

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1772

By: Sims

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6 AS INTRODUCED

7 An Act relating to public health; amending 63 O.S.
8 2011, Section 1-1118, as last amended by Section 1,
9 Chapter 505, O.S.L. 2019 (63 O.S. Supp. 2020, Section
10 1-1118), which relates to food establishment license;
11 providing for multiseasonal license; providing
12 exclusion for seasonal food establishment; and
13 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:
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- 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 58-1-5854 AB 12/04/20

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