

1 ENGROSSED SENATE
2 BILL NO. 411

By: Bice of the Senate

3 and

4 Mulready of the House
5

6 An Act relating to alcoholic beverages; amending
7 Sections 14, 143 and 148, Chapter 366, O.S.L. 2016
8 (37A O.S. Supp. 2016, Sections 2-102, 6-103 and 6-
9 108), which relate to sales of alcoholic beverages;
10 modifying hours during which such beverages may be
11 sold; updating statutory references; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY Section 14, Chapter 366, O.S.L.
15 2016 (37A O.S. Supp. 2016, Section 2-102), is amended to read as
16 follows:

17 Section 2-102. A. A brewer license shall authorize the holder
18 thereof:

19 1. To manufacture, bottle, package and store beer on the
20 licensed premises; and

21 2. To sell beer in this state to holders of beer distributor
22 licenses and to sell beer out of this state to qualified persons.

23 B. A small brewer license shall authorize the holder thereof:

24 1. To manufacture, bottle, package and store beer produced by
the licensee on licensed premises;

1 2. To sell beer in this state to holders of beer distributor
2 licenses and retail licenses or to sell beer out of this state to
3 qualified persons;

4 3. To serve free samples of beer produced by the licensee to
5 visitors twenty-one (21) years of age or older;

6 4. To sell beer produced by the licensee for either on-premises
7 or off-premises consumption to consumers on the brewery premises, or
8 on premises located contiguous thereto; and

9 5. To sell beer at public events such as trade shows or
10 festivals.

11 C. Nothing in this act shall prohibit the holder of a small
12 brewer license from also holding or owning an interest in the holder
13 of a brewpub license.

14 D. For purposes of this section, no visitor may sample more
15 than a total of twelve (12) fluid ounces of beer per day. The
16 brewer must restrict the distribution and consumption of beer
17 samples to an area within the licensed premises designated by the
18 brewer. A current floor plan that includes the designated sampling
19 area must be on file with the ABLE Commission. No visitor under
20 twenty-one (21) years of age shall be permitted to enter this
21 designated sampling area when samples are being distributed or
22 consumed. Samples of beer served by a brewery under this section
23 shall not be considered a sale of beer within the meaning of Article
24 XXVIII A of the Oklahoma Constitution or Section ~~3~~ 1-103 of this ~~act~~

1 title; however, such samples of beer shall be considered beer
2 removed or withdrawn from the brewery for use or consumption within
3 the meaning of Section ~~113~~ 5-110 of this ~~act~~ title for excise tax
4 determination and reporting requirements~~+~~. Sales and sampling may
5 only occur between the hours of 10:00 a.m. and 2:00 a.m.

6 E. A small brewer self-distribution license shall authorize
7 holders of a small brewer license to distribute beer produced only
8 by such licensee to a holder of a retail beer license, retail
9 spirits license, mixed beverage license, beer and wine license,
10 caterer's license, special event license, public event license,
11 charitable auction license or brewpub license. A small brewer shall
12 elect whether it will distribute through a distributor or self-
13 distribute in a subject territory; however, a small brewer may not
14 elect to do both simultaneously in a subject territory. The
15 election shall be made through notice to the ABLE Commission. Any
16 changes to the election shall require immediate notification to the
17 ABLE Commission before the change in election will take effect. A
18 small brewer that elects to self-distribute in multiple territories
19 shall only be required to have one small brewer self-distribution
20 license.

21 SECTION 2. AMENDATORY Section 143, Chapter 366, O.S.L.
22 2016 (37A O.S. Supp. 2016, Section 6-103), is amended to read as
23 follows:

24 Section 6-103. A. No retail spirits licensee shall:

1 1. Purchase or receive any alcoholic beverage other than from a
2 wine and spirits wholesaler, beer distributor, winery or small
3 brewer self-distribution licensee who elects to self-distribute;

4 2. Suffer or permit any retail container to be opened, or any
5 alcoholic beverage to be consumed on the licensed premises, unless
6 otherwise permitted by law;

7 3. Sell any alcoholic beverages at any hour other than between
8 the hours of ~~10:00~~ 8:00 a.m. and midnight Monday through Saturday,
9 and shall not be permitted to be open on Thanksgiving Day or
10 Christmas Day. Retail spirits licensees shall be permitted to sell
11 alcoholic beverages on the day of any General, Primary, Runoff
12 Primary or Special Election whether on a national, state, county or
13 city election, provided that the election day does not occur on any
14 day on which such sales are otherwise prohibited by law;

15 4. Sell spirits in a city or town, unless such city or town has
16 a population in excess of two hundred (200) according to the latest
17 Federal Decennial Census;

18 5. Sell any alcoholic beverage on credit; provided, that
19 acceptance by a licensee of a cash or debit card or a nationally
20 recognized credit card in lieu of actual cash payment does not
21 constitute the extension of credit; provided, further, as used in
22 this section:

23 a. "cash or debit card" means any instrument or device
24 whether known as a debit card or by any other name,

1 issued with or without fee by an issuer for the use of
2 the cardholder in depositing, obtaining or
3 transferring funds from a consumer banking electronic
4 facility, and

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

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

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

3 B. No retail spirits licensee shall permit any person under
4 twenty-one (21) years of age to enter into or remain within or about
5 the licensed premises.

6 SECTION 3. AMENDATORY Section 148, Chapter 366, O.S.L.
7 2016 (37A O.S. Supp. 2016, Section 6-108), is amended to read as
8 follows:

9 Section 6-108. No holder of a Retail Wine License or a Retail
10 Beer License shall:

11 1. Purchase or receive any alcoholic beverage other than from a
12 wine and spirits wholesaler, beer distributor, winery or small
13 brewer self-distribution licensee;

14 2. Suffer or permit any retail container to be opened, or any
15 alcoholic beverage to be consumed on the licensed premises, unless
16 otherwise permitted by law;

17 3. Sell any beer or wine at any hour other than between the
18 hours of ~~7:00~~ 6:00 a.m. and 2:00 a.m. the following day, Monday
19 through Sunday. Retail wine and retail beer licensees shall be
20 permitted to sell beer and wine on the day of any General, Primary,
21 Runoff Primary or Special Election whether on a national, state,
22 county or city election;

23 4. Sell any beer and wine on credit; provided, that acceptance
24 by a grocery store, convenience store or drug store of a cash or

1 debit card, or a nationally recognized credit card, in lieu of
2 actual cash payment does not constitute the extension of credit;
3 provided, further, as used in this section:

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

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

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

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

SECTION 4. This act shall become effective October 1, 2018.

Passed the Senate the 21st day of March, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2017.

Presiding Officer of the House
of Representatives