

1 **SENATE FLOOR VERSION**

2 April 10, 2023

3 ENGROSSED HOUSE
4 BILL NO. 1772

By: Kane, Maynard, Duel, Hays,
George, Cantrell, Tedford
and Staires of the House

5 and

6 Daniels of the Senate

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8
9 An Act relating to public health and safety; amending
10 63 O.S. 2021, Section 1-1118, which relates to food
11 establishment licenses; exempting farmers market
12 vendor from license requirement; and providing an
13 effective date.

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

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

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

23 1. A produce stand that offers only whole, uncut and
24 unprocessed fresh fruits, melons, vegetables and legumes and/or
whole uncracked and unprocessed nuts;

- 1 2. A manufacturer, wholesaler or broker of food licensed
2 pursuant to Section 1-1119 of this title;
- 3 3. A kitchen in a private home if only food that does not
4 require time and temperature control for safety is prepared for sale
5 or service at a function such as a nonprofit civic, charitable or
6 religious organization's bake sale;
- 7 4. An area where food that is prepared as specified in
8 paragraph 3 of this subsection is sold or offered for human
9 consumption;
- 10 5. A private home that receives catered or home-delivered food;
- 11 6. A hotel licensed pursuant to Section 1-1201 of this title
12 which provides limited food service in compliance with rules
13 promulgated by the State Commissioner of Health;
- 14 7. A kitchen in a private home or in a bed and breakfast that
15 prepares and offers food to guests, if the home is owner-occupied,
16 the number of available guest bedrooms does not exceed three, and
17 breakfast is the only meal offered;
- 18 8. A nonprofit civic, charitable or religious organization
19 using unpaid individuals to prepare or serve food on its behalf, for
20 occasional ~~fund-raising~~ fundraising events sponsored and conducted
21 by the organization. For the purposes of this paragraph, an
22 "occasional fund-raising event" shall be defined as an event that
23 occurs four times a year or less;
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1 9. Day care centers or family day care centers, and all other
2 child care facilities as defined and licensed pursuant to the
3 provisions of the Oklahoma Child Care Facilities Licensing Act;

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

10 11. Vendors at farmers markets selling frozen meat that is
11 either kept refrigerated or on ice; and

12 12. 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~~ fundraising event. A fee-exempt license shall not
23 expire but shall remain in full force and effect until affirmatively
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1 revoked, suspended, annulled or withdrawn by the Department in
2 accordance 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. This act shall become effective November 1, 2023.

7 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
8 April 10, 2023 - DO PASS

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