

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3346

By: Pfeiffer

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2021, Sections 105.1, 265, and 1364, as last amended by Section 3, Chapter 359, O.S.L. 2023 (68 O.S. Supp. 2023, Section 1364), which relate to state revenue administration; modifying provisions related to certain employee of the Tax Commission; modifying requirements related to position; modifying authorized expenditures from the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund; modifying provisions related to revocation of sales tax permit with respect to certain places of business based upon cessation of business activity; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 105.1, is amended to read as follows:

Section 105.1 The Oklahoma Tax Commission shall have the authority to designate as a peace officer ~~the~~ an employee ~~in the position of Director of Internal Affairs for the purpose of whose duties include~~ conducting personnel investigations and background checks. An employee designated as a peace officer pursuant to this section shall be certified pursuant to Section 3311 of Title 70 of

1 the Oklahoma Statutes, and have the authority to review information
2 contained in the files of federal, state or local law enforcement
3 officials in order to conduct the investigations prescribed by this
4 section. ~~The employee designated as a peace officer shall not be~~
5 ~~authorized to carry a firearm nor shall be required to be certified~~
6 ~~pursuant to Section 3311 of Title 70 of the Oklahoma Statutes.~~

7 SECTION 2. AMENDATORY 68 O.S. 2021, Section 265, is
8 amended to read as follows:

9 Section 265. A. There is hereby created in the State Treasury
10 a fund for the Oklahoma Tax Commission to be known as the "Oklahoma
11 Tax Commission and Office of Management and Enterprise Services
12 Joint Computer Enhancement Fund". The fund shall be a continuing
13 fund, not subject to fiscal year limitations, and shall consist of
14 all monies deposited to the fund pursuant to law. All monies
15 accruing to the credit of said fund are hereby appropriated and may
16 be budgeted and expended for the purposes authorized by subsection B
17 of this section. Expenditures from said fund shall be made upon
18 warrants issued by the State Treasurer against claims filed as
19 prescribed by law with the Director of the Office of Management and
20 Enterprise Services for approval and payment.

21 B. Monies in the Oklahoma Tax Commission and Office of
22 Management and Enterprise Services Joint Computer Enhancement Fund
23 shall be expended for the following purposes:
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1 1. To make payments on an agreement authorized by Section 5,
2 Chapter 278, O.S.L. 2008;

3 2. To make payments for Information Technology acquisitions to
4 support the responsibilities of the Oklahoma Tax Commission;

5 3. To make payments authorized by Section 34.33 of Title 62 of
6 the Oklahoma Statutes; and

7 ~~3.~~ 4. To the extent not needed for the above-listed purposes to
8 be expended on other projects as specifically authorized by the
9 Legislature.

10 C. Notwithstanding any other provision of law, there shall be
11 apportioned to the Oklahoma Tax Commission and Office of Management
12 and Enterprise Services Joint Computer Enhancement Fund from the
13 monies that would otherwise be apportioned by Section 2352 of this
14 title, the revenue received as a result of any contracts entered
15 into by the Oklahoma Tax Commission pursuant to Section 264 of this
16 title.

17 D. The Tax Commission is hereby authorized to deposit to the
18 credit of the Oklahoma Tax Commission and Office of Management and
19 Enterprise Services Joint Computer Enhancement Fund any monies in
20 excess of the amounts necessary to pay all claims presented to its
21 cash security reserve fund. When monies are deposited to the credit
22 of the Computer Enhancement Fund, the right of any person to present
23 a claim for refund of a cash security shall be preserved and the
24 value thereof shall be paid from the cash security reserve fund.

1 E. For the fiscal year beginning July 1, 2015, and thereafter a
2 portion of the revenue apportioned to the Oklahoma Tax Commission
3 and Office of Management and Enterprise Services Joint Computer
4 Enhancement Fund pursuant to Sections 1353, 1403 and 2352 of this
5 title shall be credited to the Oklahoma Tax Commission, in an amount
6 which is equal to the sum of one-half of one percent (0.5%) of gross
7 collections of sales and use tax levied by counties of this state
8 pursuant to Section 1370 of this title and one-half of one percent
9 (0.5%) of sales and use tax levied by municipalities of this state
10 pursuant to Section 2701 of this title.

11 SECTION 3. AMENDATORY 68 O.S. 2021, Section 1364, as
12 last amended by Section 3, Chapter 359, O.S.L. 2023 (68 O.S. Supp.
13 2023, Section 1364), is amended to read as follows:

14 Section 1364. Permits to do business.

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

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

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

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

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

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

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

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

11 I. All permits issued under the provisions of this article
12 shall expire three (3) years from the date of issuance at the close
13 of business at each place or location of the business within this
14 state. No refund of the fee shall be made if the business is
15 terminated prior to the expiration of the permit. Whenever the
16 sales tax reports required to be filed by Section 1365 of this title
17 indicate there is no business activity at a place of business for a
18 period of twelve (12) months, the Tax Commission, after giving
19 twenty (20) days' notice to the permit holder in writing of the time
20 and place of hearing to show cause why the sales tax permit for that
21 place of business should not be revoked, may revoke or suspend the
22 permit pursuant to an order of the Tax Commission after failure to
23 show cause or failure to appear by the permit holder.
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1 J. Whenever a holder of a permit fails to comply with any
2 provisions of this article, the Tax Commission, after giving twenty
3 (20) days' notice in writing of the time and place of hearing to
4 show cause why the permit should not be revoked, may revoke or
5 suspend the permit pursuant to an order of the Tax Commission after
6 failure to show cause or failure to appear by the permit holder, the
7 permit to be renewed upon removal of cause or causes of revocation
8 or suspension. However, if a holder of a permit becomes delinquent
9 for a period of three (3) months or more in reporting or paying of
10 any tax due under this article, any duly authorized agent of the Tax
11 Commission may remove the permit from the taxpayer's premises and it
12 shall be returned or renewed only upon the filing of proper reports
13 and payment of all taxes due under this article.

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

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

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

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

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

15 Release of such information shall be limited to tax remitters
16 for the express purpose of determining the validity of sales permits
17 presented as evidence of purchasers' sales tax resale status under
18 this Oklahoma Tax Code.

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

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

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

15 SECTION 4. This act shall become effective July 1, 2024.

16 SECTION 5. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.
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