

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL 544

By: Murdock of the Senate

and

Newton and Sanders of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to sellers of food; amending 63 O.S. 2011, Sections 1-1118, as amended by Section 1, Chapter 93, O.S.L. 2015 and 1-1119 (63 O.S. Supp. 2018, Section 1-1118), which relate to food establishment licenses and licenses for manufacturers, brokers and wholesalers of food and drugs; requiring limit on fees for licensees who only sell at farmers markets or county fairs; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-1118, as amended by Section 1, Chapter 93, O.S.L. 2015 (63 O.S. Supp. 2018, Section 1-1118), is amended to read as follows:

Section 1-1118. A. It shall be unlawful for any person to operate or maintain any establishment, stationary or otherwise, where food or drink is offered for sale, or sold, to the public, unless the person is the holder of a food establishment license

1 issued for such purpose by the State Commissioner of Health or
2 designee. A food establishment license shall not be required for:

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

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

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

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

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

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

19 7. A kitchen in a private home or in a bed and breakfast that
20 prepares and offers food to guests, if the home is owner-occupied,
21 the number of available guest bedrooms does not exceed three, and
22 breakfast is the only meal offered;

23 8. A nonprofit civic, charitable or religious organization
24 using unpaid individuals to prepare or serve food on its behalf, for

1 occasional fund-raising events sponsored and conducted by the
2 organization. For the purposes of this paragraph, an "occasional
3 fund-raising event" shall be defined as an event that occurs four
4 times a year or less;

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

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

14 11. Other establishments exempted from food establishment
15 licensure pursuant to state law.

16 B. Each license shall expire one (1) year following the date of
17 its issuance. The State Department of Health shall charge and
18 collect for each such license an annual fee to be fixed by the State
19 Board of Health.

20 1. The Board may provide by rule for a fee-exempt license for a
21 food establishment operated by a nonprofit, civic, charitable or
22 religious organization that uses unpaid persons to sell or offer
23 food on a more frequent basis than the occasional fund-raising
24 event. A fee-exempt license shall not expire but shall remain in

1 full force and effect until affirmatively revoked, suspended,
2 annulled or withdrawn by the Department in accordance with
3 applicable law.

4 2. The Board may by rule also provide that licenses for
5 establishments serving events of limited duration or operating on a
6 seasonal basis shall extend only for the term of the event or
7 season, and may by rule adjust the fees for such licenses
8 accordingly.

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

17 C. The State Board of Health shall promulgate reasonable
18 standards and rules for sanitation of establishments required to be
19 licensed, which shall include the following: buildings, vehicles,
20 and appurtenances thereto, including plumbing, ventilation and
21 lighting; construction, cleanliness and bactericidal treatment of
22 equipment and utensils; cleanliness, wholesomeness, storage and
23 refrigeration of food and drink sold or served; cleanliness and
24 hygiene of personnel; toilet facilities; disposal of waste; water

1 supply; and other items deemed necessary to safeguard the health,
2 comfort, and safety of customers.

3 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1119, is
4 amended to read as follows:

5 Section 1-1119. A. Any manufacturer, wholesaler or broker of
6 food or drugs doing business in the State of Oklahoma, or bringing
7 into and offering for sale within the State of Oklahoma any article
8 of food or drug, shall secure an annual license from the
9 Commissioner of Health and shall pay for such license a fee, to be
10 fixed by the State Board of Health; provided, that any individual
11 who meets the requirements of paragraph 3 of subsection B of Section
12 1-1118 of this title shall not be required to obtain any license
13 pursuant to this section. Unless otherwise provided by rule by the
14 Board, each such license shall expire on the 30th day of June
15 following its issuance.

16 B. Provided, that subsection A of this section shall not apply
17 to:

18 1. Brokers who procure the shipment of articles of food or
19 drugs into the State of Oklahoma directly to the wholesaler without
20 handling such products themselves, except that such brokers shall
21 annually list their name and address with the State Department of
22 Health; and
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2. Any person who is licensed by the Board of Pharmacy to manufacture, make, produce, package, pack, prepare or sell, or offer for sale, at wholesale or retail, compressed medical gases.

SECTION 3. This act shall become effective November 1, 2019.

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