



## EXTENSION

# Clarifying the OK Home Baking Act of 2017

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Oklahoma Cooperative Extension Fact Sheets are also available on our website at: [facts.okstate.edu](https://facts.okstate.edu)

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## The Oklahoma Cooperative Extension Service WE ARE OKLAHOMA

The Cooperative Extension Service is the largest, most successful informal educational organization in the world. It is a nationwide system funded and guided by a partnership of federal, state, and local governments that delivers information to help people help themselves through the land-grant university system.

Extension carries out programs in the broad categories of agriculture, natural resources and environment; family and consumer sciences; 4-H and other youth; and community resource development. Extension staff members live and work among the people they serve to help stimulate and educate Americans to plan ahead and cope with their problems.

Some characteristics of the Cooperative Extension system are:

- The federal, state, and local governments cooperatively share in its financial support and program direction.
- It is administered by the land-grant university as designated by the state legislature through an Extension director.
- Extension programs are nonpolitical, objective, and research-based information.
- It provides practical, problem-oriented education

for people of all ages. It is designated to take the knowledge of the university to those persons who do not or cannot participate in the formal classroom instruction of the university.

- It utilizes research from university, government, and other sources to help people make their own decisions.
- More than a million volunteers help multiply the impact of the Extension professional staff.
- It dispenses no funds to the public.
- It is not a regulatory agency, but it does inform people of regulations and of their options in meeting them.
- Local programs are developed and carried out in full recognition of national problems and goals.
- The Extension staff educates people through personal contacts, meetings, demonstrations, and the mass media.
- Extension has the built-in flexibility to adjust its programs and subject matter to meet new needs. Activities shift from year to year as citizen groups and Extension workers close to the problems advise changes.

### Introduction

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 most basic facility allowed was an inspected and licensed commercial kitchen. The passage of the Oklahoma Home Baking Act of 2013 made it legal to prepare baked goods in an uninspected, home kitchen and sell the goods from the homeowner's premises. In 2017, Senate Bill No. 508 was passed to amend the Oklahoma Home Bakery Act of 2013. As of Nov. 1, 2017, home-baked bakery items can be sold off-premises in selected locations.

The intent of this fact sheet is to assist home bakers in understanding and following the amended legislation, as well as to offer the home baker basic tips for maintaining safe and wholesome baked goods.

### What is allowed under the Oklahoma Home Baking Act of 2017?

1. Under the amendment, one's primary residence (their home) becomes a non-inspected, "home food establishment." "Prepared foods" can be made for sale or resale from this "home food establishment."
2. "Prepared foods" are intended to be traditional baked goods, baked in an oven at conventional times and temperatures, such as the following: breads, quick breads, pies, scones, cookies, cakes, brownies, bagels, muffins, tarts, cupcakes, pastries, rolls, biscuits, etc.

- Items prepared in an oven but are NOT considered "traditional" and are NOT ALLOWED include but are not limited to: roasted coffee, roasted nuts, granola, pet treats, etc.
- Pet treat production falls under the regulation of the Oklahoma Commercial Feed Law and Rules with the Oklahoma Department of Agriculture, Food and Forestry Consumer Protection Services.
- Cream pies are ONLY ALLOWED IF the cream portion of the pie and the pie crust are both baked at traditional baking times and temperatures. What is not allowed is pouring a stove-top-cooked cream filling into an already-baked crust with no further baking.
- Bakery items containing more than 0.5% alcohol, after baking, would be subjected to regulations regarding alcoholic products; therefore, they are not allowed under the Home Baking Act.
- Allowing the production of cannabis-infused bakery products under the Home Baking Act was not the intent of this Act. These items fall under the regulation of the Oklahoma Health Department and the Oklahoma Medical Marijuana Authority.
- 3. "Prepared foods" are NOT allowed to contain meat or fresh fruit.
  - "Meat" is commonly considered to be a foodstuff, derived from an animal. The

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common definition of “meat” includes beef, pork, lamb, poultry, fish, other seafood and game animals, such as rabbit and venison. Being derived from meat, lard and tallow are not allowed under the Home Baking Act.

- Botanically, “fruit” are seed-bearing structures, developing from the ovary of a flowering plant. Vegetables would be all other plant parts such as roots, leaves and stems.
  - “Fresh fruit” is any fruit, homegrown or purchased at a farmers market or store, that has NOT been processed in any manner. A “process” would be: canning, drying or freezing. Fresh fruit is not allowed to be placed on an already baked product. For example, placing “fresh pineapple slices” on an already baked cake.
  - Fruit (either home-grown, purchased at a farmers market or store) is allowed in bakery items only if the bakery product is baked at traditional temperatures and times.
  - “Commercially processed” fruit is the only fruit allowed under the Home Baking Act to be placed on an already baked product. Home-canning or home-freezing of store, farmers market-purchased or home-grown fruit would NOT qualify as “commercial” processing methods. “Commercial processing” methods of fruit processing are conducted by inspected and licensed food manufacturer(s) and consist of the following: canning, drying or freezing.
4. Sale (or resale) of “prepared foods” can occur at the following venues:
- Farmers markets.
    - According to the Oklahoma State Department of Health, a “farmers market is defined as a designated area in which farmers, growers or producers from a defined region gather on a regularly scheduled basis to sell at retail non-potentially hazardous farm food products and whole shell eggs to the public.

Some, not all, farmers markets require that a portion of the raw food ingredients used by the individual vendor to produce a product must have been grown or raised by the vendor. Check your farmers market requirements. (Individual vendors wishing to process food, as defined by Oklahoma Good Manufacturing Practices regulations (Chapter 260), must obtain a state food processor’s license.)

- Gift shops, craft fairs, road-side stands, are not a farmers market, and therefore, are not venues of sale under the Home Baking Act.
- On site, meaning your “primary residence.”
- Cooperatives (such as the Oklahoma Food Cooperative).
- Membership-based buying clubs (for example a local “Dessert of the Month Club”).

#### **What is required for the Home Baking Act of 2017?**

1. “Home food establishment” sales should not exceed \$20,000 in gross annual sales. This includes sales from multiple locations.
2. Any “prepared food” sold by a “home food establishment” must have a label affixed, when possible, to the product containing the following information:
  - Name and address of the home food establishment.
  - Name of the prepared item.
  - The statement: “Made in a home food establishment that is not licensed by the State Department of Health” in at least a 10-point font and in a color that provides clear contrast to the background of the label.
  - If a label is not easily affixed to the packaging of the bakery item, a free-standing label may be placed by the product or placed on the receipt.
3. If a home food establishment plans to sell at farmers markets, they must obtain a “Sales Tax Permit.” These are required at farmers markets.

#### **How is the Home Baking Act of 2017 enforced?**

1. The Oklahoma Department of Agriculture, Food and Forestry (ODAFF) will receive complaints regarding ineffective adherence to the Home Baking Act. A “Home Bakery Complaint Form” is provided on the ODAFF website [www.oda.state.ok.us/mktdev/](http://www.oda.state.ok.us/mktdev/).
2. If a home food establishment is thought to have exceeded \$20,000 in gross annual sales, ODAFF can request written documentation for evaluation. If a home food establishment is found to have violated the Home Baking Act, the establishment may be charged with a misdemeanor, punishable by a fine not to exceed \$100.

#### **What are some food safety best practices beyond the requirements of the Home Baking Act of 2017?**

1. Most state home baking acts require an “ingredient statement” and/or an “allergen listing” on the label of the bakery item for sale; however, Oklahoma does not. This, in itself, can contribute to a food safety risk. Therefore, home bakers should be mindful of the ingredients they use in the baked items intended for sale. The eight major food allergens are: milk, egg, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybean. Surprisingly, there are also ingredients available, even flours, that can cause a cross-allergenicity. The American Academy of Allergy Asthma & Immunology explains cross-allergenicity as an allergic reaction that occurs when proteins in one substance are similar to the proteins found in another substance. For example, consumption of lupine flour may trigger a reaction to peanuts, and cricket flour may trigger an allergic reaction to shellfish. Again, a home baker is not required to place any ingredient and allergen information on their label; however, providing such information might be a beneficial marketing tool and will help keep potential consumers safe.
2. Anyone wishing to make and sell refrigerated bakery items should remember to follow the “2 Hour / 4 Hour Rule.” This is a system that can be implemented when potentially hazardous foods are out of

temperature control (temperatures greater than 45 degrees Fahrenheit) during preparation, serving or display for sale. The rule guidelines are as follows:

- If a potentially hazardous food has been out of temperature control for 2 hours or less, then, it may continue to be used or be placed back in the refrigerator.
- If a potentially hazardous food has been out of temperature control for more than 2 hours but less than 4 hours, it needs to be used quickly or discarded.
- If a potentially hazardous food has been out of temperature control for more than 4 hours, it must be discarded.
  - It is important to remember when tracking the holding time of foods that the total accumulation of time a food is out of temperature control must be considered. For example, suppose the cooling time of a cheesecake out of the oven was 20 minutes. Then, the cheesecake was placed in the refrigerator. The refrigerator needed to be reorganized, so the cheesecake sat of the counter for 10 minutes. In total, the cheesecake, in the example, had been out of the temperature control for 30 minutes. It is important to be mindful of how long bakery items requiring refrigeration are unrefrigerated. One of the best ways to keep track of this is to make and keep written documentation. A common quote in the food safety world is: “If it wasn’t written down, it didn’t happen.” It is good practice to make a habit to record and keep a time/temperature log for refrigerated sale items. (FDA, 2014)
- 3. Pecan, pumpkin, sweet potato and custard pies are NOT shelf-stable. Such pies contain protein, in the form of egg and milk, and have a high moisture content, which at room temperature leads to an environment for bacterial growth. (Waitrovich, 2013)