

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE JOINT  
RESOLUTION NO. 1023\_\_\_\_

By: Staggs and Gray of the  
House

and

Robinson of the Senate

AS INTRODUCED

A Joint Resolution relating to a proposed permanent rule and an emergency rule of the Oklahoma State Department of Health; disapproving proposed permanent rule OAC 310:250-3-1 and emergency rule OAC 310:250-3-1, regarding the fee schedule for environmental health services; directing adoption and promulgation of certain rule; expressing intent; directing distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy, determine that a rule is not consistent with legislative intent and disapprove any rule or any portion thereof at any time; and

WHEREAS, pursuant to Section 1-106.1 of Title 63 of the Oklahoma Statutes, no schedule of fees may be established or amended by the Board except during such times as the Legislature is in session, unless specifically authorized by the Legislature or approved by the Contingency Review Board; and

WHEREAS, pursuant to Section 3117 of Title 74 and Section 253 of Title 75 of the Oklahoma Statutes, no agency shall establish or increase fees, except during such times as the Legislature is in session, unless specifically mandated by the Legislature or federal legislation, or when the failure to establish or increase fees would conflict with an order issued by a court of law; and

WHEREAS, on July 29, 1998, the Governor approved emergency rule OAC 310:250-3-1, regarding the fee schedule for environmental health services, which increased and established several fees; and

WHEREAS, emergency rule OAC 310:250-3-1 adopted by the Oklahoma State Department of Health and approved by the Governor, regarding the fee schedule for environmental health services, was not specifically authorized or mandated by the Legislature, approved by the Contingency Review Board, mandated by federal legislation, or in conflict with an order issued by a court of law; and

WHEREAS, the Oklahoma State Department of Health agreed not to implement emergency rule OAC 310:250-3-1 for lack of statutory authority; and

WHEREAS, on February 18, 1999, the Oklahoma State Department of Health adopted proposed permanent rule OAC 310:250-3-1 regarding the fee schedule for environmental health services relating to food service establishment permits, and on March 1, 1999, the agency submitted the rule to the Legislature for its review; and

WHEREAS, proposed permanent rule OAC 310:250-3-1 establishes initial license fees in the amount of One Hundred Fifty Dollars (\$150.00), renewal fees in the amount of One Hundred Dollars (\$100.00) and late renewal fees in the amount of One Hundred Thirty-five Dollars (\$135.00) for privately owned prisons, food salvagers and water bottling facilities; and

WHEREAS, proposed permanent rule OAC 310:250-3-1 increases initial license fees in the amount of Fifty Dollars (\$50.00) for bar establishments, combination retail food establishments, food service establishments, food service with bar establishments, mobile food service and vendor establishments, seasonal food service establishments, food processor establishments, food wholesaler and frozen food locker establishments, and in the amount of One Hundred Dollars (\$100.00) for retail food store establishments; and

WHEREAS, proposed permanent rule OAC 310:250-3-1 increases renewal and late renewal license fees in amounts ranging from Ten Dollars (\$10.00) to Sixty-five Dollars (\$65.00), depending on the type of food service establishment; and

WHEREAS, pursuant to Section 1-1122 of Title 63 of the Oklahoma Statutes, the annual license fee for frozen food locker plants and each branch plant shall not exceed Fifteen Dollars (\$15.00); and

WHEREAS, pursuant to proposed permanent rule OAC 310:250-3-1 and emergency rule OAC 310:250-3-1, the initial license fee for food wholesale and frozen food locker establishments is One Hundred Fifty Dollars (\$150.00) and the renewal fee is One Hundred Dollars (\$100.00), which exceed the statutory limitation; and

WHEREAS, the Legislature recognizes that proposed permanent rule OAC 310:250-3-1 and emergency rule OAC 310:250-3-1 raise the initial license fee for food service establishments by at least fifty percent (50%) and in some cases as much as two hundred percent (200%) and renewal fees are raised sixty-seven percent (67%), one hundred percent (100%) and one hundred eighty-six percent (186%) depending on the type of establishment; and

WHEREAS, the Legislature strongly opposes fee increases and considers new fees imposed on the public to be burdensome, excessive and an unreasonable economic hardship.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 47TH OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves proposed permanent rule OAC 310:250-3-1 and emergency rule OAC 310:250-3-1, regarding the fee schedule for environmental health services.

SECTION 2. The Legislature hereby directs and authorizes, in accordance with subsection C of Section 308 of Title 75 of the Oklahoma Statutes, the Oklahoma State Department of Health to adopt and promulgate an emergency rule which charges frozen food locker and branch plants no more than Fifteen Dollars (\$15.00) for initial

and renewal license fees, retains the current license fees charged other establishments and includes only the establishments formerly listed in permanent rule OAC 310:250-1-10, in order to be consistent with legislative intent.

SECTION 3. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Commissioner of Health and the Editor of "The Oklahoma Register".

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this resolution shall take effect and be in full force from and after its passage and approval.

47-1-6897            TK            6/12/15