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THE STATE SENATE
Monday, February 26, 2007

Senate Bill No. 1016
As Amended

SENATE BILL NO. 1016 - By: BASS of the Senate and THOMPSON of the House.

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

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

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

Section 537. A. No person shall:

- 1. Knowingly sell, deliver, or furnish alcoholic beverages to any person under twenty-one (21) years of age;
- 2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;
- 3. Open a retail container or consume alcoholic beverages on the premises of a retail package store;
- 4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of

1 alcoholic beverages upon which the Oklahoma excise tax is
2 delinquent;

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

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

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

21 8. Drink intoxicating liquor in public except on the premises
22 of a licensee of the Alcoholic Beverage Laws Enforcement Commission
23 who is authorized to sell or serve alcoholic beverages by the

1 individual drink or be intoxicated in a public place. This
2 provision shall be cumulative and in addition to existing law;

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

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

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

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

20 B. No licensee of the ABLE Commission shall:

21 1. Receive, possess, or sell any alcoholic beverage except as
22 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
23 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~~+~~l

- 1 b. sell or offer to sell to any person or group of
2 persons any drinks at a price less than the price
3 regularly charged for such drinks during the same
4 calendar week, except at private functions not open to
5 the public⁺
- 6 c. sell or offer to sell to any person an unlimited
7 number of drinks during any set period of time for a
8 fixed price, except at private functions not open to
9 the public⁺
- 10 d. sell or offer to sell drinks to any person or group of
11 persons on any one day at prices less than those
12 charged the general public on that day, except at
13 private functions not open to the public⁺
- 14 e. increase the volume of alcoholic beverages contained
15 in a drink without increasing proportionately the
16 price regularly charged for such drink during the same
17 calendar week⁺ or
- 18 f. encourage or permit, on the licensed premises, any
19 game or contest which involves drinking or the
20 awarding of drinks as prizes.

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

1 5. Permit or allow any patron or person to exit the licensed
2 premises with an open container of any alcoholic beverage.
3 Provided, that this prohibition shall not be applicable to closed
4 original containers of alcoholic beverages which are carried from
5 the licensed premises of a bottle club by a patron, closed original
6 wine containers removed from the premises of restaurants, hotels,
7 and motels, or to closed original containers of alcoholic beverages
8 transported to and from the place of business of a licensed caterer
9 by the caterer or an employee of the caterer; or

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

12 C. No package store licensee shall:

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

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

18 3. Sell, or keep package store premises open for the purpose of
19 selling, any alcoholic beverages at any hour other than between the
20 hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided,
21 that no such sales shall be made, or package store premises be
22 allowed to remain open for the purpose of making such sales, on the
23 day of any General, Primary, Runoff Primary or Special Election

1 while the polls are open whether on a national, state, county or
2 city election or on New Year's Day, Memorial Day, the Fourth of
3 July, Labor Day, Thanksgiving Day or Christmas Day;

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

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

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

18 b. "nationally recognized credit card" means any
19 instrument or device, whether known as a credit card,
20 credit plate, charge plate or by any other name,
21 issued with or without fee by an issuer for the use of
22 the cardholder in obtaining money, goods, services or

1 anything else of value on credit which is accepted by
2 over one hundred merchants;

3 6. Offer or furnish any prize, premium, gift or similar
4 inducement to a consumer in connection with the sale of alcoholic
5 beverage, except that goods or merchandise included by the
6 manufacturer in packaging with alcoholic beverages or for packaging
7 with alcoholic beverages shall not be included in this prohibition,
8 but no wholesaler or package store shall sell any alcoholic beverage
9 prepackaged with other goods or merchandise at a price which is
10 greater than the price at which the alcoholic beverage alone is
11 sold;

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

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

19 D. No wholesaler licensee shall:

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

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

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

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

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

15 3. Use or allow the use of any mark or label on a container of
16 alcoholic beverage which is kept for sale which does not clearly and
17 precisely indicate the nature of the contents or which might deceive
18 or conceal the nature, composition, quantity, age or quality of such
19 beverage;

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

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

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

21 F. No bottle club licensee shall:

22 1. Use or allow the use of any mark or label on a container of
23 alcoholic beverage which does not clearly and precisely indicate the

1 nature of the contents or which might deceive or conceal the nature,
2 composition, quantity, age or quality of any such beverage;

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

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

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

10 5. Sell any alcoholic beverage;

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

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

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

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

22 The prohibition in this subsection against persons under twenty-
23 one (21) years of age entering or remaining within the designated

1 bar area of the licensed premises shall not apply, if the licensed
2 premises are closed to the public during a time the premises are
3 legally permitted to be open for business and the premises are used
4 for a private party at which alcoholic beverages may be served to
5 persons twenty-one (21) years of age or older. Any alcoholic
6 beverages served at a private party on the licensed premises may be
7 purchased from the licensee at a negotiated price or purchased
8 privately and served at the private party on the licensed premises.
9 Any licensee who desires to conduct such a private party shall
10 notify the ABLE Commission, in writing, at least ten (10) calendar
11 days prior to the private party. The notification shall include the
12 date, time, and purpose of the private party and any other
13 information the ABLE Commission may deem necessary.

14 G. No special event or caterer licensee shall:

15 1. Purchase or receive any alcoholic beverage other than from a
16 person holding a wholesaler or Class B wholesaler license issued
17 pursuant to the provisions of the Oklahoma Alcoholic Beverage
18 Control Act; provided, a special event or caterer licensee may
19 purchase wine produced at wineries in this state directly from an
20 Oklahoma winemaker as provided in Section 3 of Article XXVIII of the
21 Oklahoma Constitution; or

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

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-19-07 -
9 DO PASS, As Amended and Coauthored.