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February 20, 2023

SENATE BILL NO. 600

By: Rader of the Senate

and

# Pfeiffer of the House

An Act relating to sales tax; amending 68 O.S. 2021, Sections 1364 and 1364.2, which relate to sales tax and special event permits; requiring individual to be of certain age to obtain permit; authorizing parent or guardian to apply on behalf of minor; requiring promoters or organizers to provide certain letter; requiring submission of certain list before special event; modifying information required post-event; updating reference; 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 1364, is amended to read as follows:

Section 1364. Permits to do business.

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

1 Tax Commission an application for a permit to engage in or transact  
2 business in this state, setting forth such information as the Tax  
3 Commission may require. The application shall be signed by the  
4 owner of the business or representative of the business entity and  
5 as a natural person, and, in the case of a corporation, as a legally  
6 constituted officer thereof. To obtain a sales tax permit, an  
7 individual or sole proprietor must be at least eighteen (18) years  
8 of age. A parent or legal guardian may apply for a permit on behalf  
9 of an individual or sole proprietor who is not at least eighteen  
10 (18) years of age, provided the parent or legal guardian will be  
11 considered the authorized user responsible for remitting state tax.

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

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

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

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

1 F. A permit is not assignable and shall be valid only for the  
2 person in whose name it is issued and for the transaction of  
3 business at the place designated therein. The permit shall at all  
4 times be conspicuously displayed at the place of business for which  
5 issued in a position where it can be easily seen. The permit shall  
6 be in addition to all other permits required by the laws of this  
7 state. Provided, if the location of the business is changed, such  
8 person shall file with the Tax Commission an application for a  
9 permit to engage in or transact business at the new location. Upon  
10 issuance of the permit to the new location of such business, no  
11 additional permit fee shall be due until the expiration of the  
12 permit issued to the previous location of such business.

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

1 Penitentiary for not more than two (2) years, or both such fine and  
2 imprisonment.

3 H. Any person operating under a permit as provided in this  
4 article shall, upon discontinuance of business by sale or otherwise,  
5 return such permit to the Tax Commission for cancellation, together  
6 with a remittance for any unpaid or accrued taxes. Failure to  
7 surrender a permit and pay any and all accrued taxes will be  
8 sufficient cause for the Tax Commission to refuse to issue a permit  
9 subsequently to such person to engage in or transact any other  
10 business in this state. In the case of a sale of any business, the  
11 tax shall be deemed to be due on the sale of the fixtures and  
12 equipment, and the Tax Commission shall not issue a permit to  
13 continue or conduct the business to the purchaser until all tax  
14 claims due the State of Oklahoma have been settled.

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

20 J. Whenever a holder of a permit fails to comply with any  
21 provisions of this article, the Tax Commission, after giving ten  
22 (10) days' notice in writing of the time and place of hearing to  
23 show cause why the permit should not be revoked, may revoke or  
24 suspend the permit, the permit to be renewed upon removal of cause

1 or causes of revocation or suspension. However, if a holder of a  
2 permit becomes delinquent for a period of three (3) months or more  
3 in reporting or paying of any tax due under this article, any duly  
4 authorized agent of the Tax Commission may remove the permit from  
5 the taxpayer's premises and it shall be returned or renewed only  
6 upon the filing of proper reports and payment of all taxes due under  
7 this article.

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

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

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

18 N. Notwithstanding the provisions of Section 205 of this title,  
19 the Oklahoma Tax Commission is authorized to release the following  
20 information contained in the Master Sales and Use Tax File to  
21 vendors:

- 22 1. Permit number;
- 23 2. Name in which permit is issued;
- 24

1        3. Name of business operation if different from ownership  
2 (DBA);  
3        4. Mailing address;  
4        5. Business address;  
5        6. Business class or Standard Industrial Code (SIC); and  
6        7. Effective date and expiration or cancellation date of  
7 permit.

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

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

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

1       O. If the Tax Commission enters into the Streamlined Sales and  
2 Use Tax Agreement under Section 1354.18 of this title, the Tax  
3 Commission is authorized to participate in its online sales and use  
4 tax registration system and shall not require the payment of the  
5 registration fees or other charges provided in this section from a  
6 vendor who registers within the online system if the vendor has no  
7 legal requirement to register.

8       SECTION 2.       AMENDATORY       68 O.S. 2021, Section 1364.2, is  
9 amended to read as follows:

10       Section 1364.2. A. Promoters or organizers of special events  
11 shall submit an application for a special event permit to the  
12 Oklahoma Tax Commission at least twenty (20) days prior to the  
13 special event. The application shall be accompanied by a fee of  
14 Fifty Dollars (\$50.00). The application shall include the location  
15 and dates of the special event, expected number of vendors, and any  
16 other information that may be required by the Tax Commission. A  
17 separate permit shall be required for each special event and must be  
18 prominently displayed. Multiple events held at the same location  
19 during the calendar year may be included in one application.

20       B. All monies received from such fees shall be paid to the  
21 State Treasurer and placed to the credit of the General Revenue Fund  
22 of the State Treasurer.

23       C. Promoters or organizers shall provide vendor letters or  
24 forms to special event vendors for reporting sales tax collections



1 and any other information that may be required by the Tax  
2 Commission.

3 D. Unless otherwise provided in this section, special event  
4 vendors shall collect sales tax from purchasers of tangible personal  
5 property and services taxable under Section 1350 et seq. of this  
6 title and shall remit the tax, along with a sales tax report, to the  
7 promoter or organizer.

8 E. Within fifteen (15) days following the conclusion of the  
9 special event, the organizer or promoter shall forward all reports  
10 and payments to the Tax Commission along with a completed sales tax  
11 report. If not filed on or before the fifteenth day, the tax shall  
12 be delinquent from such date. Reports timely mailed shall be  
13 considered timely filed. If a report is not timely filed, interest  
14 shall be charged from the date the report should have been filed  
15 until the report is actually filed.

16 F. At least ten (10) days prior to the start of the special  
17 event, the organizer or promoter shall submit a list of all vendors  
18 registered to attend the event. Within fifteen (15) days following  
19 the conclusion of the special event, the organizer or promoter shall  
20 also submit a list of vendors ~~at~~ who actually attended each event  
21 ~~that hold a valid sales tax permit issued under Section 1364 of this~~  
22 ~~title. The~~ Each list shall include the vendor's name, address,  
23 telephone number, email address, and ~~sales tax permit number~~  
24 taxpayer identification number. If a vendor holds an Oklahoma sales

1 tax permit issued under Section 1364 of this title, the permit  
2 numbers shall also be included.

3 ~~G. For the purposes of compensating the promoter or organizer~~  
4 ~~in keeping sales tax records, filing reports and remitting the tax~~  
5 ~~when due, a promoter or organizer shall be allowed a deduction of~~  
6 ~~the tax due as provided in Section 1367.1 of this title.~~

7 ~~H.~~ Promoters and organizers shall only be liable for failure to  
8 report and remit all taxes that are remitted to them by special  
9 event vendors.

10 ~~H.~~ H. Promoters or organizers of a special event that is held  
11 on an annual basis during the same thirty-day period each year may  
12 request that the Tax Commission limit their responsibilities to the  
13 following:

14 1. Submitting of an application for a special event permit as  
15 provided in subsection A of this section;

16 2. Providing report forms to special event vendors as provided  
17 in subsection C of this section; and

18 3. Within fifteen (15) days following the conclusion of the  
19 special event, submitting a list of special event vendors at each  
20 event, including the vendor's name, address, and telephone number.

21 Such requests may be denied by the Tax Commission for reasons  
22 including, but not limited to, failure by the promoter to comply  
23 with the requirements of this section or failure by vendors of the  
24

1 promoter's previous special events to comply with the provisions of  
2 subsection ~~F~~ I of this section.

3 ~~F~~ I. Special event vendors of special events that are approved  
4 under subsection ~~F~~ H of this section shall remit the tax along with  
5 a sales tax report directly to the Tax Commission within fifteen  
6 (15) days following the conclusion of the special event. If not  
7 filed on or before the fifteenth day, the tax shall be delinquent  
8 from such date. Reports timely mailed shall be considered timely  
9 filed. If a report is not timely filed, interest shall be charged  
10 from the date the report should have been filed until the report is  
11 actually filed.

12 ~~K~~ J. As used in this section:

13 1. "Promoter" or "organizer" means any person who organizes or  
14 promotes a special event which results in the rental, occupation, or  
15 use of any structure, lot, tract of land, sample or display case,  
16 table, or any other similar items for the exhibition and sale of  
17 tangible personal property or services taxable under Section 1350 et  
18 seq. of this title by special event vendors;

19 2. "Special event" means an entertainment, amusement,  
20 recreation, or marketing event that occurs at a single location on  
21 an irregular basis and at which tangible personal property is sold.  
22 "Special event" shall include, but not be limited to, gun shows,  
23 knife shows, craft shows, antique shows, flea markets, carnivals,  
24 bazaars, art shows, and other merchandise displays or exhibits.

1 Special event shall not include any county, district, or state fair  
2 or public or private school or university-sponsored event. Special  
3 event shall not include an event sponsored by a city or town that  
4 includes less than ten special event vendors or any event sponsored  
5 by a church organization exempt from federal income tax pursuant to  
6 Section 501(c)(3) of the Internal Revenue Code. Special event shall  
7 not include a registered farmers market which is a designated area  
8 in which farmers, growers, or producers from a defined region gather  
9 on a regularly scheduled basis to sell at retail nonpotentially  
10 hazardous farm food products and whole-shell eggs to the public; and

11 3. "Special event vendor" means a person making sales of  
12 tangible personal property or services taxable under Section 1350 et  
13 seq. of this title at a special event within this state and who is  
14 not permitted under Section 1364 of this title.

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

16 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
17 February 20, 2023 - DO PASS  
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