

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL 600

By: Rader of the Senate

and

Pfeiffer of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to Oklahoma Tax Commission; amending 68 O.S. 2021, Sections 212, 225, and 1364, as last amended by Sections 2 and 7 of Enrolled House Bill No. 2289 of the 1st Session of the 59th Oklahoma Legislature, which relate to licenses and permits; authorizing the written protest of certain license and permit refusal within certain period; requiring notice for requested hearing; deleting requirement that certain information be strictly controlled; designating procedure for filing certain confidential materials; limiting period for hearing request; making language gender neutral; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 212, is amended to read as follows:

Section 212. A. The Oklahoma Tax Commission is authorized to cancel or to refuse the issuance, extension, or reinstatement of any license, permit, or duplicate copy thereof, under the provisions of

1 any state tax law or other law, to any person, firm, or corporation
2 who shall be guilty of:

3 1. Violation of any of the provisions of this article;

4 2. Violation of the provisions of any state tax law;

5 3. Violation of the rules and regulations promulgated by the
6 Tax Commission for the administration and enforcement of any state
7 tax law;

8 4. Failure to observe or fulfill the conditions upon which the
9 license or permit was issued; or

10 5. Nonpayment of any delinquent tax or penalty.

11 B. Before any license, permit, or duplicate copy thereof may be
12 canceled, ~~or the issuance, reinstatement, or extension thereof~~
13 ~~refused~~, the Tax Commission shall give the owner of such license or
14 permit, or applicant therefor, twenty (20) days' notice by
15 registered mail or certified mail with return receipt requested, of
16 a hearing before ~~said~~ the Tax Commission, granting ~~said~~ such person
17 an opportunity to show cause why such action should not be taken.
18 If the notice has been mailed as required by this section, failure
19 of the person to have received actual notice of the hearing shall
20 neither invalidate nor be grounds for invalidating any action taken
21 at the hearing or pursuant to the hearing.

22 C. Within sixty (60) days of the date indicated on any notice
23 of refusal to issue, extend, or reinstate any license, permit, or
24 duplicate copy thereof, the applicant may file with the Tax

1 Commission a written protest signed by the applicant or the
2 authorized agent of the applicant, stating the reasons the license,
3 permit, or duplicate copy thereof should be issued and requesting an
4 administrative hearing. If a hearing is requested, the applicant
5 shall be given at least ten (10) days' notice of the hearing.

6 D. Upon the cancellation of any license, permit, or duplicate
7 copy thereof by the Tax Commission, all accrued taxes and penalties,
8 although ~~said~~ such taxes and penalties are not, at the time of the
9 cancellation, due and payable under the terms of the state tax law
10 imposing or levying such tax or taxes, shall become due and payable
11 concurrently with the cancellation of such license, permit, or
12 duplicate copy thereof, and the licensee or permittee shall
13 forthwith make a report covering the period of time not covered by
14 preceding reports filed by ~~said~~ such person and ending with the date
15 of the cancellation and shall pay all such taxes and penalties.

16 ~~D.~~ E. The Tax Commission may enter its order temporarily
17 suspending any license, permit, or duplicate copy thereof pending a
18 final hearing before it on the subject of the cancellation of such
19 license, permit, or duplicate copy thereof, and may give notice of
20 such temporary suspension at the same time that notice of its
21 intention to cancel any license, permit, or duplicate copy or to
22 refuse the issuance, reinstatement, or extension thereof is given,
23 as provided by this section. After being given notice of any such
24 order of suspension, it shall be unlawful for any person to continue

1 to operate his or her business under any such suspended license,
2 permit, or duplicate copy thereof.

3 ~~E.~~ F. In the event any such person shall continue or threaten
4 to continue such unlawful operations after having received proper
5 notice of the suspension, cancellation, revocation, or refusal to
6 issue, extend, or reinstate his or her license, permit, or duplicate
7 copy thereof, upon complaint of the Tax Commission such person shall
8 be enjoined from further operating or conducting such unlawful
9 business. In all cases where injunction proceedings are brought
10 under this article, the Commission shall not be required to furnish
11 bond, and where notice of suspension, cancellation, revocation, or
12 refusal to issue, extend, or reinstate any license, permit, or
13 duplicate copy thereof has been given in accordance with the
14 provisions of this section, no further notice shall be required
15 before the issuance of a temporary restraining order by the district
16 court.

17 SECTION 2. AMENDATORY 68 O.S. 2021, Section 225, as last
18 amended by Section 2 of Enrolled House Bill No. 2289 of the 1st
19 Session of the 59th Oklahoma Legislature, is amended to read as
20 follows:

21 Section 225. A. Any taxpayer aggrieved by any order, ruling,
22 or finding of the Oklahoma Tax Commission directly affecting the
23 taxpayer or aggrieved by a final order of the Tax Commission issued
24 pursuant to subsection G of Section 221 of this title may appeal

1 therefrom directly to the Supreme Court of Oklahoma. Provided, any
2 taxpayer appealing from a final order of the Tax Commission
3 assessing a tax or an additional tax or denial of a claim for refund
4 may opt to file an appeal in district court as provided in
5 subsection D of this section.

6 B. Within thirty (30) days after the date of mailing to the
7 taxpayer of the order, ruling, or finding complained of, the
8 taxpayer desiring to appeal shall:

9 1. File a petition in error in the office of the Clerk of the
10 Supreme Court; and

11 2. Request that the Tax Commission prepare for filing with the
12 Supreme Court, within thirty (30) days, the record of the appeal,
13 certified by the Secretary of the Tax Commission, and consisting of
14 any citations, findings, judgments, motions, orders, pleadings and
15 rulings, together with a transcript of all evidence introduced at
16 any hearing relative thereto, or such portion of such citations,
17 findings, judgments, motions, orders, pleadings, rulings, and
18 evidence as the appealing parties and the Tax Commission may agree
19 to be sufficient to present fully to the Court the questions
20 involved.

21 C. Upon request of the taxpayer, the Tax Commission shall
22 furnish the taxpayer a copy of the proceedings had in connection
23 with the matter complained of.
24

1 D. In lieu of an appeal to the Supreme Court, any taxpayer
2 aggrieved by a final order of the Tax Commission assessing a tax or
3 an additional tax or denial of a claim for refund may opt to file an
4 appeal for a trial de novo in the district court of Oklahoma County
5 or the county in which the taxpayer resides. If the amount in
6 dispute exceeds Ten Thousand Dollars (\$10,000.00), the appeal shall
7 be heard by a district or associate district judge sitting without a
8 jury. If the amount in dispute does not exceed Ten Thousand Dollars
9 (\$10,000.00), the appeal may be heard by a special judge sitting
10 without a jury. An order resulting from a trial provided pursuant
11 to this subsection shall be appealable directly to the Supreme Court
12 of Oklahoma by either party. Such appeal shall be taken in the
13 manner and time provided by law for appeal to the Supreme Court from
14 the district court in civil actions. Upon the filing of an appeal,
15 the order of the district court shall be superseded and neither
16 party shall be required to give bond. The provisions of this
17 subsection shall be applicable for tax periods beginning after ~~the~~
18 ~~effective date of this act~~ January 1, 2014. Provided, if the order
19 applies to multiple tax periods which begin before and after ~~the~~
20 ~~effective date of this act~~ January 1, 2014, the appeal provided by
21 this subsection shall be available to the aggrieved taxpayer.

22 E. If the appeal is from an order of the Tax Commission or a
23 district court denying a refund of taxes previously paid and if upon
24 final determination of the appeal, the order denying the refund is

1 reversed or modified, the taxes previously paid, together with
2 interest thereon from the date of the filing of the petition in
3 error at the rate provided in subsection A of Section 217 of this
4 title, shall be refunded to the taxpayer by the Tax Commission.

5 F. Such refunds and interest thereon shall be paid by the Tax
6 Commission out of monies in the Tax Commission clearing account from
7 subsequent collections from the same source as the original tax
8 assessment, provided that in the event there are insufficient funds
9 for refunds from subsequent collections from the same source, the
10 refund shall be paid by the Tax Commission from monies appropriated
11 by the Legislature to the special refund reserve account for such
12 purposes as hereinafter provided. There is hereby created within
13 the official depository of the State Treasury an agency special
14 account for the Tax Commission for the purpose of making such
15 refunds as may be required under this section, not otherwise
16 provided. This account shall consist of monies appropriated by the
17 Legislature for the purpose of making refunds under this section.

18 G. If the appeal be from an order, judgment, finding, or ruling
19 of the Tax Commission other than one assessing a tax and from which
20 a right of appeal is not otherwise specifically provided for in this
21 article, the Uniform Tax Procedure Code, any aggrieved taxpayer may
22 appeal from that order, judgment, finding, or ruling as provided in
23 this section. The filing of such an appeal shall supersede the
24

1 effect of such order, judgment, ruling, or finding of the Tax
2 Commission.

3 H. This section shall be construed to provide to the taxpayer a
4 legal remedy by action at law in any case where a tax, or the method
5 of collection or enforcement thereof, or any order, ruling, finding,
6 or judgment of the Tax Commission is complained of, or is sought to
7 be enjoined in any action in any court of this state or the United
8 States of America.

9 I. All hearings held in proceedings pursuant to this section
10 shall be confidential and shall be held in closed court without
11 admittance of any person other than interested parties, their
12 counsel, and employees of the Oklahoma Tax Commission and its
13 counsel. ~~Confidential information~~ Information designated by a party
14 as confidential that is filed with or submitted to the Supreme Court
15 or district court in conjunction with any proceeding pursuant to
16 this section shall not constitute a public record and shall be
17 sealed by the court. ~~Access to confidential information shall be~~
18 ~~strictly controlled~~ Any party seeking to file confidential materials
19 shall place the materials in a sealed manila envelope clearly marked
20 with the caption and case number, the word "CONFIDENTIAL", and a
21 reference to this section of the Oklahoma Statutes.

22 SECTION 3. AMENDATORY 68 O.S. 2021, Section 1364, as
23 last amended by Section 7 of Enrolled House Bill No. 2289 of the 1st
24

1 Session of the 59th Oklahoma Legislature, is amended to read as
2 follows:

3 Section 1364. Permits to do business.

4 A. Every person desiring to engage in a business within this
5 state who would be designated as a Group One or Group Three vendor,
6 pursuant to Section 1363 of this title, shall be required to secure
7 from the Oklahoma Tax Commission every three (3) years a written
8 permit for a fee of Twenty Dollars (\$20.00) prior to engaging in
9 such business in this state. Each such person shall file with the
10 Tax Commission an application for a permit to engage in or transact
11 business in this state, setting forth such information as the Tax
12 Commission may require. The application shall be signed by the
13 owner of the business or representative of the business entity and
14 as a natural person, and, in the case of a corporation, as a legally
15 constituted officer thereof. To obtain a sales tax permit, an
16 individual or sole proprietor must be at least eighteen (18) years
17 of age. A parent or legal guardian may apply for a permit on behalf
18 of an individual or sole proprietor who is not at least eighteen
19 (18) years of age, provided the parent or legal guardian will be
20 considered the authorized user responsible for remitting state tax.

21 B. Upon receipt of an initial application, the Tax Commission
22 may issue a probationary permit effective for six (6) months which
23 will automatically renew for an additional thirty (30) months unless
24 the applicant receives written notification of the refusal of the

1 Commission to renew the permit. ~~If the applicant receives a~~ Within
2 twenty (20) days of the date of the written notification of the
3 notice of refusal, the applicant may request a hearing to show cause
4 why the permit should be renewed. Upon receipt of a request for a
5 hearing, the Tax Commission shall set the matter for hearing and
6 give ten (10) days' notice in writing of the time and place of the
7 hearing. At the hearing, the applicant shall set forth the
8 qualifications of the applicant for a permit and proof of compliance
9 with all state tax laws.

10 C. Holders of a probationary permit as provided in subsection B
11 of this section shall not be permitted to present the permit to
12 obtain a commercial license plate for their motor vehicle as
13 provided in Section 1133.1 of Title 47 of the Oklahoma Statutes.

14 D. Upon verification that the applicant is a Group Three
15 vendor, the Tax Commission may require such applicant to furnish a
16 surety bond or other security as the Commission may deem necessary
17 to secure payment of taxes under this article, prior to issuance of
18 a permit for the place of business set forth in the application for
19 permit. Provided, the Tax Commission is hereby authorized to set
20 guidelines, by adoption of regulations, for the issuance of sales
21 tax permits. Pursuant to ~~said~~ the guidelines the Tax Commission may
22 refuse to issue permits to any Group Three vendors, or any class of
23 vendors included in the whole classification of Group Three vendors,
24 if the Tax Commission determines that it is likely this state will

1 lose tax revenue due to the difficulty of enforcing this article for
2 any reasons stated in ~~subsection (T)~~ paragraph 21 of Section 1354 of
3 this title.

4 E. A separate permit for each additional place of business to
5 be operated must be obtained from the Tax Commission for a fee of
6 Ten Dollars (\$10.00). Such permit shall be good for a period of
7 three (3) years. The Tax Commission shall grant and issue to each
8 applicant a separate permit for each place of business in this
9 state, upon proper application therefor and verification thereof by
10 the Tax Commission.

11 F. A permit is not assignable and shall be valid only for the
12 person in whose name it is issued and for the transaction of
13 business at the place designated therein. The permit shall at all
14 times be conspicuously displayed at the place of business for which
15 issued in a position where it can be easily seen. The permit shall
16 be in addition to all other permits required by the laws of this
17 state. Provided, if the location of the business is changed, such
18 person shall file with the Tax Commission an application for a
19 permit to engage in or transact business at the new location. Upon
20 issuance of the permit to the new location of such business, no
21 additional permit fee shall be due until the expiration of the
22 permit issued to the previous location of such business.

23 G. It shall be unlawful for any person coming within the class
24 designated as Group One or the class designated as Group Three to

1 engage in or transact a business of reselling tangible personal
2 property or services within this state unless a written permit or
3 permits shall have been issued to such person. Any person who
4 engages in a business subject to the provisions of this section
5 without a permit or permits, or after a permit has been suspended,
6 upon conviction, shall be guilty of a misdemeanor punishable by a
7 fine of not more than One Thousand Dollars (\$1,000.00). Any person
8 convicted of a second or subsequent violation hereof shall be guilty
9 of a felony and punishable by a fine of not more than Five Thousand
10 Dollars (\$5,000.00) or by a term of imprisonment in the ~~State~~
11 ~~Penitentiary~~ custody of the Department of Corrections for not more
12 than two (2) years, or both such fine and imprisonment.

13 H. Any person operating under a permit as provided in this
14 article shall, upon discontinuance of business by sale or otherwise,
15 return such permit to the Tax Commission for cancellation, together
16 with a remittance for any unpaid or accrued taxes. Failure to
17 surrender a permit and pay any and all accrued taxes will be
18 sufficient cause for the Tax Commission to refuse to issue a permit
19 subsequently to such person to engage in or transact any other
20 business in this state. In the case of a sale of any business, the
21 tax shall be deemed to be due on the sale of the fixtures and
22 equipment, and the Tax Commission shall not issue a permit to
23 continue or conduct the business to the purchaser until all tax
24 claims due ~~the State of Oklahoma~~ this state have been settled.

1 I. All permits issued under the provisions of this article
2 shall expire three (3) years from the date of issuance at the close
3 of business at each place or location of the business within this
4 state. No refund of the fee shall be made if the business is
5 terminated prior to the expiration of the permit.

6 J. Whenever a holder of a permit fails to comply with any
7 provisions of this article, the Tax Commission, after giving ~~ten~~
8 ~~(10)~~ twenty (20) days' notice in writing of the time and place of
9 hearing to show cause why the permit should not be revoked, may
10 revoke or suspend the permit, the permit to be renewed upon removal
11 of cause or causes of revocation or suspension. However, if a
12 holder of a permit becomes delinquent for a period of three (3)
13 months or more in reporting or paying of any tax due under this
14 article, any duly authorized agent of the Tax Commission may remove
15 the permit from the taxpayer's premises and it shall be returned or
16 renewed only upon the filing of proper reports and payment of all
17 taxes due under this article.

18 K. Permits are not required of persons coming within the
19 classification designated as Group Two. The Oklahoma Tax Commission
20 shall issue a limited permit to Group Five vendors. The permit
21 shall be in such form as the Tax Commission may prescribe.

22 L. Nothing in this article shall be construed to allow a permit
23 holder to purchase, tax exempt, anything for resale that the permit
24 holder is not regularly in the business of reselling.

1 M. All monies received pursuant to issuance of such permits to
2 do business shall be paid to the State Treasurer and placed to the
3 credit of the General Revenue Fund of the State Treasury.

4 N. Notwithstanding the provisions of Section 205 of this title,
5 the Oklahoma Tax Commission is authorized to release the following
6 information contained in the Master Sales and Use Tax File to
7 vendors:

- 8 1. Permit number;
- 9 2. Name in which permit is issued;
- 10 3. Name of business operation if different from ownership
11 (DBA);
- 12 4. Mailing address;
- 13 5. Business address;
- 14 6. Business class, North American Industry Classification
15 System (NAICS), or Standard Industrial ~~Code~~ Classification (SIC);
16 and
- 17 7. Effective date and expiration or cancellation date of
18 permit.

19 Release of such information shall be limited to tax remitters
20 for the express purpose of determining the validity of sales permits
21 presented as evidence of purchasers' sales tax resale status under
22 this Oklahoma Tax Code.

23 The provisions of this subsection shall be strictly interpreted
24 and shall not be construed as permitting the disclosure of any other

1 information contained in the records and files of the Tax Commission
2 relating to sales tax or to any other taxes.

3 This information may be provided on a subscription basis, with
4 periodic updates, and sufficient fee charged, not to exceed One
5 Hundred Fifty Dollars (\$150.00) per year, to offset the
6 administrative costs of providing the list. All revenue received by
7 the Oklahoma Tax Commission from such fees shall be deposited to the
8 credit of the Oklahoma Tax Commission ~~Revolving~~ Fund. No liability
9 whatsoever, civil or criminal, shall attach to any member of the Tax
10 Commission or any employee thereof for any error or omission in the
11 disclosure of information pursuant to this subsection.

12 O. If the Tax Commission enters into the Streamlined Sales and
13 Use Tax Agreement under Section 1354.18 of this title, the Tax
14 Commission is authorized to participate in its online sales and use
15 tax registration system and shall not require the payment of the
16 registration fees or other charges provided in this section from a
17 vendor who registers within the online system if the vendor has no
18 legal requirement to register.

19 SECTION 4. This act shall become effective November 1, 2023.
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