

1 ENGROSSED SENATE
2 BILL NO. 1016

By: Bass of the Senate

and

Thompson of the House

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7 [intoxicating liquors - Oklahoma Alcoholic Beverage
8 Control Act - modifying certain prohibited acts -
9 effective date]

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

12 SECTION 1. AMENDATORY 37 O.S. 2001, Section 537, as last
13 amended by Section 1, Chapter 196, O.S.L. 2005 (37 O.S. Supp. 2006,
14 Section 537), is amended to read as follows:

15 Section 537. A. No person shall:

16 1. Knowingly sell, deliver, or furnish alcoholic beverages to
17 any person under twenty-one (21) years of age;

18 2. Sell, deliver or knowingly furnish alcoholic beverages to an
19 intoxicated person or to any person who has been adjudged insane or
20 mentally deficient;

21 3. Open a retail container or consume alcoholic beverages on
22 the premises of a retail package store;

23 4. Import into this state, except as provided for in the
24 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;

1 provided, that nothing herein shall prohibit the importation or
2 possession for personal use of not more than one (1) liter of
3 alcoholic beverages upon which the Oklahoma excise tax is
4 delinquent;

5 5. Receive, possess, or use any alcoholic beverage in violation
6 of the provisions of the Oklahoma Alcoholic Beverage Control Act;

7 6. Transport into, within, or through this state more than one
8 (1) liter of alcoholic beverages upon which the Oklahoma excise tax
9 has not been paid unless the person accompanying or in charge of the
10 vehicle transporting same shall possess a true copy of a bill of
11 lading, invoice, manifest or other document particularly identifying
12 the alcoholic beverages being transported and showing the name and
13 address of the consignor and consignee;

14 7. Knowingly transport in any vehicle upon a public highway,
15 street or alley any alcoholic beverage except in the original
16 container which shall not have been opened and the seal upon which
17 shall not have been broken and from which the original cap or cork
18 shall not have been removed, unless the opened container be in the
19 rear trunk or rear compartment, which shall include the spare tire
20 compartment in a vehicle commonly known as a station wagon and panel
21 truck, or any outside compartment which is not accessible to the
22 driver or any other person in the vehicle while it is in motion;

23 8. Drink intoxicating liquor in public except on the premises
24 of a licensee of the Alcoholic Beverage Laws Enforcement Commission

1 who is authorized to sell or serve alcoholic beverages by the
2 individual drink or be intoxicated in a public place. This
3 provision shall be cumulative and in addition to existing law;

4 9. Forcibly resist lawful arrest, or by physical contact
5 interfere with an investigation of any infringement of the Oklahoma
6 Alcoholic Beverage Control Act or with any lawful search or seizure
7 being made by an inspector or agent of the ABLE Commission, when
8 such person knows or should know that such acts are being performed
9 by a state, county, or municipal officer, inspector or agent of the
10 ABLE Commission;

11 10. Manufacture, duplicate, counterfeit or in any way imitate
12 any bottle club membership card required to be issued by the ABLE
13 Commission without the permission of the Commission;

14 11. Consume or possess alcoholic beverages on the licensed
15 premises of a bottle club unless such person possesses a valid
16 membership card for that club issued by the club; or

17 12. Knowingly possess any bottle club membership card required
18 to be issued by the ABLE Commission, which has been manufactured,
19 counterfeited, imitated or in any way duplicated without the
20 permission of the Commission.

21 B. No licensee of the ABLE Commission shall:

22 1. Receive, possess, or sell any alcoholic beverage except as
23 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
24 license or permit which the licensee holds;

1 2. Employ any person under the age of twenty-one (21) in the
2 selling or handling of alcoholic beverages. Provided, that a mixed
3 beverage, beer and wine, caterer, special event or bottle club
4 licensee may employ servers who are at least eighteen (18) years of
5 age, except persons under twenty-one (21) years of age may not serve
6 in designated bar or lounge areas, and a mixed beverage, beer and
7 wine, caterer, special event or bottle club licensee may employ or
8 hire musical bands who have musicians who are under twenty-one (21)
9 years of age if each such musician is either accompanied by a parent
10 or legal guardian or has on their person, to be made available for
11 inspection upon demand by any ABLE Commission officer or law
12 enforcement officer, a written, notarized affidavit from the parent
13 or legal guardian giving the underage musician permission to perform
14 in designated bar or lounge areas;

15 3. Give any alcoholic beverage as a prize, premium or
16 consideration for any lottery, game of chance or skill or any type
17 of competition;

18 4. Advertise or offer "happy hours" or any other means or
19 inducements to stimulate the consumption of alcoholic beverages
20 including:

- 21 a. deliver more than two drinks to one person at one
22 time_{7,1}
- 23 b. sell or offer to sell to any person or group of
24 persons any drinks at a price less than the price

1 regularly charged for such drinks during the same
2 calendar week, except at private functions not open to
3 the public⁷,₁

4 c. sell or offer to sell to any person an unlimited
5 number of drinks during any set period of time for a
6 fixed price, except at private functions not open to
7 the public⁷,₁

8 d. sell or offer to sell drinks to any person or group of
9 persons on any one day at prices less than those
10 charged the general public on that day, except at
11 private functions not open to the public⁷,₁

12 e. increase the volume of alcoholic beverages contained
13 in a drink without increasing proportionately the
14 price regularly charged for such drink during the same
15 calendar week⁷,₁ or

16 f. encourage or permit, on the licensed premises, any
17 game or contest which involves drinking or the
18 awarding of drinks as prizes.

19 Provided that the provisions of this paragraph shall not prohibit
20 the advertising or offering of food or entertainment in licensed
21 establishments;

22 5. Permit or allow any patron or person to exit the licensed
23 premises with an open container of any alcoholic beverage.

24 Provided, that this prohibition shall not be applicable to closed

1 original containers of alcoholic beverages which are carried from
2 the licensed premises of a bottle club by a patron, closed original
3 wine containers removed from the premises of restaurants, hotels,
4 and motels, or to closed original containers of alcoholic beverages
5 transported to and from the place of business of a licensed caterer
6 by the caterer or an employee of the caterer; or

7 6. Serve or sell alcoholic beverages with an expired license
8 issued by the ABLE Commission.

9 C. No package store licensee shall:

10 1. Purchase or receive any alcoholic beverage other than from a
11 person holding a brewer, wholesaler or Class B wholesaler license
12 issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

13 2. Suffer or permit any retail container to be opened, or any
14 alcoholic beverage to be consumed, on the licensed premises;

15 3. Sell, or keep package store premises open for the purpose of
16 selling, any alcoholic beverages at any hour other than between the
17 hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided,
18 that no such sales shall be made, or package store premises be
19 allowed to remain open for the purpose of making such sales, on the
20 day of any General, Primary, Runoff Primary or Special Election
21 while the polls are open whether on a national, state, county or
22 city election or on New Year's Day, Memorial Day, the Fourth of
23 July, Labor Day, Thanksgiving Day or Christmas Day;

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1 4. Operate a retail package store unless such store shall be
2 located in a city or town having a population in excess of two
3 hundred (200) according to the latest Federal Decennial Census;

4 5. Sell any alcoholic beverage on credit; provided that
5 acceptance by a retail liquor store of a cash or debit card, or a
6 nationally recognized credit card, in lieu of actual cash payment
7 does not constitute the extension of credit; provided further, as
8 used in this section:

9 a. "cash or debit card" means any instrument or device
10 whether known as a debit card or by any other name,
11 issued with or without fee by an issuer for the use of
12 the cardholder in depositing, obtaining or
13 transferring funds from a consumer banking electronic
14 facility, and

15 b. "nationally recognized credit card" means any
16 instrument or device, whether known as a credit card,
17 credit plate, charge plate or by any other name,
18 issued with or without fee by an issuer for the use of
19 the cardholder in obtaining money, goods, services or
20 anything else of value on credit which is accepted by
21 over one hundred merchants;

22 6. Offer or furnish any prize, premium, gift or similar
23 inducement to a consumer in connection with the sale of alcoholic
24 beverage, except that goods or merchandise included by the

1 manufacturer in packaging with alcoholic beverages or for packaging
2 with alcoholic beverages shall not be included in this prohibition,
3 but no wholesaler or package store shall sell any alcoholic beverage
4 prepackaged with other goods or merchandise at a price which is
5 greater than the price at which the alcoholic beverage alone is
6 sold;

7 7. Permit any person under twenty-one (21) years of age to
8 enter into, remain within or loiter about the licensed premises; or

9 8. Pay for alcoholic beverages by a check or draft which is
10 dishonored by the drawee when presented to such drawee for payment;
11 and the ABLE Commission may cancel or suspend the license of any
12 retailer who has given a check or draft, as maker or endorser, which
13 is so dishonored upon presentation.

14 D. No wholesaler licensee shall:

15 1. Sell or deliver any amount of spirits or wines to any
16 package store licensee on Saturday or Sunday; or

17 2. Sell or deliver any amount of spirits or wines to any
18 package store licensee on New Year's Day, Memorial Day, the Fourth
19 of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.

20 E. No mixed beverage or beer and wine licensee shall:

21 1. Purchase or receive any alcoholic beverage other than from a
22 person holding a wholesaler or Class B wholesaler license issued
23 pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a
24 mixed beverage or beer and wine licensee whose premises are a

1 restaurant may purchase wine produced at wineries in this state
2 directly from an Oklahoma winemaker as provided in Section 3 of
3 Article XXVIII of the Oklahoma Constitution;

4 2. Transport alcoholic beverages from the place of purchase to
5 the licensed premises unless the licensee also holds a private
6 carrier license issued by the ABLE Commission;

7 3. Use or allow the use of any mark or label on a container of
8 alcoholic beverage which is kept for sale which does not clearly and
9 precisely indicate the nature of the contents or which might deceive
10 or conceal the nature, composition, quantity, age or quality of such
11 beverage;

12 4. Keep or knowingly permit any alcoholic beverage to be kept,
13 brought or consumed on the licensed premises which is not allowed to
14 be sold or served upon such premises; or

15 5. Allow any person under twenty-one (21) years of age to ~~enter~~
16 ~~into, remain within or loiter about~~ sit at the designated bar area
17 of the licensed premises, ~~except for members of a musical band~~
18 ~~employed or hired as provided in paragraph 2 of subsection B of this~~
19 ~~section when the band is to perform within such area.~~

20 The prohibition in this subsection against persons under twenty-
21 one (21) years of age entering or remaining within the designated
22 bar area of the licensed premises shall not apply, if the licensed
23 premises are closed to the public during a time the premises are
24 legally permitted to be open for business and the premises are used

1 for a private party at which alcoholic beverages may be served to
2 persons twenty-one (21) years of age or older. Any alcoholic
3 beverages served at a private party on the licensed premises may be
4 purchased from the licensee at a negotiated price or purchased
5 privately and served at the private party on the licensed premises.
6 Any licensee who desires to conduct such a private party shall
7 notify the ABLE Commission, in writing, at least ten (10) calendar
8 days prior to the private party. The notification shall include the
9 date, time, and purpose of the private party and any other
10 information the ABLE Commission may deem necessary.

11 F. No bottle club licensee shall:

12 1. Use or allow the use of any mark or label on a container of
13 alcoholic beverage which does not clearly and precisely indicate the
14 nature of the contents or which might deceive or conceal the nature,
15 composition, quantity, age or quality of any such beverage;

16 2. Act as an agent for any bottle club member and purchase any
17 alcoholic beverage for the member;

18 3. Use or allow the use of any pool system of storage or
19 purchase of alcoholic beverages;

20 4. Allow any person to enter or remain in the designated bar or
21 lounge area of the club unless that person possesses a valid
22 membership card for that club issued by the club;

23 5. Sell any alcoholic beverage;

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1 6. Deliver or furnish to any club member any alcoholic beverage
2 that does not belong to the member;

3 7. Serve alcoholic beverages to any person who does not possess
4 a valid membership card for that club issued by the club;

5 8. Issue a membership card for the club to a person under
6 twenty-one (21) years of age; or

7 9. Allow any person under twenty-one (21) years of age to enter
8 into, remain within or loiter about the designated bar area of the
9 licensed premises, except for members of a musical band employed or
10 hired as provided in paragraph 2 of subsection B of this section
11 when the band is to perform within such area.

12 The prohibition in this subsection against persons under twenty-
13 one (21) years of age entering or remaining within the designated
14 bar area of the licensed premises shall not apply, if the licensed
15 premises are closed to the public during a time the premises are
16 legally permitted to be open for business and the premises are used
17 for a private party at which alcoholic beverages may be served to
18 persons twenty-one (21) years of age or older. Any alcoholic
19 beverages served at a private party on the licensed premises may be
20 purchased from the licensee at a negotiated price or purchased
21 privately and served at the private party on the licensed premises.
22 Any licensee who desires to conduct such a private party shall
23 notify the ABLE Commission, in writing, at least ten (10) calendar
24 days prior to the private party. The notification shall include the

1 date, time, and purpose of the private party and any other
2 information the ABLE Commission may deem necessary.

3 G. No special event or caterer licensee shall:

4 1. Purchase or receive any alcoholic beverage other than from a
5 person holding a wholesaler or Class B wholesaler license issued
6 pursuant to the provisions of the Oklahoma Alcoholic Beverage
7 Control Act; provided, a special event or caterer licensee may
8 purchase wine produced at wineries in this state directly from an
9 Oklahoma winemaker as provided in Section 3 of Article XXVIII of the
10 Oklahoma Constitution; or

11 2. Transport alcoholic beverages from the place of purchase to
12 the licensed premises unless the licensee also holds a private
13 carrier license issued by the ABLE Commission.

14 H. No person operating a cafe, restaurant, club, or any place
15 of recreation shall permit any person to be drunk or intoxicated in
16 the person's place of business.

17 SECTION 2. This act shall become effective November 1, 2007.

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