

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL 1635

By: Staires of the House

and

Rader of the Senate

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9 COMMITTEE SUBSTITUTE

10 An Act relating to public health and safety; amending  
11 63 O.S. 2021, Section 1-1118, which relates to food  
12 establishment license; modifying certain exemption;  
13 amending 63 O.S. 2021, Section 1-1201, which relates  
14 to hotel licenses; modifying definition; modifying  
15 rulemaking authority of the State Commissioner of  
16 Health; updating statutory language; making language  
17 gender neutral; and declaring an emergency.

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

19 SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-1118, is  
20 amended to read as follows:

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

18 1. The 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,

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1 suspended, annulled or withdrawn by the Department in accordance  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

3 2. The Commissioner 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 Commissioner shall provide by rule a three-day license  
9 for vendors who only sell at farmers markets as defined in 310:257-  
10 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 Commissioner 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. AMENDATORY 63 O.S. 2021, Section 1-1201, is  
7 amended to read as follows:

8 Section 1-1201. ~~(a)~~ A. It shall be unlawful for any person to  
9 operate or maintain a hotel unless he or she shall have first  
10 obtained, and holds, a license issued for such purpose by the State  
11 Commissioner of Health. Unless otherwise provided by rule by the  
12 ~~State Board of Health Commissioner~~, each such license shall expire  
13 on the 30th day of June next following its issuance, and the  
14 Commissioner shall charge and collect therefor an annual fee to be  
15 fixed by the ~~Board of Health Commissioner~~. The term "hotel" as used  
16 in this section shall mean and include any hotel, motel, tourist  
17 court, apartment house, rooming house, or other place where sleeping  
18 accommodations are furnished, or offered, for pay for transient  
19 guests, if ~~four~~ five or more rooms are available therein for  
20 transient guests. This section shall apply to the operation of a  
21 hotel by a state board.

22 ~~(b)~~ B. The ~~State Board of Health Commissioner~~ may adopt  
23 reasonable standards, rules and regulations for hotels as to the  
24 following: ~~buildings and appurtenances thereto, including plumbing,~~

1 ~~ventilation and lighting; construction,~~ cleanliness and bactericidal  
2 treatment of equipment and utensils; cleanliness and hygiene of  
3 personnel; toilet facilities; disposal of wastes; water supply; and  
4 any other items deemed necessary to safeguard the health, comfort  
5 and safety of guests accommodated therein.

6 SECTION 3. 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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