

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD,
AND FORESTRY**

CHAPTER 37. FOOD SAFETY

A summary of all rule changes can be found on the Notice of Rulemaking Intent for Chapter 37.
Food Safety at the following link <http://app.ag.ok.gov/proposedrules/default.aspx>

SUBCHAPTER 13. MILK AND MILK PRODUCTS

35:37-13-8. Incidental sales

~~(a) Incidental sales of raw milk shall be limited to monthly sales of two hundred (200) gallons of bovine raw milk and one hundred (100) gallons of raw milk from all other species of hooved animals.~~

~~(b) For the purposes of this section, "incidental sales" shall mean sales that are negligible in relation to the overall sales of the facility.~~

~~(c) Except for incidental sales of raw milk from goats, incidental sales of raw milk shall not be advertised to the public in any manner.~~

SUBCHAPTER 19. HOMEMADELOCAL FOOD FREEDOM

35:37-19-1. Purpose

These rules are for regulating the production, sale, and resale of ~~homemade~~homemadelocal food products pursuant to the provisions of Section 5-4.1 et seq. of Title 2 of the Oklahoma Statutes.

35:37-19-2. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food service establishment or food processing plant, and does not offer the food for resale (see also definition in OAC 310:257-1-2);

"Delivered" means transferred to the customer, either immediately upon sale or at a time thereafter;

"HomeLocal food establishment" means a business at any location, including on the premises of a home, apartment, or other dwelling in which a producer resides but excluding restaurants, and in which ~~homemade~~homemadelocal food products are created for sale or resale if the business has gross annual sales of prepared food of less than ~~Seventy-five Thousand Dollars (\$75,000.00)~~ two hundred fifty thousand dollars (\$250,000). A ~~homemade~~homemadelocal food establishment shall be limited to one business per premises, but gross annual sales of the business shall include all sales of prepared food produced by the business at any location;

"HomemadeLocal food product" means human food, including a beverage, which is produced and, if packaged, packaged at a ~~residence~~residencelocal food establishment; provided, however, ~~homemade~~homemadelocal food product shall not mean alcoholic beverages, unpasteurized milk, cannabis or marijuana products and shall not contain seafood, including, but not limited to, all fish, shellfish, and fishery products, meat, meat by-products, or meat food products as defined by Section 301.2 of Title 9 of the Code of Federal Regulations or poultry, poultry products, or poultry food products as defined for purposes of the federal Poultry Products Inspection Act;

"Non-time-or-temperature-controlled-for-safety" means food that does not require time or temperature control for safety to limit the rapid and progressive growth of infectious or toxigenic microorganisms, including foods that have a pH level of four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less;

"Produce" means to prepare a food product by cooking, baking, drying, mixing, cutting, canning, fermenting, preserving, dehydrating, growing, raising, or other process;

"Producer" means the person or business entity who produces a ~~homemade~~local food product in a ~~home~~local food establishment; ~~and~~

"Restaurant" means a location where food is prepared and sold directly to consumers for immediate consumption and includes food sold with eating utensils provided by the seller, including bowls, chopsticks, cups, forks, glasses, knives, napkins, plates designed for serving food, skewers inserted into food and handed to the customer, spoons or straws; however, material used solely to package and transport food does not qualify as an eating utensil; and

"Time-or-temperature-controlled-for-safety" means a food that requires time or temperature control for safety to limit infectious or toxigenic microorganisms and is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms; provided, however, time or temperature controlled for safety shall not include foods that have a pH level of four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less. Milk and milk products shall be considered Time-or-temperature-controlled-for-safety foods.

35:37-19-3. Sale and delivery requirements

(a) Non-time-or-temperature-controlled-for-safety ~~homemade~~local food products shall be sold:

(1) By the producer directly to the consumer, either in person or by remote means, including, but not limited to, the internet or telephone; or

(2) By a producer's designated agent or a third-party vendor, including, but not limited to, a retail or grocery store, farm, farm stand, farmers market, membership-based buying club, craft fair, or flea market, to the consumer; provided, the third-party vendor shall display a placard where ~~homemade~~local food products are displayed for sale with the following disclosure: "This product was produced in a ~~private residence~~facility that is exempt from government licensing and inspection. This product may contain allergens.".

(b) Non-time-or-temperature-controlled-for-safety ~~homemade~~local food products shall be delivered:

(1) By the producer or producer's designated agent directly to the consumer or a third-party vendor; or

(2) By a third-party vendor or a third-party carrier, such as a parcel delivery service, to the consumer or a third-party vendor.

(c) Time-or-temperature-controlled-for-safety ~~homemade~~local food products shall be sold by the producer directly to the consumer, either in person or by remote means, including, but not limited to, the internet or telephone.

(d) Time-or-temperature-controlled-for-safety ~~homemade~~local food products shall be delivered by the producer directly to the consumer.

(e) Before a producer begins to produce and sell time-or-temperature-controlled-for-safety ~~homemade~~local food products and thereafter, the producer shall satisfactorily complete and maintain food safety training from a list of providers found on the Oklahoma Department of Agriculture, Food, and Forestry website, including the ServSafe Food Handler Training, approved by the Oklahoma Department of Agriculture, Food, and Forestry. Food safety training shall be available online or in person and shall not exceed eight (8) hours in length.

(f) ~~homemade~~Local food products that are packaged and distributed in interstate commerce shall be sold in accordance with federal law.

(g) ~~The production date of a homemade food product shall be displayed where the product is sold directly to the consumer. If the product is prepared for delivery by a third party, the production date shall be located on the food package or on a card included with the food package.~~

~~(h)~~(g) All products sold under Section 5-4.1 et seq. of Title 2 of the Oklahoma Statutes.

35:37-19-4. Labeling requirements

(a) The following information shall be provided to the consumer in the format required by subsection b of this section:

- (1) Name and phone number of the producer;
- (2) Physical address where the product was produced;
- (3) Description of the ~~homemade~~local food product;
- (4) Ingredients of the ~~homemade~~local food product in descending order of proportion;
- (5) Statement indicating the presence of any of the most common allergens, including milk, eggs, peanuts, tree nuts, soybeans, wheat, fish, crustacean shellfish, and sesame; and
- (6) Legible print stating, "This product was produced in a ~~private residence~~facility that is exempt from government licensing and inspection."

(b) A producer may obtain a registration number upon the payment of an annual fee of Fifteen Dollars (\$15.00) to the Oklahoma Department of Agriculture, Food, and Forestry that is good for one (1) year from the date of its issue. The assigned registration number may be used on product labels instead of the producer's name, phone number, and the physical address of the location where the ~~homemade~~local food product was produced.

(c) The information required by subsection a of this section shall be provided in a legible format of at least 10-point font, in the following manner:

- (1) On a label affixed to the package if the ~~homemade~~local food product is packaged;
- (2) On a label affixed to a container if the ~~homemade~~local food product is offered for sale from a bulk container directly to the consumer;
- (3) On a placard displayed at the point of sale and on a card or other item that is made available to the consumer and is readily carryable if the ~~homemade~~local food product is not packaged; and
- (4) Displayed on the webpage from which the ~~homemade~~local food product is offered for sale if it is sold on the internet; provided, each item sold over the internet shall be properly labeled or shall have a label included in the shipping container.

(d) ~~Homemade~~Food products that are packaged and distributed in interstate commerce shall be sold and labeled in accordance with federal law.