

1 **SENATE FLOOR VERSION**

2 February 25, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 495

6 By: Dossett

7 An Act relating to retailers of vapor products;
8 amending 68 O.S. 2011, Section 1364, which relates to
9 permits to do business; requiring certain
10 notification; updating statutory language; and
11 providing an effective date.

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

13 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1364, is
14 amended to read as follows:

15 Section 1364. Permits to do business.

16 A. 1. Every person desiring to engage in a business within
17 this state who would be designated as a Group One or Group Three
18 vendor, pursuant to Section 1363 of this title, shall be required to
19 secure from the Oklahoma Tax Commission every three (3) years a
20 written permit for a fee of Twenty Dollars (\$20.00) prior to
21 engaging in such business in this state. Each such person shall
22 file with the Tax Commission an application for a permit to engage
23 in or transact business in this state, setting forth such
24 information as the Tax Commission may require. The application

1 shall be signed by the owner of the business or representative of
2 the business entity and as a natural person, and, in the case of a
3 corporation, as a legally constituted officer thereof.

4 2. Every person desiring to engage in a business within this
5 state who intends to sell vapor products shall be required to notify
6 the Oklahoma Tax Commission of such intent through the business
7 registration process. If, after the person is already registered
8 with the Tax Commission to conduct business, a person decides to
9 sell vapor products, the person shall notify the Tax Commission of
10 such intent through a method prescribed by the Tax Commission.

11 B. Upon receipt of an initial application, the Tax Commission
12 may issue a probationary permit effective for six (6) months which
13 will automatically renew for an additional thirty (30) months unless
14 the applicant receives written notification of the refusal of the
15 Commission to renew the permit. If the applicant receives a notice
16 of refusal, the applicant may request a hearing to show cause why
17 the permit should be renewed. Upon receipt of a request for a
18 hearing, the Tax Commission shall set the matter for hearing and
19 give ten (10) days' notice in writing of the time and place of the
20 hearing. At the hearing, the applicant shall set forth the
21 qualifications of the applicant for a permit and proof of compliance
22 with all state tax laws.

23 C. Holders of a probationary permit as provided in subsection B
24 of this section shall not be permitted to present the permit to

1 obtain a commercial license plate for their motor vehicle as
2 provided in Section 1133.1 of Title 47 of the Oklahoma Statutes.

3 D. Upon verification that the applicant is a Group Three
4 vendor, the Tax Commission may require such applicant to furnish a
5 surety bond or other security as the Commission may deem necessary
6 to secure payment of taxes under this article, prior to issuance of
7 a permit for the place of business set forth in the application for
8 permit. Provided, the Tax Commission is hereby authorized to set
9 guidelines, by adoption of regulations, for the issuance of sales
10 tax permits. Pursuant to ~~said~~ the guidelines the Tax Commission may
11 refuse to issue permits to any Group Three vendors, or any class of
12 vendors included in the whole classification of Group Three vendors,
13 if the Tax Commission determines that it is likely this state will
14 lose tax revenue due to the difficulty of enforcing this article for
15 any reasons stated in ~~subsection (T)~~ paragraph 21 of subsection A of
16 Section 1354 of this title.

17 E. A separate permit for each additional place of business to
18 be operated must be obtained from the Tax Commission for a fee of
19 Ten Dollars (\$10.00). Such permit shall be good for a period of
20 three (3) years. The Tax Commission shall grant and issue to each
21 applicant a separate permit for each place of business in this
22 state, upon proper application therefor and verification thereof by
23 the Tax Commission.

1 F. A permit is not assignable and shall be valid only for the
2 person in whose name it is issued and for the transaction of
3 business at the place designated therein. The permit shall at all
4 times be conspicuously displayed at the place of business for which
5 issued in a position where it can be easily seen. The permit shall
6 be in addition to all other permits required by the laws of this
7 state. Provided, if the location of the business is changed, such
8 person shall file with the Tax Commission an application for a
9 permit to engage in or transact business at the new location. Upon
10 issuance of the permit to the new location of such business, no
11 additional permit fee shall be due until the expiration of the
12 permit issued to the previous location of such business.

13 G. It shall be unlawful for any person coming within the class
14 designated as Group One or the class designated as Group Three to
15 engage in or transact a business of reselling tangible personal
16 property or services within this state unless a written permit or
17 permits shall have been issued to such person. Any person who
18 engages in a business subject to the provisions of this section
19 without a permit or permits, or after a permit has been suspended,
20 upon conviction, shall be guilty of a misdemeanor punishable by a
21 fine of not more than One Thousand Dollars (\$1,000.00). Any person
22 convicted of a second or subsequent violation hereof shall be guilty
23 of a felony and punishable by a fine of not more than Five Thousand
24 Dollars (\$5,000.00) or by a term of imprisonment in the State

1 Penitentiary for not more than two (2) years, or both such fine and
2 imprisonment.

3 H. Any person operating under a permit as provided in this
4 article shall, upon discontinuance of business by sale or otherwise,
5 return such permit to the Tax Commission for cancellation, together
6 with a remittance for any unpaid or accrued taxes. Failure to
7 surrender a permit and pay any and all accrued taxes will be
8 sufficient cause for the Tax Commission to refuse to issue a permit
9 subsequently to such person to engage in or transact any other
10 business in this state. In the case of a sale of any business, the
11 tax shall be deemed to be due on the sale of the fixtures and
12 equipment, and the Tax Commission shall not issue a permit to
13 continue or conduct the business to the purchaser until all tax
14 claims due the State of Oklahoma have been settled.

15 I. All permits issued under the provisions of this article
16 shall expire three (3) years from the date of issuance at the close
17 of business at each place or location of the business within this
18 state. No refund of the fee shall be made if the business is
19 terminated prior to the expiration of the permit.

20 J. Whenever a holder of a permit fails to comply with any
21 provisions of this article, the Tax Commission, after giving ten
22 (10) days' notice in writing of the time and place of hearing to
23 show cause why the permit should not be revoked, may revoke or
24 suspend the permit, the permit to be renewed upon removal of cause

1 or causes of revocation or suspension. However, if a holder of a
2 permit becomes delinquent for a period of three (3) months or more
3 in reporting or paying of any tax due under this article, any duly
4 authorized agent of the Tax Commission may remove the permit from
5 the taxpayer's premises and it shall be returned or renewed only
6 upon the filing of proper reports and payment of all taxes due under
7 this article.

8 K. Permits are not required of persons coming within the
9 classification designated as Group Two. The Oklahoma Tax Commission
10 shall issue a limited permit to Group Five vendors. The permit
11 shall be in such form as the Tax Commission may prescribe.

12 L. Nothing in this article shall be construed to allow a permit
13 holder to purchase, tax exempt, anything for resale that the permit
14 holder is not regularly in the business of reselling.

15 M. All monies received pursuant to issuance of such permits to
16 do business shall be paid to the State Treasurer and placed to the
17 credit of the General Revenue Fund of the State Treasury.

18 N. Notwithstanding the provisions of Section 205 of this title,
19 the Oklahoma Tax Commission is authorized to release the following
20 information contained in the Master Sales and Use Tax File to
21 vendors:

- 22 1. Permit number;
- 23 2. Name in which permit is issued;

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- 1 3. Name of business operation if different from ownership
- 2 (DBA);
- 3 4. Mailing address;
- 4 5. Business address;
- 5 6. Business class or Standard Industrial Code (SIC); and
- 6 7. Effective date and expiration or cancellation date of
- 7 permit.

8 Release of such information shall be limited to tax remitters
9 for the express purpose of determining the validity of sales permits
10 presented as evidence of purchasers' sales tax resale status under
11 this Code.

12 The provisions of this subsection shall be strictly interpreted
13 and shall not be construed as permitting the disclosure of any other
14 information contained in the records and files of the Tax Commission
15 relating to sales tax or to any other taxes.

16 This information may be provided on a subscription basis, with
17 periodic updates, and sufficient fee charged, not to exceed One
18 Hundred Fifty Dollars (\$150.00) per year, to offset the
19 administrative costs of providing the list. All revenue received by
20 the Oklahoma Tax Commission from such fees shall be deposited to the
21 credit of the Oklahoma Tax Commission Revolving Fund. No liability
22 whatsoever, civil or criminal, shall attach to any member of the Tax
23 Commission or any employee thereof for any error or omission in the
24 disclosure of information pursuant to this subsection.

1 O. If the Tax Commission enters into the Streamlined Sales and
2 Use Tax Agreement under Section 1354.18 of this title, the Tax
3 Commission is authorized to participate in its online sales and use
4 tax registration system and shall not require the payment of the
5 registration fees or other charges provided in this section from a
6 vendor who registers within the online system if the vendor has no
7 legal requirement to register.

8 SECTION 2. This act shall become effective November 1, 2019.

9 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
10 February 25, 2019 - DO PASS AS AMENDED

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