

1 **SENATE FLOOR VERSION**

2 February 26, 2020

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1793

6 By: Dahm

7 [Mobile Food Vendor Act - food establishment
8 licenses - codification - effective date]
9

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

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1-1150 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 This act shall be known and may be cited as the "Mobile Food
15 Vendor Act".

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1-1151 of Title 63, unless there
18 is created a duplication in numbering, reads as follows:

19 As used in the Mobile Food Vendor Act:

20 1. "Customer" means any person with whom a mobile food vendor
21 conducts his or her mobile vending business, or any person who stops
22 to contemplate conducting such business with a mobile food vendor;

23 2. "Department" means the State Department of Health;
24

1 3. "Food vending vehicle" means any motorized, two-axle vehicle
2 used to sell food and beverages by a mobile food vendor;

3 4. "Local authority" means any local government including any
4 town, city, charter city, political subdivision or county;

5 5. "Mobile food vendor" means any person who dispenses food or
6 beverages from a food vending vehicle for immediate service or
7 consumption;

8 6. "Person" means any individual, group of individuals, firm,
9 partnership, company, corporation, trustee, association or any
10 public or private entity and includes the entity's employees or
11 agents;

12 7. "Prepackaged food" means any commercially labeled and
13 processed food prepackaged to prevent direct human contact with the
14 food product upon distribution from the manufacturer, a food
15 facility or other approved source;

16 8. "Public property" means any property owned and operated by
17 this state or a local authority for the benefit of the public and
18 includes all rights-of-way contained wholly within any state or
19 local authority parks; and

20 9. "Sell" means to transfer or exchange for value, to expose,
21 display or offer for sale or exchange, or to procure, store, keep or
22 have on hand or in one's possession or control for the purpose of
23 selling.

24

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1152 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. No person may operate as a mobile food vendor in this state
5 without obtaining a mobile food vending license from the State
6 Department of Health. A separate mobile food license shall be
7 required for every food vending vehicle used by a mobile food
8 vendor.

9 B. No local authority may prohibit a mobile food vendor from
10 lawfully operating in its jurisdiction if the vendor holds a mobile
11 food vending license and is in compliance with all other state laws
12 and local laws not in conflict with this act.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-1153 of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The State Department of Health shall prepare a written
17 application for a statewide mobile food vending license. The
18 Department shall make the mobile food vending license application
19 available to applicants in person and on the Department's website.

20 B. The Department shall require an applicant to provide the
21 following information, under oath, before issuing a license:

22 1. The name, permanent address and telephone number of the
23 applicant;

24

1 2. The name, address and telephone number of any associated
2 entities or organizations that the applicant is representing and
3 copies of documents verifying that relationship;

4 3. A listing of all primary residences for the last five (5)
5 years;

6 4. A statement of whether any employees or agents will operate
7 with the applicant under the license and whether the employees or
8 agents hold a current food safety certification;

9 5. The nature of the food or beverages to be offered by the
10 applicant; and

11 6. A statement of whether the applicant has previously been
12 denied a license to operate as a mobile food vendor or if the
13 applicant has had a previous mobile food vending license suspended
14 or revoked in any state or local jurisdiction and, if so, the
15 reasons or the circumstances surrounding the denial, suspension or
16 revocation.

17 C. In addition to the written application, the Department shall
18 require an applicant who will operate from a food vending vehicle to
19 provide the following:

20 1. A listing of all vehicle license numbers, vehicle
21 descriptions, vehicle identification numbers and vehicle
22 registration papers;

23 2. Proof of automobile insurance for the vehicle or vehicles
24 from which the applicant proposes to conduct business; and

1 3. A copy or proof of any additional licenses or permits
2 required by this state for certain commercial vehicles.

3 D. Any person who drives a food vending vehicle shall hold a
4 current driver license to drive the food vending vehicle.

5 E. The applicant shall complete the application form and abide
6 by any request for information required by this act made by the
7 Department. The applicant may submit one application for all
8 vehicles which require a license. Failure to submit a complete
9 application form and provide all requested information may result in
10 denial of a license.

11 F. Within thirty (30) days of receiving a complete application,
12 the Department, or a local authority acting under a collaborative
13 agreement pursuant to Section 6 of this act, shall conduct a health
14 inspection, if required by the Department, prior to issuing a mobile
15 food vending license. The purpose of the inspection is to ensure
16 the applicant's vehicle is safe for preparing, handling and selling
17 food to customers and the applicant is compliant with applicable
18 regulations.

19 G. The Department may establish a reasonable schedule of fees
20 not to exceed Two Hundred Dollars (\$200.00) for a mobile food
21 vending license or for renewal of a mobile food vending license.
22 The Department may also establish an inspection fee that covers the
23 average cost of conducting health inspections for the vendor and
24

1 charge that fee in conjunction with a mobile food vending license
2 fee or the renewal fee of a mobile food vending license.

3 H. Upon a receipt of a complete application and an applicant
4 passing initial inspection if required by the Department, the
5 Department shall issue a mobile vending license to the applicant.
6 Licenses shall be valid for one (1) year.

7 I. Licenses are not transferable, nor shall a license authorize
8 the activities of any person other than the person to whom it is
9 issued, except that the sale of the specific vehicle identified in a
10 license application, when replaced by another vending vehicle on a
11 one-for-one basis, will not invalidate the original license nor
12 cause a new license to be required. When replacing a vending
13 vehicle on a one-for-one basis, the licensee shall notify the
14 Department of the information required by subsection C of this
15 section. If the Department determines an inspection of the new
16 vehicle is required, the inspection shall take place as soon as
17 practicable but no later than fourteen (14) calendar days from
18 receipt of the information required by subsection C of this section.

19 J. If a mobile food vendor transfers its mobile food vending
20 business assets, the recipient of the assets shall, before operating
21 in the state, apply for and obtain a new mobile food vending
22 license.

23 K. Licenses shall be renewed on an annual basis. The
24 Department shall send notice to the licensee. It is the

1 responsibility of the licensee to submit the renewal application
2 annually, at least fourteen (14) days prior to the license's
3 expiration date. While an application for renewal is pending with
4 the Department, a licensee may continue mobile food vending
5 operations.

6 L. It shall be a misdemeanor for any individual to
7 intentionally provide false information or to intentionally omit
8 requested information on an application for any license issued
9 pursuant to this act.

10 M. The Department shall prepare a guide for applicants for a
11 mobile food vending license. The guide shall include instructions
12 for applying for, obtaining and maintaining a mobile food vending
13 license and shall describe the standards used to inspect food
14 vending vehicles. The guide shall be made available for applicants
15 in person at the Department's office and on the Department's
16 website.

17 SECTION 5. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-1154 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Mobile food vendors shall follow all state and local laws
21 and regulations governing operations in the jurisdiction where the
22 vendor is operating including without limitation all fire codes,
23 zoning codes, occupational tax codes and any other applicable state
24

1 and local authority codes and laws not in conflict with the
2 provisions of this act.

3 B. A mobile food vendor may operate in the following locations:

4 1. On public property, except as provided in paragraph 3 of
5 subsection A of Section 7 of this act, so long as the vending
6 vehicle is not parked within twenty (20) feet of an intersection. A
7 mobile vendor may operate from legal parking spaces on the public
8 right-of-way including metered spaces upon payment of appropriate
9 fees. When operating on public property, a mobile vendor is subject
10 to the same parking rules, restrictions and obligations that a
11 commercial vehicle would be subject to if not used by a mobile food
12 vendor; and

13 2. On private property under the following circumstances:

14 a. the property is located in an industrial, commercial
15 or institutional zoning district, and the vendor has
16 permission of the property owner or designee or a
17 lessor, and

18 b. the property is located in a residential zoning
19 district, and the mobile food vendor has been invited
20 by a resident or group of residents in that district
21 to operate on their property for the purpose of
22 serving food to that resident, group of residents or
23 their guests.

24

1 C. A mobile food vendor shall not operate in any manner which
2 will interfere with or obstruct the free passage of pedestrians or
3 vehicles along any street, sidewalk or parkway.

4 D. When operating, a mobile food vendor shall:

5 1. Maintain a food vending vehicle in good operating order and
6 visual appearance including the removal of any graffiti that is not
7 part of the overall design or art featured on the vehicle;

8 2. Park so that its service window faces the sidewalk or away
9 from the street if the vehicle is parked along a street;

10 3. Serve customers through a service window;

11 4. Provide a waste receptacle for customers which is clearly
12 visible and request its use by customers;

13 5. Remove and dispose of all refuse within twenty-five (25)
14 feet of the vendor's operating area at the conclusion of operation;

15 6. Submit to and pass any required health inspections; and

16 7. Display the mobile food vendor license and required
17 inspection certificates or permits in a conspicuous location for
18 public view.

19 E. The State Department of Health may promulgate rules to
20 enforce the provisions of this act. Rules adopted shall not:

21 1. Require a mobile food vendor to operate a specific distance
22 from the perimeter of an existing commercial establishment;

23 2. Require a mobile food vendor to enter into any agreement
24 with a commercial establishment;

- 1 3. Restrict the operating hours of a mobile food vendor;
- 2 4. Require a mobile food vendor that does not prepare food to
- 3 have a handwashing sink in his or her food vending vehicle;
- 4 5. Require a mobile food vendor to associate with a commissary
- 5 if the vendor carries all the equipment necessary to comply with
- 6 health and safety standards and all applicable regulations;
- 7 6. Limit the number of mobile food vendor licenses issued;
- 8 7. Require a mobile food vendor to obtain any additional
- 9 permits from a local authority, unless the mobile food vendor seeks
- 10 to operate in a local, public park;
- 11 8. Require a mobile food vendor to be fingerprinted;
- 12 9. Require a mobile food vendor to install a GPS tracking
- 13 device on the vendor's vehicle;
- 14 10. Require a mobile food vendor to stay in constant motion
- 15 except for when serving customers;
- 16 11. Require a mobile food vendor to maintain insurance that
- 17 names a local authority as an additional insured unless the vendor
- 18 is attending an event sponsored by the local authority; and
- 19 12. Require a mobile food vendor to submit to inspections
- 20 beyond health inspections conducted by the Department or by a local
- 21 authority under a collaborative agreement with the Department,
- 22 unless the Department is investigating a reported foodborne illness.

23
24

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1155 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Mobile food vendors shall adhere to all laws and regulations
5 of the Oklahoma Administrative Code pertaining to the preparation
6 and handling of food.

7 B. Any person preparing food or beverages in a food vending
8 vehicle shall hold a current food safety certification recognized by
9 this state. At all times at least one person working in a food
10 vending vehicle must hold a current food safety certification
11 recognized by this state.

12 C. Upon receipt of a complete license application, the State
13 Department of Health shall classify a mobile food vendor into one of
14 the following three classifications for the purpose of conducting
15 inspections:

16 1. If a vendor dispenses prepackaged foods or non-
17 time/temperature control for safety food, as defined in 310:257-1-2
18 of the Oklahoma Administrative Code, beverages or poses a low risk
19 of harm to the public, it shall be classified as a Mobile Food Type
20 I Vendor;

21 2. If a vendor dispenses food that requires limited handling
22 and preparation, it shall be classified as a Mobile Food Type II
23 Vendor; and
24

1 3. If a vendor prepares, cooks, holds and serves food from the
2 vehicle, it shall be classified as a Mobile Food Type III Vendor.

3 D. The Department shall specify the categories of foods or
4 beverages that mobile vendors in each classification may serve. If
5 a mobile food vendor seeks to serve food or beverages that may
6 require the vendor to be reclassified, the mobile food vendor shall
7 notify the Department of the nature of the food or beverages to be
8 sold, and the Department shall reclassify the mobile food vendor.

9 E. For the purpose of protecting public health and safety, the
10 Department shall ensure that mobile food vendors are inspected on an
11 ongoing, randomized basis pursuant to the frequency set forth in
12 subsection I of this section based on their classification and
13 inspection grade. The Department, upon a local authority's request,
14 may enter into a collaborative agreement with the local authority
15 for conducting health inspections. The Department shall reimburse
16 the local authority acting under a collaborative agreement for the
17 cost of conducting inspections using funds from inspection fees
18 collected from licensees pursuant to subsection K of this section.

19 F. The Department shall establish and maintain a statewide
20 database for the Department and local authorities to record and
21 reference the names of licensees, inspections, inspection reports
22 and public complaints.

23 G. Health inspections shall be conducted by the Department
24

1 or a local authority acting under a collaborative agreement using
2 statewide inspection criteria and a score-based grading system
3 established by the Department based on objective factors. The
4 inspection criteria shall provide a letter-grade format that rates
5 the vendor with an "A," "B," "C" or "F" grade, based on the score
6 received during the inspection. If a vendor receives two
7 consecutive "A" grades, it shall be given a certificate of
8 excellence. If a vendor receives an "F" grade, the Department may
9 suspend the mobile food vendor's license until the mobile food
10 vendor corrects the violations.

11 H. Upon completion of an inspection, the Department, or local
12 authority operating under a collaborative agreement, shall issue a
13 certificate to the mobile food vendor displaying the vendor's letter
14 grade or achievement of excellence and record the grade in the
15 Department's database. The mobile food vendor shall display its
16 certificate indicating its letter grade or achievement of excellence
17 in a conspicuous place for public view.

18 I. Health inspections shall occur on a randomized basis,
19 pursuant to the following frequency, based on the mobile food
20 vendor's classification:

21 1. A Mobile Food Type I Vendor shall be inspected only upon the
22 Department or a local authority being notified of a public health or
23 safety complaint regarding the vendor. If the inspection reveals a
24 violation of law or rule, the vendor shall become subject to

1 inspections at the frequency set for a Mobile Food Type II Vendor
2 until the vendor obtains a certificate of excellence;

3 2. Mobile Food Type II Vendors shall be inspected once per
4 calendar year. If a Mobile Food Type II Vendor receives a
5 certificate of excellence, it shall become subject to inspections at
6 the frequency set for Mobile Food Type I Vendors. If a Mobile Food
7 Type II Vendor holding a certificate of excellence receives a score
8 lower than an "A" on a subsequent inspection, the vendor shall lose
9 its certificate of excellence and return to being inspected once per
10 year; and

11 3. Mobile Food Type III Vendors shall be inspected twice per
12 calendar year. If a Mobile Food Type III Vendor receives a
13 certificate of excellence, it shall be inspected at the frequency
14 set for Mobile Food Type II Vendors. If a Mobile Food Type III
15 Vendor holding a certificate of excellence receives a score lower
16 than an "A" on a subsequent inspection, the vendor shall lose its
17 certificate of excellence and return to being inspected twice per
18 calendar year.

19 J. The Department, or local authority acting under a
20 collaborative agreement, shall notify a mobile food vendor by phone
21 or by First-Class Mail, with a return receipt requested, of its
22 intent to inspect the food vending vehicle within thirty (30) days
23 following the delivery of the notice. The mobile food vendor may
24 request the Department or local authority obtain an administrative

1 warrant prior to conducting an inspection. Upon receipt of notice
2 of an inspection, the mobile food vendor shall provide the locations
3 where the vendor can be located for an inspection if requested by
4 the Department or local authority.

5 K. The Department shall calculate the average cost of providing
6 notice of and conducting a health inspection. If the Department has
7 entered into a collaborative agreement with a local authority, the
8 Department shall consult with the local authority and determine the
9 average cost of providing notice of and conducting health
10 inspections in that jurisdiction. The Department shall charge the
11 mobile food vendor an inspection fee at the time the mobile vendor
12 applies for or renews a license, based on the average cost of
13 providing notice of and conducting an inspection, multiplied by the
14 number of annual inspections required for the upcoming year as
15 required by this section. A mobile food vendor may request
16 reimbursement for an inspection that was not conducted at the
17 expiration of its mobile vending license or when the vendor renews a
18 license. The Department shall reimburse the vendor for any
19 inspection that was not conducted in the previous year within thirty
20 (30) calendar days following receipt of a mobile food vendor's
21 request.

22 SECTION 7. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-1156 of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

1 A. The local authority may regulate state-licensed mobile food
2 vendors in accordance with this act. In relation to a state-
3 licensed mobile food vendor's operations, a local authority may:

- 4 1. Impose operating hours only if they are the same as the
5 operating hours imposed on commercial businesses;
- 6 2. Restrict the operation of noisemaking devices during certain
7 hours of day;
- 8 3. Restrict a mobile food vendor from operating in a public
9 park or require a special permit and payment of fees to operate in a
10 public park;
- 11 4. Prohibit a mobile food vendor that is operating on private
12 property from blocking ingress or egress from that property;
- 13 5. Develop a mobile food vendor metered parking pass for a fee
14 that permits a mobile food vendor to operate from metered parking
15 spaces for longer than the vendor would otherwise be permitted;
- 16 6. Investigate reports of foodborne illnesses;
- 17 7. Report a mobile food vendor's suspected violation of this
18 act to the State Department of Health and recommend the Department
19 suspend or revoke a mobile food vending license; and
- 20 8. Issue citations and penalties to mobile food vendors for
21 violations of local law not inconsistent with the provisions of this
22 act.

23 B. In relation to a state-licensed mobile food vendor's
24 operations, a local authority may not:

- 1 1. Prohibit or restrict a mobile food vendor from operating in
2 a lawful manner provided for in this act;
- 3 2. Require a mobile food vendor to receive any kind of special
4 permit from a local authority in addition to the mobile food vending
5 license or permit to operate as a commercial vehicle, unless the
6 mobile food vendor seeks to operate in a public park;
- 7 3. Restrict the duration of time a mobile food vendor may
8 operate on private property in industrial, commercial or
9 institutional zoning districts;
- 10 4. Require a mobile food vendor to operate a specific distance
11 from commercial food or retail establishments;
- 12 5. Require a mobile food vendor to be fingerprinted;
- 13 6. Require a mobile food vendor to install a Global Positioning
14 System (GPS) tracking device on its vehicle;
- 15 7. Require a mobile food vendor to stay in constant motion
16 while serving customers;
- 17 8. Require a mobile food vendor to maintain an insurance policy
18 that names the local authority as an additional insured unless the
19 vendor is attending an event sponsored by the local authority;
- 20 9. Require a mobile food vendor to submit to inspections beyond
21 health inspections conducted under a collaborative agreement with
22 the Department, unless the local authority is investigating a
23 reported foodborne illness;

24

1 10. Require a mobile food vendor to enter into any agreement
2 with a commercial establishment or restaurant;

3 11. Regulate the equipment requirements for a food vending
4 vehicle; and

5 12. Require a mobile food vendor to associate with a commissary
6 if the vendor has all the equipment necessary to comply with all
7 regulations pertaining to food establishments.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-1157 of Title 63, unless there
10 is created a duplication in numbering, reads as follows:

11 A. The State Department of Health or a local authority may
12 investigate a mobile food vendor upon reasonable suspicion the
13 vendor has violated the law or upon receipt of a health or safety
14 complaint. Any complaint shall be recorded in the state's mobile
15 vending database. The local authority shall report suspected
16 violations of law to the Department and may recommend the Department
17 suspend or revoke a mobile food vending license.

18 B. The mobile food vendor shall cooperate with the Department
19 or local authority during an investigation. Failure to cooperate
20 with the Department or local authority may result in suspension or
21 revocation of a license.

22 C. Nothing in this act shall be construed to impede the
23 Department or local authority in any investigation of a reported
24 foodborne illness.

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1158 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A license issued under this act may be denied, suspended or
5 revoked by the State Department of Health for the following reasons:

6 1. Fraud, misrepresentation or a false statement contained in
7 the application for a license;

8 2. Fraud, misrepresentation or a false statement made in
9 connection with the selling of food or beverages;

10 3. Any facts or conditions which would justify the denial of
11 the original application;

12 4. Three (3) or more violations of this act within a period of
13 twelve (12) months; and

14 5. The receipt of an "F" grade during an inspection or an
15 investigation in response to a complaint.

16 B. Any person who has been notified regarding the denial of
17 their mobile food vending application or the possible suspension or
18 revocation of their mobile food vending license may request an
19 administrative hearing in accordance with the Administrative
20 Procedures Act within fourteen (14) calendar days of receipt of the
21 notice. Other than as described in subsection C of this section, no
22 license shall be suspended or revoked prior to a hearing if a mobile
23 food vendor requests a hearing within the fourteen-day period
24 required. Upon receipt of a request for a hearing, the Department

1 shall hold a hearing within fourteen (14) calendar days and issue
2 findings of fact, conclusions of law and a decision at the
3 conclusion of the hearing.

4 C. When circumstances demonstrate that continued operation by a
5 mobile vendor poses an imminent threat to the public's health and
6 safety, the Department may immediately suspend or revoke a mobile
7 food vending license. The mobile food vendor may request a hearing
8 regarding the suspension or revocation within fourteen (14) calendar
9 days of receiving notice of the suspension or revocation. Any
10 hearing regarding the summary suspension or revocation of a license
11 shall be given priority over all potential license denial,
12 suspension or revocation proceedings and shall be held within seven
13 (7) calendar days from the date the Department receives a mobile
14 food vendor's request for a hearing, and the Department shall issue
15 findings of fact, conclusions of law and a decision at the
16 conclusion of the hearing.

17 D. It shall be a misdemeanor for a licensee whose license has
18 been suspended or revoked to continue business operations. If the
19 Department suspends or revokes a mobile vending license, the mobile
20 vendor shall immediately surrender the license to the Department.
21 The Department may issue civil penalties to a person who operates as
22 a mobile food vendor without a license, with a suspended license or
23 after a license is revoked.

24

1 SECTION 10. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1159 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A person aggrieved by an agency decision following a hearing has
5 the right to appeal the decision in accordance with the provisions
6 of the Administrative Procedures Act.

7 SECTION 11. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-1160 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 This act preempts local authorities from prohibiting mobile food
11 vending and regulating mobile food vending in a way that conflicts
12 with the provisions of this act.

13 SECTION 12. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-1161 of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 This act shall not be construed to require a local authority to
17 enter into a collaborative agreement with the State Department of
18 Health to conduct health inspections, to adopt a program regulating
19 mobile food vendors or to modify its existing program regulating
20 mobile food vendors; provided, the regulations do not conflict with
21 the provisions of this act.

22 SECTION 13. AMENDATORY 63 O.S. 2011, Section 1-1118, as
23 last amended by Section 1, Chapter 505, O.S.L. 2019 (63 O.S. Supp.
24 2019, Section 1-1118), is amended to read as follows:

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

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

10 2. A manufacturer, wholesaler or broker of food licensed
11 pursuant to Section 1-1119 of this title;

12 3. A kitchen in a private home if only food that does not
13 require time and temperature control for safety is prepared for sale
14 or service at a function such as a nonprofit civic, charitable or
15 religious organization's bake sale;

16 4. An area where food that is prepared as specified in
17 paragraph 3 of this subsection is sold or offered for human
18 consumption;

19 5. A private home that receives catered or home-delivered food;

20 6. A hotel licensed pursuant to Section 1-1201 of this title
21 which provides limited food service in compliance with rules
22 promulgated by the State Board of Health;

23 7. A kitchen in a private home or in a bed and breakfast that
24 prepares and offers food to guests, if the home is owner-occupied,

1 the number of available guest bedrooms does not exceed three, and
2 breakfast is the only meal offered;

3 8. A nonprofit civic, charitable or religious organization
4 using unpaid individuals to prepare or serve food on its behalf, for
5 occasional fund-raising events sponsored and conducted by the
6 organization. For the purposes of this paragraph, an "occasional
7 fund-raising event" shall be defined as an event that occurs four
8 times a year or less;

9 9. Day care centers or family day care centers, and all other
10 child care facilities as defined and licensed pursuant to the
11 provisions of the Oklahoma Child Care Facilities Licensing Act;

12 10. Nursing facilities and specialized facilities, as defined
13 in and licensed pursuant to the provisions of the Nursing Home Care
14 Act, residential care homes as defined by the Residential Care Act,
15 adult day care centers as defined by the Adult Day Care Act, and
16 assisted living centers and continuum of care facilities licensed
17 pursuant to the Continuum of Care and Assisted Living Act; ~~and~~

18 11. Other establishments exempted from food establishment
19 licensure pursuant to state law; and

20 12. Mobile food vendors licensed pursuant to Section 3 of this
21 act.

22 B. Each license shall expire one (1) year following the date of
23 its issuance. The State Department of Health shall charge and
24

1 collect for each such license an annual fee to be fixed by the State
2 Board of Health.

3 1. The Board may provide by rule for a fee-exempt license for a
4 food establishment operated by a nonprofit, civic, charitable or
5 religious organization that uses unpaid persons to sell or offer
6 food on a more frequent basis than the occasional fund-raising
7 event. A fee-exempt license shall not expire but shall remain in
8 full force and effect until affirmatively revoked, suspended,
9 annulled or withdrawn by the Department in accordance with
10 applicable law.

11 2. The Board may by rule also provide that licenses for
12 establishments serving events of limited duration or operating on a
13 seasonal basis shall extend only for the term of the event or
14 season, and may by rule adjust the fees for such licenses
15 accordingly.

16 3. The Board shall provide by rule a three-day license for
17 vendors who only sell at farmers markets as defined in 310:257-1-2
18 of the Oklahoma Administrative Code or at county fairs. Licenses
19 for vendors who only sell at farmers markets or county fairs shall
20 not exceed Fifty Dollars (\$50.00). Vendors who do not sell food and
21 vendors who meet the exceptions provided in subsection A of this
22 section shall not be required to obtain a three-day license or a
23 food establishment license.

24

1 C. The State Board of Health shall promulgate reasonable
2 standards and rules for sanitation of establishments required to be
3 licensed, which shall include the following: buildings, vehicles,
4 and appurtenances thereto, including plumbing, ventilation and
5 lighting; construction, cleanliness and bactericidal treatment of
6 equipment and utensils; cleanliness, wholesomeness, storage and
7 refrigeration of food and drink sold or served; cleanliness and
8 hygiene of personnel; toilet facilities; disposal of waste; water
9 supply; and other items deemed necessary to safeguard the health,
10 comfort, and safety of customers.

11 SECTION 14. This act shall become effective November 1, 2020.

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
13 February 26, 2020 - DO PASS AS AMENDED
14
15
16
17
18
19
20
21
22
23
24