

SB 1964

THE STATE SENATE  
Tuesday, February 16, 2010

Senate Bill No. 1964  
As Amended

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:

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

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

2. A caterer license may only be issued to those persons that prepare, sell and distribute food for consumption either on a licensed or unlicensed premises. A caterer license shall not be issued to a person whose main purpose is the sale of alcoholic beverages or low-point beer. In order to renew a caterer license, annual food sales must exceed annual alcoholic beverage sales based on the most recent calendar year.

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

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

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

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

21       B. The ABLE Commission shall adopt rules governing the  
22 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

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

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

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

1 then that licensee's main purpose shall automatically convert to the  
2 sale of alcoholic beverages.

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

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

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

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

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

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

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

4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-8-10 -  
5 DO PASS, As Amended and Coauthored.