

BILL SUMMARY

- MEASURE:** **HB 2537** (As Introduced)
- AUTHOR:** Representative Cannaday
- SUBJECT:** An act relating to labor; modifying various provisions; codification; effective date.
- PROVISIONS:** Section 1. NEW LAW A. All fees and fines paid to the Oklahoma Department of Labor (ODOL) shall be made by bank draft, check, cashier's check, money order, cash, credit or debit card. If payment is made by credit or debit card, the Department may add the service charge incurred, as a convenience fee. The Department shall make rules to allow for credit or debit card payments.
- B. All payments shall be made payable to the Oklahoma Department of Labor. The Department must issue a receipt for cash or money payment. All funds collected shall be deposited with the State Treasurer.
- C. A fee of \$25 shall be assessed for returned checks.
- D. A bogus check complaint shall be filed with the appropriate D.A., who shall refer the complaint to the Bogus Check Restitution Program. Funds collected by the program, shall be transmitted to the ODOL and credited to the liability for which the returned check was drawn and the above fee.
- Section 2. NEW LAW A. Defining terms:
1. Commissioner – Commissioner of Labor or designee;
 2. Department – Department of Labor;
 3. Door-to-door sales business – an individual or business performing the sale, lease, or rental of goods or services, whether under single or multiple contracts, in which the seller personally solicits the sale, and the sale is made at a place other than the place of business of the seller. This shall not include nonprofits or any local or national newspapers.
- B. 1. No one shall open, operate or maintain a door-to-door sales business without getting a license from the ODOL, otherwise guilty of a misdemeanor. An application for the 1st license shall include a fee of \$250; renewal applications shall include a fee of \$250. The license fee will not be returned and shall be deposited in the Door-to-Door Sales Act Revolving Fund.
2. Every applicant shall be a resident for at least 1 year prior to filing application for license. For corporations, at least one of the incorporators

and one of the principal officers, along with the person who will be responsible for the office must meet the Oklahoma residency requirement.

3. Each application shall be written with the applicant's name and address; business address; the name of person responsible for office; names and addresses of those with financial interest; the name of the business as conducted; whether or not involved in other businesses, if so the nature of business and location. Applicant must state if he is currently or at any time has been engaged or financially interested in a door-to-door sales business in Oklahoma or any other state; if so, the name and address of such business and the dates he was engaged. The name and address of such business, the name of person conducting the business, the dates employed, and in what capacity must be included. All applications must be sworn to, under oath.

4. Every applicant shall file proof of workers' compensation insurance. Any changes to such insurance shall be filed with the ODOL within 30 days. Failure to provide proof of insurance or notice of change shall be grounds for denial, revocation, or suspension of license.

5. Applicants shall state if they have operated or been employed by a door-to-door sales business in Oklahoma or any state within the past 15 years, if so, under what authority; and if ever cited for cause, list the breach of law charged. If applicant is found guilty of perjury after being issued license, after appeal, the ODOL shall rescind license immediately, and no license shall be subsequently issued to applicant.

6. The applicant shall give the names and address of 3 people for reference. If a corporation, the application shall state the names and addresses of the officers and directors and shall be signed and sworn to by the president and secretary, with seal affixed. If a partnership, shall be the same, including all the partners. The ODOL shall be allowed to take sworn statements of applicants, under oath.

7. Upon filing application for the 1st license, the ODOL shall investigate the applicant and its financial interests and shall rule within 30 days after application is filed. Unless the application is rejected due to felony conviction, or other good reason, the license shall be granted. If the application is rejected, the ODOL shall state in writing why it was rejected. That an adequate number of such businesses licensed shall not be grounds for rejection. An appeal, for any reason other than felony conviction, may be taken to the district court of the county of applicant's residence.

8. Report of investigation and action taken shall be filed in a written report and retained in official ODOL records.

9. Every initial license shall include a \$5,000 bond, to be approved by the ODOL. Upon 1 year of operation, the amount of the bond shall be reduced to \$3,000 and shall remain fixed for 2 more years of operation, then bond shall be reduced to \$1,000. The bond shall remain at \$1,000 as long as the business is licensed under the original operator.

10. The license shall state the name of the licensee, the location of the office, the name of the person in charge of general management and the precise name the business operates. If the location changes, the ODOL must be notified within 10 days. Each license shall be numbered, dated, and posted in a conspicuous place.

11. If the general manager is terminated within the license year, the licensee shall update the ODOL, so that the current general manager shall be known and appear on the license.

12. Each license will be in effect until June 30 after its issuance, unless otherwise revoked.

13. The ODOL shall notify license holders of the expiration date 10 days prior. The ODOL is not required to notify the expiration of renewed licenses. Application for renewal shall include the required fee and bond.

14. If the ODOL finds a business has violated this act, it may suspend or revoke the license or refuse to grant a new one; but no action shall be taken until a written notice has been served specifying the charges, and a public hearing has been given within 30 days after written notice has been posted by registered mail to the licensee. If after the hearing, the ODOL shall find cause to revoke a license, the business shall be given written notice of the decision and the basis, the decision shall be in effect 30 days after the date of notice, unless an appeal is made to the district court of the county in which the license was issued from the ODOL's order.

15. Every complaint against a door-to-door business shall be submitted in writing and investigated. A record of the investigation and complaint shall be made and become permanent record in the ODOL. For any cause, that a license is revoked, the Department shall not issue another license within 2 years to the same entity.

16. No license is transferrable, but any business may incorporate or admit partners; but no such change shall be made without written consent from the ODOL. Such consent may be withheld, same as for any reason for rejection of application. Noting in this act shall prevent any one on behalf of a deceased licensee from continuing the business for the remainder of the license period, or pending its sale.

17. No sale of a franchise of a door-to-door sales business in Oklahoma shall be legal, unless and until the qualifications of franchise purchaser have been submitted to the ODOL as a prospective licensee, and approved by the ODOL.

C. The ODOL shall enforce this act. The ODOL shall investigate any violation upon being informed, and may institute criminal proceedings for enforcement, or apply to any court or the A.G. to see injunctive relief for the state. Rules may be promulgated by the ODOL to effectuate the act. A violation of the rules are considered a violation of this act, and any one convicted of a violation shall be guilty of a misdemeanor and fined not less than \$50, nor more than \$500, or the fee charged for the service, whichever is greater, for each offense, or be imprisoned not exceeding 6 months, or both fine and imprisonment. Any person convicted of a second or subsequent violation shall be fined up to \$5,000 in addition to other penalties.

D. Creating the Door-to-Door Sales Act Revolving Fund, consisting of monies collected by the ODOL per this section.

Section 3. AMENDATORY A. 2. b. Increasing shop review fee from \$1,250 to \$1,750.

c. Increasing licensing fee for:

- (1) repair, service, install (annually) from \$50 to \$100
- (2) installer technician (one-time) from \$50 to \$100
- (3) boiler operator (every 2 years) from \$50 to \$100

d. Increasing certificate of competency fee from \$15 to \$25

C. Allowing the Labor Commissioner to deposit all fees in the Safety Standards Revolving Fund, created in this act; instead of most fees being deposited in the General Revenue Fund. Deleting requirement for detailed report to accompany deposit.

Deleting specified fees to be deposited in the ODOL Revolving Fund.

Deleting provision that specific fees shall be used for specific purposes.

Section 4. AMENDATORY Changing that notice of the provisions of the Oklahoma Minimum Wage Act sent to every employer shall be on 8.5 x 11 inch paper, rather than 11 x 17 inch paper.

Section 5. AMENDATORY A. Updating language.

C. Decreasing number of hospitalized employees from 5 to 3, for when an accident report shall be made to the OKC office of the ODOL. Updating

language.

E. 2. Clarifying reference.

Section 6. AMENDATORY D. Adding new subsection, any employer who willfully or repeatedly violates the Oklahoma Occupational Health and Safety Standards Act, may be fined a civil penalty of not more than \$10,000 per violation. Fines shall be assessed as follows:

1. Serious violation – up to \$1,000;
2. Other than serious – up to \$1,000;
3. De minimus – no penalty;
4. Failure to abate – up to \$1,000 per day for each day failure continues;
5. Violations that cause death – up to \$10,000; and
6. Making false representation - \$10,000.

“Serious” – great likelihood that death or serious harm could result from working conditions.

E. The Commissioner or designee shall assess and collect above fines. In determining the amount of the fine, consideration shall be given to the longevity of the business, severity of violation, and extent to which employer complied with the Act or attempted to remedy the consequences.

F. Creating the Public Employee Occupational Safety and Health Revolving Fund, consisting of funds collected pursuant to the Oklahoma Occupational Health and Safety Standards Act.

Section 7. AMENDATORY C. Changing that occupational hazard consultation shall be on a priority bases according to federal regulations.

E. Clarifying language.

F. Clarifying legal reference.

Section 8. AMENDATORY A. Increasing fee asbestos worker examination from \$25 to \$50.

The Commissioner is allowed to charge a \$50 fee for a duplicate of any license issued per the Oklahoma Asbestos Control Act.

F. Adding new subsection, creating the Oklahoma Asbestos Control Revolving Fund, consisting of funds collected pursuant to the Oklahoma Asbestos Control Act.

Section 9. AMENDATORY D. Adding new subsection, outlining

penalties for violations of the Oklahoma Asbestos Control Act. Penalty shall not be more than \$1,000 per offense.

Section 10. AMENDATORY
registration fee from \$25 to \$50.

A. 1. Increasing annual ride

2. Increasing inspections fees:

- a. Kiddie Rides from \$25 to \$50
- b. Major Rides from \$50 to \$100
- c. Adding fee for Inflatable Ride = \$25
- d. Adding fee for Water Park Ride = \$100
- e. Adding Return Trip Fee = \$100
- f. Other rides per hour from \$100 to \$125

3. The annual waiver fee shall be:

- a. Non-complex = \$250
- b. All other = \$1,000

E. Adding subsection, creating the Safety Standards Revolving Fund, consisting of monies collected pursuant to the Amusement Ride Safety Act, the Oklahoma Welding Act, and the Oklahoma Boiler and Pressure Vessel Safety Act.

Section 11. AMENDATORY

B. Adding subsection, granting the ODOL Commissioner subpoena powers, right to seek injunctive relief to prevent operation of any amusement ride that does not have a current certificate of operation. Violations of the Amusement Ride Safety Act may be assessed by not more than \$2,500, in addition to other penalties.

C. Adding subsection, any denial of a certificate of operation, or any order, or any fine may be appealed and a hearing shall be allowed, if a written request is received by the ODOL within 15 days of the denial or fine.

EFFECTIVE

DATE: November 1, 2008

PREPARED BY: Arnella Karges

DATE: February 26, 2008