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February 23, 2017

**AS AMENDED**

SENATE BILL NO. 411

By: Bice

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

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

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

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

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

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

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

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 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  
24

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

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

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

7 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
8 February 23, 2017 - DO PASS AS AMENDED  
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