

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
FOR
4 SENATE BILL 939

By: Frix

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7 COMMITTEE SUBSTITUTE

8 An Act relating to farmed food products; amending 2
9 O.S. 2021, Sections 5-4.2 and 5-4.3, as amended by
Section 1, Chapter 16, O.S.L. 2024 (2 O.S. Supp.
2024, Section 5-4.3), which relate to the Homemade
Food Freedom Act; defining terms; expanding sales
allowed under act; allowing for sales at certain
locations; requiring certain provisions for sales at
certain locations; providing for certain products to
be sold to consumers directly from producers;
requiring producers to assume liability; amending 2
O.S. 2021, Section 7-414, which relates to the
Oklahoma Milk and Milk Products Act; allowing for
transportation of certain product; increasing limit;
amending 2 O.S. 2021, Section 10-78, which relates to
the sale of eggs; removing certain sales; updating
statutory references; providing for codification; and
providing an effective date.

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

20 SECTION 1. AMENDATORY 2 O.S. 2021, Section 5-4.2, is
21 amended to read as follows:

22 Section 5-4.2. As used in the Homemade Food Freedom Act:

23 1. ~~"Home food establishment"~~ shall mean a business on the
24 premises of a residence in which homemade food products are created

1 ~~for sale or resale if the business has gross annual sales of~~
2 ~~prepared food of less than Seventy five Thousand Dollars~~
3 ~~(\$75,000.00).~~ Gross annual sales includes all sales of prepared
4 food produced by the business at any location;

5 2. "Delivered" shall mean transferred to the customer, either
6 immediately upon sale or at a time thereafter;

7 3. "Homemade food product" shall mean food, including a
8 beverage, which is produced and, if packaged, packaged at a
9 residence; provided, however, homemade food product shall not mean
10 alcoholic beverages or unpasteurized milk or cannabis or marijuana
11 products

12 "Delivery" means the transfer of a product resulting from a
13 transaction between a producer and an informed end consumer or a
14 third-party vendor. The delivery may occur by the producer's
15 designated agent at a farm, ranch, farmers market, home, office, or
16 any location agreed to between the producer and the informed end
17 consumer;

18 2. "Home consumption" means consumption of food products
19 consumed within a private home or from a private home that are only
20 to be consumed by family members, employees, or nonpaying guests;

21 3. "Homemade" means food that is prepared or processed in a
22 private home kitchen, that is not licensed, inspected, or regulated;

23 4. "Informed end consumer" means a person who is the last
24 person to purchase any product, who does not resell the product, and

1 | who has been informed that the product is not licensed, regulated,
2 | or inspected;

3 | 4. 5. "Non-time- or -temperature-controlled for safety" shall
4 | mean food that does not require time or temperature control for
5 | safety to limit the rapid and progressive growth of infectious or
6 | toxigenic microorganisms, including foods that have a pH level of
7 | four and six-tenths (4.6) or below or a water activity (aw) value of
8 | eighty-five one-hundredths (0.85) or less;

9 | 5. 6. "Time- or temperature-controlled for safety" shall mean a
10 | food that requires time or temperature control for safety to limit
11 | infectious or toxigenic microorganisms and is in a form capable of
12 | supporting rapid and progressive growth of infectious or toxigenic
13 | microorganisms; provided, however, time- or temperature-controlled
14 | for safety shall not include foods that have a pH level of four and
15 | six-tenths (4.6) or below or a water activity (aw) value of eighty-
16 | five one-hundredths (0.85) or less;

17 | 6. ~~"Produce" shall mean to prepare a food product by cooking,~~
18 | ~~baking, drying, mixing, cutting, canning, fermenting, preserving,~~
19 | ~~dehydrating, growing, raising or other process; and~~

20 | 7. ~~"Producer" shall mean the person who produces a homemade~~
21 | ~~food product in a home food establishment~~

22 | "Process" means operations a producer performs in the making or
23 | treatment of the producer's food or drink products;

1 8. "Producer" means any person who grows, harvests, prepares,
2 or processes any food or drink products on the person's owned or
3 leased property; and

4 9. "Transaction" means the exchange of buying and selling.

5 SECTION 2. AMENDATORY 2 O.S. 2021, Section 5-4.3, as
6 amended by Section 1, Chapter 16, O.S.L. 2024 (2 O.S. Supp. 2024,
7 Section 5-4.3), is amended to read as follows:

8 Section 5-4.3. A. The production and sale of homemade food
9 products that meet the following conditions shall be exempt from all
10 licensing and other requirements of the State Department of Health
11 and the Oklahoma Department of Agriculture, Food, and Forestry:

12 1. Non-time- or -temperature-controlled-for-safety homemade
13 food products shall be sold:

14 a. by the producer directly to the informed end consumer,
15 either in person or by remote means, including, but
16 not limited to, the Internet or telephone, or

17 b. by a producer's designated agent or a third-party
18 vendor, such as a retail or grocery store, farm, farm
19 stand, farmers market, membership-based buying club,
20 craft fair, or flea market, to the informed end
21 consumer; provided, the third-party vendor displays a
22 placard where homemade food products are displayed for
23 sale with the following disclosure: "This product was
24 produced in a private residence that is exempt from

1 government licensing and inspection. This product may
2 contain allergens.”;

3 2. Non-time- or -temperature-controlled-for-safety homemade
4 food products shall be delivered:

5 a. by the producer or producer's designated agent
6 directly to the informed end consumer or third-party
7 vendor, or

8 b. by a third-party vendor or a third-party carrier, such
9 as a parcel delivery service, to the informed end
10 consumer or a third-party vendor;

11 3. Time- or temperature-controlled-for-safety homemade food
12 products shall be sold by the producer directly to the informed end
13 consumer or third-party vendor, either in person or by remote means,
14 including, but not limited to, the Internet or telephone;

15 4. Time- or temperature-controlled-for-safety homemade food
16 products shall be delivered by the producer directly to the informed
17 end consumer or third-party vendor;

18 5. Before a producer produces and sells or a third-party vendor
19 sells on behalf of the producer time- or temperature-controlled-for-
20 safety homemade food products, the producer and the third-party
21 vendor selling on behalf of the producer shall complete and pass
22 food safety training from a list of providers, including the
23 ServSafe Food Handler Training, approved by the Oklahoma Department
24 of Agriculture, Food, and Forestry. The food safety training shall

1 be available to complete online and shall not exceed eight (8) hours
2 in length. The Oklahoma Department of Agriculture, Food, and
3 Forestry shall make the list of approved training available on its
4 website by November 1, 2021;

5 6. The following information shall be provided to the informed
6 end consumer in the format required by subsection B of this section:

- a. the name and phone number of the producer,
 - b. the physical address where the product was produced,
 - c. a description of the homemade food product,
 - d. the ingredients of the homemade food product in descending order of proportion,
 - e. a statement indicating the presence of any of the eight most common allergens, including milk, eggs, peanuts, tree nuts, soy, and wheat, and
 - f. legible print stating, "This product was produced in a private residence that is exempt from government licensing and inspection.";

18 7. If the homemade food product is packaged and distributed in
19 interstate commerce, it shall also be sold and labeled in accordance
20 with federal law; and

21 8. Homemade food products shall not contain seafood or meat,
22 meat ~~by products~~ byproducts, or meat food products as defined by 9
23 C.F.R., Section 301.2 of Title 9 of the Code of Federal Regulations

1 or poultry, poultry products, or poultry food products as defined
2 for purposes of the federal Poultry Products Inspection Act.

3 B. The information required by paragraph 6 of subsection A of
4 this section shall be provided in a legible format of at least ~~10-~~
5 ~~point~~ ten-point font, in the following manner:

6 1. On a label affixed to the package if the homemade food
7 product is packaged;

8 2. On a label affixed to a container, if the homemade food
9 product is offered for sale from a bulk container directly to the
10 informed end consumer;

11 3. On a placard displayed at the point of sale, and on a card
12 or other item that is made available to the informed end consumer
13 and is readily carriable if the homemade food product is not
14 packaged; and

15 4. Displayed on the webpage from which the homemade food
16 product is offered for sale if it is sold on the Internet; provided,
17 that each item sold over the Internet shall be properly labeled or
18 shall have a label included in the shipping container.

19 C. The provisions of the Homemade Food Freedom Act shall not
20 prohibit the sale of homemade food for home consumption from a
21 retail space located at the ranch, farm, or home where the food is
22 produced. A retail space selling homemade food under the provisions
23 of the Homemade Food Freedom Act shall inform the informed end
24 consumer that the homemade food has not been inspected and shall

1 display a sign indicating that the homemade food has not been
2 inspected. If the retail space is in any way associated with a
3 commercial food establishment or offers for sale any inspected
4 product, the retail space selling homemade food shall comply with
5 rules adopted by the Oklahoma Department of Agriculture, Food, and
6 Forestry, which shall require:

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

10 2. That coolers, freezers, and warehouses or other storage
11 areas shall be separated to prohibit the intermingling of inspected
12 and uninspected products; and

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

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

20 E. The provisions of the Homemade Food Freedom Act shall not be
21 construed to:

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

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

3 F. A homemade food product producer may obtain a registration
4 number upon the payment of an annual fee of Fifteen Dollars (\$15.00)
5 to the Oklahoma Department of Agriculture, Food, and Forestry that
6 is good for one (1) year from the date of its issue. The assigned
7 registration number may be used on product labels instead of the
8 producer's name, phone number, and the physical address of the
9 location where the homemade food product was produced.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 5-32 of Title 2, unless there is
12 created a duplication in numbering, reads as follows:

13 A. Oklahoma dairy farms selling ungraded milk or ungraded milk
14 products produced from their own livestock are exempt from the
15 provisions of the Oklahoma Milk and Milk Products Act.

16 B. Except as otherwise provided in subsection C of this
17 section, nothing in Title 2 of the Oklahoma Statutes shall prohibit
18 the sale of ungraded milk or ungraded milk products produced on the
19 farm or property and sold directly to consumers in this state.

20 Ungraded milk and ungraded milk products sold pursuant to this
21 section shall be produced by the livestock maintained on the dairy
22 farm from which the ungraded milk or ungraded milk products are
23 sold.

1 C. For sales of ungraded milk or ungraded milk products
2 transported off the farm or property from which the ungraded milk or
3 ungraded milk products are produced for sales at a farmers market or
4 by a third-party vendor, the farm shall:

5 1. Be registered with the Oklahoma Department of Agriculture,
6 Food, and Forestry;

7 2. Be sold at an approved farmers market as provided by the
8 Department;

9 3. Meet a monthly testing requirement as provided by the
10 Department; and

11 4. Submit testing results to the Department on a quarterly
12 basis.

13 D. Dairy farms selling items pursuant to this section shall
14 assume all liability.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5-32.1 of Title 2, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Oklahoma producers of eggs selling ungraded eggs from their
19 own flock production are exempt from Section 10-71 et seq. of Title
20 2 of the Oklahoma Statutes. Nothing in Title 2 of the Oklahoma
21 Statutes shall prohibit the sale of ungraded eggs produced on a farm
22 and sold directly to the informed end consumer. Ungraded eggs sold
23 under this section shall be produced by hens maintained on the farm
24 from which the eggs are sold.

1 B. Egg producers selling items pursuant to this section shall
2 assume all liability.

3 SECTION 5. AMENDATORY 2 O.S. 2021, Section 7-414, is
4 amended to read as follows:

5 Section 7-414. A. The provisions of the Oklahoma Milk and Milk
6 Products Act shall not be construed to:

7 1. Include incidental sales of raw milk directly to informed
8 end consumers:

9 a. at the farm where the milk is produced, or

10 b. by transport used by the producer of raw milk;

11 2. Preclude the advertising of the incidental sale of cow or
12 goat milk; and

13 3. Prohibit any farmer or producer from making cheese using
14 milk or cream produced on the farm of such farmer or producer.

15 B. For purposes of this section, incidental sales of cow or
16 goat milk are those sales where the average monthly number of
17 gallons sold does not exceed ~~one hundred (100)~~ five hundred (500).

18 SECTION 6. AMENDATORY 2 O.S. 2021, Section 10-78, is
19 amended to read as follows:

20 Section 10-78. A. ~~Oklahoma producers of eggs selling ungraded~~
21 ~~eggs from their own flock production are exempt from this~~
22 ~~subarticle. Nothing in this subarticle shall prohibit the sale of~~
23 ~~eggs produced on the farm and sold direct to the consumer. Eggs~~

1 | ~~sold under this section shall be produced by hens maintained on the~~
2 | ~~farm from which the eggs are sold.~~

3 | B. A producer may sell graded eggs if in compliance with ~~this~~
4 | ~~subarticle Section 10-71 et seq. of this title.~~

5 | SECTION 7. This act shall become effective November 1, 2025.
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