

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 12

BY: FORD

AS INTRODUCED

AN ACT RELATING TO INTOXICATING LIQUORS; AMENDING 37 O.S. 1981, SECTION 511, AS LAST AMENDED BY SECTION 2, CHAPTER 195, O.S.L. 1985 (37 O.S. SUPP. 1990, SECTION 511), WHICH RELATES TO THE ALCOHOLIC BEVERAGE CONTROL ACT; REMOVING RESTRICTIONS FROM LICENSING CERTAIN PERSONS; PROHIBITING CERTAIN EMPLOYEES FROM INVOLVEMENT IN THE ALCOHOLIC BEVERAGE BUSINESS; PROVIDING EXCEPTION; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 37 O.S. 1981, Section 511, as last amended by Section 2, Chapter 195, O.S.L. 1985 (37 O.S. Supp. 1990, Section 511), is amended to read as follows:

Section 511. A. No member of the Alcoholic Beverage Laws Enforcement Commission, Director, Assistant Director, or employee of the ABLE Commission shall be appointed or serve who has been convicted of a felony or of any violation of any federal or state law relating to alcoholic beverages. No member of the ABLE Commission, Director, Assistant Director, or employee of the ABLE

Commission shall directly or indirectly, individually or as a member of a partnership, or as a shareholder of a corporation, have any interest whatsoever in the manufacture, sale or distribution of alcoholic beverages, nor receive any compensation or profit therefrom, nor have any interest, directly or indirectly, in any business authorized by a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title. No member of the ABLE Commission, Director, Assistant Director, or employee of the ABLE Commission shall solicit or accept any gift, gratuity, emolument, or employment from any person subject to the provisions of the Oklahoma Alcoholic Beverage Control Act, or from any officer, agent or employee thereof, nor solicit, request from or recommend, directly or indirectly, to any such person or to any officer, agent or employee thereof, the appointment of any person to any place or position, and every such person, and every officer, agent or employee thereof, is hereby forbidden to offer to any member of the ABLE Commission, the Director, Assistant Director, or to any employee of the ABLE Commission, any gift, gratuity, emolument or employment. No member of the ABLE Commission, Director, Assistant Director, or employee of the ABLE Commission shall accept employment within the liquor industry for any holder of a license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, or represent, directly or indirectly, any such licensee in any proceedings before the Director or the ABLE Commission within two (2) years following his separation from the ABLE Commission. Violation of any provision of this subsection shall constitute a misdemeanor. In addition to the penal provisions, any person convicted shall be immediately removed from the office or position he holds.

B. No license of any kind shall be granted to or retained by any person or any partnership containing any partner who is related

to any member of the ABLE Commission or to the Director or Assistant Director by affinity or consanguinity within the third degree. No member of the ABLE Commission nor the Director or Assistant Director shall be entitled to receive any compensation or other monies from the State of Oklahoma while a license is held in violation of the provisions of this subsection.

C. It shall be unlawful for any member of the ABLE Commission, the Director, Assistant Director, any inspector, attorney or other agent or employee of the ABLE Commission, to actively participate, as a candidate or otherwise, in any political campaign held in this state. Nor shall any such member of the ABLE Commission, Director, Assistant Director, or other agent or employee of the ABLE Commission lend, expend or contribute any money, funds, property or other thing of value, or use his official position, for the purpose of securing the nomination or election or the defeat of any candidate for public office in the State of Oklahoma. Any person who shall violate the provisions of this subsection shall, upon conviction, be fined not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in the county jail for not more than one (1) year, or both such fine and imprisonment. Any person found guilty of violating the provisions of this subsection shall, in addition to the criminal penalty imposed herein, be discharged from the office or position he holds upon conviction and shall not be rehired to any state position.

~~D. The State of Oklahoma, or any political subdivision thereof, or any board, commission, agent, or employee thereof, is hereby prohibited from engaging in any phase of the alcoholic beverage business, including the manufacture, sale, importation, exportation, transportation, or distribution thereof, at wholesale or retail, and the maintenance, ownership, or operation of warehouses or alcoholic beverage stores. Provided, that if If the voters of a county in~~

which a state lodge is located approve sale of alcoholic beverages by the individual drink for on-premises consumption, then such sale of alcoholic beverages on the premises of such lodge shall be authorized if a license for such sale, issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act, is obtained. Provided, further, that a bottle club may be licensed on the premises of a state lodge located in a county where sale of alcoholic beverages by the individual drink for on-premises consumption is not authorized. ~~State employees working in a state lodge for which a license has been issued pursuant to the provisions of this subsection, shall be authorized to participate in the service, mixing, or sale of alcoholic beverages consistent with the authority of the license issued for the premises if any such employee is eligible for and obtains an employee license in accordance with the provisions of Section 521 of this title.~~

~~The holding of membership or elective or appointed office in fraternal organizations which obtain mixed beverage or bottle club licenses by employees of the state or a political subdivision shall not be considered to be engagement in the alcoholic beverage business.~~

E. The provisions of subsection D of this section shall not prohibit the state or a political subdivision of the state from leasing a public building or facility to a person who obtains a mixed beverage license, bottle club license, special event license, contracts for the services of a licensed caterer, or subleases the building or facility to a person who obtains a mixed beverage license, bottle club license, special event license or contracts for the services of a licensed caterer.

F. Provided, that nothing in this section shall prohibit the sale of alcoholic beverage legally confiscated as provided by law.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 511A of Title 37, unless there is created a duplication in numbering, reads as follows:

A. All employees of the State of Oklahoma and its political subdivisions are hereby permitted to obtain licenses from the Alcoholic Beverage Laws Enforcement Commission and to be involved in the alcoholic beverage business unless such involvement and licensing is prohibited by this section or otherwise prohibited by law.

B. The following officers and employees of the State of Oklahoma and its political subdivisions are hereby restricted from involvement in the alcoholic beverage business:

1. All Judges, district attorneys and any public official who sits in a judicial capacity with jurisdiction over the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of this title;

2. All employees certified as peace officers engaging in law enforcement activities; and

3. All employees of the Oklahoma Tax Commission who engage in the auditing, enforcement and collection of alcoholic beverage taxes.

C. The holding of membership or elective or appointed office in fraternal organizations which obtain mixed beverage or bottle club licenses by employees of the state or a political subdivision shall not be considered to be engagement in the alcoholic beverage business.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

