

THE HOUSE OF REPRESENTATIVES
Thursday, February 4, 2010

House Bill No. 3383

HOUSE BILL NO. 3383 - By: TERRILL of the House.

An Act relating to intoxicating liquors; amending 37 O.S. 2001, Section 537, as last amended by Section 1, Chapter 141, O.S.L. 2007 (37 O.S. Supp. 2009, Section 537), which relates to prohibited acts; allowing certain military personnel exception to prohibition on transporting alcohol into state; and declaring an emergency.

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

- 1 SECTION 1. AMENDATORY 37 O.S. 2001, Section 537, as last amended by
2 Section 1, Chapter 141, O.S.L. 2007 (37 O.S. Supp. 2009, Section 537), is amended to
3 read as follows:
- 4 Section 537. A. No person shall:
- 5 1. Knowingly sell, deliver, or furnish alcoholic beverages to any person under
6 twenty-one (21) years of age;
- 7 2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or
8 to any person who has been adjudged insane or mentally deficient;
- 9 3. Open a retail container or consume alcoholic beverages on the premises of a
10 retail package store;
- 11 4. Import into this state, except as provided for in the Oklahoma Alcoholic
12 Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall

1 prohibit the importation or possession for personal use of not more than one (1) liter of
2 alcoholic beverages upon which the Oklahoma excise tax is delinquent;

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

5 6. Transport into, within, or through this state more than one (1) liter of alcoholic
6 beverages upon which the Oklahoma excise tax has not been paid unless the person
7 accompanying or in charge of the vehicle transporting same shall possess a true copy of a
8 bill of lading, invoice, manifest or other document particularly identifying the alcoholic
9 beverages being transported and showing the name and address of the consignor and
10 consignee; provided, this prohibition shall not apply to the alcoholic beverages classified
11 as household goods by military personnel when entering Oklahoma from temporary
12 active assignment outside the contiguous United States;

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

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

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

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

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

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

17 B. No licensee of the ABLE Commission shall:

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

21 2. Employ any person under the age of twenty-one (21) in the selling or handling of
22 alcoholic beverages. Provided, that a mixed beverage, beer and wine, caterer, special

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

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

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

- 14 a. deliver more than two drinks to one person at one time,
- 15 b. sell or offer to sell to any person or group of persons any drinks at a
16 price less than the price regularly charged for such drinks during the
17 same calendar week, except at private functions not open to the public,
- 18 c. sell or offer to sell to any person an unlimited number of drinks during
19 any set period of time for a fixed price, except at private functions not
20 open to the public,

- 1 d. sell or offer to sell drinks to any person or group of persons on any one
- 2 day at prices less than those charged the general public on that day,
- 3 except at private functions not open to the public,
- 4 e. increase the volume of alcoholic beverages contained in a drink without
- 5 increasing proportionately the price regularly charged for such drink
- 6 during the same calendar week, or
- 7 f. encourage or permit, on the licensed premises, any game or contest
- 8 which involves drinking or the awarding of drinks as prizes.

9 Provided that the provisions of this paragraph shall not prohibit the advertising or
10 offering of food or entertainment in licensed establishments;

11 5. Permit or allow any patron or person to exit the licensed premises with an open
12 container of any alcoholic beverage. Provided, that this prohibition shall not be
13 applicable to closed original containers of alcoholic beverages which are carried from the
14 licensed premises of a bottle club by a patron, closed original wine containers removed
15 from the premises of restaurants, hotels, and motels, or to closed original containers of
16 alcoholic beverages transported to and from the place of business of a licensed caterer by
17 the caterer or an employee of the caterer; or

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

20 C. No package store licensee shall:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

- 1 1. Purchase or receive any alcoholic beverage other than from a person holding a
2 brewer, wholesaler or Class B wholesaler license issued pursuant to the Oklahoma
3 Alcoholic Beverage Control Act;
- 4 2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be
5 consumed, on the licensed premises;
- 6 3. Sell, or keep package store premises open for the purpose of selling, any alcoholic
7 beverages at any hour other than between the hours of 10:00 a.m. and 9:00 p.m. Monday
8 through Saturday; provided, that no such sales shall be made, or package store premises
9 be allowed to remain open for the purpose of making such sales, on the day of any
10 General, Primary, Runoff Primary or Special Election while the polls are open whether
11 on a national, state, county or city election or on New Year's Day, Memorial Day, the
12 Fourth of July, Labor Day, Thanksgiving Day or Christmas Day;
- 13 4. Operate a retail package store unless such store shall be located in a city or town
14 having a population in excess of two hundred (200) according to the latest Federal
15 Decennial Census;
- 16 5. Sell any alcoholic beverage on credit; provided that acceptance by a retail liquor
17 store of a cash or debit card, or a nationally recognized credit card, in lieu of actual cash
18 payment does not constitute the extension of credit; provided further, as used in this
19 section:
- 20 a. "cash or debit card" means any instrument or device whether known as
21 a debit card or by any other name, issued with or without fee by an

1 issuer for the use of the cardholder in depositing, obtaining or
2 transferring funds from a consumer banking electronic facility, and
3 b. "nationally recognized credit card" means any instrument or device,
4 whether known as a credit card, credit plate, charge plate or by any
5 other name, issued with or without fee by an issuer for the use of the
6 cardholder in obtaining money, goods, services or anything else of
7 value on credit which is accepted by over one hundred merchants;

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

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

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

21 D. No wholesaler licensee shall:

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

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

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

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

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

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

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

1 5. Allow any person under twenty-one (21) years of age to enter into, remain within
2 or loiter about the designated bar area of the licensed premises, except for persons who
3 incidentally pass through the designated area.

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

16 F. No bottle club licensee shall:

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

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

- 1 3. Use or allow the use of any pool system of storage or purchase of alcoholic
2 beverages;
- 3 4. Allow any person to enter or remain in the designated bar or lounge area of the
4 club unless that person possesses a valid membership card for that club issued by the
5 club;
- 6 5. Sell any alcoholic beverage;
- 7 6. Deliver or furnish to any club member any alcoholic beverage that does not
8 belong to the member;
- 9 7. Serve alcoholic beverages to any person who does not possess a valid
10 membership card for that club issued by the club;
- 11 8. Issue a membership card for the club to a person under twenty-one (21) years of
12 age; or
- 13 9. Allow any person under twenty-one (21) years of age to enter into, remain within
14 or loiter about the designated bar area of the licensed premises, except for members of a
15 musical band employed or hired as provided in paragraph 2 of subsection B of this
16 section when the band is to perform within such area.

17 The prohibition in this subsection against persons under twenty-one (21) years of
18 age entering or remaining within the designated bar area of the licensed premises shall
19 not apply, if the licensed premises are closed to the public during a time the premises are
20 legally permitted to be open for business and the premises are used for a private party at
21 which alcoholic beverages may be served to persons twenty-one (21) years of age or older.
22 Any alcoholic beverages served at a private party on the licensed premises may be

1 purchased from the licensee at a negotiated price or purchased privately and served at
2 the private party on the licensed premises. Any licensee who desires to conduct such a
3 private party shall notify the ABLE Commission, in writing, at least ten (10) calendar
4 days prior to the private party. The notification shall include the date, time, and purpose
5 of the private party and any other information the ABLE Commission may deem
6 necessary.

7 G. No special event or caterer licensee shall:

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

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

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

18 SECTION 2. It being immediately necessary for the preservation of the public
19 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
20 this act shall take effect and be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON VETERANS AND MILITARY AFFAIRS,
22 dated 02-03-10 - DO PASS.