

ESB 1964

THE HOUSE OF REPRESENTATIVES
Thursday, April 8, 2010

ENGROSSED
Senate Bill No. 1964
As Amended

ENGROSSED SENATE BILL NO. 1964 - By: FORD of the Senate and JONES of the House.

[intoxicating liquor - caterer license -
effective date]

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

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

3 Section 594. A. 1. A caterer license may be issued to any ~~corporation, association,~~
4 ~~individual, or limited liability company, or any type of partnership~~ person for the purpose
5 of sale, delivery or distribution of alcoholic beverages ~~for on-premises consumption~~
6 incidental to the sale or distribution of food on a premises not licensed by the ABLE
7 Commission.

8 2. A caterer license may only be issued to those persons that prepare, sell and
9 distribute food for consumption either on a licensed or unlicensed premises. A caterer
10 license shall not be issued to a person whose main purpose is the sale of alcoholic

1 beverages or low-point beer. In order to renew a caterer license, annual food sales must
2 exceed annual alcoholic beverage sales based on the most recent calendar year.

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

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

13 5. All reports shall be submitted electronically on forms prescribed by the ABLE
14 Commission.

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

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

21 C. The restrictions and regulations which apply to the sale of mixed beverages on
22 the premises of a mixed beverage licensee also apply to the sale under the authority of a

1 caterer license. Any act which if done on the premises of a mixed beverage licensee
2 would be a ground for revocation or suspension of the mixed beverage license is a ground
3 for revocation or suspension of a caterer license.

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

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

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

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

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

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

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

4 Section 598. A. 1. If the premises of a licensee of the Alcoholic Beverage Laws
5 Enforcement Commission contains a separate or enclosed lounge or bar area, which has
6 as its main purpose the sale or distribution, of alcoholic beverages for on-premises
7 consumption, notwithstanding that as an incidental service, meals or short order foods
8 are made available therein, no person under twenty-one (21) years of age shall be
9 admitted to such area, except for members of a musical band employed or hired as
10 provided in paragraph 2 of subsection B of Section 537 of this title when the band is to
11 perform within such area, or persons under twenty-one (21) years of age who are on the
12 licensed premises for the limited purpose of performing maintenance, construction,
13 remodeling, painting or other similar services relating to the building or equipment
14 installation, repair or maintenance on the premises during those hours when the licensed
15 establishment is closed for business. The provisions of this section shall not prohibit
16 persons under twenty-one (21) years of age from being admitted to an area which has as
17 its main purpose some objective other than the sale or mixing or serving of said
18 beverages, in which sales or serving of said beverages are incidental to the main purpose,
19 as long as the persons under twenty-one (21) years of age are not sold or served alcoholic
20 beverages. The incidental service of food in the bar area shall not exempt a licensee from
21 the provisions of this section. The ABLE Commission shall have the authority to
22 designate the portions of the premises of a licensee where persons under twenty-one (21)

1 years of age shall not be admitted pursuant to this section. ~~For purposes of this section~~
2 ~~only, the term "alcoholic beverages" shall include low-point beer, as defined in Section~~
3 ~~163.2 of this title~~ When determining a licensee's main purpose, low-point beer sales shall
4 remain neutral and shall not be counted toward or against alcoholic beverages sales.

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

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

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

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

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

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

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

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

9 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
10 FINANCIAL SERVICES, dated 04-07-10 - DO PASS, As Amended.