

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 608

By: Rader of the Senate

and

Pfeiffer of the House

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Tax Commission;
amending 68 O.S. 2021, Sections 212 and 1364, which
relate to licenses and permits; authorizing the
written protest of certain license and permit refusal
within certain period; requiring notice for requested
hearing; 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
any state tax law or other law, to any person, firm, or corporation
who shall be guilty of:

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

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

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

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

7 5. Nonpayment of any delinquent tax or penalty.

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

19 C. Within sixty (60) days of the date indicated on any notice
20 of refusal to issue, extend, or reinstate any license, permit, or
21 duplicate copy thereof, the applicant may file with the Tax
22 Commission a written protest signed by the applicant or the
23 authorized agent of the applicant, stating the reasons the license,
24 permit, or duplicate copy thereof should be issued and requesting an

1 administrative hearing. If a hearing is requested, the applicant
2 shall be given at least ten (10) days' notice of the hearing.

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

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

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

15 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1364, is
16 amended to read as follows:

17 Section 1364. Permits to do business.

18 A. Every person desiring to engage in a business within this
19 state who would be designated as a Group One or Group Three vendor,
20 pursuant to Section 1363 of this title, shall be required to secure
21 from the Oklahoma Tax Commission every three (3) years a written
22 permit for a fee of Twenty Dollars (\$20.00) prior to engaging in
23 such business in this state. Each such person shall file with the
24 Tax Commission an application for a permit to engage in or transact

1 business in this state, setting forth such information as the Tax
2 Commission may require. The application shall be signed by the
3 owner of the business or representative of the business entity and
4 as a natural person, and, in the case of a corporation, as a legally
5 constituted officer thereof.

6 B. Upon receipt of an initial application, the Tax Commission
7 may issue a probationary permit effective for six (6) months which
8 will automatically renew for an additional thirty (30) months unless
9 the applicant receives written notification of the refusal of the
10 Commission to renew the permit. ~~If the applicant receives a~~ Within
11 twenty (20) days of the date of the written notification of the
12 notice of refusal, the applicant may request a hearing to show cause
13 why the permit should be renewed. Upon receipt of a request for a
14 hearing, the Tax Commission shall set the matter for hearing and
15 give ten (10) days' notice in writing of the time and place of the
16 hearing. At the hearing, the applicant shall set forth the
17 qualifications of the applicant for a permit and proof of compliance
18 with all state tax laws.

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

23 D. Upon verification that the applicant is a Group Three
24 vendor, the Tax Commission may require such applicant to furnish a

1 surety bond or other security as the Commission may deem necessary
2 to secure payment of taxes under this article, prior to issuance of
3 a permit for the place of business set forth in the application for
4 permit. Provided, the Tax Commission is hereby authorized to set
5 guidelines, by adoption of regulations, for the issuance of sales
6 tax permits. Pursuant to ~~said~~ such guidelines the Tax Commission
7 may refuse to issue permits to any Group Three vendors, or any class
8 of vendors included in the whole classification of Group Three
9 vendors, if the Tax Commission determines that it is likely this
10 state will lose tax revenue due to the difficulty of enforcing this
11 article for any reasons stated in ~~subsection (T)~~ paragraph 21 of
12 Section 1354 of this title.

13 E. A separate permit for each additional place of business to
14 be operated must be obtained from the Tax Commission for a fee of
15 Ten Dollars (\$10.00). Such permit shall be good for a period of
16 three (3) years. The Tax Commission shall grant and issue to each
17 applicant a separate permit for each place of business in this
18 state, upon proper application therefor and verification thereof by
19 the Tax Commission.

20 F. A permit is not assignable and shall be valid only for the
21 person in whose name it is issued and for the transaction of
22 business at the place designated therein. The permit shall at all
23 times be conspicuously displayed at the place of business for which
24 issued in a position where it can be easily seen. The permit shall

1 be in addition to all other permits required by the laws of this
2 state. Provided, if the location of the business is changed, such
3 person shall file with the Tax Commission an application for a
4 permit to engage in or transact business at the new location. Upon
5 issuance of the permit to the new location of such business, no
6 additional permit fee shall be due until the expiration of the
7 permit issued to the previous location of such business.

8 G. It shall be unlawful for any person coming within the class
9 designated as Group One or the class designated as Group Three to
10 engage in or transact a business of reselling tangible personal
11 property or services within this state unless a written permit or
12 permits shall have been issued to such person. Any person who
13 engages in a business subject to the provisions of this section
14 without a permit or permits, or after a permit has been suspended,
15 upon conviction, shall be guilty of a misdemeanor punishable by a
16 fine ~~of~~ not more than One Thousand Dollars (\$1,000.00). Any person
17 convicted of a second or subsequent violation hereof shall be guilty
18 of a felony and punishable by a fine ~~of~~ not more than Five Thousand
19 Dollars (\$5,000.00) or by a term of imprisonment in the ~~State~~
20 ~~Penitentiary~~ custody of the Department of Corrections for not more
21 than two (2) years, or both such fine and imprisonment.

22 H. Any person operating under a permit as provided in this
23 article shall, upon discontinuance of business by sale or otherwise,
24 return such permit to the Tax Commission for cancellation, together

1 with a remittance for any unpaid or accrued taxes. Failure to
2 surrender a permit and pay any and all accrued taxes will be
3 sufficient cause for the Tax Commission to refuse to issue a permit
4 subsequently to such person to engage in or transact any other
5 business in this state. In the case of a sale of any business, the
6 tax shall be deemed to be due on the sale of the fixtures and
7 equipment, and the Tax Commission shall not issue a permit to
8 continue or conduct the business to the purchaser until all tax
9 claims due ~~the State of Oklahoma~~ this state have been settled.

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

15 J. Whenever a holder of a permit fails to comply with any
16 provisions of this article, the Tax Commission, after giving ~~ten~~
17 ~~(10)~~ twenty (20) days' notice in writing of the time and place of
18 hearing to show cause why the permit should not be revoked, may
19 revoke or suspend the permit, the permit to be renewed upon removal
20 of cause or causes of revocation or suspension. However, if a
21 holder of a permit becomes delinquent for a period of three (3)
22 months or more in reporting or paying of any tax due under this
23 article, any duly authorized agent of the Tax Commission may remove
24 the permit from the taxpayer's premises and it shall be returned or

1 renewed only upon the filing of proper reports and payment of all
2 taxes due under this article.

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

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

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

13 N. Notwithstanding the provisions of Section 205 of this title,
14 the Oklahoma Tax Commission is authorized to release the following
15 information contained in the Master Sales and Use Tax File to
16 vendors:

- 17 1. Permit number;
- 18 2. Name in which permit is issued;
- 19 3. Name of business operation if different from ownership
20 (DBA);
- 21 4. Mailing address;
- 22 5. Business address;
- 23
- 24

1 6. Business class, North American Industry Classification
2 System (NAICS), or Standard Industrial ~~Code~~ Classification (SIC);
3 and

4 7. Effective date and expiration or cancellation date of
5 permit.

6 Release of such information shall be limited to tax remitters
7 for the express purpose of determining the validity of sales permits
8 presented as evidence of purchasers' sales tax resale status under
9 this Oklahoma Tax Code.

10 The provisions of this subsection shall be strictly interpreted
11 and shall not be construed as permitting the disclosure of any other
12 information contained in the records and files of the Tax Commission
13 relating to sales tax or to any other taxes.

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

23 O. If the Tax Commission enters into the Streamlined Sales and
24 Use Tax Agreement under Section 1354.18 of this title, the Tax

1 Commission is authorized to participate in its online sales and use
2 tax registration system and shall not require the payment of the
3 registration fees or other charges provided in this section from a
4 vendor who registers within the online system if the vendor has no
5 legal requirement to register.

6 SECTION 3. This act shall become effective November 1, 2023.

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