

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 ENGROSSED SENATE
5 BILL NO. 728

 By: Leewright and **Bergstrom** of
 the Senate

6 and

7 Hilbert of the House

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9
10 An Act relating to alcoholic beverages; amending
11 Section 22, Chapter 366, O.S.L. 2016, as amended by
12 Section 6, Chapter 381, O.S.L. 2017 and Section 40,
13 Chapter 366, O.S.L. 2016, as amended by Section 1,
14 Chapter 366, O.S.L. 2017 (37A O.S. Supp. 2018,
15 Sections 2-110 and 2-128), which relate to mixed
16 beverage licenses and on-premises beer and wine
17 license; allowing certain licensees to purchase from
18 self-distributors; allowing certain licensee to sell
19 beer and wine for off-premises consumption; stating
20 qualifications for golf course, country club and
21 marina; providing for taxes; directing the ABLE
22 Commission to promulgate rules; securing special off-
23 premises permit; and declaring an emergency.
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 22, Chapter 366, O.S.L.
2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S.
Supp. 2018, Section 2-110), is amended to read as follows:

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

3 1. To purchase alcohol, spirits, beer and/or wine in retail
4 containers from the holder of a wine and spirits wholesaler and beer
5 distributor license as specifically provided by law. The holder of a
6 mixed beverage license issued for an establishment which is also a
7 restaurant may purchase wine directly from a winemaker and beer
8 directly from a small brewer who is permitted and has elected to
9 self-distribute as provided in Article XXVIII A of the Oklahoma
10 Constitution; and

11 2. To sell, offer for sale and possess mixed beverages for on-
12 premises consumption only; ~~provided, the holder of a mixed beverage~~
13 ~~license issued for an establishment which is also a restaurant may~~
14 ~~purchase wine directly from a winemaker and beer directly from a~~
15 ~~small brewer who is permitted and has elected to self-distribute as~~
16 ~~provided in Article XXVIII A of the Oklahoma Constitution.~~ a mixed
17 beverage licensee may sell beer and wine for off-premises consumption
18 if it meets the classification of a golf course, country club, or
19 marina pursuant to the most recently adopted North American Industry
20 Classification System (NAICS). The mixed beverage licensee shall be
21 permitted to sell beer and wine for off-premises consumption during
22 all days and hours in which a retail beer licensee or retail wine
23 licensee is permitted to sell beer or wine. The gross receipts tax
24 set forth in Section 5-105 of this title shall apply to all alcoholic

1 beverages sold by the mixed beverage licensee, whether those
2 alcoholic beverages are intended for on- or off-premises consumption.
3 The ABLE Commission shall promulgate rules for the implementation of
4 a special off-premises permit consistent with this subsection. The
5 mixed beverage licensee shall secure the special off-premises permit
6 prior to selling beer and wine for off-premises consumption;

7 3. Sales and service of mixed beverages by holders of mixed
8 beverage licenses shall be limited to the licensed premises of the
9 licensee unless the holder of the mixed beverage license also
10 obtains a caterer license or a mixed beverage/caterer combination
11 license. A mixed beverage license shall only be issued in counties
12 of this state where the sale of alcoholic beverages by the
13 individual drink for on-premises consumption has been authorized. A
14 separate license shall be required for each place of business-; and

15 4. Upon application, a mixed beverage license shall be issued
16 for any place of business functioning as a motion picture theater,
17 as defined by Section 1-103 of this title. Provided, that upon
18 proof of legal age to consume alcohol, every patron being served
19 alcoholic beverages shall be required to wear a wrist bracelet or
20 receive a hand stamp identifying the patron as being of legal age to
21 consume alcohol. This requirement shall only apply inside a motion
22 picture theater auditorium where individuals under the legal age to
23 consume alcohol are allowed.

1 SECTION 2. AMENDATORY Section 40, Chapter 366, O.S.L.

2 2016, as amended by Section 1, Chapter 366, O.S.L. 2017 (37A O.S.
3 Supp. 2018, Section 2-128), is amended to read as follows:

4 Section 2-128. A. An on-premises beer and wine license shall
5 authorize the holder thereof:

6 1. To purchase beer and wine in retail containers from the
7 holder of a wholesaler, beer distributor, small brewer self-
8 distribution or brewpub self-distribution license or as specifically
9 provided by law. The holder of an on-premises beer and wine license
10 issued for an establishment which is also a restaurant may purchase
11 wine from a winemaker who is permitted and has elected to self-
12 distribute as provided in Article XXVIII A of the Oklahoma
13 Constitution; and

14 2. To sell, offer for sale and possess beer and wine for on-
15 premises consumption only; provided, ~~the holder of an on-premises~~
16 ~~beer and wine license issued for an establishment which is also a~~
17 ~~restaurant may purchase wine from a winemaker who is permitted and~~
18 ~~has elected to self-distribute as provided in Article XXVIII A of the~~
19 ~~Oklahoma Constitution~~ an on-premises beer and wine licensee may sell
20 beer and wine for off-premises consumption if it meets the
21 classification of a golf course, country club, or marina pursuant to
22 the most recently adopted North American Industry Classification
23 System (NAICS). The mixed beverage licensee shall be permitted to
24 sell beer and wine for off-premises consumption during all days and

1 hours in which a retail beer licensee or retail wine licensee is
2 permitted to sell beer or wine. The gross receipts tax set forth in
3 Section 5-105 of this title shall apply to all alcoholic beverages
4 sold by the on-premises beer and wine licensee, whether those
5 alcoholic beverages are intended for on- or off-premises consumption.
6 The ABLE Commission shall promulgate rules for the implementation of
7 a special off-premises permit consistent with this subsection. The
8 on-premises beer and wine licensee shall secure the special off-
9 premises permit prior to selling beer and wine for off-premises
10 consumption.

11 B. Sales and service of beer and wine by holders of on-premises
12 beer and wine licenses shall be limited to the licensed premises of
13 the licensee unless the holder of the on-premises beer and wine
14 license also obtains a caterer license. An on-premises beer and
15 wine license shall only be issued in counties of this state where
16 the sale of alcoholic beverages by the individual drink for on-
17 premises consumption has been authorized. A separate license shall
18 be required for each place of business. No spirits shall be stored,
19 possessed or consumed on the licensed premises of an on-premises
20 beer and wine license, unless the premises also has a mixed beverage
21 license.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON TOURISM, dated 03/28/2019 - DO
5 PASS, As Coauthored.

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