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March 1, 2018

By: Bice

An Act relating to alcoholic beverages; amending Section 60, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2017, Section 2-148), which relates to grounds to revoke or suspend licenses; modifying persons who may receive employee license; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY Section 60, Chapter 366, O.S.L.
2016 (37A O.S. Supp. 2017, Section 2-148), is amended to read as
follows:

Section 2-148. A. Any license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act by the ABLE Commission, after due notice and hearing, may be revoked or suspended if the ABLE Commission finds or has grounds to believe that the licensee has:

1. Violated any rule promulgated by the ABLE Commission;
2. Procured a license through fraud, or misrepresentation, or concealment of a material fact;

1 3. Made any false representation or statement to the ABLE
2 Commission or the Oklahoma Tax Commission in order to prevent or
3 induce action by the ABLE Commission or the Tax Commission;

4 4. Maintained an unsanitary establishment or has supplied
5 impure or otherwise deleterious beverages or food;

6 5. Stored, possessed, mixed or served on the premises of a
7 bottle club any alcoholic beverage upon which the tax levied by
8 Section ~~104~~ 5-101 of this ~~act~~ title has not been paid as provided
9 for in the Oklahoma Alcoholic Beverage Control Act, in a county of
10 this state where the sale of alcoholic beverages by the individual
11 drink for on-premises consumption has not been authorized;

12 6. Misrepresented to a customer or the public any alcoholic
13 beverage sold by the licensee;

14 7. Had any permit or license issued by the Tax Commission and
15 required by the Oklahoma Alcoholic Beverage Control Act, suspended
16 or revoked by the Tax Commission; or

17 8. Is not in compliance with the tax laws of this state as
18 required in Article XXVIII A of the Oklahoma Constitution.

19 B. The ABLE Commission may revoke or suspend the license of any
20 mixed beverage, caterer or bottle club licensee if the ABLE
21 Commission finds or has grounds to believe that such licensee:

22 1. Has acted as an agent of a manufacturer or wholesaler of
23 alcoholic beverages;

24 2. Is a manufacturer or wholesaler of alcoholic beverages;

1 3. Has borrowed money or property or accepted gratuities or
2 rebates from a manufacturer or wholesaler of alcoholic beverages;

3 4. Has obtained the use of equipment from any manufacturer or
4 wholesaler of alcoholic beverages or any agent thereof;

5 5. Has violated any of the provisions of the Oklahoma Alcoholic
6 Beverage Control Act for which mandatory revocation or suspension is
7 not required;

8 6. Has been convicted within the past twenty-five (25) years,
9 of a violation of any state or federal law relating to alcoholic
10 beverage for which mandatory revocation or suspension is not
11 required; or

12 7. Is not in compliance with the tax laws of this state as
13 required in Article XXVIII A of the Oklahoma Constitution.

14 C. The ABLE Commission may revoke or suspend the license of any
15 retail, mixed beverage, caterer or bottle club licensee if the ABLE
16 Commission finds or has grounds to believe that such licensee has
17 borrowed money or property or accepted gratuities, discounts,
18 rebates, free goods, allowances or other inducements from a wine and
19 spirits wholesaler or beer distributor.

20 D. The ABLE Commission shall have the authority to revoke the
21 license of any licensee if the ABLE Commission finds:

22 1. That the licensee knowingly sold alcoholic beverages or
23 allowed such beverages to be sold, delivered or furnished to any
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1 person under the age of twenty-one (21) years or to any person
2 visibly intoxicated or adjudged insane or mentally deficient;

3 2. That the licensee, any general or limited partner of the
4 licensee, or in the case of a corporation, an officer or director of
5 the corporation, has been convicted of a felony or is not in
6 compliance with the tax laws of this state as required in Article
7 XXVIII A of the Oklahoma Constitution. Provided, an employee license
8 may be issued and held by a person who has been convicted of a
9 felony if such conviction was not for an offense specified in
10 paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes or
11 an offense under the provisions of this title, and if such
12 conviction was more than five (5) years prior to the issuance of the
13 license;

14 3. That, in the case of a wine and spirits wholesaler, beer
15 distributor, retail spirits, retail wine or retail beer licensee,
16 the holder of the license or any member of a general or limited
17 partnership which is the holder of such a license, has been
18 convicted of a prohibitory law relating to the sale, manufacture or
19 transportation of alcoholic beverages which constitutes a felony.

20 E. If the ABLE Commission shall find by a preponderance of the
21 evidence as in civil cases that a licensee has knowingly sold any
22 alcoholic beverage to any person under the age of twenty-one (21)
23 years, after a public hearing, the ABLE Commission shall revoke such
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1 license and no discretion as to the revocation shall be exercised by
2 the ABLE Commission.

3 F. The ABLE Commission shall have the authority to promulgate
4 rules to establish a penalty schedule for violations of any
5 provision of the Oklahoma Alcoholic Beverage Control Act or any rule
6 of the ABLE Commission. The schedule shall provide for suspension
7 or revocation of any license for major and minor violations as
8 determined by the ABLE Commission. Penalties shall be increasingly
9 severe with each violation by a licensee.

10 Provided, that for a fourth major violation by a licensee within
11 a twenty-four-month period, the penalty shall be mandatory
12 revocation of license. The twenty-four-month period shall be
13 calculated from the date of the most recent violation as set forth
14 in an order signed by the Director or the designee of the Director.

15 G. The ABLE Commission or the Tax Commission may impose a
16 monetary penalty in lieu of or in addition to suspension of a
17 license. The amount of the fine for a major violation shall be
18 computed by multiplying the proposed number of days of the
19 suspension period by One Hundred Dollars (\$100.00). The amount of
20 the fine for a minor violation shall be computed by multiplying the
21 number of days of the proposed suspension period by Fifty Dollars
22 (\$50.00).

1 H. The failure of any licensee to pay a fine or serve a
2 suspension imposed by the ABLE Commission or the Tax Commission
3 shall result in the revocation of the license of the licensee.

4 I. If the ABLE Commission or the Tax Commission finds that
5 public health, safety or welfare require emergency action, and
6 incorporates a finding to that effect in its order, summary
7 suspension of a license may be ordered pending proceeding for
8 revocation or other action, pursuant to the provisions of Section
9 314 of Title 75 of the Oklahoma Statutes.

10 SECTION 2. This act shall become effective October 1, 2018.

11 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
12 March 1, 2018 - DO PASS
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