



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1101 - Definitions

Cite as: O.S. §, ___ __

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.
- (b) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible through the outside container or wrapper.
- (c) The term "immediate container" does not include package liners.
- (d) The term "labeling" means all labels and other written, printed or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.
- (e) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates, under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual.
- (f) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food.
- (g) The term "contaminated with filth" applies to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.
- (h) The provisions of this article regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food establishment.
- (i) The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1101, emerg. eff. July 1, 1963.

Citationizer[®] Summary of Documents Citing This Document

Cite Name **Level**

Oklahoma Attorney General's Opinions

Cite	Name	Level
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Cite Name	Level	
<u>2005 OK AG 41,</u>	<u>Question Submitted by: The Honorable Glenn Coffee, State Senator, District 30</u>	<i>Cited</i>

Oklahoma Supreme Court Cases

<i>Cite</i>	<i>Name</i>	<i>Level</i>
<u>2008 OK 1, 176 P.3d 1204,</u>	<u>DARROW v. INTEGRIS HEALTH, INC.</u>	<i>Cited</i>

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1102 - Acts Prohibited

Cite as: O.S. §, ___ __

The following acts and the causing thereof within the State of Oklahoma are hereby prohibited:

- (a) the manufacture, sale, or delivery, holding or offering for sale of any food that is adulterated or misbranded.
- (b) the adulteration or misbranding of any food.
- (c) the receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.
- (d) the sale of food, or the offer to sell it, or its receipt into commerce, in capped glass containers, or perishable or flexible containers such as, but not limited to, paper cardboard containers, when the container has been damaged by fire or water.
- (e) the sale, delivery for sale, holding for sale, or offering for sale of any article in violation of Section 1-1111 [63-1-1111] of this title.
- (f) the dissemination of any false advertisement.
- (g) the refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by Section 1-1115 [63-1-1115] of this title.
- (h) the giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food.
- (i) the removal or disposal of a detained or embargoed article in violation of Section 1-1105 [63-1-1105] of this title.
- (j) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of or the doing of any other act with respect to a food, if such act is done while such article is held for sale and results in such article being misbranded.
- (k) forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification devise authorized or required by reasonable rules and regulations promulgated under the provisions of this title.
- (l) the sale, offer to sell, dispense or release into commerce of any food or confection under a name, label or brand when the name, label or brand either precisely or by slang term or popular usage, is the name, label or brand of a controlled dangerous drug or a controlled dangerous substance by law.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1102, emerg. eff. July 1, 1963; Amended by Laws 1973, HB 1093, c. 114, § 1.

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Cite Name	Level
Oklahoma Supreme Court Cases	
Cite	Name
<u>2004 OK 1, 84 P.3d 728.</u>	<u>SILVER v. CPC-SHERWOOD MANOR, INC.</u>
	Level
	<i>Discussed at Length</i>

Cite Name	Level	
<u>2016 OK 28, 376 P.3d 894.</u>	<u>MOORE v. WARR ACRES NURSING CENTER, LLC.</u>	<i>Discussed at Length</i>
<u>2021 OK 68, 507 P.3d 673.</u>	<u>HO v. TULSA SPINE & SPECIALTY HOSPITAL</u>	<i>Cited</i>

Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1103 - Injunctions Authorized

Cite as: O.S. §, ___ __

In addition to the remedies hereinafter provided, the State Commissioner of Health is hereby authorized to apply to the district court for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any of the provisions of the preceding section of this article, irrespective of whether or not there exists an adequate remedy at law.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1103, emerg. eff. July 1, 1963.

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Citationizer: Table of Authority

<i>Cite</i>	<i>Name Level</i>
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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1104 - Violations - Punishment

Cite as: O.S. §, ___ __

(a) Any person who violates any of the provisions of Section 1102 of this article shall be guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than thirty (30) days, or a fine of not more than One Hundred Dollars (\$100.00), or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than six (6) months, or a fine of not more than Five Hundred Dollars (\$500.00), or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) of this section for having violated Section 1102(a) or (c) of this article if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this article, designating this article.

(c) No publisher, radiobroadcast or television licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused on the request of the State Commissioner of Health or his duly-authorized agent to furnish the Commissioner the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency residing in the United States who caused him to disseminate such advertisement.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1104, emerg. eff. July 1, 1963

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Cite **Name Level**

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Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1105 - Embargo Authorized - Nuisances

Cite as: O.S. §, ___ __

(a) Whenever a duly-authorized agent of the State Commissioner of Health finds, or has probable cause to believe, that any food is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this article, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission for a period of fifteen (15) days after such tag or other marking has been affixed thereto.

(b) When an article detained or embargoed has been found by such agent to be adulterated or misbranded, he shall petition the district court in whose jurisdiction the article is detained or embargoed for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses shall be taxed against the claimant of such article or his agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the State Commissioner of Health. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the Commissioner that the article is no longer in violation of this article and that the expenses of such supervision have been paid.

(d) Whenever the State Commissioner of Health or any of his authorized agents shall find in any room, building, vehicle of transportation or other structure any meat, seafood, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substances, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the Commissioner, or his authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1105, emerg. eff. July 1, 1963.

Citationizer® Summary of Documents Citing This Document

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Citationizer: Table of Authority

Cite **Name Level**

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1106 - Prosecution for Violations

Cite as: O.S. §, ___ __

It shall be the duty of each district attorney to whom the State Commissioner of Health reports any violation of this article to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1106, emerg. eff. July 1, 1963, Amended by Laws 1986, HB 2002, c. 121, § 1, emerg. eff. April 10, 1986.

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Citationizer: Table of Authority

Cite ***Name Level***

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1107 - Discretion in Prosecution

Cite as: O.S. §, ___ __

Nothing in this article shall be construed as requiring the State Commissioner of Health to report, for the institution of proceedings under this article, minor violations, whenever the Commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1107, emerg. eff. July 1, 1963.

Citationizer[®] Summary of Documents Citing This Document

Cite ***Name Level***

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Citationizer: Table of Authority

Cite ***Name Level***

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1108 - Rules and Regulations - Definitions - Standards

Cite as: O.S. §, ___ __

Whenever in the judgment of the State Board of Health such action will promote honesty and fair dealing in the interest of consumers, the Board shall promulgate reasonable rules and regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, and/or reasonable standard of quality and/or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted the Board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform so far as practicable to the definitions and standards promulgated under authority of the Federal Act.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1108, emerg. eff. July 1, 1963.

Citationizer[®] Summary of Documents Citing This Document

<i>Cite</i>	<i>Name Level</i>
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Citationizer: Table of Authority

<i>Cite</i>	<i>Name Level</i>
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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1109 - Adulterated Food

Cite as: O.S. §, ___ __

A food shall be deemed to be adulterated:

(a) (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of Section 1112 of this article; or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been rendered diseased, unwholesome, or injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) (1) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

(c) if it is confectionery and it bears or contains any alcohol or nonnutritive article of substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent (4/10 of 1%), harmless natural wax not in excess of four-tenths of one percent (4/10 of 1%), harmless natural gum and pectin; provided, that this paragraph shall not apply to any confectionery by reason of its containing less than one-half of one percent (1/2 of 1%) of volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(d) if it bears or contains a coal tar color other than one from a batch which has been certified under authority of the Federal Act.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1109, emerg. eff. July 1, 1963.

Citationizer[®] Summary of Documents Citing This Document

Cite Name	Level
Oklahoma Supreme Court Cases	
Cite	Name
2004 OK 1, 84 P.3d 728.	SILVER v. CPC-SHERWOOD MANOR, INC.
2016 OK 28, 376 P.3d 894.	MOORE v. WARR ACRES NURSING CENTER, LLC.
	Level
	Discussed at Length
	Cited

Citationizer: Table of Authority

Cite Name Level

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1110 - Misbranding of Food

Cite as: O.S. §, ___ __

A food shall be deemed to be misbranded:

- (a) if its labeling is false or misleading in any particular.
- (b) if it is offered for sale under the name of another food.
- (c) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "Imitation" and immediately thereafter the name of the food imitated.
- (d) if its container is so made, formed, or filled as to be misleading.
- (e) if in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by reasonable rules and regulations prescribed by the State Board of Health.
- (f) if any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
- (g) if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by reasonable rules and regulations as provided by Section 1108 of this article, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such reasonable rules and regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.
- (h) if it purports to be or is represented as:
 - (1) a food for which a standard of quality has been prescribed by reasonable rules and regulations as provided by Section 1108 of this article, and its quality falls below such standard, unless its label bears, in such manner and form as such reasonable rules and regulations specify, a statement that it falls below such standard; or
 - (2) a food for which a standard or standards of fill of container have been prescribed by reasonable rules and regulations as provided by Section 1108 of this article, and it falls below the standard of fill or container applicable thereto, unless its label bears, in such manner and form as such reasonable rules and regulations specify, a statement that it falls below such standard.
- (i) if it is not subject to the provisions of paragraph (g) of this section, unless it bears labeling clearly giving (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that to the extent that compliance with the requirements of clause (2) of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by reasonable rules and regulations

promulgated by the State Board of Health; and provided, further, that the requirements of clause (2) of this paragraph shall not apply to any carbonated beverage, the ingredients of which have been fully and correctly disclosed to the extent prescribed by said clause (2) to the Board in an affidavit. Statute taken from OSCN on 09-30-24

(j) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the State Board of Health determines to be, and by reasonable rules and regulations prescribed, as necessary in order to fully inform purchasers as to its value for such uses.

(k) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by reasonable rules and regulations promulgated by the State Board of Health.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1110, emerg. eff. July 1, 1963.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1111 - Permits Authorized

Cite as: O.S. §, ___ __

(a) Whenever the State Board of Health finds after investigation that the distribution in the State of Oklahoma of any class of food may, by reason of contamination with microorganisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, it then, and in such case only, shall promulgate reasonable rules and regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such reasonable rules and regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the State Commissioner of Health as provided by such reasonable rules and regulations.

(b) The State Commissioner of Health is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the Commissioner shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

(c) Any officer or employee duly designated by the State Commissioner of Health shall have access to any factory or establishment, the operator of which holds a permit from the Commissioner, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1111, emerg. eff. July 1, 1963.

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Citationizer: Table of Authority

Cite ***Name Level***

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1112 - Adding Substances to Food

Cite as: O.S. §, ___ __

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of Section 1109(a) of this article, but when such substance is so required or cannot be so avoided, the State Board of Health shall promulgate reasonable rules and regulations limiting the quantity therein or thereon to such extent as the Board finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of Section 1109(a) of this article. While such reasonable rules and regulations are in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of Section 1109(a) of this article. In determining the quantity of such added substance to be tolerated in or on different articles of food, the Board shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1112, emerg. eff. July 1, 1963.

Citationizer[®] Summary of Documents Citing This Document

Cite **Name Level**

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Citationizer: Table of Authority

Cite **Name Level**

None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1113 - False Advertising

Cite as: O.S. §, ___ __

An advertisement of a food shall be deemed to be false if it is false or misleading in any particular.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1113, emerg. eff. July 1, 1963.

Citationizer[®] Summary of Documents Citing This Document

<i>Cite</i>	<i>Name Level</i>
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Citationizer: Table of Authority

<i>Cite</i>	<i>Name Level</i>
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None Found.



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1114 - Rules and Regulations - Enforcement

Cite as: O.S. §, ___ __

(a) The authority to promulgate reasonable rules and regulations for the efficient enforcement of this article is hereby vested in the State Board of Health. The Board is hereby authorized to make the reasonable rules and regulations promulgated under this article conform, insofar as practicable, with those promulgated under the Federal Act.

(b) Hearings authorized or required by this Article shall be conducted by the State Board of Health or such officer, agent, or employee as the Board may designate for the purpose.

(c) Before promulgating any reasonable rules and regulations contemplated by Section 1108, Section 1110(j), or Section 1111 of this article, the Board shall give appropriate notice of the proposal and of the time and place for a hearing. The reasonable rules and regulations so promulgated shall become effective on a date fixed by the Board (which date shall not be prior to thirty (30) days after its promulgation). Such reasonable rules and regulations may be amended or repealed in the same manner as is provided for their adoption, except that in the case of reasonable rules and regulations amending or repealing any such reasonable rules and regulations the Board, to such an extent as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing, or effective date.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1114, emerg. eff. July 1, 1963.

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Cite Name Level

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Citationizer: Table of Authority

Cite Name Level

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1115 - Inspections

Cite as: O.S. §, ___ __

The State Commissioner of Health or his duly-authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods in commerce after notice to the owner, or person in charge of such factory, warehouse, establishment, or vehicle, for the purpose:

(1) of inspecting such factory, warehouse, establishment or vehicle to determine if any of the provisions of this article are being violated, and

(2) to secure samples or specimens of any food after paying or offering to pay for such sample. It shall be the duty of the Commissioner to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this article is being violated; provided, that a copy of the report thereof shall be furnished to the owner of such factory, warehouse, establishment, or vehicle upon written request to the Commissioner; and provided, further, that nothing in this article shall be construed to limit, modify, repeal or affect in any way the powers, duties or functions of the State Board of Agriculture.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1115, emerg. eff. July 1, 1963.

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Cite Name Level

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Citationizer: Table of Authority

Cite Name Level

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1116 - Publication of Reports

Cite as: O.S. §, ___ __

(a) The State Commissioner of Health may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this article, including the nature of the charge and the disposition thereof.

(b) The Commissioner may also cause to be disseminated such information regarding food as the Commissioner deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the Commissioner from collecting, reporting, and illustrating the results of the investigation of the Commissioner.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1116, emerg. eff. July 1, 1963.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

A. General Provisions

Article Article 11 - Food

Section 1-1117 - Conformity to Federal Requirements

Cite as: O.S. §, ___ __

All reasonable rules, regulations, definitions and standards promulgated and/or adopted by the State Board of Health under the provisions of this article shall conform, insofar as practicable, to the reasonable rules, regulations, definitions and standards of the Federal Food and Drug Administration.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1117, emerg. eff. July 1, 1963.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

B. Sellers of Food

Article Article 11 - Food

Section 1-1118 - Food Establishment License - Exemptions - Expiration of License - Fee-exempt License - Reasonable Standards and Rules for Sanitation

Cite as: 63 O.S. § 1-1118 (OSCN 2024), B. Sellers of Food

A. It shall be unlawful for any person to operate or maintain any establishment, stationary or otherwise, where food or drink is offered for sale, or sold, to the public, unless the person is the holder of a food establishment license issued for such purpose by the State Commissioner of Health or designee. A food establishment license shall not be required for:

1. A produce stand that offers only whole, uncut and unprocessed fresh fruits, melons, vegetables and legumes and/or whole uncracked and unprocessed nuts;
2. A manufacturer, wholesaler or broker of food licensed pursuant to [Section 1-1119](#) of this title;
3. A kitchen in a private home if only food that does not require time and temperature control for safety is prepared for sale or service at a function such as a nonprofit civic, charitable or religious organization's bake sale;
4. An area where food that is prepared as specified in paragraph 3 of this subsection is sold or offered for human consumption;
5. A private home that receives catered or home-delivered food;
6. A hotel licensed pursuant to [Section 1-1201](#) of this title which provides limited food service in compliance with rules promulgated by the State Commissioner of Health;
7. A kitchen in a private home or in a bed and breakfast that prepares and offers food to guests, if the home is owner-occupied, the number of available guest bedrooms does not exceed four, and breakfast is the only meal offered;
8. A nonprofit civic, charitable or religious organization using unpaid individuals to prepare or serve food on its behalf, for occasional fundraising events sponsored and conducted by the organization. For the purposes of this paragraph, an "occasional fund-raising event" shall be defined as an event that occurs four times a year or less;
9. Day care centers or family day care centers, and all other child care facilities as defined and licensed pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act;
10. Nursing facilities and specialized facilities, as defined in and licensed pursuant to the provisions of the Nursing Home Care Act, residential care homes as defined by the Residential Care Act, adult day care centers as defined by the Adult Day Care Act, and assisted living centers and continuum of care facilities licensed pursuant to the Continuum of Care and Assisted Living Act;
11. Vendors at farmers markets selling frozen meat that is either kept refrigerated or on ice; and
12. Other establishments exempted from food establishment licensure pursuant to state law.

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

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

2. The Commissioner may by rule also provide that licenses for establishments serving events of limited duration or operating on a seasonal basis shall extend only for the term of the event or season, and may by rule adjust the fees for such licenses accordingly.
 3. The Commissioner shall provide by rule a three-day license for vendors who only sell at farmers markets as defined in 310:257-1-2 of the Oklahoma Administrative Code or at county fairs. Licenses for vendors who only sell at farmers markets or county fairs shall not exceed Fifty Dollars (\$50.00). Vendors who do not sell food and vendors who meet the exceptions provided in subsection A of this section shall not be required to obtain a three-day license or a food establishment license.
 4. The Commissioner shall provide by rule a multiseasonal license for snow cone stands that sell hot beverages in addition to snow cones. A snow cone stand that does not sell hot beverages shall be considered a seasonal food establishment.
- C. The State Commissioner of Health shall promulgate reasonable standards and rules for sanitation of establishments required to be licensed, which shall include the following: buildings, vehicles, and appurtenances thereto, including plumbing, ventilation and lighting; construction, cleanliness and bactericidal treatment of equipment and utensils; cleanliness, wholesomeness, storage and refrigeration of food and drink sold or served; cleanliness and hygiene of personnel; toilet facilities; disposal of waste; water supply; and other items deemed necessary to safeguard the health, comfort, and safety of customers.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1118, emerg. eff. July 1, 1963; Amended by Laws 1965, SB 362, c. 190, §§ 1, 2, emerg. eff. June 8, 1965; Amended by Laws 1986, HB 2002, c. 121, § 2, emerg. eff. April 10, 1986; Amended by Laws 1989, HB 1378, c. 345, § 7, eff. October 1, 1989; Amended by Laws 1995, HB 1293, c. 230, § 7, emerg. eff. July 1, 1995; Amended by Laws 2015, HB 1408, c. 93, § 1, eff. November 1, 2015 ([superseded document available](#)); Amended by Laws 2019, SB 544, c. 505, § 1, eff. November 1, 2019 ([superseded document available](#)); Amended by Laws 2021, HB 1772, c. 450, § 1, emerg. eff. May 10, 2021 ([superseded document available](#)); Amended by Laws 2023, HB 1635, c. 228, § 1, emerg. eff. May 11, 2023 ([superseded document available](#)); Amended by Laws 2023, HB 1772, c. 45, § 1, eff. November 1, 2023 ([superseded document available](#)); Amendment by Laws 2023, HB 1772, c. 45, § 1, amended by Laws 2024, SB 2038, c. 452, § 135, emerg. eff. June 14, 2024; Amendment by Laws 2023, HB 1635, c. 228, § 1, repealed by Laws 2024, SB 2038, c. 452, § 136, emerg. eff. June 14, 2024 ([superseded document available](#)).

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<i>Cite Name</i>	<i>Level</i>
Oklahoma Attorney General's Opinions	
<i>Cite</i>	<i>Name</i>
<i>1983 OK AG 145.</i>	<i>Question Submitted by: The Honorable Bill Dawson, Oklahoma State Senate</i>
	<i>Level</i>
	<i>Discussed at Length</i>

Citationizer: Table of Authority

<i>Cite Name</i>	<i>Level</i>
Title 63. Public Health and Safety	
<i>Cite</i>	<i>Name</i>
<i>63 O.S. 1-1118.</i>	<i>Requirement of License to Sell Food or Drink - Expiration of License - Promulgation of Reasonable Standards and Rules for Sanitation - Licensing of Other Facilities</i>
	<i>Level</i>
<i>63 O.S. 1-1118.</i>	<i>Food Establishment License - Exemptions - Expiration of License - Fee-exempt License - Reasonable Standards and Rules for Sanitation</i>
	<i>Cited</i>
<i>63 O.S. 1-1118.</i>	<i>Food Establishment License - Exemptions - Expiration of License - Fee-exempt License - Reasonable Standards and Rules for Sanitation</i>
	<i>Cited</i>
<i>63 O.S. 1-1118.</i>	<i>Food Establishment License - Exemptions - Expiration of License - Fee-exempt License - Reasonable Standards and Rules for Sanitation</i>
	<i>Cited</i>
<i>63 O.S. 1-1118.</i>	<i>Food Establishment License - Exemptions - Expiration of License - Fee-exempt License - Reasonable Standards and Rules for Sanitation</i>
	<i>Cited</i>
<i>63 O.S. 1-1118.</i>	<i>License Required - Manufacturers, Wholesalers, Brokers of Foods and Drugs</i>
	<i>Cited</i>



Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

B. Sellers of Food

Article Article 11 - Food

Section 1-1118.1 - Unattended Food Establishment - Requirements - Fees - Sales Tax - Rules

Cite as: 63 O.S. § 1-1118.1 (OSCN 2024), B. Sellers of Food

A. As used in this section:

1. "Unattended food establishment" means an operation that provides packaged foods or whole fruit using an automated payment system and has controlled entry not accessible by the general public. An unattended food establishment shall not be considered a food establishment as used in Section 1-1118 of Title 63 of the Oklahoma Statutes; and

2. "Controlled entry" means selective restriction or limitation of access to a place or location.

B. The State Department of Health shall create a permit for unattended food establishments and establish criteria and a procedure for approval or denial of such permits. No unattended food establishment shall operate until the establishment has obtained a permit.

C. The unattended food establishment shall be located in the interior of a building that is not accessible by the general public. Access to the establishment shall be limited to a defined population, including but not limited to employees or occupants of the building where the establishment is located.

D. 1. Only commercially packaged foods properly labeled for individual retail sale, which meet the definition of "packaged and labeled" under Section 3-201.11(C) of the Food and Drug Administration (FDA) Food Code, shall be offered.

2. No unpackaged food shall be permitted except as provided by Section 3-302.11(B)(1) of the FDA Food Code.

3. Food shall be such that preparation by consumers is limited to heating or reheating food in a microwave oven.

4. No bulk food may be offered for sale.

5. Beverages may be dispensed by individual serving only.

E. An unattended food establishment shall be equipped with refrigeration or freezer units that have the following features:

1. Self-closing doors that allow food to be viewed without opening the door to the refrigerated cooler or freezer; and

2. Automatic self-locking mechanism that prevents the consumer from accessing the food upon the occurrence of any condition that results in the failure of the refrigeration unit to maintain the internal product temperature specified under Section 3-501.16(A) of the FDA Food Code; or

3. Freezer unit to maintain the product frozen, if the establishment contains frozen food.

F. 1. Multi-use, food-contact surfaces shall be cleaned on the frequency consistent with the service under Section 4-202.11 of the FDA Food Code, or shall be easily removable and replaced with cleaned surfaces.

2. No multi-use food-contact surfaces shall be used for foods that require time and temperature control for safety (TCS).

G. 1. a. An unattended food establishment shall provide continuous video surveillance of areas where consumers view, select, handle and purchase products that provides sufficient resolution to identify situations that may compromise food safety or food defense.

b. Video surveillance recordings shall be maintained and made available for inspection upon request by a representative of the State Department of Health or another applicable regulatory agency within twenty-four (24) hours of such request.

c. Video surveillance recordings shall be held by the establishment for a minimum of fourteen (14) calendar days after the date of the surveillance. Statute taken from OSCN on 09-30-24

2. The permit holder shall take reasonable steps necessary to discourage individuals from returning food or beverages that have not been selected for purchase.

H. 1. The permit holder shall service the unattended food establishment on a scheduled basis and at a frequency acceptable to the State Department of Health. Service may include, but is not limited to, the following:

- a. checking food supplies and equipment for signs of product damage and tampering,
- b. verifying refrigeration equipment is operating properly, including the temperature display and self-locking mechanism,
- c. rotating foods to better ensure first-in/first-out of food items,
- d. cleaning food service equipment and food display areas,
- e. stocking food and disposable single-use and single-service supplies, and
- f. checking inventory for recalled foods.

2. The permit holder shall ensure that:

- a. food is from an approved source,
- b. packaged food is provided in tamper-evident packaging,
- c. food is protected from potential sources of cross-contamination, and
- d. food is maintained at safe temperatures during transport and display.

I. The unattended food establishment shall have a sign readily visible at the automated payment station stating:

- 1. The name and mailing address of the business entity responsible for the establishment and to whom complaints and comments should be addressed; and
- 2. The telephone, email or web information for the responsible business entity, when applicable.

J. The permit holder bears all responsibilities for the operation of the unattended food establishment. If the permit holder is not the owner or operator of the building where the food establishment is located, a mutual agreement may be approved by the State Department of Health that outlines the responsibilities for cleaning and maintenance of all surfaces and equipment, provision of supportive facilities or services such as janitorial and restroom facilities, pest control and removal of solid waste. This agreement shall also outline what actions must be taken by both parties to maintain the establishment in compliance with all requirements.

K. The State Department of Health shall establish an annual fee structure for unattended food establishments, not to exceed One Hundred Fifty Dollars (\$150.00) per location.

L. An unattended food establishment shall obtain an Oklahoma sales tax permit prior to conducting any sales, and shall collect and remit state sales tax as provided for in the Sales Tax Code.

M. The State Commissioner of Health shall promulgate such rules as are necessary to implement the provisions of this section.

Historical Data

Laws 2019, HB 1055, c. 138, § 1, emerg. eff. April 25, 2019.

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Title 63. Public Health and Safety

Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

B. Sellers of Food

Article Article 11 - Food

Section 1-1119 - License Required - Manufacturers, Wholesalers, Brokers of Foods and Drugs

Cite as: 63 O.S. § 1-1119 (OSCN 2024), B. Sellers of Food

A. Any manufacturer, wholesaler or broker of food or drugs doing business in the State of Oklahoma, or bringing into and offering for sale within the State of Oklahoma any article of food or drug, shall secure an annual license from the Commissioner of Health and shall pay for such license a fee, to be fixed by the State Board of Health; provided, that any individual who meets the requirements of paragraph 3 of subsection B of [Section 1-1118](#) of this title shall not be required to obtain any license pursuant to this section. Unless otherwise provided by rule by the Board, each such license shall expire on the 30th day of June following its issuance.

B. Provided, that subsection A of this section shall not apply to:

1. Brokers who procure the shipment of articles of food or drugs into the State of Oklahoma directly to the wholesaler without handling such products themselves, except that such brokers shall annually list their name and address with the State Department of Health; and

2. Any person who is licensed by the Board of Pharmacy to manufacture, make, produce, package, pack, prepare or sell, or offer for sale, at wholesale or retail, compressed medical gases.

Historical Data

Laws 1963, SB 26, c. 325, art. 11, § 1119, emerg. eff. July 1, 1963; Amended by Laws 1969, HB 1381, c. 187, § 1, emerg. eff. April 17, 1969; Amended by Laws 1989, HB 1378, c. 345, § 8, eff. October 1, 1989; Amended by Laws 1992, SB 911, c. 52, § 1, eff. September 1, 1992; Amended by Laws 2019, SB 544, c. 505, § 2, eff. November 1, 2019 ([superseded document available](#)).

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<i>Cite Name</i>	<i>Level</i>
Title 63. Public Health and Safety	
<i>Cite</i>	<i>Name</i>
63 O.S. 1-1118	Food Establishment License - Exemptions - Expiration of License - Fee-exempt License - Reasonable Standards and Rules for Sanitation
	<i>Level</i>
	<i>Cited</i>

Citationizer: Table of Authority

Cite Name Level

None Found.