

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1343

By: McEntire

COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending Section 13, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-101), which relates to annual license fees; modifying certain license description; amending Sections 30 and 31, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Sections 2-118 and 2-119), which relate to the airline/railroad beverage license; making provisions applicable to certain class of conveyance; allowing certain entities to permit certain activities; expanding permissible storage locations of alcoholic beverages; amending Section 60, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-148), which relates to revocation and suspension of licenses; allowing discretion in license revocation; and providing an effective date.

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

SECTION 1. AMENDATORY Section 13, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-101), is amended to read as follows:

Section 2-101. A. Except as otherwise provided in this section, the licenses issued by the ABLE Commission, and the annual fees therefor, shall be as follows:

1. Brewer License.....	\$1,250.00
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2. Small Brewer License..... \$125.00

3. Distiller License.....	\$3,125.00
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4. Winemaker License.....	\$625.00
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5. Small Farm Winery License.....	\$75.00
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6. Rectifier License.....	\$3,125.00
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7. Wine and Spirits Wholesaler License.....	\$3,000.00
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8. Beer Distributor License.....	\$750.00
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9. The following retail spirits license fees shall be determined by the latest Federal Decennial Census:

a. Retail Spirits License for cities and towns from 200 to 2,500 population.....\$305.00

b. Retail Spirits License for cities and towns from 2,501 to 5,000 population.....\$605.00

c.	Retail Spirits License for cities and towns over 5,000 population.....	\$905.00
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10. Retail Wine License.....	\$1,000.00
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11.	Retail Beer License.....	\$500.00
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12. Mixed Beverage License.....	\$1,005.00
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(initial license)
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\$905.00

1		(renewal)
2	13. Mixed Beverage/Caterer Combination License.....	\$1,250.00
3	14. On-Premises Beer and Wine License.....	\$500.00
4		(initial license)
5		\$450.00
6		(renewal)
7	15. Bottle Club License.....	\$1,000.00
8		(initial license)
9		\$900.00
10		(renewal)
11	16. Caterer License.....	\$1,005.00
12		(initial license)
13		\$905.00
14		(renewal)
15	17. Annual Special Event License.....	\$55.00
16	18. Quarterly Special Event License.....	\$55.00
17	19. Hotel Beverage License.....	\$1,005.00
18		(initial license)
19		\$905.00
20		(renewal)
21	20. Airline/Railroad/ <u>Commercial Passenger Vessel</u> Beverage	
22	License.....	\$1,005.00
23		(initial license)
24		\$905.00

1		(renewal)
2	21.	Agent License..... \$55.00
3	22.	Employee License..... \$30.00
4	23.	Industrial License..... \$23.00
5	24.	Carrier License..... \$23.00
6	25.	Private Carrier License..... \$23.00
7	26.	Bonded Warehouse License..... \$190.00
8	27.	Storage License..... \$23.00
9	28.	Nonresident Seller License or Manufacturer's
10		License..... \$750.00
11	29.	Manufacturer's Agent License..... \$55.00
12	30.	Sacramental Wine Supplier License..... \$100.00
13	31.	Charitable Auction License..... \$1.00
14	32.	Charitable Alcoholic Beverage License..... \$55.00
15	33.	Winemaker Self-Distribution License..... \$750.00
16	34.	Annual Public Event License..... \$1,005.00
17	35.	One-Time Public Event License..... \$255.00
18	36.	Small Brewer Self-Distribution License..... \$750.00
19	37.	Brewpub License..... \$1,005.00
20	38.	Brewpub Self-Distribution License..... \$750.00
21	B. 1.	There shall be added to the initial or renewal fees for
22		a Mixed Beverage License an administrative fee, which shall not be
23		deemed to be a license fee, in the amount of Five Hundred Dollars
24		(\$500.00), which shall be paid at the same time and in the same

1 manner as the license fees prescribed by paragraph ~~10~~ 12 of
2 subsection A of this section; provided, this fee shall not be
3 assessed against service organizations or fraternal beneficiary
4 societies which are exempt under Section 501(c)(19), (8) or (10) of
5 the Internal Revenue Code.

6 2. There shall be added to the fee for a Mixed Beverage/Caterer
7 Combination License an administrative fee, which shall not be deemed
8 to be a license fee, in the amount of Two Hundred Fifty Dollars
9 (\$250.00), which shall be paid at the same time and in the same
10 manner as the license fee prescribed by paragraph ~~11~~ 13 of
11 subsection A of this section.

12 C. Notwithstanding the provisions of subsection A of this
13 section:

14 1. The license fee for a mixed beverage or bottle club license
15 for those service organizations or fraternal beneficiary societies
16 which are exempt under Section 501(c)(19), (8) or (10) of the
17 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
18 year; and

19 2. The renewal fee for an airline/railroad/commercial passenger
20 vessel beverage license held by a railroad described in 49 U.S.C.,
21 Section 24301, shall be One Hundred Dollars (\$100.00).

22 D. An applicant may apply for and receive both an on-premises
23 beer and wine license and a caterer license.

1 E. All licenses, except as otherwise provided, shall be valid
2 for one (1) year from date of issuance unless revoked or
3 surrendered. Provided, all employee licenses shall be valid for two
4 (2) years.

5 F. The holder of a license, issued by the ABLE Commission, for
6 a bottle club located in a county of this state where the sale of
7 alcoholic beverages by the individual drink for on-premises
8 consumption has been authorized, may exchange the bottle club
9 license for a mixed beverage license or an on-premises beer and wine
10 license and operate the licensed premises as a mixed beverage
11 establishment or an on-premises beer and wine establishment subject
12 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
13 There shall be no additional fee for such exchange and the mixed
14 beverage license or on-premises beer and wine license issued shall
15 expire one (1) year from the date of issuance of the original bottle
16 club license.

17 G. In addition to the applicable licensing fee, the following
18 surcharge shall be assessed annually on the following licenses:

- 19 1. Nonresident Seller or Manufacturer License..... \$2,500.00
20 2. Wine and Spirits Wholesaler License..... \$2,500.00
21 3. Beer Distributor..... \$1,000.00
22 4. Retail Spirits License for cities and towns
23 over 5,000 population..... \$250.00
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5. Retail Spirits License for cities and towns
from 2,501 to 5,000 population..... \$200.00
6. Retail Spirits License for cities and towns
from 200 to 2,500 population..... \$150.00
7. Retail Wine License..... \$250.00
8. Retail Beer License..... \$250.00
9. Mixed Beverage License..... \$25.00
10. Mixed Beverage/Caterer Combination License..... \$25.00
11. Caterer License..... \$25.00
12. On-Premises Beer and Wine License..... \$25.00
13. Annual Public Event License..... \$25.00
14. Small Farm Winery License..... \$25.00
15. Small Brewer License..... \$35.00

The surcharge shall be paid concurrent with the licensee's annual licensing fee and, in addition to Five Dollars (\$5.00) of the employee license fee, shall be deposited in the Alcoholic Beverage Governance Revolving Fund established pursuant to Section 5-128 of this title.

H. Any license issued by the ABLE Commission under this title may be relied upon by other licensees as a valid license, and no other licensee shall have any obligation to independently determine the validity of such license or be held liable solely as a consequence of another licensee's failure to maintain a valid license.

SECTION 2. AMENDATORY Section 30, Chapter 366,
O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-118), is amended
to read as follows:

Section 2-118. A. An airline/railroad/commercial
passenger vessel beverage license shall authorize the holder
thereof:

1. To sell or serve alcoholic beverages in or from any size
container on a commercial passenger airplane, vessel or railroad
operated in compliance with a valid license, permit or certificate
issued under the authority of the United States or this state or its
instrumentality, even though the airplane, vessel or train, in the
course of its travel, may cross an area in which the sale of
alcoholic beverages by the individual drink is not authorized; and

2. To store alcoholic beverages in sealed containers of any
size at any airport ~~or~~, station or facility regularly served by the
licensee, in accordance with rules promulgated by the ABLE
Commission.

B. Alcoholic beverages purchased by the holder of an
airline/railroad/commercial passenger vessel license from the holder
of a wholesaler license shall be presumed to be purchased for
consumption outside the State of Oklahoma or in interstate commerce,
and shall be exempt from the excise tax provided for in Section ~~104~~
5-101 of this ~~act~~ title.

1 SECTION 3. AMENDATORY Section 31, Chapter 366,
2 O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-119), is amended
3 to read as follows:

4 Section 2-119. An airline/railroad/commercial passenger
5 vessel beverage license may be issued to any corporation
6 operating a commercial airline, vessel or railroad in or
7 through this state. Application and payment of the license
8 fee shall be made directly to the ABLE Commission.

9 SECTION 4. AMENDATORY Section 60, Chapter 366, O.S.L.
10 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S.
11 Supp. 2018, Section 2-148), is amended to read as follows:

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

- 17 1. Violated any rule promulgated by the ABLE Commission;
- 18 2. Procured a license through fraud, or misrepresentation, or
19 concealment of a material fact;
- 20 3. Made any false representation or statement to the ABLE
21 Commission or the Oklahoma Tax Commission in order to prevent or
22 induce action by the ABLE Commission or the Tax Commission;
- 23 4. Maintained an unsanitary establishment or has supplied
24 impure or otherwise deleterious beverages or food;

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

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

9 7. Had any permit or license issued by the Tax Commission and
10 required by the Oklahoma Alcoholic Beverage Control Act, suspended
11 or revoked by the Tax Commission; or

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

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

17 1. Has acted as an agent of a manufacturer or wholesaler of
18 alcoholic beverages;

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

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

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

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

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

8 7. Is not in compliance with the tax laws of this state as
9 required in Article ~~XXVIIIA~~ XXVIII-A of the Oklahoma Constitution.

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

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

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

22 2. That the licensee, any general or limited partner of the
23 licensee, or in the case of a corporation, an officer or director of
24 the corporation, has been convicted of a felony or is not in

1 compliance with the tax laws of this state as required in Article
2 ~~XXVIII~~A XXVIII-A of the Oklahoma Constitution. Provided, an
3 employee license may be issued and held by a person who has been
4 convicted of a felony if such conviction was not for an offense
5 specified in paragraph 2 of Section 571 of Title 57 of the Oklahoma
6 Statutes or an offense under the provisions of this title, and if
7 such conviction was more than five (5) years prior to the issuance
8 of the license; or

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

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

21 F. The ABLE Commission shall have the authority to promulgate
22 rules to establish a penalty schedule for violations of any
23 provision of the Oklahoma Alcoholic Beverage Control Act or any rule
24 of the ABLE Commission. The schedule shall provide for suspension

1 or revocation of any license for major and minor violations as
2 determined by the ABLE Commission. Penalties shall be increasingly
3 severe with each violation by a licensee.

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

9 G. The ABLE Commission or the Tax Commission may impose a
10 monetary penalty in lieu of or in addition to suspension of a
11 license. The amount of the fine for a major violation shall be
12 computed by multiplying the proposed number of days of the
13 suspension period by One Hundred Dollars (\$100.00). The amount of
14 the fine for a minor violation shall be computed by multiplying the
15 number of days of the proposed suspension period by Fifty Dollars
16 (\$50.00).

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

20 I. If the ABLE Commission or the Tax Commission finds that
21 public health, safety or welfare require emergency action, and
22 incorporates a finding to that effect in its order, summary
23 suspension of a license may be ordered pending proceeding for
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1 revocation or other action, pursuant to the provisions of Section
2 314 of Title 75 of the Oklahoma Statutes.

3 SECTION 5. This act shall become effective November 1, 2019.

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