

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1964

By: Ford

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5
6 AS INTRODUCED

7 An Act relating to intoxicating liquor; amending 37
8 O.S. 2001, Section 594, which relates to caterer
9 license; allowing caterer license for certain purpose
10 on licensed and unlicensed premises; disallowing
11 caterer license for alcohol sales only; requiring
12 food sales exceed alcoholic beverage sales for
13 license renewal; requiring monthly sales reports with
14 certain revenue information; exempting low-point beer
15 from alcoholic beverage sales; designating day-of-
16 month for reporting; requiring certain event reports
17 monthly; stating information for event report and
18 reporting day; making certain events reportable
19 within certain period prior to event; providing
20 reports be submitted electronically; authorizing
21 suspending caterer license for failure to make
22 certain reports; setting term of suspension;
23 declining to renew caterer license when alcohol
24 beverage sales exceed annual food sales; allowing
licensed caterer to provide alcohol beverage sales
for certain person without license; requiring on-site
supervision by licensed employee; disallowing
subcontracting with certain employee for purpose of
supervision; requiring written agreement be submitted
to ABLE Commission within certain time; limiting term
for use of licensed caterer on unlicensed premises;
requiring a bond in certain amount for certain
purpose; providing for cease and desist order and
forfeiture of bond for certain violations;
authorizing ABLE Commission to maintain caterer's
bond; amending 37 O.S. 598, as amended by Section 29,
Chapter 460, O.S.L. 2002 (37 O.S. Supp. 2009, Section
598), which relates to prohibition of persons under
age in bar areas; deleting definition; providing low-
point beer as neutral toward counting alcoholic
beverages sold; authorizing certain bar area for

1 certain period of time for new licensee; requiring
2 proof for continued bar area; allowing purpose of
3 licensee's business to convert to sale of alcoholic
4 beverages upon failure to satisfy burden of proof;
5 and providing an effective date.

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

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

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

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

22 3. Each caterer shall submit a monthly sales report containing
23 information on revenue attributable to alcoholic beverages, food,
24 and low-point beer. For purposes of this statute, low-point beer

1 shall be counted separately and it shall not be counted toward or
2 against alcoholic beverages or food. The monthly sales report shall
3 be submitted by the tenth day of the following month.

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

11 5. All reports shall be submitted electronically on forms
12 prescribed by the ABLE Commission.

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

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

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

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

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

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

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

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

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

3 4. The caterer shall post a bond in the amount of Five Thousand
4 Dollars (\$5,000.00) with the ABLE Commission to ensure compliance
5 with all terms of this subsection. If the caterer or mixed beverage
6 applicant violates any term of this subsection, then the caterer
7 shall immediately cease and desist from providing the catering
8 services and the bond shall be automatically forfeited to the State
9 of Oklahoma; and

10 5. The ABLE Commission shall have the authority to establish
11 all accounts necessary to maintain the caterer's bond.

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

15 Section 598. A. 1. If the premises of a licensee of the
16 Alcoholic Beverage Laws Enforcement Commission contains a separate
17 or enclosed lounge or bar area, which has as its main purpose the
18 sale or distribution, of alcoholic beverages for on-premises
19 consumption, notwithstanding that as an incidental service, meals or
20 short order foods are made available therein, no person under
21 twenty-one (21) years of age shall be admitted to such area, except
22 for members of a musical band employed or hired as provided in
23 paragraph 2 of subsection B of Section 537 of this title when the
24 band is to perform within such area, or persons under twenty-one

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

22 2. A new licensee who claims as its main purpose some objective
23 other than the sale of alcoholic beverages may be granted a separate
24 or enclosed lounge or bar area for a period of sixty (60) days. At

1 the end of that sixty-day period, the licensee shall have the burden
2 of showing that the business continues to qualify for a separate or
3 enclosed bar area. If the licensee fails to satisfy this burden,
4 then that licensee's main purpose shall automatically convert to the
5 sale of alcoholic beverages.

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

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

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

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

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

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

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

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