

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 178 By: Crain of the Senate
3 and
4 Loring of the House
5
6

7 [intoxicating beverages - broadening inclusions -
8 effective date]
9

10 AUTHOR: Remove Representative Loring as principal House author and
11 substitute Sanders as principal House author and show
Loring as coauthor

12 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
13 entire bill and insert

14 "An Act relating to intoxicating beverages; amending
15 37 O.S. 2011, Section 246, which relates to
16 consumption and possession of low-point beer by
17 juveniles; broadening certain prohibited acts to
18 include intoxicating beverages; and providing an
effective date.

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

20 SECTION 1. AMENDATORY 37 O.S. 2011, Section 246, is
21 amended to read as follows:

22 Section 246. A. No person under twenty-one (21) years of age
23 shall consume or possess with the intent to consume low-point beer
24 or any intoxicating beverage, as defined in ~~Section~~ Sections 163.1

1 and 163.2 of this title. It shall be unlawful for any person under
2 twenty-one (21) years of age to purchase or attempt to purchase low-
3 point beer or any intoxicating beverage, as defined in ~~Section~~
4 Sections 163.1 and 163.2 of this title, except under supervision of
5 law enforcement officers. Any person violating any of the
6 provisions of this subsection shall be guilty, upon conviction, of a
7 misdemeanor and punished by a fine not to exceed Three Hundred
8 Dollars (\$300.00) or ordered to perform community service not to
9 exceed thirty (30) hours, or both such fine and community service.
10 In addition, if the person has an Oklahoma driver license issued by
11 the Department of Public Safety, that license shall be revoked for
12 the period of time provided in Section 6-107.1 of Title 47 of the
13 Oklahoma Statutes. If the person does not have an Oklahoma driver
14 license, the person shall be ineligible to obtain an Oklahoma driver
15 license for the period of time provided in Section 6-107.1 of Title
16 47 of the Oklahoma Statutes. For a second offense, any person who
17 is convicted of violating the provisions of this subsection shall be
18 guilty of a misdemeanor and punished by a fine of not to exceed Six
19 Hundred Dollars (\$600.00) or ordered to perform community service
20 not to exceed sixty (60) hours or both such fine and community
21 service. In addition, if the person has an Oklahoma driver license
22 issued by the Department of Public Safety, that license shall be
23 revoked for the period of time provided in Section 6-107.1 of Title
24 47 of the Oklahoma Statutes. If the person does not have an

1 Oklahoma driver license, the person shall be ineligible to obtain an
2 Oklahoma driver license for the period of time provided in Section
3 6-107.1 of Title 47 of the Oklahoma Statutes. For a third offense,
4 any person who is convicted of violating the provisions of this
5 subsection shall be guilty of a misdemeanor and punished by a fine
6 of not to exceed Nine Hundred Dollars (\$900.00) or ordered to
7 perform community service not to exceed ninety (90) hours or both
8 such fine and community service. In addition, if the person has an
9 Oklahoma driver license issued by the Department of Public Safety,
10 that license shall be revoked for the period of time provided in
11 Section 6-107.1 of Title 47 of the Oklahoma Statutes. If the person
12 does not have an Oklahoma driver license, the person shall be
13 ineligible to obtain an Oklahoma driver license for the period of
14 time provided in Section 6-107.1 of Title 47 of the Oklahoma
15 Statutes. Provided, the provisions of this subsection shall not
16 apply when such persons are under the direct supervision of their
17 parent or guardian, but in no instance shall this exception be
18 interpreted to allow such persons to consume such beverages in any
19 place licensed to dispense low-point beer or any intoxicating
20 beverage as provided in ~~Section~~ Sections 163.11 and 523 of this
21 title.

22 In addition to any penalty or condition imposed pursuant to the
23 provisions of this subsection, the person shall be subject to an
24 assessment of the person's degree of alcohol abuse, in the same

1 manner as prescribed in subsection G of Section 11-902 of Title 47
2 of the Oklahoma Statutes, which may result in treatment as deemed
3 appropriate by the court.

4 B. If the premises of a holder of a license to sell low-point
5 beer or any intoxicating beverage contains a separate or enclosed
6 bar area which has as its main purpose the sale or serving of low-
7 point beer or any intoxicating beverage for consumption on the
8 premises, no person under twenty-one (21) years of age shall enter,
9 attempt to enter, or remain in said area. The provisions of this
10 subsection shall not prohibit persons under twenty-one (21) years of
11 age from entering or remaining in an area which has as its main
12 purpose some objective other than the sale or serving of low-point
13 beer or any intoxicating beverage, in which sales or serving of said
14 beverages are incidental to the main purpose, if the persons under
15 twenty-one (21) years of age are not sold or served or do not
16 consume low-point beer or any intoxicating beverage anywhere on the
17 premises; however, the incidental service of food in the bar area
18 shall not exempt persons under twenty-one (21) years of age from the
19 provisions of this subsection. Any person convicted of violating
20 the provisions of this subsection shall be guilty of a misdemeanor
21 and punished by a fine not to exceed One Hundred Dollars (\$100.00).

22 In addition, if the person has an Oklahoma driver license issued
23 by the Department of Public Safety, that license shall be revoked
24 for the period of time provided in Section 6-107.1 of Title 47 of

1 the Oklahoma Statutes. If the person does not have an Oklahoma
2 driver license, the person shall be ineligible to obtain an Oklahoma
3 driver license for the period of time provided in Section 6-107.1 of
4 Title 47 of the Oklahoma Statutes.

5 C. Except as otherwise provided, an admission charge shall not
6 be considered in any calculation designed to determine the main
7 purpose of an area pursuant to subsection B of this section. For
8 purposes of this section, an "admission charge" shall mean any form
9 of consideration received by an establishment from a person in order
10 for that person to gain entry into the establishment or an area
11 thereof.

12 D. The provisions of subsection C 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;

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

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

21 E. A violation of the provisions of this section shall not be a
22 basis for instituting juvenile proceedings to determine if a person
23 under eighteen (18) years of age is a delinquent child; however, if
24 a person under eighteen (18) years of age habitually violates the

1 provisions of this section, juvenile proceedings may be brought to
2 determine if the person is a delinquent child. A person under
3 eighteen (18) years of age who has been convicted of violating the
4 provisions of this section shall be subject to the penalty
5 provisions provided in this section.

6 F. Cities and towns may enact and municipal police officers may
7 enforce ordinances prohibiting and penalizing conduct under the
8 provisions of this section, but the provisions of the municipal
9 ordinances shall be the same as provided for in this section, and
10 the penalty provisions under such ordinances shall not be more
11 stringent than those of this section and shall be limited to the
12 provisions of Section 14-111 of Title 11 of the Oklahoma Statutes.

13 SECTION 2. This act shall become effective November 1, 2015."

14 Passed the House of Representatives the 14th day of April, 2015.

15

16

17

Presiding Officer of the House of
Representatives

18

19 Passed the Senate the ____ day of _____, 2015.

20

21

22

Presiding Officer of the Senate

23

24

1 ENGROSSED SENATE
2 BILL NO. 178

By: Crain of the Senate

3 and

4 Loring of the House

5
6 [intoxicating beverages - broadening inclusions -
7 effective date]
8

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

10 SECTION 1. AMENDATORY 37 O.S. 2011, Section 246, is
11 amended to read as follows:

12 Section 246. A. No person under twenty-one (21) years of age
13 shall consume or possess with the intent to consume low-point beer
14 or any intoxicating beverage, as defined in ~~Section~~ Sections 163.1
15 and 163.2 of this title. It shall be unlawful for any person under
16 twenty-one (21) years of age to purchase or attempt to purchase low-
17 point beer or any intoxicating beverage, as defined in ~~Section~~
18 Sections 163.1 and 163.2 of this title, except under supervision of
19 law enforcement officers. Any person violating any of the
20 provisions of this subsection shall be guilty, upon conviction, of a
21 misdemeanor and punished by a fine not to exceed Three Hundred
22 Dollars (\$300.00) or ordered to perform community service not to
23 exceed thirty (30) hours, or both such fine and community service.
24 In addition, if the person has an Oklahoma driver license issued by

1 the Department of Public Safety, that license shall be revoked for
2 the period of time provided in Section 6-107.1 of Title 47 of the
3 Oklahoma Statutes. If the person does not have an Oklahoma driver
4 license, the person shall be ineligible to obtain an Oklahoma driver
5 license for the period of time provided in Section 6-107.1 of Title
6 47 of the Oklahoma Statutes. For a second offense, any person who
7 is convicted of violating the provisions of this subsection shall be
8 guilty of a misdemeanor and punished by a fine of not to exceed Six
9 Hundred Dollars (\$600.00) or ordered to perform community service
10 not to exceed sixty (60) hours or both such fine and community
11 service. In addition, if the person has an Oklahoma driver license
12 issued by the Department of Public Safety, that license shall be
13 revoked for the period of time provided in Section 6-107.1 of Title
14 47 of the Oklahoma Statutes. If the person does not have an
15 Oklahoma driver license, the person shall be ineligible to obtain an
16 Oklahoma driver license for the period of time provided in Section
17 6-107.1 of Title 47 of the Oklahoma Statutes. For a third offense,
18 any person who is convicted of violating the provisions of this
19 subsection shall be guilty of a misdemeanor and punished by a fine
20 of not to exceed Nine Hundred Dollars (\$900.00) or ordered to
21 perform community service not to exceed ninety (90) hours or both
22 such fine and community service. In addition, if the person has an
23 Oklahoma driver license issued by the Department of Public Safety,
24 that license shall be revoked for the period of time provided in

1 Section 6-107.1 of Title 47 of the Oklahoma Statutes. If the person
2 does not have an Oklahoma driver license, the person shall be
3 ineligible to obtain an Oklahoma driver license for the period of
4 time provided in Section 6-107.1 of Title 47 of the Oklahoma
5 Statutes. Provided, the provisions of this subsection shall not
6 apply when such persons are under the direct supervision of their
7 parent or guardian, but in no instance shall this exception be
8 interpreted to allow such persons to consume such beverages in any
9 place licensed to dispense low-point beer or any intoxicating
10 beverage as provided in ~~Section~~ Sections 163.11 and 523 of this
11 title.

12 In addition to any penalty or condition imposed pursuant to the
13 provisions of this subsection, the person shall be subject to an
14 assessment of the person's degree of alcohol abuse, in the same
15 manner as prescribed in subsection G of Section 11-902 of Title 47
16 of the Oklahoma Statutes, which may result in treatment as deemed
17 appropriate by the court.

18 B. If the premises of a holder of a license to sell low-point
19 beer or any intoxicating beverage contains a separate or enclosed
20 bar area which has as its main purpose the sale or serving of low-
21 point beer or any intoxicating beverage for consumption on the
22 premises, no person under twenty-one (21) years of age shall enter,
23 attempt to enter, or remain in said area. The provisions of this
24 subsection shall not prohibit persons under twenty-one (21) years of

1 age from entering or remaining in an area which has as its main
2 purpose some objective other than the sale or serving of low-point
3 beer or any intoxicating beverage, in which sales or serving of said
4 beverages are incidental to the main purpose, if the persons under
5 twenty-one (21) years of age are not sold or served or do not
6 consume low-point beer or any intoxicating beverage anywhere on the
7 premises; however, the incidental service of food in the bar area
8 shall not exempt persons under twenty-one (21) years of age from the
9 provisions of this subsection. Any person convicted of violating
10 the provisions of this subsection shall be guilty of a misdemeanor
11 and punished by a fine not to exceed One Hundred Dollars (\$100.00).

12 In addition, if the person has an Oklahoma driver license issued
13 by the Department of Public Safety, that license shall be revoked
14 for the period of time provided in Section 6-107.1 of Title 47 of
15 the Oklahoma Statutes. If the person does not have an Oklahoma
16 driver license, the person shall be ineligible to obtain an Oklahoma
17 driver license for the period of time provided in Section 6-107.1 of
18 Title 47 of the Oklahoma Statutes.

19 C. Except as otherwise provided, an admission charge shall not
20 be considered in any calculation designed to determine the main
21 purpose of an area pursuant to subsection B of this section. For
22 purposes of this section, an "admission charge" shall mean any form
23 of consideration received by an establishment from a person in order
24

1 for that person to gain entry into the establishment or an area
2 thereof.

3 D. The provisions of subsection C of this section shall not
4 apply:

5 1. If only persons eighteen (18) years of age or older are
6 permitted to enter the licensed premises;

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

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

12 E. A violation of the provisions of this section shall not be a
13 basis for instituting juvenile proceedings to determine if a person
14 under eighteen (18) years of age is a delinquent child; however, if
15 a person under eighteen (18) years of age habitually violates the
16 provisions of this section, juvenile proceedings may be brought to
17 determine if the person is a delinquent child. A person under
18 eighteen (18) years of age who has been convicted of violating the
19 provisions of this section shall be subject to the penalty
20 provisions provided in this section.

21 F. Cities and towns may enact and municipal police officers may
22 enforce ordinances prohibiting and penalizing conduct under the
23 provisions of this section, but the provisions of the municipal
24 ordinances shall be the same as provided for in this section, and

1 the penalty provisions under such ordinances shall not be more
2 stringent than those of this section and shall be limited to the
3 provisions of Section 14-111 of Title 11 of the Oklahoma Statutes.

4 SECTION 2. This act shall become effective November 1, 2015.

5 Passed the Senate the 18th day of February, 2015.

6

7

Presiding Officer of the Senate

8

9 Passed the House of Representatives the ____ day of _____,

10 2015.

11

12

Presiding Officer of the House
of Representatives

13

14

15

16

17

18

19

20

21

22

23

24