

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2267

BY: SEIKEL

AS INTRODUCED

AN ACT RELATING TO INTOXICATING LIQUORS; AMENDING 37 O.S. 1991, SECTIONS 163.2, 219, 241, 243 AND 246, WHICH RELATE TO NONINTOXICATING BEVERAGES; DEFINING TERM; AUTHORIZING CERTAIN MUNICIPAL ORDINANCES; PROVIDING RESTRICTIONS ON CERTAIN AREAS SERVING NONINTOXICATING BEVERAGES; REQUIRING CERTAIN ESTABLISHMENTS TO HAVE SEPARATE OR ENCLOSED BAR AREAS AND RESTRICTING NONINTOXICATING BEVERAGES TO SUCH AREAS; MODIFYING AGE FOR CERTAIN EMPLOYMENT; REMOVING CERTAIN INTENT REQUIREMENT FOR PROHIBITION OF POSSESSION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 37 O.S. 1991, Section 163.2, is amended to read as follows:

Section 163.2 In the administration of this act the following words and phrases are given the meanings respectively indicated:

(a) "Nonintoxicating beverages" means and includes beverages containing more than one-half of one percent (1/2 of 1%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including but not limited to beer or cereal malt

beverages obtained by the alcoholic fermentation of an infusion of barley or other grain, malt or similar products.

(b) "Person" means and includes an individual, a trust or estate, a partnership, an association or a corporation.

(c) "Manufacturer" means and includes any person who prepares for human consumption by the use of raw materials or other ingredients any nonintoxicating beverages, as defined herein, upon which a license fee and a tax are imposed by any law of this state.

(d) "Wholesaler" means and includes any person who sells any nonintoxicating beverage, as defined herein, to a licensed retail dealer, as hereinafter defined, for resale.

(e) "Retail dealer" means and includes any person who sells any nonintoxicating beverage, as defined herein, at retail for consumption or use, and such definitions include state and county fair associations, and special licenses may be issued for the sale of nonintoxicating beverages, as herein defined, by such associations, and to other persons for the sale of such nonintoxicating beverages at rodeos, picnics, or other organized temporary assemblages of people. The term "retail dealer" also includes railways for the sale of such beverages, and licenses may be issued for each dining car or railway train, which railways and dining cars shall pay the same license fees as regular retail dealers.

(f) "Sale" or "sales", for the purpose of the collection of the taxes imposed by any law of the state upon nonintoxicating beverages, as defined herein, is hereby defined to mean and include all sales by all wholesalers within this state, for money or any other valuable consideration, to retail dealers for resale; and, also, the term "sale" or "sales" taxable under this act means and includes all sales from manufacturers or wholesalers from outside this state, to retail dealers for resale to consumers or otherwise. The term "sale", or "sales" shall also include sales from

manufacturers without the state to wholesalers located within the state.

(g) "Meals" means foods commonly ordered at lunch or dinner and at least part of which is cooked on the licensed premises and requires the use of dining implements for consumption. Provided, that the service of only food such as appetizers, sandwiches, salads or desserts shall not be considered "meals".

(h) "Motion picture theater" means a place where motion pictures are exhibited and to which the general public is admitted, but does not include a place where meals, as defined by this section, are served, if only persons twenty-one (21) years of age or older are admitted.

(i) "Total gross sales" means any sales, excluding entrance fees, cover charges, or admittance fees from which an establishment derives any revenue.

SECTION 2. AMENDATORY 37 O.S. 1991, Section 219, is amended to read as follows:

Section 219. A. All municipalities of this state may enact ordinances prohibiting or regulating nudity or drink solicitation in establishments licensed to sell beverages containing more than one-half of one percent (1/2 of 1%) of alcohol by volume and not more than three and two-tenths percent (3.2%) of alcohol by weight, for consumption on the premises of said establishments.

B. All municipalities of this state with a population of at least thirty-five thousand (35,000) people may enact ordinances to require that establishments that sell beverages containing more than one-half of one percent (1/2 of 1%) of alcohol by volume and not more than three and two-tenths percent (3.2%) of alcohol by weight for on-premises consumption have a designated bar area, if the sales of such beverages by any such establishment exceed twenty-five percent (25%) of the total gross sales for the establishment. All consumption of such beverages on the premises of such establishment

shall be in the designated bar area. Any municipality enacting such an ordinance may provide exceptions for sporting events and temporary outdoor gatherings.

SECTION 3. AMENDATORY 37 O.S. 1991, Section 241, is amended to read as follows:

Section 241. A. It shall be unlawful for any person to sell, barter, or give to any person under twenty-one (21) years of age any nonintoxicating beverage, as defined in Section 163.2 of this title.

B. It shall be unlawful for any person who holds a license to sell and dispense nonintoxicating beverages for consumption on the premises, or any agent, servant, or employee of said license holder to permit any person under twenty-one (21) years of age to be admitted to or remain in a separate or enclosed bar area of the licensed premises unless said person's parent or legal guardian is present, which has as its main purpose the selling or serving of nonintoxicating beverages for consumption on the premises. The provisions of this section shall not prohibit persons under twenty-one (21) years of age from being admitted to an area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of said beverages are incidental to the main purpose, as long as the area is not used merely as an extension of the bar area for consumption of nonintoxicating beverages and persons under twenty-one (21) years of age are not sold or served said beverages; however, the incidental service of food in the bar area shall not exempt a licensee, agent, servant, or employee from the provisions of this section. Any establishment that derives more than twenty-five percent (25%) of its total gross sales from the sale of nonintoxicating beverages shall have a separate or enclosed bar area and the sale, serving, or consumption of nonintoxicating beverages shall be restricted to that area.

C. It shall be unlawful for any person who holds a license to sell and dispense nonintoxicating beverages, for consumption on the premises, or any agent, servant or employee of said license holder to permit any person under twenty-one (21) years of age to consume any nonintoxicating beverage on the licensed premises.

D. Any person violating the provisions of subsection A, B or C of this section shall upon conviction be guilty of a misdemeanor.

SECTION 4. AMENDATORY 37 O.S. 1991, Section 243, is amended to read as follows:

Section 243. A. It shall be unlawful for any person under eighteen (18) years of age to be employed or permitted to work, in any capacity whatsoever, in a place where beverages containing more than one-half of one percent ( $1/2$  of 1%) of alcohol measured by volume and not more than three and two-tenths percent (3.2%) of alcohol measured by weight are sold or dispensed for consumption on the premises.

B. It shall be unlawful for any person under ~~the age of~~ majority twenty-one (21) years of age to be employed or permitted to work, in any capacity whatsoever, in the separate or enclosed bar area of a place where the main purpose of the area is the sale or consumption of beverages containing more than one-half of one percent ( $1/2$  of 1%) of alcohol measured by volume and not more than three and two-tenths percent (3.2%) of alcohol measured by weight. The provisions of this subsection shall not apply to any area which has as its main purpose some objective other than the sale or serving of nonintoxicating beverages, in which sales or serving of said beverages are incidental to the main purpose; however, the incidental service of food in the bar area shall not exempt a holder of a license to sell nonintoxicating beverages for consumption on the premises from the provisions of this subsection.

C. A parent as regards the employment of his own child or children is excepted from the provisions of this section, provided

that such employment shall in no capacity whatsoever be related to the selling or dispensing of such beverages.

D. The provisions of subsection A of this section shall not apply to any business or establishment where sales of said beverages do not exceed twenty-five percent (25%) of the gross sales of the business or establishment.

SECTION 5. AMENDATORY 37 O.S. 1991, Section 246, is amended to read as follows:

Section 246. A. No person under twenty-one (21) years of age shall (1) consume or (2) possess ~~with the intent to consume~~ nonintoxicating beverages, as defined in Section 163.2 of this title, in any public place. It shall be unlawful for any person under twenty-one (21) years of age to purchase or attempt to purchase nonintoxicating beverages, as defined in Section 163.2 of this title, except under supervision of law enforcement officers. Any person violating any of the provisions of this section shall be guilty, upon conviction, of a misdemeanor and punished by a fine not to exceed One Hundred Dollars (\$100.00) or by appropriate community service not to exceed twenty (20) hours. Provided, the provisions of this section shall not apply when such persons are under the direct supervision of their parent or guardian, but in no instance shall this exception be interpreted to allow such persons to consume such beverages in any place licensed to dispense nonintoxicating beverages as provided in Section 163.11 of this title.

B. If the premises of a holder of a license to sell nonintoxicating beverages contains a separate or enclosed bar area which has as its main purpose the sale or serving of nonintoxicating beverages for consumption on the premises, no person under twenty-one (21) years of age shall enter, attempt to enter, or remain in said area. The provisions of this subsection shall not prohibit persons under twenty-one (21) years of age from entering or remaining in an area which has as its main purpose some objective

other than the sale or serving of nonintoxicating beverages, in which sales or serving of said beverages are incidental to the main purpose, if the persons under twenty-one (21) years of age are not sold or served or do not consume nonintoxicating beverages anywhere on the premises; however, the incidental service of food in the bar area shall not exempt persons under twenty-one (21) years of age from the provisions of this subsection. Any person convicted of violating the provisions of this subsection shall be guilty of a misdemeanor and punished by a fine not to exceed One Hundred Dollars (\$100.00).

C. A violation of the provisions of this section shall not be a basis for instituting juvenile proceedings to determine if a person under eighteen (18) years of age is a delinquent child; however, if a person under eighteen (18) years of age habitually violates the provisions of this section, juvenile proceedings may be brought to determine if the person is a delinquent child. A person under eighteen (18) years of age who has been convicted of violating the provisions of this section shall be subject to the penalty provisions provided in this section.

SECTION 6. This act shall become effective September 1, 1992.

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