



# FOOD TECHNOLOGY FACT SHEET

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## The New OK Home Baking Act of 2017

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### 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. Therefore, the most basic facility allowed was an inspected, commercial kitchen. The passage of the Oklahoma Home Bakery 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?

- Under the amendment, one's primary residence (not just a building on one's property) becomes a non-inspected, "home food establishment." "Prepared foods" can be made for sale or resale from this "home food establishment."
- "Prepared foods" are intended to be bakery goods such as the following: breads, pies, scones, cookies, cakes, brownies, bagels, donuts, tortillas, muffins, scones, tarts, granola, etc.
- "Prepared foods" **are not** allowed to contain meat or fresh fruit.

- » "Meat" is commonly considered to be a food-stuff, derived from an animal. The common definition of "meat" includes beef, pork, lamb, poultry, fish, other seafood and game animals, such as, rabbit and venison.
- » A "prepared food" may use the following fruits as ingredients **if** the "prepared food" containing the fruit is baked at traditional temperatures and times:
  - fresh fruit raised grown by the baker or purchased at a farmers market, grocery store or other venue;
  - commercially canned fruit;
  - commercially frozen fruit;
  - home-frozen fruit.

After a traditional baking process, fruit used as an ingredient is no longer considered to be "fresh fruit."

- Home-canned fruit is not allowed.
- » A fruit **only** may be used as a garnish if it was commercially canned or dried. Frozen and home-canned fruit are not allowed to be used as a garnish.
  - As an example, pineapple slices cut from a pineapple purchased at the store and placed on a cake would not be allowed because these slices would be considered to be "fresh fruit." However, commercially canned pineapple slices placed on a cake would be allowed.

- » Botanically, fruits 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.
- Sales (or resale) of “prepared foods” can occur at the following venues:
  - » Farmers markets;
    - According to the OK 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. 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.
    - Individual vendors wishing to process food, as defined by Oklahoma Good Manufacturing Practices regulations (Chapter 260), must obtain a state food processor’s license.
  - » On site;
  - » By phone and internet, with delivery occurring ONLY within the state of Oklahoma;
  - » Cooperatives (such as the Oklahoma Food Cooperative);
  - » Membership-based buying clubs (for example a local “Dessert of the Month Club”).
- The “home food establishment” is not allowed to exceed \$20,000 in gross annual sales; this includes sales from all saleable locations.
- 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.
- If a home food establishment plans to sell at a farmers market, they must obtain a “Sales Tax Permit.” These are required at farmers markets.
- “Sales Tax” should be collected on all “prepared foods” sold.

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

- The Oklahoma Department of Agriculture, Food and Forestry (ODAFF) will be receiving complaints regarding ineffective adherence to the Home Baking Act. A “Home Bakery Complaint Form” will be provided on the ODAFF website at <http://www.oda.state.ok.us>.
- 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.

### **Food Safety Best Practices beyond the requirements of the Home Baking Act 1017**

- Most state home baking acts require an “ingredient statement” and/or an “allergen listing” on the label of the bakery item for sale. Oklahoma does not. This, in itself, can contribute to a food safety risk. For this reason, home bakers should be mindful of the ingredients they use in the baked items they intend to sell. The eight major food allergens are: milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybean. Surprisingly, there also are ingredients available, even flours, that can cause a cross-allergenicity. The American Academy of Allergy Asthma & Immunology explains cross-allergenicity as an allergic reaction when proteins in one substance are similar to the proteins found in another substance. For example, consumption of lupine flour may trigger an allergic 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 help to keep potential consumers safe.

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

- Any “prepared food” sold by a “home food establishment” must have a label affixed, when possible, to the product containing the following information:
  1. Name and address of the home food establishment;
  2. Name of prepared item;
  3. In at least a 10-point font, in a color that provides clear contrast to the background of the label. This statement should appear: “Made in a home food establishment that is not licensed by the State Department of Health.”

- 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 41 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, the total accumulation of time a food was out of temperature control is considered. For example, suppose the preparation time of a cheesecake took 20 minutes. Then, the cheesecake was placed in the refrigerator. The refrigerator needed to be reorganized, so the cheesecake sat on the counter for 10 minutes. In total, the cheesecake, in our example, has been out of temperature control for 30 minutes. The point is, 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. In the food safety world, there is a commonly taught quote, “If it wasn’t written down, it didn’t happen.” So, it’s a good practice to make it a habit to record and keep a time/temperature log for refrigerated sale items. (FDA, 2014)

- Pumpkin, sweet potato and custard pies are not shelf-stable. Such pies contain protein, in the form of egg and milk, and high moisture, which at room temperature leads to an environment for bacterial growth (Waitrovich, 2013).

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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; home economics; 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 Cooperative Extension 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 based on factual 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.

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