

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2726

By: Pittman and Davis of the
House

and

Coleman of the Senate

8 An Act relating to alcoholic beverages; amending
9 Section 3, Chapter 366, O.S.L. 2016, as last amended
10 by Section 6, Chapter 161, O.S.L. 2020 (37A O.S.
11 Supp. 2020, Section 1-103), which relates to
12 definitions; defining certain terms; amending Section
13 22, Chapter 366, O.S.L. 2016, as last amended by
14 Section 1, Chapter 424, O.S.L. 2019 (37A O.S. Supp.
15 2020, Section 2-110), which relates to mixed beverage
16 licenses; granting additional authorities to mixed
17 beverage licensees; amending Section 142, Chapter
18 366, O.S.L. 2016, as last amended by Section 20,
19 Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020,
20 Section 6-102), which relates to prohibited acts of
21 licensees; providing certain exception to prohibited
22 acts; and providing an effective date.

18 AUTHOR: Add the following House Coauthor: Bell

19 AMENDMENT NO. 1. Page 23, line 17, delete the effective date and
20 insert an emergency clause
21 and amend the title to conform

1 Passed the Senate the 19th day of April, 2021.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

7
8 _____
9 Presiding Officer of the House
10 of Representatives

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18 366, O.S.L. 2016, as last amended by Section 20,
19 Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020,
20 Section 6-102), which relates to prohibited acts of
21 licensees; providing certain exception to prohibited
22 acts; and providing an effective date.

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

24 SECTION 1. AMENDATORY Section 3, Chapter 366, O.S.L.
2016, as last amended by Section 6, Chapter 161, O.S.L. 2020 (37A
O.S. Supp. 2020, Section 1-103), is amended to read as follows:

Section 1-103. As used in the Oklahoma Alcoholic Beverage
Control Act:

1 1. "ABLE Commission" or "Commission" means the Alcoholic
2 Beverage Laws Enforcement Commission;

3 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
4 alcohol, ethanol or spirits of wine, from whatever source or by
5 whatever process produced. It does not include wood alcohol or
6 alcohol which has been denatured or produced as denatured in
7 accordance with Acts of Congress and regulations promulgated
8 thereunder;

9 3. "Alcoholic beverage" means alcohol, spirits, beer and wine
10 as those terms are defined herein and also includes every liquid or
11 solid, patented or not, containing alcohol, spirits, wine or beer
12 and capable of being consumed as a beverage by human beings;

13 4. "Applicant" means any individual, legal or commercial
14 business entity, or any individual involved in any legal or
15 commercial business entity allowed to hold any license issued in
16 accordance with the Oklahoma Alcoholic Beverage Control Act;

17 5. "Beer" means any beverage of alcohol by volume and obtained
18 by the alcoholic fermentation of an infusion or decoction of barley,
19 or other grain, malt or similar products. "Beer" may or may not
20 contain hops or other vegetable products. "Beer" includes, among
21 other things, beer, ale, stout, lager beer, porter and other malt or
22 brewed liquors, but does not include sake, known as Japanese rice
23 wine;

24

1 6. "Beer keg" means any brewer-sealed, single container that
2 contains not less than four (4) gallons of beer;

3 7. "Beer distributor" means and includes any person licensed to
4 distribute beer for retail sale in the state, but does not include a
5 holder of a small brewer self-distribution license or brewpub self-
6 distribution license. The term "distributor", as used in the
7 Oklahoma Alcoholic Beverage Control Act, shall be construed to refer
8 to a beer distributor;

9 8. "Bottle club" means any establishment in a county which has
10 not authorized the retail sale of alcoholic beverages by the
11 individual drink, which is required to be licensed to keep, mix and
12 serve alcoholic beverages belonging to club members on club
13 premises;

14 9. "Bottle service" means the sale and provision of spirits in
15 their original packages by a mixed beverage licensee to be consumed
16 in that mixed beverage licensee's club suite;

17 10. "Brand" means any word, name, group of letters, symbol or
18 combination thereof, that is adopted and used by a licensed brewer
19 to identify a specific beer, wine or spirit and to distinguish that
20 product from another beer, wine or spirit;

21 ~~10.~~ 11. "Brand extension" means:

22 a. after October 1, 2018, any brand of beer or cider
23 introduced by a manufacturer in this state which
24 either:

1 (1) incorporates all or a substantial part of the
2 unique features of a preexisting brand of the
3 same licensed brewer, or

4 (2) relies to a significant extent on the goodwill
5 associated with the preexisting brand, or

6 b. any brand of beer that a brewer, the majority of whose
7 total volume of all brands of beer distributed in this
8 state by such brewer on January 1, 2016, was
9 distributed as low-point beer, desires to sell,
10 introduces, begins selling or theretofore has sold and
11 desires to continue selling a strong beer in this
12 state which either:

13 (1) incorporates or incorporated all or a substantial
14 part of the unique features of a preexisting low-
15 point beer brand of the same licensed brewer, or

16 (2) relies or relied to a significant extent on the
17 goodwill associated with a preexisting low-point
18 beer brand;

19 ~~11.~~ 12. "Brewer" means and includes any person who manufactures
20 for human consumption by the use of raw materials or other
21 ingredients any beer or cider upon which a license fee and a tax are
22 imposed by any law of this state;

23 ~~12.~~ 13. "Brewpub" means a licensed establishment operated on
24 the premises of, or on premises located contiguous to, a small

1 brewer, that prepares and serves food and beverages, including
2 alcoholic beverages, for on-premises consumption;

3 ~~13.~~ 14. "Cider" means any alcoholic beverage obtained by the
4 alcoholic fermentation of fruit juice, including but not limited to
5 flavored, sparkling or carbonated cider. For the purposes of the
6 manufacture of this product, cider may be manufactured by either
7 manufacturers or brewers. For the purposes of the distribution of
8 this product, cider may be distributed by either wine and spirits
9 wholesalers or beer distributors;

10 15. "Club suite" means a designated area within the premises of
11 a mixed beverage licensee designed to provide an exclusive space
12 which is limited to a patron or patrons specifically granted access
13 by a mixed beverage licensee and is not accessible to other patrons
14 of the mixed beverage licensee or the public. A club suite must
15 have a clearly designated point of access for a patron or patrons
16 specifically granted access by the mixed beverage licensee to ensure
17 that persons present in the suite are limited to patrons
18 specifically granted access by the mixed beverage licensee and
19 employees providing services to the club suite;

20 ~~14.~~ 16. "Convenience store" means any person primarily engaged
21 in retailing a limited range of general household items and
22 groceries, with extended hours of operation, whether or not engaged
23 in retail sales of automotive fuels in combination with such sales;

24

1 ~~15.~~ 17. "Convicted" and "conviction" mean and include a finding
2 of guilt resulting from a plea of guilty or nolo contendere, the
3 decision of a court or magistrate or the verdict of a jury,
4 irrespective of the pronouncement of judgment or the suspension
5 thereof;

6 ~~16.~~ 18. "Designated products" means the brands of wine or
7 spirits offered for sale by a manufacturer that the manufacturer has
8 assigned to a designated wholesaler for exclusive distribution;

9 ~~17.~~ 19. "Designated wholesaler" means a wine and spirits
10 wholesaler who has been selected by a manufacturer as a wholesaler
11 appointed to distribute designated products;

12 ~~18.~~ 20. "Director" means the Director of the ABLE Commission;

13 ~~19.~~ 21. "Distiller" means any person who produces spirits from
14 any source or substance, or any person who brews or makes mash, wort
15 or wash, fit for distillation or for the production of spirits
16 (except a person making or using such material in the authorized
17 production of wine or beer, or the production of vinegar by
18 fermentation), or any person who by any process separates alcoholic
19 spirits from any fermented substance, or any person who, making or
20 keeping mash, wort or wash, has also in his or her possession or use
21 a still;

22 ~~20.~~ 22. "Distributor agreement" means the written agreement
23 between the distributor and brewer as set forth in Section 3-108 of
24 this title;

1 ~~21.~~ 23. "Drug store" means a person primarily engaged in
2 retailing prescription and nonprescription drugs and medicines;

3 ~~22.~~ 24. "Dual-strength beer" means a brand of beer that,
4 immediately prior to April 15, 2017, was being sold and distributed
5 in this state:

6 a. as a low-point beer pursuant to the Low-Point Beer
7 Distribution Act in effect immediately prior to
8 October 1, 2018, and

9 b. as strong beer pursuant to the Alcoholic Beverage
10 Control Act in effect immediately prior to October 1,
11 2018,

12 and continues to be sold and distributed as such on October 1, 2018.

13 Dual-strength beer does not include a brand of beer that arose as a
14 result of a brand extension as defined in this section;

15 ~~23.~~ 25. "Fair market value" means the value in the subject
16 territory covered by the written agreement with the distributor or
17 wholesaler that would be determined in an arm's length transaction
18 entered into without duress or threat of termination of the
19 distributor's or wholesaler's rights and shall include all elements
20 of value, including goodwill and going-concern value;

21 ~~24.~~ 26. "Good cause" means:

22 a. failure by the distributor to comply with the material
23 and reasonable provisions of a written agreement or
24 understanding with the brewer, or

1 b. failure by the distributor to comply with the duty of
2 good faith;

3 ~~25.~~ 27. "Good faith" means the duty of each party to any
4 distributor agreement and all officers, employees or agents thereof
5 to act with honesty in fact and within reasonable standards of fair
6 dealing in the trade;

7 ~~26.~~ 28 "Grocery store" means a person primarily engaged in
8 retailing a general line of food, such as canned or frozen foods,
9 fresh fruits and vegetables, and fresh and prepared meats, fish and
10 poultry;

11 ~~27.~~ 29. "Hotel" or "motel" means an establishment which is
12 licensed to sell alcoholic beverages by the individual drink and
13 which contains guestroom accommodations with respect to which the
14 predominant relationship existing between the occupants thereof and
15 the owner or operator of the establishment is that of innkeeper and
16 guest. For purposes of this section, the existence of other legal
17 relationships as between some occupants and the owner or operator
18 thereof shall be immaterial;

19 ~~28.~~ 30. "Legal newspaper" means a newspaper meeting the
20 requisites of a newspaper for publication of legal notices as
21 prescribed in Sections 101 through 114 of Title 25 of the Oklahoma
22 Statutes;

23 ~~29.~~ 31. "Licensee" means any person holding a license under the
24 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or

1 employee of such licensee while in the performance of any act or
2 duty in connection with the licensed business or on the licensed
3 premises;

4 ~~30.~~ 32. "Low-point beer" shall mean any beverages containing
5 more than one-half of one percent (1/2 of 1%) alcohol by volume, and
6 not more than three and two-tenths percent (3.2%) alcohol by weight,
7 including but not limited to, beer or cereal malt beverages obtained
8 by the alcoholic fermentation of an infusion by barley or other
9 grain, malt or similar products;

10 ~~31.~~ 33. "Manufacturer" means a distiller, winemaker, rectifier
11 or bottler of any alcoholic beverage (other than beer) and its
12 subsidiaries, affiliates and parent companies;

13 ~~32.~~ 34. "Manufacturer's agent" means a salaried or commissioned
14 salesperson who is the agent authorized to act on behalf of the
15 manufacturer or nonresident seller in the state;

16 ~~33.~~ 35. "Meals" means foods commonly ordered at lunch or dinner
17 and at least part of which is cooked on the licensed premises and
18 requires the use of dining implements for consumption. Provided,
19 that the service of only food such as appetizers, sandwiches, salads
20 or desserts shall not be considered "meals";

21 ~~34.~~ 36. "Mini-bar" means a closed container, either
22 refrigerated in whole or in part, or nonrefrigerated, and access to
23 the interior of which is:

24

- 1 a. restricted by means of a locking device which requires
2 the use of a key, magnetic card or similar device, or
3 b. controlled at all times by the licensee;

4 ~~35.~~ 37. "Mixed beverage cooler" means any beverage, by whatever
5 name designated, consisting of an alcoholic beverage and fruit or
6 vegetable juice, fruit or vegetable flavorings, dairy products or
7 carbonated water containing more than one-half of one percent (1/2
8 of 1%) of alcohol measured by volume but not more than seven percent
9 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
10 packaged in a container not larger than three hundred seventy-five
11 (375) milliliters. Such term shall include but not be limited to
12 the beverage popularly known as a "wine cooler";

13 ~~36.~~ 38. "Mixed beverages" means one or more servings of a
14 beverage composed in whole or part of an alcoholic beverage in a
15 sealed or unsealed container of any legal size for consumption on
16 the premises where served or sold by the holder of a mixed beverage,
17 beer and wine, caterer, public event, charitable event or special
18 event license;

19 ~~37.~~ 39. "Motion picture theater" means an establishment which
20 is licensed by Section 2-110 of this title to sell alcoholic
21 beverages by the individual drink and where motion pictures are
22 exhibited, and to which the general public is admitted;

1 ~~38.~~ 40. "Nondesignated products" means the brands of wine or
2 spirits offered for sale by a manufacturer that have not been
3 assigned to a designated wholesaler;

4 ~~39.~~ 41. "Nonresident seller" means any person licensed pursuant
5 to Section 2-135 of this title;

6 ~~40.~~ 42. "Retail salesperson" means a salesperson soliciting
7 orders from and calling upon retail alcoholic beverage stores with
8 regard to his or her product;

9 ~~41.~~ 43. "Occupation" as used in connection with "occupation
10 tax" means the sites occupied as the places of business of the
11 manufacturers, brewers, wholesalers, beer distributors, retailers,
12 mixed beverage licensees, on-premises beer and wine licensees,
13 bottle clubs, caterers, public event and special event licensees;

14 ~~42.~~ 44. "Original package" means any container of alcoholic
15 beverage filled and stamped or sealed by the manufacturer or brewer;

16 ~~43.~~ 45. "Package store" means any sole proprietor or
17 partnership that qualifies to sell wine, beer and/or spirits for
18 off-premises consumption and that is not a grocery store,
19 convenience store or drug store, or other retail outlet that is not
20 permitted to sell wine or beer for off-premises consumption;

21 ~~44.~~ 46. "Patron" means any person, customer or visitor who is
22 not employed by a licensee or who is not a licensee;

23 ~~45.~~ 47. "Person" means an individual, any type of partnership,
24 corporation, association, limited liability company or any

1 individual involved in the legal structure of any such business
2 entity;

3 ~~46.~~ 48. "Premises" means the grounds and all buildings and
4 appurtenances pertaining to the grounds including any adjacent
5 premises if under the direct or indirect control of the licensee and
6 the rooms and equipment under the control of the licensee and used
7 in connection with or in furtherance of the business covered by a
8 license. Provided that the ABLE Commission shall have the authority
9 to designate areas to be excluded from the licensed premises solely
10 for the purpose of:

- 11 a. allowing the presence and consumption of alcoholic
12 beverages by private parties which are closed to the
13 general public, or
- 14 b. allowing the services of a caterer serving alcoholic
15 beverages provided by a private party.

16 This exception shall in no way limit the licensee's concurrent
17 responsibility for any violations of the Oklahoma Alcoholic Beverage
18 Control Act occurring on the licensed premises;

19 ~~47.~~ 49. "Private event" means a social gathering or event
20 attended by invited guests who share a common cause, membership,
21 business or task and have a prior established relationship. For
22 purposes of this definition, advertisement for general public
23 attendance or sales of tickets to the general public shall not
24 constitute a private event;

1 ~~48.~~ 50. "Public event" means any event that can be attended by
2 the general public;

3 ~~49.~~ 51. "Rectifier" means any person who rectifies, purifies or
4 refines spirits or wines by any process (other than by original and
5 continuous distillation, or original and continuous processing, from
6 mash, wort, wash or other substance, through continuous closed
7 vessels and pipes, until the production thereof is complete), and
8 any person who, without rectifying, purifying or refining spirits,
9 shall by mixing (except for immediate consumption on the premises
10 where mixed) such spirits, wine or other liquor with any material,
11 manufactures any spurious, imitation or compound liquors for sale,
12 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
13 or any other name;

14 ~~50.~~ 52. "Regulation" or "rule" means a formal rule of general
15 application promulgated by the ABLE Commission as herein required;

16 ~~51.~~ 53. "Restaurant" means an establishment that is licensed to
17 sell alcoholic beverages by the individual drink for on-premises
18 consumption and where food is prepared and sold for immediate
19 consumption on the premises;

20 ~~52.~~ 54. "Retail container for spirits and wines" means an
21 original package of any capacity approved by the United States
22 Bureau of Alcohol, Tobacco and Firearms;

23 ~~53.~~ 55. "Retailer" means a package store, grocery store,
24 convenience store or drug store licensed to sell alcoholic beverages

1 for off-premises consumption pursuant to a Retail Spirits License,
2 Retail Wine License or Retail Beer License;

3 ~~54.~~ 56. "Sale" means any transfer, exchange or barter in any
4 manner or by any means whatsoever, and includes and means all sales
5 made by any person, whether as principal, proprietor or as an agent,
6 servant or employee. The term "sale" is also declared to be and
7 include the use or consumption in this state of any alcoholic
8 beverage obtained within or imported from without this state, upon
9 which the excise tax levied by the Oklahoma Alcoholic Beverage
10 Control Act has not been paid or exempted;

11 ~~55.~~ 57. "Short-order food" means food other than full meals
12 including but not limited to sandwiches, soups and salads. Provided
13 that popcorn, chips and other similar snack food shall not be
14 considered "short-order food";

15 ~~56.~~ 58. "Small brewer" means a brewer who manufactures less
16 than sixty-five thousand (65,000) barrels of beer annually pursuant
17 to a validly issued Small Brewer License hereunder;

18 ~~57.~~ 59. "Small farm wine" means a wine that is produced by a
19 small farm winery with seventy-five percent (75%) or more Oklahoma-
20 grown grapes, berries, other fruits, honey or vegetables;

21 ~~58.~~ 60. "Small farm winery" means a wine-making establishment
22 that does not annually produce for sale more than fifteen thousand
23 (15,000) gallons of wine as reported on the United States Department
24

1 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
2 Wine Premises Operations (TTB Form 5120.17);

3 ~~59.~~ 61. "Sparkling wine" means champagne or any artificially
4 carbonated wine;

5 ~~60.~~ 62. "Special event" means an entertainment, recreation or
6 marketing event that occurs at a single location on an irregular
7 basis and at which alcoholic beverages are sold;

8 ~~61.~~ 63. "Spirits" means any beverage other than wine or beer,
9 which contains more than one-half of one percent (1/2 of 1%) alcohol
10 measured by volume, and obtained by distillation, whether or not
11 mixed with other substances in solution and includes those products
12 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
13 fortified wines and similar compounds, but shall not include any
14 alcohol liquid completely denatured in accordance with the Acts of
15 Congress and regulations pursuant thereto;

16 ~~62.~~ 64. "Strong beer" means beer which, prior to October 1,
17 2018, was distributed pursuant to the Oklahoma Alcoholic Beverage
18 Control Act, Section 501 et seq. of Title 37 of the Oklahoma
19 Statutes;

20 ~~63.~~ 65. "Successor brewer" means a primary source of supply, a
21 brewer, a cider manufacturer or an importer that acquires rights to
22 a beer or cider brand from a predecessor brewer;

23 ~~64.~~ 66. "Tax Commission" means the Oklahoma Tax Commission;
24

1 ~~65.~~ 67. "Territory" means a geographic region with a specified
2 boundary;

3 ~~66.~~ 68. "Wine and spirits wholesaler" or "wine and spirits
4 distributor" means and includes any sole proprietorship or
5 partnership licensed to distribute wine and spirits in the state.
6 The term "wholesaler", as used the Oklahoma Alcoholic Beverage
7 Control Act, shall be construed to refer to a wine and spirits
8 wholesaler;

9 ~~67.~~ 69. "Wine" means and includes any beverage containing more
10 than one-half of one percent (1/2 of 1%) alcohol by volume and not
11 more than twenty-four percent (24%) alcohol by volume at sixty (60)
12 degrees Fahrenheit obtained by the fermentation of the natural
13 contents of fruits, vegetables, honey, milk or other products
14 containing sugar, whether or not other ingredients are added, and
15 includes vermouth and sake, known as Japanese rice wine;

16 ~~68.~~ 70. "Winemaker" means and includes any person or
17 establishment who manufactures for human consumption any wine upon
18 which a license fee and a tax are imposed by any law of this state;
19 and

20 ~~69.~~ 71. "Satellite tasting room" means a licensed establishment
21 operated off the licensed premises of the holder of a small farm
22 winery or winemaker license, which serves wine for on-premises or
23 off-premises consumption.

24

1 Words in the plural include the singular, and vice versa, and
2 words imparting the masculine gender include the feminine, as well
3 as persons and licensees as defined in this section.

4 SECTION 2. AMENDATORY Section 22, Chapter 366, O.S.L.
5 2016, as last amended by Section 1, Chapter 424, O.S.L. 2019 (37A
6 O.S. Supp. 2020, Section 2-110), is amended to read as follows:

7 Section 2-110. A. A mixed beverage license shall authorize the
8 holder thereof:

9 1. To purchase alcohol, spirits, beer and/or wine in retail
10 containers from the holder of a wine and spirits wholesaler and beer
11 distributor license as specifically provided by law; ~~and~~

12 2. To sell, offer for sale and possess mixed beverages for on-
13 premises consumption only, provided:

14 a. the holder of a mixed beverage license issued for an
15 establishment which is also a restaurant may purchase
16 wine directly from a winemaker and beer directly from
17 a small brewer who is permitted and has elected to
18 self-distribute as provided in Article XXVIII-A of the
19 Oklahoma Constitution, and

20 b. the holder of a mixed beverage license that is also a
21 holder of a retail wine license or retail beer license
22 or both a retail wine license and retail beer license
23 shall not be prohibited from the on-premises sale of
24 wine or beer, according to the license held, for off-

1 premises consumption, subject to the limitations of
2 the retail wine license or retail beer license; and

3 3. To sell spirits in their original packages for consumption
4 on its premises under the following conditions:

5 a. spirits in their original packages shall remain and be
6 consumed in the club suite of a mixed beverage
7 licensee and may not be removed from the club suite if
8 not consumed in their entirety at or before the
9 conclusion of the period for which the club suite was
10 made available to a specific patron or patrons by the
11 mixed beverage licensee, and

12 b. spirits in their original packages to be consumed in
13 the club suite are provided exclusively by the mixed
14 beverage licensee.

15 B. Sales and service of mixed beverages by holders of mixed
16 beverage licenses shall be limited to the licensed premises of the
17 licensee unless the holder of the mixed beverage license also
18 obtains a caterer license or a mixed beverage/caterer combination
19 license. A mixed beverage license shall only be issued in counties
20 of this state where the sale of alcoholic beverages by the
21 individual drink for on-premises consumption has been authorized. A
22 separate license shall be required for each place of business.

23 C. Holders of a mixed beverage license shall not be prohibited
24 from obtaining and holding a retail beer license or retail wine

1 license or both a retail beer license and retail wine license;
2 provided, that each holder qualifies and maintains the
3 qualifications for each license held as set forth in this title and
4 the rules promulgated by the ABLE Commission.

5 D. Upon application, a mixed beverage license shall be issued
6 for any place of business functioning as a motion picture theater,
7 as defined by Section 1-103 of this title. Provided, that upon
8 proof of legal age to consume alcohol, every patron being served
9 alcoholic beverages shall be required to wear a wrist bracelet or
10 receive a hand stamp identifying the patron as being of legal age to
11 consume alcohol. This requirement shall only apply inside a motion
12 picture theater auditorium where individuals under the legal age to
13 consume alcohol are allowed.

14 SECTION 3. AMENDATORY Section 142, Chapter 366, O.S.L.
15 2016, as last amended by Section 20, Chapter 161, O.S.L. 2020 (37A
16 O.S. Supp. 2020, Section 6-102), is amended to read as follows:

- 17 Section 6-102. A. No licensee of the ABLE Commission shall:
- 18 1. Receive, possess or sell any alcoholic beverage except as
19 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
20 license or permit which the licensee holds;
 - 21 2. Employ any person under eighteen (18) years of age in the
22 selling of beer or wine or employ any person under twenty-one (21)
23 years of age in the selling of spirits. Provided:

24

1 a. a mixed beverage, beer and wine, caterer, public
2 event, special event, bottle club, retail wine or
3 retail beer licensee may employ servers or sales
4 clerks who are at least eighteen (18) years of age,
5 except persons under twenty-one (21) years of age may
6 not serve in designated bar or lounge areas, and

7 b. a mixed beverage, beer and wine, caterer, public
8 event, special event or bottle club licensee may
9 employ or hire musical bands who have musicians who
10 are under eighteen (18) years of age if each such
11 musician is either accompanied by a parent or legal
12 guardian or has on their person, to be made available
13 for inspection upon demand by any employee of the ABLE
14 Commission or law enforcement officer, a written,
15 notarized affidavit from the parent or legal guardian
16 giving the underage musician permission to perform in
17 designated bar or lounge areas;

18 3. Give any alcoholic beverage as a prize, premium or
19 consideration for any lottery, game of chance or skill or any type
20 of competition;

21 4. Use any of the following means or inducements to stimulate
22 the consumption of alcoholic beverages, including but not limited
23 to:
24

- 1 a. deliver more than two drinks to one person at one
2 time, except as provided for serving tasting flights
3 defined in Section ~~2~~ 6-102.1 of this ~~act~~ title,
- 4 b. sell or offer to sell to any person or group of
5 persons any drinks at a price that is less than six
6 percent (6%) below the markup of the cost to the mixed
7 beverage licensee; provided, a mixed beverage licensee
8 shall be permitted to offer these drink specials on
9 any particular hour of any particular day and shall
10 not be required to offer these drink specials for an
11 entire calendar week or from open to close,
- 12 c. sell or offer to sell to any person an unlimited
13 number of drinks during any set period of time for a
14 fixed price, except at private functions not open to
15 the public,
- 16 d. sell or offer to sell drinks to any person or group of
17 persons on any one day or portion thereof at prices
18 less than those charged the general public on that
19 day, except at private functions not open to the
20 public,
- 21 e. increase the volume of alcoholic beverages contained
22 in a drink without increasing proportionately the
23 price regularly charged for such drink during the same
24 calendar week, or

1 f. encourage or permit, on the licensed premises, any
2 game or contest which involves drinking or the
3 awarding of drinks as prizes.

4 Provided, that the provisions of this paragraph shall not
5 prohibit the advertising or offering of food ~~or~~, entertainment or
6 bottle service in licensed establishments;

7 5. Permit or allow any patron or person to exit the licensed
8 premises with an open container of any alcoholic beverage.

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

16 6. Serve or sell alcoholic beverages with an expired license
17 issued by the ABLE Commission; or

18 7. Permit any person to be drunk or intoxicated on the
19 licensee's licensed premises.

20 B. A mixed beverage or beer and wine licensee shall not be
21 deemed to have violated the provisions of paragraph 5 of subsection
22 A of this section if it allowed a patron to leave the licensed
23 premises with an open container of beer or wine only and:
24

1 1. The otherwise prohibited act was committed during the hours
2 of 8 a.m. to midnight on the day of a scheduled home football game
3 of institutions within The Oklahoma State System of Higher
4 Education, and the establishment is located within two thousand
5 (2,000) feet of the institution;

6 2. The licensee is participating by invitation in a municipally
7 sanctioned art, music or sporting event within city limits when the
8 municipality has provided written notice of the event and a list of
9 invited licensees to the ABLE Commission at least five (5) days
10 prior to the event; or

11 3. The patron remains on the connected, physical property of
12 the licensee or in a public area adjacent to the physical property
13 of the licensee with prior municipal approval; provided that written
14 notice of the use of the connected, physical property of the
15 licensee or public area shall be provided to the ABLE Commission at
16 least five (5) days prior to such use.

17 SECTION 4. This act shall become effective November 1, 2021.

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1 Passed the House of Representatives the 3rd day of March, 2021.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2021.

6
7
8 _____
9 Presiding Officer of the Senate