

## CHAPTER 25. COIN OPERATED VENDING DEVICES

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[Authority: 68 O.S. §§203, 1504, 1509.1]

[Source: Codified 12-30-91]



## CHAPTER 25. COIN OPERATED VENDING DEVICES

### 710:25-1-1. Purpose and definitions

(a) The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to coin operated vending devices.

(b) "**Firmly affixed**" means, for purposes of this Chapter, permanently attached, directly to the device, using the adhesive provided on the decal, and does **not** include placing the decal on the device using any other object, surface, or separate adhesive strip or apparatus.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

### 710:25-1-2. Annual vending device fee in lieu of sales tax; exclusions

(a) **General provisions.** The annual fee paid for vending, music, amusement, and bulk-vending devices shall be in lieu of sales tax. An annual decal is required, depending on the type of device.

(b) **Exclusions.** Machines not used for the purpose of vending tangible personal property or for playing music or for amusement are not subject to the levy and need not bear a decal.

(c) **Examples of devices excluded.** Examples of devices to which the levy does not apply are:

- (1) Pay telephones;
- (2) Newspaper vending machines;
- (3) Parking meters;
- (4) Gas and electric meters; and
- (5) Devices which vend only postage stamps.

(d) **Scope of listed exclusions.** The list of examples set out in (c) of this Section is intended to be illustrative only and not all-inclusive.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

### 710:25-1-3. Device requiring decal

For purposes of administration of the Coin-operated Music and Amusement Devices Code, a decal will be required for each machine, regardless of the number of coin slots, if the machine can, upon insertion of a coin, token or similar object, provide music, amusement or entertainment or dispense product(s) separate and apart from any other provider of music, amusement or entertainment or dispenser of product(s). The test to determine whether the machine can operate separate and apart from any other is whether the provider or dispenser can still function if separated from the others to which it is attached. When multiple machines are placed on a single stand, each machine requires a decal.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

**710:25-1-4. Who must purchase decals**

For purposes of this Chapter, "**person**" means any individual, partnership, limited liability company, association or corporation. Every person who owns and has available to the public for operation or who permits to be operated in his place of business a coin-operated device shall purchase a decal for each device. [See: 68 O.S. §§1501, 1503]

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

**710:25-1-5. Decals for general use**

A music/amusement device requires a Seventy-five Dollar (\$75.00) annual decal. Coin-operated vending devices which require a coin or thing of value of Twenty-five Cents (25¢) or more must display a Seventy-five Dollar (\$75.00) annual decal. If the device requires a coin or thing of value less than Twenty-five Cents (25¢), then an annual decal of Ten Dollars (\$10.00) will be required. [See: 68 O.S. §1503(1)-(3)]

[Source: Amended at 28 Ok Reg 934, eff 6-1-11; Amended at 29 Ok Reg 523, eff 5-11-12]

**710:25-1-6. Decals for bulk vending devices**

For purposes of this Chapter, "**bulk-vending**" is defined as a device which dispenses to the purchaser ballpoint pens, combs, cigarette lighters, prophylactics, filled capsules, peanuts, gum balls, mints, perfume or novelties. All bulk vending devices shall display a decal. The annual fee for a bulk vending device decal is dependent upon the number of distribution mechanisms and the value of the coin required to activate the device. [See: 68 O.S. §§1501(6), 1503(4)]

[Source: Amended at 9 Ok Reg 3017, eff 7-13-92]

**710:25-1-7. Special decals for limited use**

In those instances where a coin-operated device will be available for use by the public for a limited period of time less than one (1) year, such as in connection with fairs, carnivals and places of amusements that operate only during certain seasons of the year, the Commission will issue a special decal for one or more calendar months. The fee for each calendar month will be computed on the basis of one-tenth (1/10th) of the annual rate for the type of device operated. Each special decal must be firmly affixed, as defined by 710:25-1-1(b), to the device for which it is purchased, in the same manner as other decals, and may not be transferred to any other machine.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98; Amended at 23 Ok Reg 2814, eff 6-25-06]

**710:25-1-8. Effective dates and renewal periods for decals**

Coin operated vending device decals are issued for a one (1) year period which begins the first day of July and ends the last day of June. A provision is made that decals may be purchased in two (2) halves. The Commission shall issue decals for the remainder of the fee year upon payment of the fee on the basis of the current and remaining half of such fee year. [See: 68 O.S. §1505]

**710:25-1-9. Application for decals; affixing decals; refunds**

(a) **Application.** The application for a coin operated vending device decal is to be filed with the Commission on forms prescribed by the Commission and shall include owner's name, sales tax permit number, number and location of devices and payment of fees.

(b) **Affixing Decal.** When a coin-operated device is placed into operation, a decal shall be firmly affixed to the device and plainly visible and readable by the public. [See: 68 O.S. § 1504 and 710:25-1-1(b)]

(c) **Refunds.** Unused decals may be returned to the Commission for a refund within 30 calendar days if, at the time of purchase, the applicant provided to the Commission a list of all devices owned by applicant and their location. This is not intended to apply to or preclude a refund for decal purchases in error for the wrong device, for devices where a decal is not required or an overpayment of the fee.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98; Amended at 24 Ok Reg 1691, eff 6-11-2007; Amended at 28 Ok Reg 1839, eff 6-25-2011]

#### **710:25-1-10. Penalties for operations without decal; forfeiture**

Any owner who places a coin operated vending device in operation and any person who permits a device to be placed in his place of business without a decal affixed shall be liable for the fee on the device at the full annual rate and shall be liable to a penalty of One Hundred Dollars (\$100.00). A device left without the decal affixed, including all cash in the receptacle, may be sealed until released by the Commission or seized by an authorized agent of the Commission, or any sheriff, constable or other peace officer of the State and upon seizure, the machine, together with the cash, if any contained in the receptacle of such device, will be delivered to the Commission. [See: 68 O.S. §§1506, 1507]

#### **710:25-1-11. Hearing on forfeiture; sale upon forfeiture**

(a) **Hearing; order.** The Commission will conduct a hearing and determine the matter of whether or not a seized coin operated vending device and cash should be forfeited to the State. The owner of the device will be given at least ten (10) days' notice of the date of the hearing. If the Commission finds that the device and cash contents should be forfeited to the State, an order forfeiting the device and cash contents and directing the sale of the device will be issued.

(b) **Sale.** The sale may occur in the county where the device was seized or in Oklahoma County, at the discretion of the Commission. The sale will occur after ten (10) days' notice of the sale. Notices of the sale will be posted in five (5) conspicuous places in the county of the sale. One (1) notice must be posted on the bulletin board at the county courthouse of said county. The sale shall be for cash and proceeds shall be applied as follows:

- (1) To the payment of the costs incident to the seizure and sale;
- (2) To the payment of any other taxes, including penalties, that may accrue against the device; and
- (3) The balance, if any, shall be remitted to the owner.

(c) **Forfeiture of contents.** The cash contained in any device and forfeited shall be an additional tax penalty and shall be in addition to all other penalties. [See: 68 O.S. §1507]

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

**710:25-1-12. Appeal from forfeiture order**

An order of the Commission, declaring a forfeiture of a coin operated vending device including the cash contents, and directing the sale of such device shall be a final order, from which an appeal may be brought, as provided for in the Uniform Tax Procedure Act. [See: 68 O.S. §1507; 68 O.S. §§201 et seq.]

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

**710:25-1-13. Criminal penalties for operation without decal**

Any owner of a coin-operated device who places such device in operation or in a place available to the public for operation, and any person who permits a coin-operated device to be in operation or accessible to the public, for operation in his place of business, without attaching the decal shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding Two Hundred Dollars (\$200.00) or by imprisonment in the county jail for a period not exceeding thirty (30) days or by both such fine and imprisonment. [See: 68 O.S. §1508]

**710:25-1-14. Permits for sale or distribution of coin-operated devices**

The Commission will issue permits for the sale or distribution of one or more coin-operated devices. The cost of this permit is Two Hundred Dollars (\$200.00) a year. The applicant shall comply with the following requirements:

- (1) Be a resident of this State for two (2) years preceding the date of the application.
  - (2) Not be a convicted felon.
  - (3) Have an Oklahoma Sales Tax Permit to be used exclusively to report the sale of coin-operated devices.
  - (4) Be either an owner or partner of a business selling or distributing coin-operated devices.
- [See: 68 O.S. §§1509.1-1509.3]

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

**710:25-1-15. Cities may levy license or tax in addition to decals**

The coin operated vending device decal fee is in lieu of state, city and county sales tax. The cities, municipalities and towns are authorized to levy a license or occupation tax upon coin-operated devices or persons operating the same or premises where same are located, in an amount not in excess of seventy-five percent (75%) of the decal fee imposed by the State. [See: 68 O.S. §1511]

**710:25-1-16. Exemption for devices installed on federal military bases**

No annual fee or decal will be required for coin-operated devices installed on federal military bases. For purposes of this exemption "installed" is defined as set up for use or service. [See: 68 O.S. §§1501 et seq.]