

FOOD SAFETY
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Oklahoma

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OKLAHOMA

Meat Inspection

Oklahoma empowers the State Board of Agriculture to administer the Oklahoma Meat Inspection Act.²¹⁰¹ The Board is to cooperate with the USDA to assure that the programs regarding meat in intrastate commerce are at least equal to those of the Federal Meat Inspection Act.²¹⁰² The programs apply to meat from cattle, bison, sheep, swine, goats, horses, mules and other equines.²¹⁰³

Registration of businesses which act as meat brokers, renderers, animal food manufacturers, wholesalers, or public warehousemen of carcasses, parts, or products is required.²¹⁰⁴

Inspections

The statute requires the inspection of animals before they enter a slaughtering, packing, meat-canning, rendering, or similar establishment and a postmortem examination and inspection of the carcasses as parts to be prepared for intrastate commerce.²¹⁰⁵ Meat food products are also subject to inspection.²¹⁰⁶

The sanitary conditions of establishments where slaughtering, meat-canning, salting, packing or rendering occurs are also to be inspected. Products in establishments which fail to

²¹⁰¹ OKLA. STAT. ANN. tit. 2, §§ 6-193, 6-213 (1993 & Supp. 1999).

²¹⁰² § 6-201.

²¹⁰³ § 6-182(g).

²¹⁰⁴ § 6-199.

²¹⁰⁵ § 6-184.

²¹⁰⁶ §§ 6-183, 6-186.

maintain sanitary standards may not be marked as “Oklahoma Inspected and Passed” and the Board may remove inspection services for any such establishment.²¹⁰⁷ This is particularly important because articles required to be inspected cannot be sold, transported, offered for sale or transportation or received for transportation in intrastate commerce if not inspected and passed.²¹⁰⁸

Some establishments are exempt from the inspection requirements. These include the slaughtering by a person of animals of his own raising exclusively for use by him and members of his household, nonpaying guests and employees. Custom operations who slaughter animals delivered by the owner for these purposes are also exempt. Likewise, operations at retail stores and restaurants which prepare meat and meat food products for consumers are not covered by the inspection provisions. The sanitary requirements are, however, applicable and these establishments are subject to prohibitions on misbranding and adulteration.²¹⁰⁹

Adulteration

The sale, transport, offer for sale or transport, or receipt in intrastate commerce of adulterated articles is prohibited as is any act which causes or has the effect of causing the articles to be adulterated.²¹¹⁰ Adulterated is defined in a manner consistent with the federal law. A specific reference is added with regard to margarine containing animal fat which is adulterated

²¹⁰⁷ § 6-188.

²¹⁰⁸ § 6-190(c).

²¹⁰⁹ § 6-195.

²¹¹⁰ § 6-190(c)-(d).

if it consists, in any part, of any filthy, putrid or decomposed substance.²¹¹¹ The adulteration provisions apply to all establishments, including those exempt from the inspection requirements.²¹¹² In addition, specific reference is made to storage and handling of carcasses, parts, meat and meat food products. Regulations are authorized to assure that such articles will not be adulterated in handling and storage.²¹¹³

Misbranding and Labeling

The sale, transport, offering for sale or transportation or receipt in intrastate commerce of misbranded articles is prohibited as is any act which may cause or have the effect of causing misbranding.²¹¹⁴ Misbranding is defined in a manner consistent with the federal law.²¹¹⁵

Labeling as “Inspected and Passed” is required of all meat and meat food products which are not adulterated.²¹¹⁶ In addition, meat food products placed or packed in cans, pots, tins, canvas or other receptacle must be labeled as “Oklahoma Inspected and Passed.” The labels must also meet other specific requirements.²¹¹⁷

All establishments, even those exempt from the inspection requirements, are subject to the misbranding prohibitions.²¹¹⁸ Specific labeling requirements apply to horse meat which must

²¹¹¹ § 6-182(j).

²¹¹² § 6-195(d).

²¹¹³ § 6-196.

²¹¹⁴ § 6-190(c)(d).

²¹¹⁵ § 6-182(k).

²¹¹⁶ §§ 6-184, 6-186.

²¹¹⁷ § 6-187.

²¹¹⁸ § 6-195(d).

be plainly and conspicuously marked or identified. The meat from these animals must be prepared in establishments separate from those of other types of meat animals.²¹¹⁹

Enforcement

In addition to the registration and inspection requirements outlined above, the Board is empowered to detain any carcass, meat or meat food product believed to be adulterated or misbranded or that has not been inspected. This includes articles subject to inspection under federal programs.²¹²⁰ A court proceeding may be filed for the purpose of seizure and condemnation. If condemned, the article must be destroyed unless the owner pays all costs and expenses and posts a bond to assure proper destruction of the condemned article.²¹²¹ District courts are vested with jurisdiction to enforce the Act including the power to restrain violations.²¹²² Violations are ordinarily misdemeanors unless they involve intent to defraud or the distribution or attempted distribution of any article that is adulterated. These violations are felonies. The Board may use suitable notices and warnings for minor violations rather than the institution of court proceedings.²¹²³

Poultry Products Inspection Act

The State Board of Agriculture is authorized to cooperate with USDA in developing and administering a poultry products inspection program at least equal to that imposed under the

²¹¹⁹ § 6-192.

²¹²⁰ § 6-203.

²¹²¹ § 6-204.

²¹²² § 6-205.

²¹²³ § 6-207.

Federal Poultry Products Inspection Act.²¹²⁴

Inspection

Antemortem inspection of poultry is authorized and postmortem inspection of the carcass of each bird processed is mandated by the Act. Poultry carcasses and products found, upon inspection, to be adulterated are to be condemned and unless they can be reprocessed they are to be destroyed.²¹²⁵

Sanitary practices specified in regulations must be followed. Inspection services may be withdrawn for failure to meet these requirements.²¹²⁶

The sale, transport, offering for sale or receipt for transportation of any poultry products which are not inspected as required is prohibited.²¹²⁷ Carriers who receive or deliver poultry or poultry products in the usual course of business owned by another person is not subject to penalties for violation of this provision unless the carrier has knowledge or is in possession of facts which would cause a reasonable person to believe the poultry or poultry products were not inspected in accordance with this Act.²¹²⁸

Exempt from the inspection requirements is the slaughtering by a person of poultry of his own raising and processing and transportation of poultry products for use by him, members of his household and nonpaying guests and employees. Custom slaughtering for these purposes is also

²¹²⁴ § 6-255.

²¹²⁵ § 6-256.

²¹²⁶ § 6-257.

²¹²⁷ § 6-259(A)(2)(b).

²¹²⁸ § 6-262.

exempt. Operations at retail stores and restaurants are generally exempt. The inspection requirements do not apply to poultry producers with respect to poultry raised on their own farms if they do not slaughter more than 250 turkeys each year (or equivalent number of other birds with four birds considered the equivalent of one turkey).²¹²⁹

Adulteration

The sale, transport, offering for sale or transport or receipt for transport in intrastate commerce of any adulterated poultry or poultry products as prohibited. An act which would intend to cause or have the effect of causing such products to be adulterated is also prohibited.²¹³⁰ Adulteration is defined in a manner consistent with the federal law.²¹³¹ The adulteration provisions apply to articles otherwise exempted from inspection.²¹³² Special provisions require those engaged in buying, selling, freezing, storing, and transporting poultry or poultry products to abide by any regulations necessary to assure that these articles will not be adulterated.²¹³³

Misbranding and Labeling

The sale, transport, offering for sale or transport or receipt for transport in intrastate commerce of any misbranded poultry or poultry products is prohibited.²¹³⁴ Misbranding is defined in a manner consistent with the federal law.²¹³⁵ All poultry products inspected are found

²¹²⁹ § 6-265.

²¹³⁰ § 6-259(A).

²¹³¹ § 6-254(11).

²¹³² § 6-265(C).

²¹³³ § 6-264.

²¹³⁴ § 6-259(A)(2).

²¹³⁵ § 6-254(12).

to be not adulterated are to be appropriately marked and labeled and no labeling may be false or misleading.²¹³⁶ The misbranding prohibitions apply to poultry and poultry products otherwise exempt from the inspection requirements.²¹³⁷

Enforcement

In addition to the inspection provisions outlined above, the Board has a variety of powers to use in enforcement of the Act. Among these is the authority to detain any poultry products believed to be adulterated or misbranded or not properly inspected.²¹³⁸ Articles found to be adulterated, misbranded, or otherwise in violation may be seized and following a court proceeding, condemned. Condemned articles must be destroyed for human food purposes.²¹³⁹ District courts may hear such proceedings and are empowered to restrain violations of the Act.²¹⁴⁰

Violations are misdemeanors except for violations which involve intent to defraud or the distribution or attempted distribution of adulterated articles. Those violations are felonies. Carriers are not subject to penalties if in the usual course of business they act as carriers of products of others and have not knowledge nor are in possession of facts which would cause a reasonable person to believe that the products were not inspected or marked as required.²¹⁴¹ The Board is authorized to use suitable notices and warnings rather than to institute criminal

²¹³⁶ § 6-258.

²¹³⁷ § 6-265(C).

²¹³⁸ § 6-268.

²¹³⁹ § 6-269.

²¹⁴⁰ § 6-270.

²¹⁴¹ § 6-262.

proceedings for violations.²¹⁴²

Rabbit Inspection

The Oklahoma Rabbit and Rabbit Products Inspection Act empowers the state Board of Agriculture to provide inspection services for the slaughter and processing of rabbit products capable for use as human food and to require proper storage, handling and labeling of such products.²¹⁴³ Registration is required for any person who engages in business as a meat broker, renderer, animal food manufacturer, wholesaler or public warehouseman of the carcasses, or parts or products of the carcass of rabbits.²¹⁴⁴

Inspection of all rabbit products is required.²¹⁴⁵ Plant approval is required following an inspection of the plant and plant equipment.²¹⁴⁶ Adulteration and misbranding provisions also apply. These are essentially identical to those under meat inspection and poultry products inspection.²¹⁴⁷ Enforcement also tracks the other Acts.²¹⁴⁸

Exemptions from the Act apply to those who slaughter and prepare rabbits and rabbit products exclusively for their own use or use by members of their own household or nonpaying guests or employees; those who prepare and transport carcasses of uninspected rabbits or products owned and raised by him directly to household consumers (but no to retail stores or

²¹⁴² § 6-263.

²¹⁴³ § 6-280.4.

²¹⁴⁴ § 6-280.5(B).

²¹⁴⁵ § 6-280.5(D).

²¹⁴⁶ § 6-280.6.

²¹⁴⁷ § 6-280.10.

²¹⁴⁸ §§ 6-280.12 - 6-280.15.

international buyers); or rabbits processed as required by recognized religious dietary laws.²¹⁴⁹

Exotic Livestock Products Inspection

The Exotic Livestock and Exotic Livestock Products Inspection Act extends inspection, adulteration and misbranding provisions to the slaughtering, processing and distribution of exotic livestock and exotic livestock products. “Exotic livestock” includes commercially raised animals of the families of bovidae, cervidae, and antilocapridae or birds of the ratite group.²¹⁵⁰

Exotic livestock products must be inspected²¹⁵¹ and all slaughtering plants must be approved.²¹⁵² Adulteration and misbranding provisions apply and are essentially identical to those for other meat and poultry.²¹⁵³ Enforcement provisions track those of the other Acts as well.²¹⁵⁴

Food Regulation

The State Commissioner of Health carries out the administrative responsibilities relative to food regulation. The state Board of Health is authorized to adopt appropriate regulations which are to conform to the rules, definitions and standards of the federal law if practicable.²¹⁵⁵ Permits may be required of manufacturers, processors or packers of classes of food which may be contaminated with microorganisms during manufacture, processing or packing if the injurious

²¹⁴⁹ § 6-280.5.

²¹⁵⁰ § 6-290.3(6).

²¹⁵¹ § 6-290.5(D).

²¹⁵² § 6-290.6.

²¹⁵³ § 6-290.9.

²¹⁵⁴ §§ 6-290.10 to 290.13.

²¹⁵⁵ OKLA. STAT. ANN. tit 63, §§ 1-1117, 1-1114 (1997).

nature cannot be determined until after such foods enter commerce.²¹⁵⁶ Licenses are required for any establishment, stationary or otherwise, where food or drink is offered for sale. Exempt are nonprofit civic, charitable or religious organizations which sponsor occasional fund-raising events; day care centers and family day care centers, licensed child care facilities and nursery facilities and residential care homes.²¹⁵⁷ Manufacturers, wholesalers or brokers of food doing business in Oklahoma must also be licensed.²¹⁵⁸

Inspections

The Commissioner of Health is authorized to inspect any factory, warehouse or establishment where goods are manufactured, processed, packed or held for introduction into commerce, as well as vehicles being used to transport foods.²¹⁵⁹ Refusal to permit entry or inspection is a violation.²¹⁶⁰

Adulteration

The manufacture, sale, delivery, holding or offering for sale, receipt or proffered delivery or adulterated food is prohibited. The adulteration of food is likewise a violation.²¹⁶¹ Adulteration is defined consistently with the federal law.²¹⁶² The Oklahoma statute does make references to poisonous or deleterious added substances required in the production of food which

²¹⁵⁶ § 1-1111.

²¹⁵⁷ § 1-1118.

²¹⁵⁸ § 1-1119.

²¹⁵⁹ § 1-1115.

²¹⁶⁰ § 1-1102(g).

²¹⁶¹ § 1-1102(b).

²¹⁶² § 1-1109.

cannot be avoided by good manufacturing practices allowing the Board to limit the quantity of such substances. Any such limits would have to take into account the provisions of the federal Food Quality Protection Act with regard to pesticide residues.²¹⁶³ The adulteration definition also makes special reference to contents of confectionery and limits certain nonrestrictive substances.²¹⁶⁴

Misbranding and Labeling

The manufacture, sale, delivery, holding or offering for sale, receipt or proffered delivery of misbranded food is prohibited.²¹⁶⁵ The misbranding of food is likewise prohibited.²¹⁶⁶ False advertising of food is also a violation.²¹⁶⁷ Misbranding is defined in a manner consistently with the federal law.²¹⁶⁸

Enforcement

In addition to the permitting, licensing and inspection programs outlined above, the Commissioner has broad powers to deal with violations of the Act. Articles believed to be adulterated or so misbranded as to be dangerous or fraudulent may be embargoed by the Commissioner and a petition filed in District Court for condemnation. If condemned, the article must be destroyed unless the adulteration or misbranding can be corrected. In such cases, the owner may take possession upon posting of a bond and payment of expenses. If the Commission

²¹⁶³ § 1-1112.

²¹⁶⁴ § 1-1109(c).

²¹⁶⁵ §§ 1-1102(a), (c).

²¹⁶⁶ § 1-1102(a)-(c).

²¹⁶⁷ § 1-1113.

²¹⁶⁸ § 1-1110.

finds meat, seafood, poultry, vegetable, fruit or other perishable articles which are unsound or contain filthy, decomposed or putrid substances, these may be condemned and destroyed as a nuisance.²¹⁶⁹

The Commissioner is authorized to seek injunctions in the District Court to restrain violation.²¹⁷⁰ Additionally, district attorneys are authorized to institute appropriate proceedings at the request of the Commissioner.²¹⁷¹ However, the Commissioner is not required to report minor violations for prosecution but may proceed by suitable notices and warnings.²¹⁷² Violations are generally misdemeanors.²¹⁷³

Particular Establishments

Frozen Food Locker Plants

A frozen food locker plant rents lockers to individuals for storage of food.²¹⁷⁴ Such establishments are required to be licensed by the Commissioner.²¹⁷⁵ An examination of the plant, equipment and facilities must be made prior to licensing and the premises are subject to inspection as to sanitary conditions.²¹⁷⁶ The premises must meet sanitary requirements as well as standards related to water supply, temperature, sharp freezing and inspection and identification of

²¹⁶⁹ § 1-1105.

²¹⁷⁰ § 1-1103.

²¹⁷¹ § 1-1106.

²¹⁷² § 1-1107.

²¹⁷³ § 1-1104.

²¹⁷⁴ § 1-1120(b).

²¹⁷⁵ § 1-1121.

²¹⁷⁶ §§ 1-1123, 1-1124.

stored food.²¹⁷⁷ No impure food may be stored in a locker plant.²¹⁷⁸

Milk and Milk Products

The Oklahoma Milk and Milk Products Act regulates the quality and sanitary requirements of the production, processing and distribution of milk and milk products.²¹⁷⁹ The Commissioner of Agriculture is authorized to administer and enforce the Act.²¹⁸⁰ The Board of Agriculture is responsible for adopt rules for the various regulatory programs and, so far as possible, these rules are to be in accord with minimum standards and requirements recommended by the USDA and FDA.²¹⁸¹

Only Grade A milk and milk products may be sold to the final consumer.²¹⁸² Permits are required for milk producers, handlers, processors, and distributors of Grade A milk.²¹⁸³ A separate permitting program is established for those who produce, haul, process or distribute ungraded raw milk or milk products.²¹⁸⁴ In both cases, inspections of the premises and facilities may be required before the permits are issued.²¹⁸⁵

The Board is empowered to adopt rules and regulations relating to inspection, sanitary

²¹⁷⁷ §§ 1-112 to 1-1131.

²¹⁷⁸ § 1-1125.

²¹⁷⁹ OKLA. STAT. ANN. tit. 2, § 7-402 (Supp. 1999).

²¹⁸⁰ § 7-405.

²¹⁸¹ § 7-404.

²¹⁸² § 7-406.

²¹⁸³ § 7-408.

²¹⁸⁴ § 7-417.

²¹⁸⁵ § 7-408(B) - (C).

requirements, labeling and packaging.²¹⁸⁶ The Commissioner is to enforce these rules and to prohibit the producing, processing and sale of adulterated milk and milk products.²¹⁸⁷

Adulteration is deferred in a manner similar to federal law.²¹⁸⁸ Misbranding milk or milk products include those which are not labeled in accordance with the rules; which do not conform to their definitions; which have containers with false or misleading graphic or printed matter and those labeled as “Grade A” but filled at a plant without a proper permit.²¹⁸⁹

The Commissioner’s primary enforcement tool is the suppression or revocation of the permit for violation of the Act or the regulations.²¹⁹⁰ In addition, the Commissioner has quarantine authority with regard to milk or milk products failing to meet the requirements of the Act or the regulation.²¹⁹¹ Violations may, however, be prosecuted as misdemeanors.²¹⁹²

Mello-drink Products

Oklahoma has a special statute dealing with products which resemble milk products referred to as “mello-drink” products.²¹⁹³ The purpose is to avoid consumer confusion, deception

²¹⁸⁶ § 7-404.

²¹⁸⁷ § 7-405.

²¹⁸⁸ § 7-407(A).

²¹⁸⁹ § 7-407(B).

²¹⁹⁰ § 7-410.

²¹⁹¹ § 7-419.

²¹⁹² § 7-413.

²¹⁹³ OKLA. STAT. ANN. tit. 63, §§ 1-1301.3 to 1-1301.41 (1997).

and fraud.²¹⁹⁴

The main requirement of the Act is to require the proper labeling, identification and advertising of such products, including separate displays from milk and milk products.²¹⁹⁵

Product registration and manufacturer licensing is also required.²¹⁹⁶

Eggs and Egg Producers

The State Board of Agriculture is empowered to administer programs related to the regulation of eggs and egg products for human consumption.²¹⁹⁷ This is primarily achieved through a licensing requirement for all persons who handle eggs commercially, including egg retailers, dealers, packers and processors.²¹⁹⁸ Egg standards of size and quality of USDA are to be the minimum standards for Oklahoma. For egg products, the standards are those of the federal Egg Products Inspection Act.²¹⁹⁹ Eggs below Grade B may not be sold or offered for sale to consumers and all eggs must be properly labeled. Eggs must be labeled with the pack-date.²²⁰⁰ Eggs must be properly refrigerated.²²⁰¹

The Act does not prohibit the sale of eggs produced on a farm directly to consumers,

²¹⁹⁴ § 1-1301.32.

²¹⁹⁵ §§ 1-1301.33, 1-1301.34.

²¹⁹⁶ §§ 1-1301.36, 1-1301.37.

²¹⁹⁷ OKLA. STAT. ANN. tit. 2, § 5-26 (1993 & Supp. 1999).

²¹⁹⁸ § 5-28.

²¹⁹⁹ § 5-23.

²²⁰⁰ § 5-25(1) to (5).

²²⁰¹ § 5-21.2.

where the hens are maintained on the farm from which the eggs are sold.²²⁰² Oklahoma producers of ungraded eggs selling eggs of their own flock production are exempt from the provisions of the Act.²²⁰³

²²⁰² § 5-25.1.

²²⁰³ § 5-29.