

1 **SENATE FLOOR VERSION**

2 February 18, 2019

3 SENATE BILL NO. 544

By: Murdock

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5
6 An Act relating to sellers of food; amending 63 O.S.
7 2011, Sections 1-1118, as amended by Section 1,
8 Chapter 93, O.S.L. 2015 and 1-1119 (63 O.S. Supp.
9 2018, Section 1-1118), which relate to food
10 establishment licenses and licenses for
11 manufacturers, brokers and wholesalers of food and
12 drugs; requiring limit on fees for licensees who only
13 sell at farmers markets; and providing an effective
14 date.

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

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

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

- 1 1. A produce stand that offers only whole, uncut and
2 unprocessed fresh fruits, melons, vegetables and legumes and/or
3 whole uncracked and unprocessed nuts;
- 4 2. A manufacturer, wholesaler or broker of food licensed
5 pursuant to Section 1-1119 of this title;
- 6 3. A kitchen in a private home if only food that does not
7 require time and temperature control for safety is prepared for sale
8 or service at a function such as a nonprofit civic, charitable or
9 religious organization's bake sale;
- 10 4. An area where food that is prepared as specified in
11 paragraph 3 of this subsection is sold or offered for human
12 consumption;
- 13 5. A private home that receives catered or home-delivered food;
- 14 6. A hotel licensed pursuant to Section 1-1201 of this title
15 which provides limited food service in compliance with rules
16 promulgated by the State Board of Health;
- 17 7. A kitchen in a private home or in a bed and breakfast that
18 prepares and offers food to guests, if the home is owner-occupied,
19 the number of available guest bedrooms does not exceed three, and
20 breakfast is the only meal offered;
- 21 8. A nonprofit civic, charitable or religious organization
22 using unpaid individuals to prepare or serve food on its behalf, for
23 occasional fund-raising events sponsored and conducted by the
24 organization. For the purposes of this paragraph, an "occasional

1 fund-raising event" shall be defined as an event that occurs four
2 times a year or less;

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

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

12 11. 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 Board of Health.

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

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1 annulled or withdrawn by the Department in accordance with
2 applicable law.

3 2. The Board 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 Board shall provide by rule licenses for vendors who
9 only sell at farmers markets as defined in 310:257-1-2 of the
10 Oklahoma Administrative Code. Licenses for vendors who only sell at
11 farmers markets shall cost no more than Twenty-five Dollars
12 (\$25.00).

13 C. The State Board of Health shall promulgate reasonable
14 standards and rules for sanitation of establishments required to be
15 licensed, which shall include the following: buildings, vehicles,
16 and appurtenances thereto, including plumbing, ventilation and
17 lighting; construction, cleanliness and bactericidal treatment of
18 equipment and utensils; cleanliness, wholesomeness, storage and
19 refrigeration of food and drink sold or served; cleanliness and
20 hygiene of personnel; toilet facilities; disposal of waste; water
21 supply; and other items deemed necessary to safeguard the health,
22 comfort, and safety of customers.

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

1 Section 1-1119. A. Any manufacturer, wholesaler or broker of
2 food or drugs doing business in the State of Oklahoma, or bringing
3 into and offering for sale within the State of Oklahoma any article
4 of food or drug, shall secure an annual license from the
5 Commissioner of Health and shall pay for such license a fee, to be
6 fixed by the State Board of Health; provided, that a fee for a
7 license obtained by an individual who only sells at farmers markets
8 as defined in 310:257-1-2 of the Oklahoma Administrative Code shall
9 cost no more than Twenty-five Dollars (\$25.00). Unless otherwise
10 provided by rule by the Board, each such license shall expire on the
11 30th day of June following its issuance.

12 B. Provided, that subsection A of this section shall not apply
13 to:

14 1. Brokers who procure the shipment of articles of food or
15 drugs into the State of Oklahoma directly to the wholesaler without
16 handling such products themselves, except that such brokers shall
17 annually list their name and address with the State Department of
18 Health; and

19 2. Any person who is licensed by the Board of Pharmacy to
20 manufacture, make, produce, package, pack, prepare or sell, or offer
21 for sale, at wholesale or retail, compressed medical gases.

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

23 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
24 February 18, 2019 - DO PASS