

**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 State  
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; providing for  
20 codification; and providing an effective date.

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

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

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

(a) The term "food" means:

- (1) articles used for food or drink for ~~man~~ human consumption,
- (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  
13 food 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 movable, and remains at one physical  
24 address for no more than twelve (12) hours at one time, unless the

1 mobile food establishment is operating on private property. A  
2 mobile food establishment operating on private property may remain  
3 at one physical address for 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  
8 licensed enterprise which sells packaged foods from a stationary  
9 display at a location some distance from the establishment but still  
10 at the same physical address for no more than twelve (12) hours;  
11 provided, the licensed unit is on the premises and readily available  
12 for inspection and the food has been prepared in a facility that is  
13 regulated by the Good Manufacturing Practices in Title 21 of the  
14 Code of Federal Regulations or pursuant to Section 310:260 of the  
15 Oklahoma Administrative Code, Good Manufacturing Practice  
16 Regulations, Oklahoma Department of Agriculture, Food, and Forestry,  
17 and United States Department of Agriculture, or this act.

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

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

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1       (o) The term "food vending vehicle" means a mobile food  
2 establishment, mobile push cart, or mobile retail food  
3 establishment.

4       (p) The term "local authority" means any local government,  
5 including any town, city, charter city, political subdivision, or  
6 county.

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

11       (r) The term "temporary mass gathering" means an actual or  
12 reasonably anticipated assembly of three hundred (300) or more  
13 people for an event that continues, or reasonably can be expected to  
14 continue, for two (2) or more hours per day.

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

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

22       Section 1-1118. A. It shall be unlawful for any person to  
23 operate or maintain any establishment, stationary or otherwise,  
24 where food or drink is offered for sale, or sold, to the public,

1 unless the person is the holder of a food establishment license  
2 issued for such purpose by the State Commissioner of Health or  
3 designee. A mobile food vendor that seeks to operate in a county  
4 with a population of more than four hundred thousand (400,000)  
5 according to the latest Federal Decennial Census that is governed by  
6 a city-county health department shall obtain a food establishment  
7 license from the local authority which has the population over four  
8 hundred thousand (400,000) according to the latest Federal Decennial  
9 Census. This food establishment license shall be recognized by the  
10 State Commissioner of Health and all local authorities as a state  
11 food establishment license for purposes of this title. A food  
12 establishment license shall permit the mobile food vendor to operate  
13 in any local authority's jurisdiction upon the local authority's  
14 recognition of the license, the issuance of any relevant local  
15 license not in conflict with this act, and the vendor's compliance  
16 with all other municipal provisions not in conflict with this act.

17 A food establishment license shall not be required for:

18 1. A produce stand that offers only whole, uncut and  
19 unprocessed fresh fruits, melons, vegetables and legumes and/or  
20 whole uncracked and unprocessed nuts;

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

23 3. A kitchen in a private home if only food that does not  
24 require time and temperature control for safety is prepared for sale

1 or service at a function such as a nonprofit civic, charitable or  
2 religious organization's bake sale;

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

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

7 6. A hotel licensed pursuant to Section 1-1201 of this title  
8 which provides limited food service in compliance with rules  
9 promulgated by the State ~~Commissioner~~ Board of Health;

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

14 8. A nonprofit civic, charitable or religious organization  
15 using unpaid individuals to prepare or serve food on its behalf, for  
16 occasional ~~fund-raising~~ fundraising events sponsored and conducted  
17 by the organization. For the purposes of this paragraph, an  
18 "occasional ~~fund-raising~~ fundraising event" shall be defined as an  
19 event that occurs four times a year or less;

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

23 10. Nursing facilities and specialized facilities, as defined  
24 in and licensed pursuant to the provisions of the Nursing Home Care



1 Act, residential care homes as defined by the Residential Care Act,  
2 adult day care centers as defined by the Adult Day Care Act, and  
3 assisted living centers and continuum of care facilities licensed  
4 pursuant to the Continuum of Care and Assisted Living Act; and

5 11. Other establishments exempted from food establishment  
6 licensure pursuant to state law.

7 B. Each license shall expire one (1) year following the date of  
8 its issuance. The State Department of Health shall charge and  
9 collect for each such license an annual fee to be fixed by the State  
10 ~~Commissioner~~ Department of Health by rule or as provided for in this  
11 section.

12 1. The ~~Commissioner~~ Board may provide by rule for a fee-exempt  
13 license for a food establishment operated by a nonprofit, civic,  
14 charitable or religious organization that uses unpaid persons to  
15 sell or offer food on a more frequent basis than the occasional  
16 ~~fund-raising~~ fundraising event. A fee-exempt license shall not  
17 expire but shall remain in full force and effect until affirmatively  
18 revoked, suspended, annulled or withdrawn by the Department in  
19 accordance with applicable law.

20 2. The ~~Commissioner~~ Board may by rule also provide that  
21 licenses for establishments serving events of limited duration or  
22 operating on a seasonal basis shall extend only for the term of the  
23 event or season, and may by rule adjust the fees for such licenses  
24 accordingly.

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

9           4. The Commissioner shall provide by rule a multiseasonal  
10 license for snow cone stands that sell hot beverages in addition to  
11 snow cones. A snow cone stand that does not sell hot beverages  
12 shall be considered a seasonal food establishment.

13           C. The State ~~Commissioner~~ Board of Health shall promulgate  
14 reasonable standards and rules for sanitation of establishments  
15 required to be licensed, which shall include the following:  
16 buildings, vehicles, and appurtenances thereto, including plumbing,  
17 ventilation and lighting; construction, cleanliness and bactericidal  
18 treatment of equipment and utensils; cleanliness, wholesomeness,  
19 storage and refrigeration of food and drink sold or served;  
20 cleanliness and hygiene of personnel; toilet facilities; disposal of  
21 waste; water supply; and other items deemed necessary to safeguard  
22 the health, comfort, and safety of customers.

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

4 A. A mobile food vendor with a food establishment license  
5 required under Section 1-1118 of Title 63 of the Oklahoma Statutes is  
6 authorized to operate in the state subject to this section. Mobile  
7 food vendors shall follow all state and local laws and regulations  
8 governing operations in the jurisdiction where the vendor is  
9 operating that are not in conflict with this act.

10 B. A mobile food vendor with a food establishment license  
11 required under Section 1-1118 of Title 63 of the Oklahoma Statutes  
12 shall provide a copy of its state license to a local authority for  
13 recognition by the local authority before operating in the local  
14 authority's jurisdiction. The local authority shall recognize a  
15 lawful and valid state license and authorize the mobile food vendor  
16 to operate in its jurisdiction within five (5) business days of  
17 receipt of the state license and verification of compliance with  
18 local regulations not in conflict with this act. Such recognition  
19 and authorization may include issuing a local license or permit to  
20 the mobile food vendor. Any local license or permit issued shall  
21 not impose additional requirements that conflict with this act.

22 C. Upon compliance with subsection B of this section, a mobile  
23 food vendor may operate in the following locations:

24 1. Any location allowed by the local authority; and

1        2. On private property under the following circumstances:

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

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

14            c. the mobile food vendor would not cause a nuisance.

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

18            E. A mobile food vendor shall not operate in a state park  
19 without having a contract or lease agreement approved by the  
20 Oklahoma Tourism and Recreation Commission.

21            F. When operating, a mobile food vendor shall:

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

23                    2. Provide a waste receptacle for customers that is visible and  
24 request that customers use it;

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 to be located of the dates the  
9 mobile food vendor will operate at the temporary mass gathering at  
10 least ten (10) business days prior to the gathering.

11           G. 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 the 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 Global Positioning System (GPS) tracking device on the  
5 vendor's vehicle;

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

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

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

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

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

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1       12. Require a health inspection of a food vending vehicle more  
2 than twice per year unless the Department is ensuring a mobile food  
3 vendor has corrected a violation detected during a prior inspection,  
4 is investigating a reported foodborne illness, or is conducting a  
5 nonobstructive spot inspection to ensure food safety;

6       13. Charge a mobile food vendor fees for a health inspection;  
7 and

8       14. Require a mobile food vendor to submit to a state fire  
9 inspection if the vendor can demonstrate it passed a state or local  
10 fire inspection in the previous twelve (12) months.

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

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

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

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

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

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;

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

10          8. Adopt and enforce other regulations in conformity to  
11 municipal powers that are not inconsistent with this act. Any  
12 regulation regarding mobile food vendors must address public health  
13 or safety risks.

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

16           1. Prohibit a mobile food vendor from lawfully operating in its  
17 jurisdiction if the vendor holds a food establishment license  
18 required under Section 1-1118 of Title 63 of the Oklahoma Statutes  
19 and is in compliance with this act and all other state and local  
20 laws not in conflict with this act;

21           2. Require a mobile food vendor to obtain any license or permit  
22 from the local authority to operate a food vending vehicle unless:  
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- a. the local authority is issuing a local license in recognition of a state license under Section 1-1150(B) of this title,
- b. the mobile food vendor seeks to operate at an event which has been permitted by the local authority, or
- c. the mobile food vendor seeks a food establishment license from a local authority required by Section 1-1118 of Title 63 of the Oklahoma Statutes;

3. Require a mobile food vendor that is operating on private property with the permission of the owner to operate a specific distance from commercial food or retail establishments;

4. Require a mobile food vendor to enter into any agreement with commercial food or retail establishments;

5. Require a mobile food vendor to be fingerprinted or to install a Global Positioning System (GPS) tracking device on the vendor's vehicle;

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

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

8. Require a mobile food vendor to maintain a bond that names a local authority as a beneficiary unless the vendor is operating at

1 an event sponsored by the local authority or operating in a local,  
2 public park;

3 9. Require a mobile food vendor to submit to health inspections  
4 beyond health inspections conducted by or in collaboration with the  
5 Department, unless the local authority is investigating a reported  
6 foodborne illness or addressing a complaint of an imminent health or  
7 safety hazard to the public;

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

14 11. Charge a mobile food vendor fees for additional health  
15 inspections;

16 12. Charge a mobile food vendor fees for any local license or  
17 permit allowed under Section 3 of this act beyond the administrative  
18 cost of issuing the local license or permit;

19 13. Require a mobile food vendor to submit to a state fire  
20 inspection if the vendor can demonstrate it passed a state fire  
21 inspection in the previous twelve (12) months;

22 14. Require a mobile food vendor to enter into any agreement  
23 with a commercial establishment or restaurant;

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1 15. Regulate the equipment requirements for a food vending  
2 vehicle; and

3 16. Require a mobile food vendor to associate with a commissary  
4 if the vendor has all the equipment necessary to comply with state  
5 regulations pertaining to food vending vehicles.

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

9 A. Any mobile food vendor who has been notified of a possible  
10 suspension or revocation of his or her state license may request an  
11 administrative hearing in accordance with the Administrative  
12 Procedures Act and State Department of Health rules.

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

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

19 A person aggrieved by a State Department of Health decision  
20 following a hearing has the right to appeal the decision as provided  
21 in the Administrative Procedures Act and State Department of Health  
22 rules.

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

4 A. This act shall not be construed to require a local authority  
5 to adopt a program regulating mobile food vendors or to modify its  
6 existing program regulating mobile food vendors; provided, the  
7 regulations do not conflict with this act.

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

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

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13 58-2-11052 KN 03/21/22

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