



# The National Agricultural Law Center

[nationalaglawcenter.org](http://nationalaglawcenter.org) | [nataglaw@uark.edu](mailto:nataglaw@uark.edu) | [@nataglaw](https://twitter.com/nataglaw)

Cottage Food Law Statutes:

*Oklahoma*



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# A National Agricultural Law Center Research Publication

## Cottage Food Laws: Oklahoma

### Okla. Stat. tit. 2 § 5-4.1 through 4.6

#### **Okla. Stat. tit. 2 § 5-4-.1. Short Title**

This act shall be known and may be cited as the "Homemade Food Freedom Act".

#### **Okla. Stat. tit. 2 § 5-4.2. Definitions.**

As used in the Homemade Food Freedom Act:

1. "Home food establishment" shall mean a business on the premises of a residence in which homemade food products are created for sale or resale if the business has gross annual sales of prepared food of less than Seventy-five Thousand Dollars (\$75,000.00). Gross annual sales includes all sales of prepared food produced by the business at any location;
2. "Delivered" shall mean transferred to the customer, either immediately upon sale or at a time thereafter;
3. "Homemade food product" shall mean food, including a beverage, which is produced and, if packaged, packaged at a residence; provided, however, homemade food product shall not mean alcoholic beverages or unpasteurized milk or cannabis or marijuana products;
4. "Non-time- or -temperature-controlled for safety" shall mean 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 four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less;
5. "Time- or temperature-controlled for safety" shall mean a 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 a pH level of four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less;
6. "Produce" shall mean to prepare a food product by cooking, baking, drying, mixing, cutting, canning, fermenting, preserving, dehydrating, growing, raising or other process; and
7. "Producer" shall mean the person who produces a homemade food product in a home food establishment.



**Okla. Stat. tit. 2 § 5-4.3. Conditions for exemption for licensing and other requirements.**

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

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

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

b. 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 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.";

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

a. by the producer or producer's designated agent directly to the consumer or third-party vendor, or

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

3. Time- or temperature-controlled-for-safety homemade food products shall be sold by the producer directly to the consumer, either in person or by remote means, including, but not limited to, the Internet or telephone;

4. Time- or temperature-controlled-for-safety homemade food products shall be delivered by the producer directly to the consumer;



5. Before a producer produces and sells time- or temperature-controlled-for-safety homemade food products, the producer shall complete and pass food safety training from a list of providers, including the ServSafe Food Handler 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 by November 1, 2021;

6. The following information shall be provided to the 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.";

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

8. Homemade food products shall not contain seafood or meat, meat by-products or meat food products as defined by Section 301.2 of Title 9 of the Code of Federal Regulations or poultry, poultry products or poultry food products as defined for purposes of the federal Poultry Products Inspection Act.

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



1. On a label affixed to the package if the homemade food product is packaged;
2. On a label affixed to a container, if the homemade food product is offered for sale from a bulk container directly to the consumer;
3. 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
4. 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 be properly labeled or shall have a label included in the shipping container.

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

#### **Okla. Stat. tit. 2 § 5-4.4. Reported foodborne illness – Investigation by State Department of Health.**

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 in accordance with Section 5-4.5 of this title.

#### **Okla. Stat. tit. 2 § 5-4.5. Violations.**

Violation of the Homemade Food Freedom Act shall be punishable by a fine not exceeding Three Hundred Dollars (\$300.00).

#### **Okla. Stat. tit. 2 § 5-4.6. County ordinances.**



Nothing in the Homemade Food Freedom Act shall be construed to prevent counties from enacting ordinances regulating the operation of home food establishments, provided such ordinances do not conflict with the provisions of the Homemade Food Freedom Act or impede or restrict the sale of homemade food products in compliance with the law.

