

1 ENGROSSED SENATE
2 BILL NO. 1964

By: Ford of the Senate

and

Jones of the House

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7 [intoxicating liquor - caterer license -

8 effective date]

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

11 SECTION 1. AMENDATORY 37 O.S. 2001, Section 594, is
12 amended to read as follows:

13 Section 594. A. 1. A caterer license may be issued to any
14 ~~corporation, association, individual, or limited liability company,~~
15 ~~or any type of partnership~~ person for the purpose of sale, delivery
16 or distribution of alcoholic beverages ~~for on premises consumption~~
17 incidental to the sale or distribution of food on a premises not
18 licensed by the ABLE Commission.

19 2. A caterer license may only be issued to those persons that
20 prepare, sell and distribute food for consumption either on a
21 licensed or unlicensed premises. A caterer license shall not be
22 issued to a person whose main purpose is the sale of alcoholic
23 beverages or low-point beer. In order to renew a caterer license,

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1 annual food sales must exceed annual alcoholic beverage sales based
2 on the most recent calendar year.

3 3. Each caterer shall submit a monthly sales report containing
4 information on revenue attributable to alcoholic beverages, food,
5 and low-point beer. For purposes of this statute, low-point beer
6 shall be counted separately and it shall not be counted toward or
7 against alcoholic beverages or food. The monthly sales report shall
8 be submitted by the tenth day of the following month.

9 4. Each caterer shall submit an event report monthly containing
10 information on all events scheduled for the subsequent month. If an
11 event is scheduled after the first day of the month, then the
12 caterer shall report that event within twenty-four (24) hours of
13 scheduling the event or within twenty-four (24) hours prior to the
14 event, whichever occurs first. The monthly event report shall be
15 submitted on the first day of each month.

16 5. All reports shall be submitted electronically on forms
17 prescribed by the ABLE Commission.

18 6. Any caterer who fails to submit a monthly report shall have
19 its caterer license automatically suspended, until such time that
20 the caterer has fully complied with all reporting requirements. Any
21 caterer whose annual food sales do not exceed its annual alcoholic
22 beverage sales shall not have its caterer's license renewed.

23 B. The ABLE Commission shall adopt rules governing the
24 application for and the issuance of caterer licenses.

1 C. The restrictions and regulations which apply to the sale of
2 mixed beverages on the premises of a mixed beverage licensee also
3 apply to the sale under the authority of a caterer license. Any act
4 which if done on the premises of a mixed beverage licensee would be
5 a ground for revocation or suspension of the mixed beverage license
6 is a ground for revocation or suspension of a caterer license.

7 D. If the premises, where the event being catered is held, are
8 already operating pursuant to another type of license issued by the
9 ABLE Commission, the caterer and other said licensee shall both be
10 responsible for the actions of the caterer and shall both be subject
11 to penalties for violations, by the caterer, of the Oklahoma
12 Alcoholic Beverage Control Act and any rules promulgated thereto.

13 E. A caterer licensee may not store alcoholic beverages unless
14 said licensee has a storage license issued by the ABLE Commission.

15 F. A caterer may provide alcoholic beverage sales on the
16 premises of a person currently applying for a mixed beverage
17 license, provided the following terms have been satisfied:

18 1. The caterer must have a licensed employee on-site
19 supervising the sale of its alcoholic beverages at all times. The
20 caterer is prohibited from subcontracting with an employee of the
21 applicant to provide this supervision;

22 2. The caterer and mixed beverage applicant must submit to the
23 ABLE Commission a written agreement setting forth all the terms of
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1 the catering agreement at least twenty-four (24) hours prior to the
2 commencement of the catered event; and

3 3. The caterer may not provide alcoholic beverage sales on the
4 unlicensed premises of the mixed beverage applicant for more than
5 sixty (60) days, or after the applicant's license has been denied,
6 whichever occurs first.

7 SECTION 2. AMENDATORY 37 O.S. 2001, Section 598, as
8 amended by Section 29, Chapter 460, O.S.L. 2002 (37 O.S. Supp. 2009,
9 Section 598), is amended to read as follows:

10 Section 598. A. 1. If the premises of a licensee of the
11 Alcoholic Beverage Laws Enforcement Commission contains a separate
12 or enclosed lounge or bar area, which has as its main purpose the
13 sale or distribution, of alcoholic beverages for on-premises
14 consumption, notwithstanding that as an incidental service, meals or
15 short order foods are made available therein, no person under
16 twenty-one (21) years of age shall be admitted to such area, except
17 for members of a musical band employed or hired as provided in
18 paragraph 2 of subsection B of Section 537 of this title when the
19 band is to perform within such area, or persons under twenty-one
20 (21) years of age who are on the licensed premises for the limited
21 purpose of performing maintenance, construction, remodeling,
22 painting or other similar services relating to the building or
23 equipment installation, repair or maintenance on the premises during
24 those hours when the licensed establishment is closed for business.

1 The provisions of this section shall not prohibit persons under
2 twenty-one (21) years of age from being admitted to an area which
3 has as its main purpose some objective other than the sale or mixing
4 or serving of said beverages, in which sales or serving of said
5 beverages are incidental to the main purpose, as long as the persons
6 under twenty-one (21) years of age are not sold or served alcoholic
7 beverages. The incidental service of food in the bar area shall not
8 exempt a licensee from the provisions of this section. The ABLE
9 Commission shall have the authority to designate the portions of the
10 premises of a licensee where persons under twenty-one (21) years of
11 age shall not be admitted pursuant to this section. ~~For purposes of~~
12 ~~this section only, the term "alcoholic beverages" shall include low-~~
13 ~~point beer, as defined in Section 163.2 of this title~~ When
14 determining a licensee's main purpose, low-point beer sales shall
15 remain neutral and shall not be counted toward or against alcoholic
16 beverages sales.

17 2. A new licensee that claims as its main purpose some
18 objective other than the sale of alcoholic beverages may be granted
19 a separate or enclosed lounge or bar area for a period of sixty (60)
20 days. At the end of that sixty-day period, the licensee shall have
21 the burden of showing that the business continues to qualify for a
22 separate or enclosed bar area. If the licensee fails to satisfy
23 this burden, then that licensee's main purpose shall automatically
24 convert to the sale of alcoholic beverages.

1 B. Except as otherwise provided, an admission charge shall not
2 be considered in any calculation designed to determine the main
3 purpose of an establishment pursuant to subsection A of this
4 section. As used in this section, "admission charge" means any form
5 of consideration received by an establishment from a person in order
6 for that person to gain entrance into the establishment.

7 C. The provisions of subsection B of this section shall not
8 apply:

9 1. If only persons eighteen (18) years of age or older are
10 permitted to enter the licensed premises; provided however, if the
11 licensee is claiming an exception from the requirements of
12 subsection B of this section pursuant to this paragraph and fails to
13 restrict the entry by persons under age eighteen (18) into the
14 licensed premises, the ABLE Commission shall designate that only
15 persons twenty-one (21) years of age or older are allowed on the
16 licensed premises;

17 2. If the licensed premises are owned or operated by a service
18 organization or fraternal establishment which is exempt under
19 Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

20 3. To a public event held in a facility owned or operated by
21 any agency, political subdivision or public trust of this state.

22 D. The ABLE Commission shall promulgate rules necessary to
23 implement the provisions of this section.

24 SECTION 3. This act shall become effective November 1, 2010.

1 Passed the Senate the 24th day of February, 2010.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2010.

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9 Presiding Officer of the House
10 of Representatives