



INFORMATIONAL BULLETIN

Homemade Food Freedom Act

[Link to House Bill No. 1032](#)

Replaces the Home Bakery Act of 2013 & 2017

Prior to November of 2013, all food sold to consumers in the state of Oklahoma was required to be manufactured in a facility inspected by the Oklahoma Department of Health. The passage of the Oklahoma Home Bakery Act of 2013, changed this, making it legal to prepare baked goods in an uninspected, home kitchen and sell the goods from the homeowner's premises. This act was amended in 2017, allowing home-baked bakery items to be sold off-premises, in selected locations. The passage of the 2021, HB 1032 - Homemade Food Freedom Act replaced the 2013 and 2017, Oklahoma Home Bakery Acts, permitting a broad range of food products to be sold out of the home.

Who is allowed to participate?

According to HB 1032, a "producer" is a person who produces a homemade food product in a home food establishment. A producer can be any age and citizenship, as long as they have a home or dwelling in Oklahoma in which to live and safely produce a qualified food.

What foods are allowed?

It is probably easier to explain what is NOT allowed than what is! The Homemade Food Freedom Act (HFFA) allows the sale of many different types of food and drink products, but to do so, there are some requirements to be met.

Food/drinks that ARE NOT permissible for sale:

- Meat (includes beef; pork; lamb; wild-game and snakes.)
- Meat by-products (includes such items as lard; pigskins; etc.)
- Poultry (chicken; turkey, wild-game birds)
- Raw eggs
- Seafood (includes fresh-water fish)
- Casseroles, empanadas, fried pies, tamales, etc. that contain meat, poultry or seafood.
- Cannabis-containing products
- Marijuana-containing products
- Beverages containing alcohol
- Unpasteurized milk-containing products
- Unprocessed fruits (fresh, whole apples...these would be a farm product)
- Unprocessed vegetables (fresh, whole carrots...these would be a farm product)
- Unprocessed nuts (peanuts in the shell...these would be a farm product)
- Pet foods and treats (guidance under Consumer Protective Service regulations)



Food/drinks that ARE permissible for sale:

State and federal food regulations divide food/beverages into two groups, with different food safety and handling requirements – Non-time-or-temperature-controlled (NTCS) and Time-or-temperature-controlled (TCS). Both of these types of foods are allowed in the new act but have different stipulations.

Two Categories of Food Products

Non-time-or-temperature-controlled for safety (NTCS): food that does not require time or temperature control for safety to limit the rapid and progressive growth of infectious or toxigenic microorganisms, including foods that have a pH level of 4.6 or below or a water activity value of 0.85 or less

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| Examples (not a complete list of what is allowed) | breads and sweet breads; cookies; brownies and fudge; donuts; muffins; scones; candies; tarts; tortillas; honey ¹ ; trail mix; granola; further processed nuts and nut butters; popcorn; dry mixes; dry pasta; fruit jams and jellies that follow the <i>"The Ball Blue Book of Canning and Preserving"</i> ² and the USDA-National Center for Home Food Preservation (NCHFP) ³ ; cakes with hard icings or frostings; fruit pies with fruit and sugar fillings; most fermented and pickled foods; salsas; most processed fruits; most fruit juices; roasted coffee beans; non-alcoholic drinks like plain seltzer; soda pop; coffee; vanilla extract ⁴ |
| Placard | If selling food through a third-party vendor [A person or entity with permission to sell products on someone else's behalf.], a placard must be visible where the homemade food products are displayed with the following disclosure: "This product was produced in a private residence that is exempt from government licensing and inspection. This product may contain allergens." |
| Sales | Sales shall only occur within the State of Oklahoma. -by the producer directly to the consumer, either in person or by remote means, including, but not limited to, the Internet or telephone Or -by a producer's designated agent or a third-party vendor, such as a retail or grocery store, farm, farm stand, farmers market, membership-based buying club, craft fair or flea market, to the consumer; provided, the third-party vendor displays a placard where homemade food products are displayed for sale. |
| Delivery | -only within the State of Oklahoma -by the producer or producer's designated agent directly to the consumer or third-party vendor, or -by a third-party vendor or a third-party carrier, such as a parcel delivery service, to the consumer or a third-party vendor |

¹Honey sold under the HFFA allows for flavored or blended honeys (not pure honey but blended with another sweetener) and honey collected from out-of-state hives. Honey (honey, honeycomb or combination of) that is raw, unadulterated and from Oklahoma hives producing less than 500 gallons, would be sold under the Honey Sales Act.

²*The Ball Blue Book of Canning and Preserving* by Ball Home Canning Test Kitchen. ISBN-13: 978-0-8487-4678-0

³USDA-National Center for Home Food Preservation publications https://nchfp.uga.edu/publications/publications_usda.html

⁴ As long as extracts are sold as "food" and not "alcoholic beverages", they can be sold under the Homemade Food Freedom Act. The ABLE commission has a special industrial license for \$23.

<https://www.ok.gov/able/documents/Industrial%20App.pdf>



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Time-or-temperature-controlled for safety (TCS): food that requires time or temperature control for safety to limit infectious or toxigenic microorganisms and is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms; provided however, time-or-temperature-controlled for safety shall not include foods that have pH level of 4.6 or below or a water activity value of 0.85 or less. A list of labs in Oklahoma that can provide food testing is available upon request (contact email).

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| Examples (not a complete list of what is allowed) | -any food that requires refrigeration; perishable baked goods; cakes with custard filling; custard or meringue pies; cheesecake; pumpkin, sweet potato and pecan pie; sauces; butters; ice cream; cheese; cooked pasta; cooked eggs; some processed fruits; processed vegetables; cooked beans; cooked rice; cooked potatoes; many flavored tea and coffee-based beverages (e.g. lattes, Thai teas, and so on); many smoothie-type beverages |
| Training | Before a producer produces and sells TCS food, the producer shall complete and pass food safety training from a list of providers, including the ServSafe Food Handler or Manager Training, approved by the Oklahoma Department of Agriculture, Food, and Forestry. The food safety training shall be available to complete online and shall not exceed eight (8) hours in length. The Oklahoma Department of Agriculture, Food, and Forestry shall make the list of approved training available on its website: ServSafe classes may be found by contacting your county health department, https://www.servsafe.com/ , or https://www.okrestaurants.com/servsafe.php . |
| Sales | Sales shall only occur in the State of Oklahoma. -by the producer directly to the consumer, either in person or by remote means, including, but not limited to, the Internet or telephone -not a third-party vendor |
| Delivery | -only in the State of Oklahoma -by the producer directly to the consumer, not a third-party |

Are there any labeling requirements for the food or drink products produced?

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| Labels | <p>All foods made under this act must be labeled in the following ways:</p> <ul style="list-style-type: none"> • On a label affixed to the package if the homemade food product is packaged; • On a label affixed to a container, if the homemade food product is offered for sale from a bulk container directly to the consumer; • On a placard displayed at the point of sale, and on a card or other item that is made available to the consumer and is readily carryable if the homemade food product is not packaged; and • Displayed on the webpage from which the homemade food product is offered for sale if it is sold on the Internet, provided that each item sold over the Internet shall by properly labeled or shall have a label included in the shipping container. <p>The labels must contain all of the following information in a minimum of a 10-point size font:</p> <ul style="list-style-type: none"> • The name and phone number of the producer, • The physical address where the product was produced, • A description of the homemade food product, • The ingredients of the homemade food product in descending order of proportion, • A statement indicating the presence of any of the nine most common allergens, which are the following: milk, eggs, peanuts, tree nuts, fish, crustacean shellfish, wheat, soy and sesame, • Legible print stating, "This product was produced in a private residence that is exempt from government licensing and inspection." |
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How long may participation in the Homemade Food Freedom Act last?

A “producer” is allowed annual gross sales of prepared foods up to \$75,000. Gross sales over \$75,000 exclude a producer from being able to produce and sell food under the Homemade Food Freedom Act. (At this point, one would need to move to a commercially inspected kitchen or co-packer.) Gross annual sales include all sales of prepared food produced by the business.

Is sales tax charged on products sold under the Homemade Food Freedom Act?

Yes. According to the Oklahoma Tax Commission (OTC), city, county and state sales tax should be collected. The point of sale is what determines the sales tax to be charged. To collect sales tax, the purchase of a “sales tax permit” is required. Registration to collect sales tax, assigns a “state sales tax number” and acknowledges the legal responsibility to collect, file and remit sales tax to the state. To purchase a sales tax permit, go to <https://oklahoma.gov/tax.html>.

Is the purchase of a license required to prepare food under the Homemade Food Freedom Act?

The production and sale of homemade food products that meet the conditions of the Homemade Food Freedom Act shall be exempt from all licensing and other requirements of the State Department of Health and the Oklahoma Department of Agriculture, Food, and Forestry.

What if a violation by the producer occurs under the Homemade Food Freedom Act?

Nothing in the Homemade Food Freedom Act shall be construed to impede the State Department of Health in any investigation of a reported foodborne illness.

Upon receipt of a consumer complaint, the Oklahoma Department of Agriculture, Food, and Forestry shall have the authority to request proof of completion of the food safety training, verify a producer's gross sales, and ensure a producer has complied with the act's labeling and delivery requirements. The Oklahoma Department of Agriculture, Food, and Forestry may fine a producer who violates this act.

A violation of the Homemade Food Freedom Act shall be punishable by a fine not exceeding three hundred dollars \$300.

Links

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| Oklahoma Department of Ag, Food and Forestry | https://ag.ok.gov/divisions/food-safety/ (405)522-6119 |
| Oklahoma Department of Health | https://oklaholma.gov/health/protective-health/consumer-health-service/foods/home-baking.html |
| Oklahoma Department of Health Advisory Letter | food-freedom-act-policy-letter.pdf (oklahoma.gov) |