~

12 1. The term "food" means:

- 13 a. articles used for food or drink for human consumption,
- 14 b. chewing gum, and
- 15 c. articles used for components of any such article.

16 (b) 2. The term "label" means a display of written, printed or
graphic matter upon the immediate container of any article; and a
requirement made by or under authority of this article that any
word, statement, or other information appearing on the label shall
not be considered to be complied with unless such word, statement,
or other information also appears on the outside container or
wrapper, if there be any, of the retail package of such article, or
is easily legible through the outside container or wrapper.

1 (e) 3. The term "immediate container" does not include package
2 liners.

3 (d) ~~The term "labeling" means all labels and other written,~~
4 ~~printed or graphic matter (1) upon an article or any of its~~
5 ~~containers or wrappers, or (2) accompanying such article~~

6 4. The term "labeling" means all labels and other written,
7 printed or graphic matter:

- 8 a. upon an article or any of its containers or wrappers,
9 or
10 b. accompanying such article.

11 (e) 5. If an article is alleged to be misbranded because the
12 labeling is misleading, or if an advertisement is alleged to be
13 false because it is misleading, then in determining whether the
14 labeling or advertisement is misleading there shall be taken into
15 account (among other things) not only representations made or
16 suggested by statement, word, design, device, sound, or in any
17 combination thereof, but also the extent to which the labeling or
18 advertisement fails to reveal facts material in the light of such
19 representations or material with respect to consequences which may
20 result from the use of the article to which the labeling or
21 advertisement relates, under the conditions of use prescribed in the
22 labeling or advertisement thereof, or under such conditions of use
23 as are customary or usual.

1 (f) 6. The term "advertisement" means all representations
2 disseminated in any manner or by any means, other than by labeling,
3 for the purpose of inducing, or which are likely to induce, directly
4 or indirectly, the purchase of food.

5 (g) 7. The term "contaminated with filth" applies to any food
6 not securely protected from dust, dirt, and, as far as may be
7 necessary by all reasonable means, from all foreign or injurious
8 contaminations.

9 (h) 8. The provisions of this article regarding the selling of
10 food shall be considered to include the manufacture, production,
11 processing, packing, exposure, offer, possession, and holding of any
12 such article for sale; and the sale, dispensing, and giving of any
13 such article, and the supplying or applying of any such articles in
14 the conduct of any food establishment.

15 (i) 9. The term "Federal Act" means the Federal Food, Drug, and
16 Cosmetic Act.

17 10. The term "mobile food establishment" means a facility
18 including a trailer, that prepares food and beverages, is vehicle
19 mounted, is road-approved by the Department of Transportation
20 including wheels and axles, is readily movable, and remains at one
21 physical address for no more than twelve (12) hours at one time,
22 unless the mobile food establishment is operating on private
23 property. A mobile food establishment operating on private property

1 may remain at one physical address for no more than fourteen (14)
2 days.

3 11. The term "mobile push cart" means a non-self-propelled food
4 unit that can be manually moved by an average person without being
5 vehicle mounted.

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

17 13. The term "mobile food vendor" means any person who
18 dispenses food or beverages from a mobile food establishment, mobile
19 push cart, or mobile retail food establishment.

20 14. The term "mobile food vending" means dispensing food or
21 beverages from a food vending vehicle.

22 15. The term "food vending vehicle" means a mobile food
23 establishment, mobile push cart, or mobile retail food
24 establishment.

1 16. The term "local authority" means any local government
2 including any town, city, charter city, political subdivision, or
3 county.

4 17. The term "public property" means any property owned and
5 operated by this state or a local authority for the benefit of the
6 public and includes all rights-of-way contained wholly within any
7 state or local authority parks.

8 18. The term "temporary mass gathering" means an actual or
9 reasonably anticipated assembly of three hundred (300) or more
10 people for an event that continues, or reasonably can be expected to
11 continue, for two (2) or more hours per day.

12 19. The term "nonobstructive spot inspection" means an
13 inspection of a mobile food establishment at a temporary mass
14 gathering that is conducted, if practicable, before the start of the
15 temporary mass gathering and that does not exceed ten (10) minutes
16 in length if conducted during a high-traffic time of the gathering.

17 SECTION 7. AMENDATORY 63 O.S. 2021, Section 1-1118, as
18 last amended by Section 135, Chapter 452, O.S.L. 2024 (63 O.S. Supp.
19 2024, Section 1-1118), is amended to read as follows:

20 Section 1-1118. A. It shall be unlawful for any person to
21 operate or maintain any establishment, stationary or otherwise,
22 where food or drink is offered for sale, or sold, to the public,
23 unless the person is the holder of a food establishment license
24 issued for such purpose by the State Commissioner of Health or

1 designee. A mobile food vendor that seeks to operate in a county
2 that is governed by a city-county health department shall obtain a
3 food establishment license from the local authority. This food
4 establishment license shall be recognized by the State Commissioner
5 of Health and all local authorities as a state food establishment
6 license for purposes of this title. A food establishment license
7 shall permit the mobile food vendor to operate in any local
8 authority's jurisdiction upon the local authority's recognition of
9 the license, the issuance of any relevant local license, and the
10 vendor's compliance with all other municipal provisions not in
11 conflict with this act. A food establishment license shall not be
12 required for:

13 1. A produce stand that offers only whole, uncut and
14 unprocessed fresh fruits, melons, vegetables and legumes and/or
15 whole uncracked and unprocessed nuts;

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

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

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

1 5. A private home that receives catered or home-delivered food;
2 6. A hotel licensed pursuant to Section 1-1201 of this title
3 which provides limited food service in compliance with rules
4 promulgated by the State Commissioner of Health;

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

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

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

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

1 11. Vendors at farmers markets selling frozen meat that is
2 either kept refrigerated or on ice; and

3 12. Other establishments exempted from food establishment
4 licensure pursuant to state law.

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

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

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

22 3. The Commissioner shall provide by rule a three-day license
23 for vendors who only sell at farmers markets as defined in 310:257-
24 1-2 of the Oklahoma Administrative Code or at county fairs.

1 Licenses for vendors who only sell at farmers markets or county
2 fairs shall not exceed Fifty Dollars (\$50.00). Vendors who do not
3 sell food and vendors who meet the exceptions provided in subsection
4 A of this section shall not be required to obtain a three-day
5 license or a food establishment license.

6 4. The Commissioner shall provide by rule a multiseasonal
7 license for snow cone stands that sell hot beverages in addition to
8 snow cones. A snow cone stand that does not sell hot beverages
9 shall be considered a seasonal food establishment.

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

20 SECTION 8. This act shall become effective November 1, 2025.

22 60-1-11356 TJ 12/31/24