

1 **SENATE FLOOR VERSION**

2 March 29, 2021

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 1772

6 By: Sims of the House

7 and

8 Pugh of the Senate

9 An Act relating to public health; amending 63 O.S.
10 2011, Section 1-1118, as last amended by Section 1,
11 Chapter 505, O.S.L. 2019 (63 O.S. Supp. 2020, Section
12 1-1118), which relates to food establishment license;
13 providing for multiseasonal license; providing
14 exclusion for seasonal food establishment; **updating**
15 **statutory language**; and declaring an emergency.

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

17 SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-1118, as
18 last amended by Section 1, Chapter 505, O.S.L. 2019 (63 O.S. Supp.
19 2020, Section 1-1118), is amended to read as follows:

20 Section 1-1118. A. It shall be unlawful for any person to
21 operate or maintain any establishment, stationary or otherwise,
22 where food or drink is offered for sale, or sold, to the public,
23 unless the person is the holder of a food establishment license
24 issued for such purpose by the State Commissioner of Health or
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 Commissioner** 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 Commissioner** of Health.

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

24

1 suspended, annulled or withdrawn by the Department in accordance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

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

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

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
11 March 29, 2021 - DO PASS AS AMENDED
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