

**FLOOR AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2010  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the printed Bill  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Tammy Townley

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 FLOOR SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 2010

6 By: Townley

7 FLOOR SUBSTITUTE

8 An Act relating to public health and safety; amending  
9 63 O.S. 2021, Sections 1-1101 and 1-1118, which  
10 relate to food; defining terms; modifying creation of  
11 certain fees; requiring mobile food vendors follow  
12 certain laws; allowing mobile food vendors to operate  
13 in certain locations; requiring mobile food vendors  
14 operate in a certain manner; authorizing the  
15 Department of Health to promulgate rules; authorizing  
16 local authorities to regulate mobile food vendors;  
17 allowing administrative hearing upon suspension or  
18 revocation of certain license; establishing  
19 penalties; providing appeals process; construing law;  
20 providing for codification; and providing an  
21 effective date.

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

23 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-1101, is  
24 amended to read as follows:

Section 1-1101. For the purposes of this article:

(a) The term "food" means:

(1) articles used for food or drink for man,

(2) chewing gum, and

(3) articles used for components of any such article.

1 (b) The term "label" means a display of written, printed or  
2 graphic matter upon the immediate container of any article; and a  
3 requirement made by or under authority of this article that any  
4 word, statement, or other information appearing on the label shall  
5 not be considered to be complied with unless such word, statement,  
6 or other information also appears on the outside container or  
7 wrapper, if there be any, of the retail package of such article, or  
8 is easily legible through the outside container or wrapper.

9 (c) The term "immediate container" does not include package  
10 liners.

11 (d) The term "labeling" means all labels and other written,  
12 printed or graphic matter:

- 13 (1) upon an article or any of its containers or wrappers, or  
14 (2) accompanying such article.

15 (e) If an article is alleged to be misbranded because the  
16 labeling is misleading, or if an advertisement is alleged to be  
17 false because it is misleading, then in determining whether the  
18 labeling or advertisement is misleading there shall be taken into  
19 account (among other things) not only representations made or  
20 suggested by statement, word, design, device, sound, or in any  
21 combination thereof, but also the extent to which the labeling or  
22 advertisement fails to reveal facts material in the light of such  
23 representations or material with respect to consequences which may  
24 result from the use of the article to which the labeling or

1 advertisement relates, under the conditions of use prescribed in the  
2 labeling or advertisement thereof, or under such conditions of use  
3 as are customary or usual.

4 (f) The term "advertisement" means all representations  
5 disseminated in any manner or by any means, other than by labeling,  
6 for the purpose of inducing, or which are likely to induce, directly  
7 or indirectly, the purchase of food.

8 (g) The term "contaminated with filth" applies to any food not  
9 securely protected from dust, dirt, and, as far as may be necessary  
10 by all reasonable means, from all foreign or injurious  
11 contaminations.

12 (h) The provisions of this article regarding the selling of food  
13 shall be considered to include the manufacture, production,  
14 processing, packing, exposure, offer, possession, and holding of any  
15 such article for sale; and the sale, dispensing, and giving of any  
16 such article, and the supplying or applying of any such articles in  
17 the conduct of any food establishment.

18 (i) The term "Federal Act" means the Federal Food, Drug, and  
19 Cosmetic Act.

20 (j) The term "mobile food establishment" means a facility,  
21 including a trailer, that prepares food and beverages, is vehicle  
22 mounted, is Department of Transportation road approved, including  
23 wheels and axles, is readily moveable and remains at one physical  
24 address for no more than twelve (12) hours at one time, unless the

1 truck is operating on private property. A mobile food establishment  
2 operating on private property may remain at one physical address for  
3 no more than fourteen (14) days.

4 (k) The term "mobile push cart" means a non-self-propelled food  
5 unit that can be manually moved by an average person without being  
6 vehicle mounted.

7 (l) The term "mobile retail food establishment" means a licensed  
8 unit which sells packaged foods from a stationary display at a  
9 location some distance from the unit but still at the same physical  
10 address for no more than twelve (12) hours, provided the licensed  
11 unit is on the premises and readily available for inspection and the  
12 food has been prepared in a facility that is regulated by the Good  
13 Manufacturing Practices in Title 21 of the Code of Federal  
14 Regulations or regulated as a license holder pursuant to Section  
15 310:260 of the Oklahoma Administrative Code, Good Manufacturing  
16 Practice Regulations, Oklahoma Department of Agriculture, Food and  
17 Forestry, and United States Department of Agriculture, or this act.

18 (m) The term "mobile food vendor" means any person who dispenses  
19 food or beverages from a mobile food establishment, mobile push cart  
20 or mobile retail food establishment.

21 (n) The term "mobile food vending" means dispensing food or  
22 beverages from a food vending vehicle.

23 (o) The term "food vending vehicle" means a mobile food  
24 establishment, mobile push cart or mobile retail food establishment.

1 (p) The term "local authority" means any local government,  
2 including any town, city, charter city, political subdivision or  
3 county.

4 (q) The term "public property" means any property owned and  
5 operated by this state or a local authority for the benefit of the  
6 public and includes all rights-of-way contained wholly within any  
7 state or local authority parks.

8 (r) The term "temporary mass gathering" means an actual or  
9 reasonably anticipated assembly of three hundred or more people for  
10 an event that continues, or reasonably can be expected to continue,  
11 for two (2) or more hours per day.

12 (s) The term "nonobstructive spot inspection" means an  
13 inspection of a mobile food establishment at a temporary mass  
14 gathering that is conducted, if practicable, before the start of the  
15 temporary mass gathering, and that does not exceed ten (10) minutes  
16 in length if conducted during a high-traffic time of the gathering.

17 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-1118, is  
18 amended to read as follows:

19 Section 1-1118. A. It shall be unlawful for any person to operate  
20 or maintain any establishment, stationary or otherwise, where food  
21 or drink is offered for sale, or sold, to the public, unless the  
22 person is the holder of a food establishment license issued for such  
23 purpose by the State Commissioner of Health or designee. A mobile  
24 food vendor that seeks to operate in a county with a population of

1 more than 500,000 that is governed by a city-county health  
2 department shall obtain a food establishment license from the local  
3 authority which has the population over 500,000. This license,  
4 shall permit the mobile food vendor to operate in any city-county  
5 health department or local authority's jurisdiction and shall be  
6 recognized by the State Commissioner as a food establishment license  
7 for purposes of this chapter.

8 A food establishment license shall not be required for:

9 1. A produce stand that offers only whole, uncut and  
10 unprocessed fresh fruits, melons, vegetables and legumes and/or  
11 whole uncracked and unprocessed nuts;

12 2. A manufacturer, wholesaler or broker of food licensed  
13 pursuant to Section 1-1119 of this title;

14 3. A kitchen in a private home if only food that does not  
15 require time and temperature control for safety is prepared for sale  
16 or service at a function such as a nonprofit civic, charitable or  
17 religious organization's bake sale;

18 4. An area where food that is prepared as specified in  
19 paragraph 3 of this subsection is sold or offered for human  
20 consumption;

21 5. A private home that receives catered or home-delivered food;

22 6. A hotel licensed pursuant to Section 1-1201 of this title  
23 which provides limited food service in compliance with rules  
24 promulgated by the State Board of Health;

1           7. A kitchen in a private home or in a bed and breakfast that  
2 prepares and offers food to guests, if the home is owner-occupied,  
3 the number of available guest bedrooms does not exceed three, and  
4 breakfast is the only meal offered;

5           8. A nonprofit civic, charitable or religious organization  
6 using unpaid individuals to prepare or serve food on its behalf, for  
7 occasional fund-raising events sponsored and conducted by the  
8 organization. For the purposes of this paragraph, an "occasional  
9 fund-raising event" shall be defined as an event that occurs four  
10 times a year or less;

11           9. Day care centers or family day care centers, and all other  
12 child care facilities as defined and licensed pursuant to the  
13 provisions of the Oklahoma Child Care Facilities Licensing Act;

14           10. Nursing facilities and specialized facilities, as defined  
15 in and licensed pursuant to the provisions of the Nursing Home Care  
16 Act, residential care homes as defined by the Residential Care Act,  
17 adult day care centers as defined by the Adult Day Care Act, and  
18 assisted living centers and continuum of care facilities licensed  
19 pursuant to the Continuum of Care and Assisted Living Act; and

20           11. Other establishments exempted from food establishment  
21 licensure pursuant to state law.

22           B. Each license shall expire one (1) year following the date of  
23 its issuance. The State Department of Health shall charge and  
24 collect for each such license an annual fee to be fixed by the State



1 ~~Board~~ Department of Health by rule or as provided for in this  
2 section.

3 1. The Board may provide by rule for a fee-exempt license for a  
4 food establishment operated by a nonprofit, civic, charitable or  
5 religious organization that uses unpaid persons to sell or offer  
6 food on a more frequent basis than the occasional fund-raising  
7 event. A fee-exempt license shall not expire but shall remain in  
8 full force and effect until affirmatively revoked, suspended,  
9 annulled or withdrawn by the Department in accordance with  
10 applicable law.

11 2. The Board may by rule also provide that licenses for  
12 establishments serving events of limited duration or operating on a  
13 seasonal basis shall extend only for the term of the event or  
14 season, and may by rule adjust the fees for such licenses  
15 accordingly.

16 3. The Board shall provide by rule a three-day license for  
17 vendors who only sell at farmers markets as defined in 310:257-1-2  
18 of the Oklahoma Administrative Code or at county fairs. Licenses  
19 for vendors who only sell at farmers markets or county fairs shall  
20 not exceed Fifty Dollars (\$50.00). Vendors who do not sell food and  
21 vendors who meet the exceptions provided in subsection A of this  
22 section shall not be required to obtain a three-day license or a  
23 food establishment license.

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1 C. The State Board of Health shall promulgate reasonable  
2 standards and rules for sanitation of establishments required to be  
3 licensed, which shall include the following: buildings, vehicles,  
4 and appurtenances thereto, including plumbing, ventilation and  
5 lighting; construction, cleanliness and bactericidal treatment of  
6 equipment and utensils; cleanliness, wholesomeness, storage and  
7 refrigeration of food and drink sold or served; cleanliness and  
8 hygiene of personnel; toilet facilities; disposal of waste; water  
9 supply; and other items deemed necessary to safeguard the health,  
10 comfort, and safety of customers.

11 SECTION 3. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-1150 of Title 63, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. A mobile food vendor with a food establishment license  
15 required under Section 1-1118 of this chapter is authorized to  
16 operate in the state subject to this section. Mobile food vendors  
17 shall follow all state and local laws and regulations governing  
18 operations in the jurisdiction where the vendor is operating that  
19 are not in conflict with this section.

20 B. A mobile food vendor with a food establishment license  
21 required under Section 1-1118 of this chapter may operate in the  
22 following locations:

23 1. A mobile food vendor may operate from legal parking spaces  
24 on the public right-of way, including metered spaces, upon payment

1 of appropriate fees. When operating on public property, a mobile  
2 food vendor is subject to the same parking rules, restrictions and  
3 obligations as other commercial vehicles; and

4 2. On private property under the following circumstances:

5 a. the property is located in a zoning district where  
6 food service establishments are permitted to operate  
7 and the vendor has permission of the property owner,  
8 designee or lessor, and

9 b. the property is located in a residential zoning  
10 district and the mobile food vendor has been invited  
11 by a resident or group of residents in that district  
12 to operate on their property for the purpose of  
13 serving food to that resident, group of residents or  
14 their guests, provided that the operation of mobile  
15 food vendors on the subject property not exceed twelve  
16 days per year.

17 C. A mobile food vendor shall not operate in any manner which  
18 will interfere with or obstruct the free passage of pedestrians or  
19 vehicles along any street, sidewalk or parkway.

20 D. When operating, a mobile food vendor shall:

21 1. Maintain a food vending vehicle in good operating order;

22 2. Provide a waste receptacle for customers which is visible and  
23 request its use by customers;

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1           3. Remove and dispose of all refuse within a twenty-five-foot  
2 radius of the mobile food vendor's operating area at the conclusion  
3 of operation;

4           4. Display the mobile food vendor's food establishment license  
5 in a conspicuous location for public view; and

6           5. If serving food at a temporary mass gathering, notify the  
7 State Department of Health and the local authority in the  
8 jurisdiction where the gathering is located of the dates the mobile  
9 food vendor will operate at the temporary mass gathering at least  
10 ten (10) business days prior to the gathering.

11           E. The State Department of Health may promulgate rules to  
12 enforce the provisions of this section. Rules adopted shall not:

13           1. Require a mobile food vendor to operate a specific distance  
14 from the perimeter of an existing commercial establishment or to  
15 enter into any agreement with a commercial establishment;

16           2. Require a mobile food vendor that serves only prepackaged  
17 food or that does not prepare or open food to have a handwashing  
18 sink in his or her food vending vehicle;

19           3. Require a mobile food vendor to associate with a commissary  
20 if the vendor carries all the equipment necessary to comply with  
21 health and safety standards and applicable regulations;

22           4. Limit the number of licensed mobile food vendors;

23           5. Require a mobile food vendor to obtain any additional  
24 permits from a local authority unless the mobile food vendor seeks

1 to operate at an event which is permitted by a local authority or in  
2 a local, public park;

3 6. Require a mobile food vendor to be fingerprinted or to  
4 install a GPS tracking device on the vendor's vehicle;

5 7. Require a mobile food vendor to stay in constant motion  
6 except for when serving customers;

7 8. Require a mobile food vendor to change locations unless the  
8 vendor is operating in violation of this act;

9 9. Require a mobile food vendor to maintain insurance that names  
10 a local authority as an additional insured unless the vendor is  
11 attending an event sponsored by the local authority or operating in  
12 a local, public park;

13 10. Require a mobile food vendor to maintain a bond that names  
14 a local authority as a beneficiary unless the vendor is attending an  
15 event sponsored by the local authority or operating in a local  
16 public park;

17 11. Require a mobile food vendor to submit to health  
18 inspections beyond health inspections conducted by the Department or  
19 by a local authority collaborating with the Department, unless the  
20 Department is investigating a reported foodborne illness or  
21 addressing a complaint of an imminent health or safety hazard to the  
22 public;

23 12. Require a health inspection of a food vending vehicle more  
24 than twice per year unless the Department is ensuring a mobile food

1 vendor has corrected a violation detected during a prior inspection,  
2 is investigating a reported foodborne illness or is conducting a  
3 nonobstructive spot inspection to ensure food safety;

4 13. Charge a mobile food vendor fees for a health inspection;  
5 and

6 14. Require a mobile food vendor to submit to a state or local  
7 fire inspection if the vendor can demonstrate it passed a state or  
8 local fire inspection in the previous twelve months.

9 SECTION 4. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1-1151 of Title 63, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. The local authority may regulate mobile food vendors in  
13 accordance with this section. In relation to a mobile food vendor's  
14 operations, a local authority may:

15 1. Restrict the operation of a noisemaking device that exceeds  
16 seventy-five (75) decibels measured at twenty-three (23) feet from  
17 the food vending vehicle during certain hours of the day;

18 2. Restrict a mobile food vendor from operating in a public  
19 park or require a special permit and payment of fees to operate in a  
20 public park;

21 3. Prohibit a mobile food vendor from blocking or restricting  
22 ingress to or egress from private property;

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1 4. Develop a mobile food vendor metered parking pass for a fee  
2 that permits a mobile food vendor to operate from metered parking  
3 spaces for longer than the vendor would otherwise be permitted;

4 5. Investigate reports of foodborne illnesses;

5 6. Report a mobile food vendor's suspected violation of this  
6 act to the State Department of Health; and

7 7. Issue citations and penalties to mobile food vendors for  
8 violations of state and local law not inconsistent with this act.

9 B. In relation to a mobile food vendor's operations, a local  
10 authority may not:

11 1. Prohibit a mobile food vendor from lawfully operating in its  
12 jurisdiction if the vendor holds a food establishment license  
13 required under Section 1-1118 of this title and is in compliance  
14 with all other state laws and local laws not in conflict with this  
15 act;

16 2. Require a mobile food vendor to obtain any license or permit  
17 from a local authority to operate a food vending vehicle unless the  
18 mobile food vendor seeks to operate at an event which has been  
19 permitted by the local authority or seeks a food establishment  
20 license from a local authority required by Section 1-1118 of this  
21 title;

22 3. Require a mobile food vendor to operate a specific distance  
23 from commercial food or retail establishments or to enter into any  
24 agreement with commercial food or retail establishments;

1           4. Require a mobile food vendor to be fingerprinted or to  
2 install a Global Positioning System (GPS) tracking device on its  
3 vehicle;

4           5. Require a mobile food vendor to stay in constant motion  
5 except for when serving customers;

6           6. Require a mobile food vendor to maintain an insurance policy  
7 that names the local authority as an additional insured unless the  
8 vendor is attending an event sponsored by the local authority or  
9 operating in a local, public park;

10          7. Require a mobile food vendor to maintain a bond that names a  
11 local authority as a beneficiary unless the vendor is attending an  
12 event sponsored by the local authority or operating in a local,  
13 public park;

14          8. Require a mobile food vendor to submit to health inspections  
15 beyond health inspections conducted by or in collaboration with the  
16 Department, unless the local authority is investigating a reported  
17 foodborne illness or addressing a complaint of an imminent health or  
18 safety hazard to the public;

19          9. Require a health inspection of a food vending vehicle more  
20 than twice per year unless the local authority, in collaboration  
21 with the Department under this act, is ensuring a mobile food vendor  
22 has corrected a violation detected during a prior inspection, is  
23 investigating a reported foodborne illness or is conducting a  
24 nonobstructive spot inspection to ensure food safety;



1 10. Charge a mobile food vendor fees for additional health  
2 inspections;

3 11. Require a mobile food vendor to submit to a state or local  
4 fire inspection if the vendor can demonstrate it passed a state or  
5 local fire inspection in the previous twelve months;

6 12. Require a mobile food vendor to enter into any agreement  
7 with a commercial establishment or restaurant;

8 13. Regulate the equipment requirements for a food vending  
9 vehicle; and

10 14. Require a mobile food vendor to associate with a commissary  
11 if the vendor has all the equipment necessary to comply with state  
12 regulations pertaining to food vending vehicles.

13 SECTION 5. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1-1152 of Title 63, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. Any mobile food vendor who has been notified of a possible  
17 suspension or revocation of his or her state license may request an  
18 administrative hearing in accordance with the Administrative  
19 Procedures Act and the State Department of Health's rules.

20 B. The Department may issue civil penalties to a person who  
21 operates as a mobile food vendor without a license, with a suspended  
22 license or after a license is revoked.

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1 SECTION 6. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-1153 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4 A person aggrieved by a state agency decision following a  
5 hearing has the right to appeal the decision as provided in the  
6 Administrative Procedures Act and the State Department of Health's  
7 rules.

8 SECTION 7. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1-1154 of Title 63, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. This act shall not be construed to require a local authority  
12 to adopt a program regulating mobile food vendors or to modify its  
13 existing program regulating mobile food vendors; provided the  
14 regulations do not conflict with this act.

15 B. This act shall not be construed to impede the State  
16 Department of Health or local authority in any investigation of a  
17 reported foodborne illness.

18 SECTION 8. This act shall become effective November 1, 2022.

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20 58-2-10506 KN 02/14/22

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