

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 HOUSE BILL 1772

                                  By: Sims

7                                   AS INTRODUCED

8                   An Act relating to public health; amending 63 O.S.  
9                   2011, Section 1-1118, as last amended by Section 1,  
10                  Chapter 505, O.S.L. 2019 (63 O.S. Supp. 2020, Section  
11                  1-1118), which relates to food establishment license;  
                  providing for multiseasonal license; providing  
                  exclusion for seasonal food establishment; and  
                  declaring an emergency.

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

15           SECTION 1.           AMENDATORY           63 O.S. 2011, Section 1-1118, as  
16           last amended by Section 1, Chapter 505, O.S.L. 2019 (63 O.S. Supp.  
17           2020, Section 1-1118), is amended to read as follows:

18           Section 1-1118. A. It shall be unlawful for any person to  
19           operate or maintain any establishment, stationary or otherwise,  
20           where food or drink is offered for sale, or sold, to the public,  
21           unless the person is the holder of a food establishment license  
22           issued for such purpose by the State Commissioner of Health or  
23           designee. A food establishment license shall not be required for:

- 1        1. A produce stand that offers only whole, uncut and  
2 unprocessed fresh fruits, melons, vegetables and legumes and/or  
3 whole uncracked and unprocessed nuts;
- 4        2. A manufacturer, wholesaler or broker of food licensed  
5 pursuant to Section 1-1119 of this title;
- 6        3. A kitchen in a private home if only food that does not  
7 require time and temperature control for safety is prepared for sale  
8 or service at a function such as a nonprofit civic, charitable or  
9 religious organization's bake sale;
- 10       4. An area where food that is prepared as specified in  
11 paragraph 3 of this subsection is sold or offered for human  
12 consumption;
- 13       5. A private home that receives catered or home-delivered food;
- 14       6. A hotel licensed pursuant to Section 1-1201 of this title  
15 which provides limited food service in compliance with rules  
16 promulgated by the State Board of Health;
- 17       7. A kitchen in a private home or in a bed and breakfast that  
18 prepares and offers food to guests, if the home is owner-occupied,  
19 the number of available guest bedrooms does not exceed three, and  
20 breakfast is the only meal offered;
- 21       8. A nonprofit civic, charitable or religious organization  
22 using unpaid individuals to prepare or serve food on its behalf, for  
23 occasional fund-raising events sponsored and conducted by the  
24 organization. For the purposes of this paragraph, an "occasional

1 fund-raising event" shall be defined as an event that occurs four  
2 times a year or less;

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

6 10. Nursing facilities and specialized facilities, as defined  
7 in and licensed pursuant to the provisions of the Nursing Home Care  
8 Act, residential care homes as defined by the Residential Care Act,  
9 adult day care centers as defined by the Adult Day Care Act, and  
10 assisted living centers and continuum of care facilities licensed  
11 pursuant to the Continuum of Care and Assisted Living Act; and

12 11. Other establishments exempted from food establishment  
13 licensure pursuant to state law.

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

18 1. The Board may provide by rule for a fee-exempt license for a  
19 food establishment operated by a nonprofit, civic, charitable or  
20 religious organization that uses unpaid persons to sell or offer  
21 food on a more frequent basis than the occasional fund-raising  
22 event. A fee-exempt license shall not expire but shall remain in  
23 full force and effect until affirmatively revoked, suspended,

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1 annulled or withdrawn by the Department in accordance with  
2 applicable law.

3 2. The Board may by rule also provide that licenses for  
4 establishments serving events of limited duration or operating on a  
5 seasonal basis shall extend only for the term of the event or  
6 season, and may by rule adjust the fees for such licenses  
7 accordingly.

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

16 4. The Board shall provide by rule a multiseasonal license for  
17 snow cone stands that sell hot beverages in addition to snow cones.  
18 A snow cone stand that does not sell hot beverages shall be  
19 considered a seasonal food establishment.

20 C. The State Board of Health shall promulgate reasonable  
21 standards and rules for sanitation of establishments required to be  
22 licensed, which shall include the following: buildings, vehicles,  
23 and appurtenances thereto, including plumbing, ventilation and  
24 lighting; construction, cleanliness and bactericidal treatment of

1 equipment and utensils; cleanliness, wholesomeness, storage and  
2 refrigeration of food and drink sold or served; cleanliness and  
3 hygiene of personnel; toilet facilities; disposal of waste; water  
4 supply; and other items deemed necessary to safeguard the health,  
5 comfort, and safety of customers.

6 SECTION 2. It being immediately necessary for the preservation  
7 of the public peace, health or safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval.

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11 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated  
12 02/10/2021 - DO PASS.

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