

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1944

By: Shortey

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; making it  
8 unlawful for certain establishments to employ certain  
9 persons for certain purposes; providing penalty;  
10 amending 37 O.S. 2011, Section 243, which relates to  
11 low-point beer and employment of persons of certain  
12 age in certain establishments; providing exceptions  
13 to certain employment; amending 37 O.S. 2011, Section  
14 537, which relates to intoxicating liquor and certain  
15 prohibited acts; adding certain prohibited act;  
16 providing for codification; and providing an  
17 effective date.

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

19 SECTION 1. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1126 of Title 21, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. In addition to the provisions of Sections 243 and 537 of  
23 Title 37 of the Oklahoma statutes, it shall be unlawful for any  
24 establishment whether or not licensed to sell low-point beer or  
intoxicating beverages to employ any person under twenty-one (21)  
years of age to be nude or partially nude for purposes of any

1 performance, exhibition or entertainment as an exotic dancer or  
2 stripper.

3 B. Any person convicted of a violation of the provisions of  
4 this section shall be guilty of a misdemeanor and subject to a fine  
5 of not more than Five Hundred Dollars (\$500.00).

6 SECTION 2. AMENDATORY 37 O.S. 2011, Section 243, is  
7 amended to read as follows:

8 Section 243. A. It shall be unlawful for any person under  
9 eighteen (18) years of age to be employed or permitted to work, in  
10 any capacity whatsoever, in a place where low-point beer is sold or  
11 dispensed for consumption on the premises.

12 B. In addition to any other provision of law, it shall be  
13 unlawful for any person under twenty-one (21) years of age to be  
14 employed or permitted to work where low-point beer is sold or  
15 dispensed for consumption on the premises as any type of dancer or  
16 performer or in any capacity whatsoever when such employment  
17 includes being nude or partially nude for purposes of performance or  
18 entertainment.

19 C. It shall be unlawful for any person under the age of  
20 majority to be employed or permitted to work, in any capacity  
21 whatsoever, in the separate or enclosed bar area of a place where  
22 the main purpose of the area is the sale or consumption of low-point  
23 beer. The provisions of this subsection shall not apply to any area  
24 which has as its main purpose some objective other than the sale or

1 serving of low-point beer, in which sales or serving of said  
2 beverages are incidental to the main purpose; however, the  
3 incidental service of food in the bar area shall not exempt a holder  
4 of a license to sell low-point beer for consumption on the premises  
5 from the provisions of this subsection.

6 ~~C.~~ D. A parent as regards the employment of his or her own  
7 child or children is excepted from the provisions of this section,  
8 provided that such employment shall in no capacity whatsoever be  
9 related to the selling or dispensing of such beverages.

10 ~~D.~~ E. The provisions of subsection A of this section shall not  
11 apply to any business or establishment where sales of said beverages  
12 do not exceed twenty-five percent (25%) of the gross sales of the  
13 business or establishment.

14 SECTION 3. AMENDATORY 37 O.S. 2011, Section 537, is  
15 amended to read as follows:

16 Section 537. A. No person shall:

17 1. Knowingly sell, deliver, or furnish alcoholic beverages to  
18 any person under twenty-one (21) years of age;

19 2. Sell, deliver or knowingly furnish alcoholic beverages to an  
20 intoxicated person or to any person who has been adjudged insane or  
21 mentally deficient;

22 3. Open a retail container or consume alcoholic beverages on  
23 the premises of a retail package store;

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1       4. Import into this state, except as provided for in the  
2 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;  
3 provided, that nothing herein shall prohibit the importation or  
4 possession for personal use of not more than one (1) liter of  
5 alcoholic beverages upon which the Oklahoma excise tax is  
6 delinquent;

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

9       6. Transport into, within, or through this state more than one  
10 (1) liter of alcoholic beverages upon which the Oklahoma excise tax  
11 has not been paid unless the person accompanying or in charge of the  
12 vehicle transporting same shall possess a true copy of a bill of  
13 lading, invoice, manifest or other document particularly identifying  
14 the alcoholic beverages being transported and showing the name and  
15 address of the consignor and consignee; provided, this prohibition  
16 shall not apply to the first one hundred eighty (180) liters of  
17 alcoholic beverages classified as household goods by military  
18 personnel, age twenty-one (21) or older when entering Oklahoma from  
19 temporary active assignment outside the contiguous United States;

20       7. Knowingly transport in any vehicle upon a public highway,  
21 street or alley any alcoholic beverage except in the original  
22 container which shall not have been opened and the seal upon which  
23 shall not have been broken and from which the original cap or cork  
24 shall not have been removed, unless the opened container be in the

1 rear trunk or rear compartment, which shall include the spare tire  
2 compartment in a vehicle commonly known as a station wagon and panel  
3 truck, or any outside compartment which is not accessible to the  
4 driver or any other person in the vehicle while it is in motion;

5 8. Drink intoxicating liquor in public except on the premises  
6 of a licensee of the Alcoholic Beverage Laws Enforcement Commission  
7 who is authorized to sell or serve alcoholic beverages by the  
8 individual drink or be intoxicated in a public place. This  
9 provision shall be cumulative and in addition to existing law;

10 9. Forcibly resist lawful arrest, or by physical contact  
11 interfere with an investigation of any infringement of the Oklahoma  
12 Alcoholic Beverage Control Act or with any lawful search or seizure  
13 being made by an inspector or agent of the ABLE Commission, when  
14 such person knows or should know that such acts are being performed  
15 by a state, county, or municipal officer, inspector or agent of the  
16 ABLE Commission;

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

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

23 12. Knowingly possess any bottle club membership card required  
24 to be issued by the ABLE Commission, which has been manufactured,

1 counterfeit, imitated or in any way duplicated without the  
2 permission of the Commission.

3 B. No licensee of the ABLE Commission shall:

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

7 2. Notwithstanding any other provisions of law, employ any  
8 person under twenty-one (21) years of age as any type of dancer or  
9 performer or in any capacity whatsoever when such employment  
10 includes being nude or partially nude for purposes of performance or  
11 entertainment.

12 3. Employ any person under the age of twenty-one (21) in the  
13 selling or handling of alcoholic beverages. Provided, that a mixed  
14 beverage, beer and wine, caterer, special event or bottle club  
15 licensee may employ servers who are at least eighteen (18) years of  
16 age, except persons under twenty-one (21) years of age may not serve  
17 in designated bar or lounge areas, and a mixed beverage, beer and  
18 wine, caterer, special event or bottle club licensee may employ or  
19 hire musical bands who have musicians who are under twenty-one (21)  
20 years of age if each such musician is either accompanied by a parent  
21 or legal guardian or has on their person, to be made available for  
22 inspection upon demand by any ABLE Commission officer or law  
23 enforcement officer, a written, notarized affidavit from the parent

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1 or legal guardian giving the underage musician permission to perform  
2 in designated bar or lounge areas;

3 ~~3.~~ 4. Give any alcoholic beverage as a prize, premium or  
4 consideration for any lottery, game of chance or skill or any type  
5 of competition;

6 ~~4.~~ 5. Advertise or offer "happy hours" or any other means or  
7 inducements to stimulate the consumption of alcoholic beverages  
8 including:

- 9 a. deliver more than two drinks to one person at one  
10 time,
- 11 b. sell or offer to sell to any person or group of  
12 persons any drinks at a price less than the price  
13 regularly charged for such drinks during the same  
14 calendar week, except at private functions not open to  
15 the public,
- 16 c. sell or offer to sell to any person an unlimited  
17 number of drinks during any set period of time for a  
18 fixed price, except at private functions not open to  
19 the public,
- 20 d. sell or offer to sell drinks to any person or group of  
21 persons on any one day at prices less than those  
22 charged the general public on that day, except at  
23 private functions not open to the public,

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1 e. increase the volume of alcoholic beverages contained  
2 in a drink without increasing proportionately the  
3 price regularly charged for such drink during the same  
4 calendar week, or

5 f. encourage or permit, on the licensed premises, any  
6 game or contest which involves drinking or the  
7 awarding of drinks as prizes.

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

11 ~~5.~~ 6. Permit or allow any patron or person to exit the licensed  
12 premises with an open container of any alcoholic beverage.

13 Provided, that this prohibition shall not be applicable to closed  
14 original containers of alcoholic beverages which are carried from  
15 the licensed premises of a bottle club by a patron, closed original  
16 wine containers removed from the premises of restaurants, hotels,  
17 and motels, or to closed original containers of alcoholic beverages  
18 transported to and from the place of business of a licensed caterer  
19 by the caterer or an employee of the caterer; or

20 ~~6.~~ 7. Serve or sell alcoholic beverages with an expired license  
21 issued by the ABLE Commission.

22 C. No package store licensee shall:  
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- 1        1. Purchase or receive any alcoholic beverage other than from a  
2 person holding a brewer, wholesaler or Class B wholesaler license  
3 issued pursuant to the Oklahoma Alcoholic Beverage Control Act;
- 4        2. Suffer or permit any retail container to be opened, or any  
5 alcoholic beverage to be consumed, on the licensed premises;
- 6        3. Sell, or keep package store premises open for the purpose of  
7 selling, any alcoholic beverages at any hour other than between the  
8 hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided,  
9 that no such sales shall be made, or package store premises be  
10 allowed to remain open for the purpose of making such sales, on New  
11 Year's Day, Memorial Day, the Fourth of July, Labor Day,  
12 Thanksgiving Day or Christmas Day. Package store licensees shall be  
13 permitted to sell, or keep package store premises open for the  
14 purpose of selling, alcoholic beverages on the day of any General,  
15 Primary, Runoff Primary or Special Election whether on a national,  
16 state, county or city election, provided that the election day does  
17 not occur on any day on which such sales are otherwise prohibited by  
18 law;
- 19        4. Operate a retail package store unless such store shall be  
20 located in a city or town having a population in excess of two  
21 hundred (200) according to the latest Federal Decennial Census;
- 22        5. Sell any alcoholic beverage on credit; provided that  
23 acceptance by a retail liquor store of a cash or debit card, or a  
24 nationally recognized credit card, in lieu of actual cash payment

1 does not constitute the extension of credit; provided further, as  
2 used in this section:

3 a. "cash or debit card" means any instrument or device  
4 whether known as a debit card or by any other name,  
5 issued with or without fee by an issuer for the use of  
6 the cardholder in depositing, obtaining or  
7 transferring funds from a consumer banking electronic  
8 facility, and

9 b. "nationally recognized credit card" means any  
10 instrument or device, whether known as a credit card,  
11 credit plate, charge plate or by any other name,  
12 issued with or without fee by an issuer for the use of  
13 the cardholder in obtaining money, goods, services or  
14 anything else of value on credit which is accepted by  
15 over one hundred merchants;

16 6. Offer or furnish any prize, premium, gift or similar  
17 inducement to a consumer in connection with the sale of alcoholic  
18 beverage, except that goods or merchandise included by the  
19 manufacturer in packaging with alcoholic beverages or for packaging  
20 with alcoholic beverages shall not be included in this prohibition,  
21 but no wholesaler or package store shall sell any alcoholic beverage  
22 prepackaged with other goods or merchandise at a price which is  
23 greater than the price at which the alcoholic beverage alone is  
24 sold;

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

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

8       D. No wholesaler licensee shall:

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

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

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

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

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

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

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

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

13           The prohibition in this subsection against persons under twenty-  
14 one (21) years of age entering or remaining within the designated  
15 bar area of the licensed premises shall not apply, if the licensed  
16 premises are closed to the public during a time the premises are  
17 legally permitted to be open for business and the premises are used  
18 for a private party at which alcoholic beverages may be served to  
19 persons twenty-one (21) years of age or older. Any alcoholic  
20 beverages served at a private party on the licensed premises may be  
21 purchased from the licensee at a negotiated price or purchased  
22 privately and served at the private party on the licensed premises.  
23 Any licensee who desires to conduct such a private party shall  
24 notify the ABLE Commission, in writing, at least ten (10) calendar

1 days prior to the private party. The notification shall include the  
2 date, time, and purpose of the private party and any other  
3 information the ABLE Commission may deem necessary.

4 F. No bottle club licensee shall:

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

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

11 3. Use or allow the use of any pool system of storage or  
12 purchase of alcoholic beverages;

13 4. Allow any person to enter or remain in the designated bar or  
14 lounge area of the club unless that person possesses a valid  
15 membership card for that club issued by the club;

16 5. Sell any alcoholic beverage;

17 6. Deliver or furnish to any club member any alcoholic beverage  
18 that does not belong to the member;

19 7. Serve alcoholic beverages to any person who does not possess  
20 a valid membership card for that club issued by the club;

21 8. Issue a membership card for the club to a person under  
22 twenty-one (21) years of age; or

23 9. Allow any person under twenty-one (21) years of age to enter  
24 into, remain within or loiter about the designated bar area of the

1 licensed premises, except for members of a musical band employed or  
2 hired as provided in paragraph 2 of subsection B of this section  
3 when the band is to perform within such area.

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

19 G. No special event or caterer licensee shall:

20 1. Purchase or receive any alcoholic beverage other than from a  
21 person holding a wholesaler or Class B wholesaler license issued  
22 pursuant to the provisions of the Oklahoma Alcoholic Beverage  
23 Control Act; provided, a special event or caterer licensee may  
24 purchase wine produced at wineries in this state directly from an

1 Oklahoma winemaker as provided in Section 3 of Article XXVIII of the  
2 Oklahoma Constitution; or

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

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

9 SECTION 4. This act shall become effective November 1, 2012.

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