

1 **SENATE FLOOR VERSION**

2 April 11, 2019

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 2363

By: Kannady of the House

and

Pugh of the Senate

7  
8 **[ alcoholic beverages - licenses - repealer -**  
9 **effective date ]**

10  
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY Section 3, Chapter 366, O.S.L.  
13 2016, as last amended by Section 13, Chapter 304, O.S.L. 2018 (37A  
14 O.S. Supp. 2018, Section 1-103), is amended to read as follows:

15 Section 1-103. As used in the Oklahoma Alcoholic Beverage  
16 Control Act:

17 1. "ABLE Commission" or "Commission" means the Alcoholic  
18 Beverage Laws Enforcement Commission;

19 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl  
20 alcohol, ethanol or spirits of wine, from whatever source or by  
21 whatever process produced. It does not include wood alcohol or  
22 alcohol which has been denatured or produced as denatured in  
23 accordance with Acts of Congress and regulations promulgated  
24 thereunder;

1        3. "Alcoholic beverage" means alcohol, spirits, beer and wine  
2 as those terms are defined herein and also includes every liquid or  
3 solid, patented or not, containing alcohol, spirits, wine or beer  
4 and capable of being consumed as a beverage by human beings;

5        4. "Applicant" means any individual, legal or commercial  
6 business entity, or any individual involved in any legal or  
7 commercial business entity allowed to hold any license issued in  
8 accordance with the Oklahoma Alcoholic Beverage Control Act;

9        5. "Beer" means any beverage of alcohol by volume and obtained  
10 by the alcoholic fermentation of an infusion or decoction of barley,  
11 or other grain, malt or similar products. "Beer" may or may not  
12 contain hops or other vegetable products. "Beer" includes, among  
13 other things, beer, ale, stout, lager beer, porter and other malt or  
14 brewed liquors, but does not include sake, known as Japanese rice  
15 wine;

16        6. "Beer keg" means any manufacturer-sealed, single container  
17 that contains not less than four (4) gallons of beer;

18        7. "Beer distributor" means and includes any person licensed to  
19 distribute beer for retail sale in the state, but does not include a  
20 holder of a small brewer self-distribution license or brewpub self-  
21 distribution license. The term "distributor", as used in this act,  
22 shall be construed to refer to a beer distributor;

23        8. "Bottle club" means any establishment in a county which has  
24 not authorized the retail sale of alcoholic beverages by the

1 individual drink, which is required to be licensed to keep, mix and  
2 serve alcoholic beverages belonging to club members on club  
3 premises;

4 9. "Bottle service" means the sale and provision of spirits in  
5 their original packages by a mixed beverage licensee to be consumed  
6 in that mixed beverage licensee's premises;

7 10. "Brand" means any word, name, group of letters, symbol or  
8 combination thereof, that is adopted and used by a licensed  
9 manufacturer to identify a specific beer and to distinguish that  
10 product from another beer;

11 ~~10.~~ 11. "Brand extension" means:

12 a. after the effective date of this act, any brand of  
13 beer or cider introduced by a manufacturer in this  
14 state which either:

15 (1) incorporates all or a substantial part of the  
16 unique features of a preexisting brand of the  
17 same licensed manufacturer, or

18 (2) relies to a significant extent on the goodwill  
19 associated with the preexisting brand, or

20 b. any brand of beer that a manufacturer, the majority of  
21 whose total volume of all brands of beer distributed  
22 in this state by such manufacturer on January 1, 2016,  
23 was distributed as low-point beer, desires to sell,  
24 introduces, begins selling or theretofore has sold and

desires to continue selling a strong beer in this state which either:

(1) incorporates or incorporated all or a substantial part of the unique features of a preexisting low-point beer brand of the same licensed manufacturer, or

(2) relies or relied to a significant extent on the goodwill associated with a preexisting low-point beer brand;

~~11.~~ 12. "Brewer" means and includes any person who manufactures for human consumption by the use of raw materials or other ingredients any beer upon which a license fee and a tax are imposed by any law of this state;

~~12.~~ 13. "Brewpub" means a licensed establishment operated on the premises of, or on premises located contiguous to, a small brewer, that prepares and serves food and beverages, including alcoholic beverages, for on-premises consumption;

~~13.~~ 14. "Cider" means any alcoholic beverage obtained by the alcoholic fermentation of fruit juice, including but not limited to flavored, sparkling or carbonated cider. For the purposes of the distribution of this product, cider may be distributed by either wine and spirits wholesalers or beer distributors;

~~14.~~ 15. "Convenience store" means any person primarily engaged in retailing a limited range of general household items and

1 groceries, with extended hours of operation, whether or not engaged  
2 in retail sales of automotive fuels in combination with such sales;

3 ~~15.~~ 16. "Convicted" and "conviction" mean and include a finding  
4 of guilt resulting from a plea of guilty or nolo contendere, the  
5 decision of a court or magistrate or the verdict of a jury,  
6 irrespective of the pronouncement of judgment or the suspension  
7 thereof;

8 ~~16.~~ 17. "Director" means the Director of the ABLE Commission;

9 ~~17.~~ 18. "Distiller" means any person who produces spirits from  
10 any source or substance, or any person who brews or makes mash, wort  
11 or wash, fit for distillation or for the production of spirits  
12 (except a person making or using such material in the authorized  
13 production of wine or beer, or the production of vinegar by  
14 fermentation), or any person who by any process separates alcoholic  
15 spirits from any fermented substance, or any person who, making or  
16 keeping mash, wort or wash, has also in his or her possession or use  
17 a still;

18 ~~18.~~ 19. "Distributor agreement" means the written agreement  
19 between the distributor and manufacturer as set forth in Section 3-  
20 108 of this title;

21 ~~19.~~ 20. "Drug store" means a person primarily engaged in  
22 retailing prescription and nonprescription drugs and medicines;  
23  
24

1       ~~20.~~ 21. "Dual-strength beer" means a brand of beer that,  
2 immediately prior to April 15, 2017, was being sold and distributed  
3 in this state:

4           a.     as a low-point beer pursuant to the Low-Point Beer  
5                 Distribution Act in effect immediately prior to ~~the~~  
6                 ~~effective date of this act~~ October 1, 2018, and

7           b.     as strong beer pursuant to the Alcoholic Beverage  
8                 Control Act in effect immediately prior to ~~the~~  
9                 ~~effective date of this act~~ October 1, 2018,

10 and continues to be sold and distributed as such on October 1, 2018.  
11 Dual-strength beer does not include a brand of beer that arose as a  
12 result of a brand extension as defined in this section;

13       ~~21.~~ 22. "Fair market value" means the value in the subject  
14 territory covered by the written agreement with the distributor or  
15 wholesaler that would be determined in an arm's length transaction  
16 entered into without duress or threat of termination of the  
17 distributor's or wholesaler's rights and shall include all elements  
18 of value, including goodwill and going-concern value;

19       ~~22.~~ 23. "Good cause" means:

- 20           a.     failure by the distributor to comply with the material  
21                 and reasonable provisions of a written agreement or  
22                 understanding with the manufacturer, or  
23           b.     failure by the distributor to comply with the duty of  
24                 good faith;

1       ~~23.~~ 24. "Good faith" means the duty of each party to any  
2 distributor agreement and all officers, employees or agents thereof  
3 to act with honesty in fact and within reasonable standards of fair  
4 dealing in the trade;

5       ~~24.~~ 25. "Grocery store" means a person primarily engaged in  
6 retailing a general line of food, such as canned or frozen foods,  
7 fresh fruits and vegetables, and fresh and prepared meats, fish and  
8 poultry;

9       ~~25.~~ 26. "Hotel" or "motel" means an establishment which is  
10 licensed to sell alcoholic beverages by the individual drink and  
11 which contains guestroom accommodations with respect to which the  
12 predominant relationship existing between the occupants thereof and  
13 the owner or operator of the establishment is that of innkeeper and  
14 guest. For purposes of this section, the existence of other legal  
15 relationships as between some occupants and the owner or operator  
16 thereof shall be immaterial;

17       ~~26.~~ 27. "Legal newspaper" means a newspaper meeting the  
18 requisites of a newspaper for publication of legal notices as  
19 prescribed in Sections 101 through 114 of Title 25 of the Oklahoma  
20 Statutes;

21       ~~27.~~ 28. "Licensee" means any person holding a license under the  
22 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or  
23 employee of such licensee while in the performance of any act or  
24

1 duty in connection with the licensed business or on the licensed  
2 premises;

3 ~~28.~~ 29. "Low-point beer" shall mean any beverages containing  
4 more than one-half of one percent (1/2 of 1%) alcohol by volume, and  
5 not more than three and two-tenths percent (3.2%) alcohol by weight,  
6 including but not limited to, beer or cereal malt beverages obtained  
7 by the alcoholic fermentation of an infusion by barley or other  
8 grain, malt or similar products;

9 ~~29.~~ 30. "Manufacturer" means a brewer, distiller, winemaker,  
10 rectifier or bottler of any alcoholic beverage and its subsidiaries,  
11 affiliates and parent companies;

12 ~~30.~~ 31. "Manufacturer's agent" means a salaried or commissioned  
13 salesperson who is the agent authorized to act on behalf of the  
14 manufacturer or nonresident seller in the state;

15 ~~31.~~ 32. "Meals" means foods commonly ordered at lunch or dinner  
16 and at least part of which is cooked on the licensed premises and  
17 requires the use of dining implements for consumption. Provided,  
18 that the service of only food such as appetizers, sandwiches, salads  
19 or desserts shall not be considered "meals";

20 ~~32.~~ 33. "Mini-bar" means a closed container, either  
21 refrigerated in whole or in part, or nonrefrigerated, and access to  
22 the interior of which is:

23 a. restricted by means of a locking device which requires  
24 the use of a key, magnetic card or similar device, or



1           b.     controlled at all times by the licensee;

2       ~~33.~~ 34.   "Mixed beverage cooler" means any beverage, by whatever  
3 name designated, consisting of an alcoholic beverage and fruit or  
4 vegetable juice, fruit or vegetable flavorings, dairy products or  
5 carbonated water containing more than one-half of one percent (1/2  
6 of 1%) of alcohol measured by volume but not more than seven percent  
7 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is  
8 packaged in a container not larger than three hundred seventy-five  
9 (375) milliliters. Such term shall include but not be limited to  
10 the beverage popularly known as a "wine cooler";

11       ~~34.~~ 35.   "Mixed beverages" means one or more servings of a  
12 beverage composed in whole or part of an alcoholic beverage in a  
13 sealed or unsealed container of any legal size for consumption on  
14 the premises where served or sold by the holder of a mixed beverage,  
15 beer and wine, caterer, public event, charitable event or special  
16 event license;

17       ~~35.~~ 36.   "Motion picture theater" means an establishment which  
18 is licensed by Section 2-110 of this title to sell alcoholic  
19 beverages by the individual drink and where motion pictures are  
20 exhibited, and to which the general public is admitted;

21       ~~36.~~ 37.   "Nonresident seller" means any person licensed pursuant  
22 to Section 2-135 of this title;

1       ~~37.~~ 38. "Retail salesperson" means a salesperson soliciting  
2 orders from and calling upon retail alcoholic beverage stores with  
3 regard to his or her product;

4       ~~38.~~ 39. "Occupation" as used in connection with "occupation  
5 tax" means the sites occupied as the places of business of the  
6 manufacturers, wholesalers, beer distributors, retailers, mixed  
7 beverage licensees, on-premises beer and wine licensees, bottle  
8 clubs, caterers, public event and special event licensees;

9       ~~39.~~ 40. "Original package" means any container of alcoholic  
10 beverage filled and stamped or sealed by the manufacturer;

11       ~~40.~~ 41. "Package store" means any sole proprietor or  
12 partnership that qualifies to sell wine, beer and/or spirits for  
13 ~~off-premise~~ off-premises consumption and that is not a grocery  
14 store, convenience store or drug store, or other retail outlet that  
15 is not permitted to sell wine or beer for ~~off-premise~~ off-premises  
16 consumption;

17       ~~41.~~ 42. "Patron" means any person, customer or visitor who is  
18 not employed by a licensee or who is not a licensee;

19       ~~42.~~ 43. "Person" means an individual, any type of partnership,  
20 corporation, association, limited liability company or any  
21 individual involved in the legal structure of any such business  
22 entity;

23       ~~43.~~ 44. "Premises" means the grounds and all buildings and  
24 appurtenances pertaining to the grounds including any adjacent

premises if under the direct or indirect control of the licensee and the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license. Provided that the ABLE Commission shall have the authority to designate areas to be excluded from the licensed premises solely for the purpose of:

a. allowing the presence and consumption of alcoholic beverages by private parties which are closed to the general public, or

b. allowing the services of a caterer serving alcoholic beverages provided by a private party.

This exception shall in no way limit the licensee's concurrent responsibility for any violations of the Oklahoma Alcoholic Beverage Control Act occurring on the licensed premises;

~~44.~~ 45. "Private event" means a social gathering or event attended by invited guests who share a common cause, membership, business or task and have a prior established relationship. For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall not constitute a private event;

~~45.~~ 46. "Public event" means any event that can be attended by the general public;

~~46.~~ 47. "Rectifier" means any person who rectifies, purifies or refines spirits or wines by any process (other than by original and

1 continuous distillation, or original and continuous processing, from  
2 mash, wort, wash or other substance, through continuous closed  
3 vessels and pipes, until the production thereof is complete), and  
4 any person who, without rectifying, purifying or refining spirits,  
5 shall by mixing (except for immediate consumption on the premises  
6 where mixed) such spirits, wine or other liquor with any material,  
7 manufactures any spurious, imitation or compound liquors for sale,  
8 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials  
9 or any other name;

10 ~~47.~~ 48. "Regulation" or "rule" means a formal rule of general  
11 application promulgated by the ABLE Commission as herein required;

12 ~~48.~~ 49. "Restaurant" means an establishment that is licensed to  
13 sell alcoholic beverages by the individual drink for on-premises  
14 consumption and where food is prepared and sold for immediate  
15 consumption on the premises;

16 ~~49.~~ 50. "Retail container for spirits and wines" means an  
17 original package of any capacity approved by the United States  
18 Bureau of Alcohol, Tobacco and Firearms;

19 ~~50.~~ 51. "Retailer" means a package store, grocery store,  
20 convenience store or drug store licensed to sell alcoholic beverages  
21 for ~~off-premise~~ off-premises consumption pursuant to a Retail  
22 Spirits License, Retail Wine License or Retail Beer License;

23 ~~51.~~ 52. "Sale" means any transfer, exchange or barter in any  
24 manner or by any means whatsoever, and includes and means all sales

1 made by any person, whether as principal, proprietor or as an agent,  
2 servant or employee. The term "sale" is also declared to be and  
3 include the use or consumption in this state of any alcoholic  
4 beverage obtained within or imported from without this state, upon  
5 which the excise tax levied by the Oklahoma Alcoholic Beverage  
6 Control Act has not been paid or exempted;

7 ~~52.~~ 53. "Short-order food" means food other than full meals  
8 including but not limited to sandwiches, soups and salads. Provided  
9 that popcorn, chips and other similar snack food shall not be  
10 considered "short-order food";

11 ~~53.~~ 54. "Small brewer" means a brewer who manufactures less  
12 than twenty-five thousand (25,000) barrels of beer annually pursuant  
13 to a validly issued Small Brewer License hereunder;

14 ~~54.~~ 55. "Small farm wine" means a wine that is produced by a  
15 small farm winery with seventy-five percent (75%) or more Oklahoma-  
16 grown grapes, berries, other fruits, honey or vegetables;

17 ~~55.~~ 56. "Small farm winery" means a wine-making establishment  
18 that does not annually produce for sale more than fifteen thousand  
19 (15,000) gallons of wine as reported on the United States Department  
20 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of  
21 Wine Premises Operations (TTB Form 5120.17);

22 ~~56.~~ 57. "Sparkling wine" means champagne or any artificially  
23 carbonated wine;

1       ~~57.~~ 58. "Special event" means an entertainment, recreation or  
2 marketing event that occurs at a single location on an irregular  
3 basis and at which alcoholic beverages are sold;

4       ~~58.~~ 59. "Spirits" means any beverage other than wine or beer,  
5 which contains more than one-half of one percent (1/2 of 1%) alcohol  
6 measured by volume, and obtained by distillation, whether or not  
7 mixed with other substances in solution and includes those products  
8 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and  
9 fortified wines and similar compounds, but shall not include any  
10 alcohol liquid completely denatured in accordance with the Acts of  
11 Congress and regulations pursuant thereto;

12       ~~59.~~ 60. "Strong beer" means beer which, prior to ~~the effective~~  
13 ~~date of this act~~ October 1, 2018, was distributed pursuant to the  
14 Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of  
15 Title 37 of the Oklahoma Statutes;

16       ~~60.~~ 61. "Successor manufacturer" means a primary source of  
17 supply, a brewer, a cider manufacturer or an importer that acquires  
18 rights to a beer or cider brand from a predecessor manufacturer;

19       ~~61.~~ 62. "Tax Commission" means the Oklahoma Tax Commission;

20       ~~62.~~ 63. "Territory" means a geographic region with a specified  
21 boundary;

22       ~~63.~~ 64. "Wine and spirits wholesaler" or "wine and spirits  
23 distributor" means and includes any sole proprietorship or  
24 partnership licensed to distribute wine and spirits in the state.

1 The term "wholesaler", as used in this act, shall be construed to  
2 refer to a wine and spirits wholesaler; and

3 ~~64.~~ 65. "Wine" means and includes any beverage containing more  
4 than one-half of one percent (1/2 of 1%) alcohol by volume and not  
5 more than twenty-four percent (24%) alcohol by volume at sixty (60)  
6 degrees Fahrenheit obtained by the fermentation of the natural  
7 contents of fruits, vegetables, honey, milk or other products  
8 containing sugar, whether or not other ingredients are added, and  
9 includes vermouth and sake, known as Japanese rice wine.

10 Words in the plural include the singular, and vice versa, and  
11 words imparting the masculine gender include the feminine, as well  
12 as persons and licensees as defined in this section.

13 SECTION 2. AMENDATORY Section 21, Chapter 366, O.S.L.  
14 2016 (37A O.S. Supp. 2018, Section 2-109), is amended to read as  
15 follows:

16 Section 2-109. A. A retail spirits license shall authorize the  
17 holder thereof:

18 1. To purchase wine or spirits from a wine and spirits  
19 wholesaler;

20 2. To purchase beer from a beer distributor or from the holder  
21 of a small brewer self-distribution license; ~~and~~

22 3. To sell same on the licensed premises in such containers to  
23 consumers for off-premises consumption only and not for resale;  
24 provided, spirits, wine and beer may be sold to charitable

1 organizations that are holders of charitable alcoholic beverage  
2 auction or charitable alcoholic beverage event licenses;

3 4. To serve free samples of spirits, wine and beer to  
4 individuals twenty-one (21) years of age and older. The retail  
5 spirits licensee shall restrict the distribution and consumption of  
6 samples to an area within the licensed premises designated by the  
7 licensee. Samples served by a licensee under this paragraph shall  
8 not be considered sales of spirits, wine or beer within the meaning  
9 of Article XXVIII-A of the Oklahoma Constitution; provided, such  
10 samples shall be considered removed or withdrawn from the licensee's  
11 or licensee's supplier's inventory for use or consumption within the  
12 meaning of Section 5-110 of this title for excise tax determination  
13 and reporting requirements;

14 5. To serve samples of spirits, wine and beer at public events  
15 such as festivals and trade shows; and

16 6. To hold events for the purposes of promotion, education or  
17 entertainment on or off the licensed premises for which admission  
18 may be charged and at which spirits, wine or beer may be sold and  
19 consumed.

20 B. A retail wine license shall authorize the holder thereof:

21 1. To purchase wine from a wine and spirits wholesaler;

22 2. To purchase wine from a small farm winemaker who is  
23 permitted and has elected to self-distribute as provided in Article  
24 ~~XXVIII-A~~ XXVIII-A of the Oklahoma Constitution; and



1        3. To sell same on the licensed premises in such containers to  
2 consumers for off-premises consumption only and not for resale;  
3 provided, wine may be sold to charitable organizations that are  
4 holders of charitable alcoholic beverage auction or charitable  
5 alcoholic beverage event licenses.

6        Provided, no holder of a Retail Wine License may sell wine with  
7 alcohol beverage volume in excess of fifteen percent (15%).

8        C. A retail beer license shall authorize the holder thereof:

9        1. To purchase beer from a beer distributor;

10       2. To purchase beer from the holder of a small brewer self-  
11 distribution license; and

12       3. To sell same on the licensed premises in such containers to  
13 consumers for off-premises consumption only and not for resale;  
14 provided, beer may be sold to charitable organizations that are  
15 holders of charitable alcoholic beverage auction or charitable  
16 alcoholic beverage event licenses.

17       Provided, no holder of a Retail Beer License may sell a malt  
18 beverage with alcohol beverage volume in excess of eight and ninety-  
19 nine/one hundredths percent (8.99%).

20       D. Each spirit, wine or beer sample offered by a retail spirits  
21 licensee authorized to serve samples of spirits, wine and beer to  
22 consumers under this section shall be:

23       1. Served by the retail spirits licensee, an employee of the  
24 retail spirits licensee or a designee of the retail spirits licensee

1 who holds a license to sell, represent or offer alcohol in the State  
2 of Oklahoma;

3 2. Poured from its original container;

4 3. Offered only to consumers at least twenty-one (21) years of  
5 age;

6 4. Limited to no more than two (2) fluid ounces of spirits, six  
7 (6) fluid ounces of wine or twelve (12) fluid ounces of beer per  
8 consumer per day; and

9 5. Authorized for consumption either on or off the licensed  
10 premises of the retail spirits licensee.

11 E. Any retail spirits licensee that serves samples pursuant to  
12 subsection D of this section shall dispose of any alcoholic beverage  
13 remaining in an unsealed bottle used for sampling at the end of the  
14 business day that bottle was opened.

15 SECTION 3. AMENDATORY Section 22, Chapter 366, O.S.L.  
16 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S.  
17 Supp. 2018, Section 2-110), is amended to read as follows:

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

20 1. To purchase alcohol, spirits, beer and/or wine in retail  
21 containers from the holder of a wine and spirits wholesaler and beer  
22 distributor license as specifically provided by law; ~~and~~

23 2. To sell, offer for sale and possess mixed beverages for on-  
24 premises consumption only; provided, the holder of a mixed beverage

1 license issued for an establishment which is also a restaurant may  
2 purchase wine directly from a winemaker and beer directly from a  
3 small brewer who is permitted and has elected to self-distribute as  
4 provided in Article ~~XXVIII~~A XXVIII-A of the Oklahoma Constitution-;

5 3. To sell spirits in their original packages for consumption  
6 on the premises of the mixed beverage licensee under the following  
7 conditions:

8 a. spirits in their original packages shall remain and be  
9 consumed on the premises of a mixed beverage licensee  
10 and shall not be removed from the premises if not  
11 consumed in their entirety,

12 b. spirits in their original packages to be consumed on  
13 the premises of the mixed beverage licensee are  
14 provided exclusively by the mixed beverage licensee,  
15 and

16 c. each individual, original package of spirits shall  
17 contain no greater than seven hundred fifty (750)  
18 milliliters and no more than nineteen percent (19%)  
19 alcohol by volume;

20 4. To sell wine and beer in their original packages, provided  
21 each bottle or can shall contain no more than seven hundred fifty  
22 (750) milliliters of wine or beer and no more than nineteen percent  
23 (19%) alcohol by volume; and  
24

1       5. To serve free samples of spirits, wine and beer to  
2 individuals twenty-one (21) years of age and older. The retail  
3 spirits licensee shall restrict the distribution and consumption of  
4 samples to an area within the licensed premises designated by the  
5 licensee. Samples served by the licensee under this paragraph shall  
6 not be considered sales of spirits, wine or beer within the meaning  
7 of Article XXVIII-A of the Oklahoma Constitution; provided, such  
8 samples shall be considered removed or withdrawn from the licensee's  
9 or licensee's supplier's inventory for use or consumption within the  
10 meaning of Section 5-110 of this title for excise tax determination  
11 and reporting requirements.

12       B. Each spirit, wine or beer sample offered by a retail spirits  
13 licensee authorized to serve samples of spirits, wine and beer to  
14 consumers under this section shall be:

15       1. Served by the retail spirits licensee, an employee of the  
16 retail spirits licensee or a designee of the retail spirits licensee  
17 who holds a license to sell, represent or offer alcohol in the State  
18 of Oklahoma;

19       2. Poured from its original container;

20       3. Offered only to consumers at least twenty-one (21) years of  
21 age;

22       4. Limited to no more than two (2) fluid ounces of spirits, six  
23 (6) fluid ounces of wine or twelve (12) fluid ounces of beer per  
24 consumer per day; and

1       5. Authorized for consumption either on or off the licensed  
2 premises of the mixed beverage licensee.

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

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

20       SECTION 4.       AMENDATORY       Section 60, Chapter 366, O.S.L.  
21 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S.  
22 Supp. 2018, Section 2-148), is amended to read as follows:

23       Section 2-148. A. Any license issued pursuant to the  
24 provisions of the Oklahoma Alcoholic Beverage Control Act by the

1 ABLE Commission, after due notice and hearing, may be revoked or  
2 suspended if the ABLE Commission finds or has grounds to believe  
3 that the licensee has:

4 1. Violated any rule promulgated by the ABLE Commission;

5 2. Procured a license through fraud, or misrepresentation, or  
6 concealment of a material fact;

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

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

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

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

20 7. Had any permit or license issued by the Tax Commission and  
21 required by the Oklahoma Alcoholic Beverage Control Act, suspended  
22 or revoked by the Tax Commission; or

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

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

4 1. Has acted as an agent of a manufacturer or wholesaler of  
5 alcoholic beverages;

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

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

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

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

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

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

20 C. The ABLE Commission may revoke or suspend the license of any  
21 retail, mixed beverage, caterer or bottle club licensee if the ABLE  
22 Commission finds or has grounds to believe that such licensee has  
23 borrowed money or property or accepted gratuities, discounts,  
24

1 rebates, free goods, allowances or other inducements from a wine and  
2 spirits wholesaler or beer distributor.

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

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

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

20 3. That, in the case of a wine and spirits wholesaler, beer  
21 distributor, retail spirits, retail wine or retail beer licensee,  
22 the holder of the license or any member of a general or limited  
23 partnership which is the holder of such a license, has been  
24



1 convicted of a prohibitory law relating to the sale, manufacture or  
2 transportation of alcoholic beverages which constitutes a felony.

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

9 F. The ABLE Commission shall have the authority to promulgate  
10 rules to establish a penalty schedule for violations of any  
11 provision of the Oklahoma Alcoholic Beverage Control Act or any rule  
12 of the ABLE Commission. The schedule shall provide for suspension  
13 or revocation of any license for major and minor violations as  
14 determined by the ABLE Commission. Penalties shall be increasingly  
15 severe with each violation by a licensee.

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

21 G. The ABLE Commission or the Tax Commission may impose a  
22 monetary penalty in lieu of or in addition to suspension of a  
23 license. The amount of the fine for a major violation shall be  
24 computed by multiplying the proposed number of days of the

1 suspension period by One Hundred Dollars (\$100.00). The amount of  
2 the fine for a minor violation shall be computed by multiplying the  
3 number of days of the proposed suspension period by Fifty Dollars  
4 (\$50.00).

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

8 I. If the ABLE Commission or the Tax Commission finds that  
9 public health, safety or welfare require emergency action, and  
10 incorporates a finding to that effect in its order, summary  
11 suspension of a license may be ordered pending proceeding for  
12 revocation or other action, pursuant to the provisions of Section  
13 314 of Title 75 of the Oklahoma Statutes.

14 SECTION 5. AMENDATORY Section 66, Chapter 366, O.S.L.  
15 2016 (37A O.S. Supp. 2018, Section 2-154), is amended to read as  
16 follows:

17 Section 2-154. All licenses issued pursuant to the provisions  
18 of the Oklahoma Alcoholic Beverage Control Act shall be ~~displayed in~~  
19 ~~a conspicuous place~~ easily accessible and available upon demand at  
20 all times on the licensed premises. No licensee may consent to or  
21 allow the use or display of the license by a person other than the  
22 person to whom the license was issued. No person may use a license  
23 or exercise any privileges granted by the license except at the  
24 place, address, premises or location for which the license is

1 issued, except as otherwise provided by the Oklahoma Alcoholic  
2 Beverage Control Act.

3 If the mixed beverage, caterer, public event or bottle club  
4 license for a licensed premises is suspended or revoked by the ABLE  
5 Commission, all other licenses issued by the ABLE Commission for  
6 such premises shall cease to be valid. If a mixed beverage,  
7 caterer, public event or bottle club license is suspended or revoked  
8 for any licensed premises, this shall not invalidate licenses held  
9 by the licensee for other licensed premises.

10 SECTION 6. AMENDATORY Section 68, Chapter 366, O.S.L.  
11 2016, as amended by Section 1, Chapter 76, O.S.L. 2017 (37A O.S.  
12 Supp. 2018, Section 2-156), is amended to read as follows:

13 Section 2-156. A. No retail spirits license shall be issued to  
14 a corporation, limited liability company or similar business entity.  
15 No person may own any interest in more than two package stores;  
16 provided, a spouse of a retail spirits license holder may hold a  
17 separate interest in up to two (2) package stores. For the purpose  
18 only of establishing whether or not a person owns an interest in  
19 more than one package store, any person having a beneficial interest  
20 in any package store shall be deemed to be a partner in the package  
21 store except that the spouse of any retail spirits license holder or  
22 partner shall not be deemed to be a partner or have a beneficial  
23 interest in a package store unless his or her name appears on the  
24

1 license. A beneficial interest shall be any interest that benefits  
2 from any sales or profits of the package store.

3 ~~B. For purposes of this section, any spouse of a retail spirits~~  
4 ~~license holder shall not hold another license provided for pursuant~~  
5 ~~to the Oklahoma Alcoholic Beverage Control Act, except a retail wine~~  
6 ~~license, retail beer license, on-premises beer and wine license,~~  
7 ~~mixed beverage license, a caterer's license or a retail spirits~~  
8 ~~license.~~

9 ~~C.~~ Package stores licensed under the Oklahoma Alcoholic  
10 Beverage Control Act may sell only alcoholic beverages in retail  
11 containers as defined in Section 1-103 of this title, in the  
12 original package for consumption off the premises. All retail sales  
13 shall be made on the licensed premises and all deliveries off the  
14 premises, at retail, of intoxicating liquor or beer are hereby  
15 prohibited. Provided, a holder of a Retail Spirits License shall be  
16 permitted to sell at retail any item that may be purchased at a  
17 grocery store or convenience store, as defined by law, except for  
18 motor fuel, so long as the sale of items other than alcoholic  
19 beverages do not comprise more than twenty percent (20%) of the  
20 holder's monthly sales.

21 SECTION 7. AMENDATORY Section 76, Chapter 366, O.S.L.  
22 2016, as last amended by Section 3, Chapter 113, O.S.L. 2018 (37A  
23 O.S. Supp. 2018, Section 3-106), is amended to read as follows:  
24

1       Section 3-106. A. A Direct Wine Shipper's Permit may be issued  
2 by the Oklahoma ABLE Commission to a winery licensed in this or any  
3 other state within the United States as a wine producer. A Direct  
4 Wine Shipper's Permit allows a winery to ship up to six nine-liter  
5 cases of wine annually directly to an Oklahoma resident who is  
6 twenty-one (21) years of age or older for such resident's personal  
7 use and not for resale. No resident shall be permitted to purchase  
8 more than thirty nine-liter cases of wine per year under the  
9 provisions of this section.

10       B. The ABLE Commission shall promulgate rules governing the  
11 application, issuance and renewal of Direct Wine Shipper's Permits,  
12 which shall include but not be limited to:

13       1. Proof of current licensure in this or any other state as a  
14 wine producer;

15       2. Payment of a registration fee of Three Hundred Dollars  
16 (\$300.00) for original permits and One Hundred Fifty Dollars  
17 (\$150.00) for renewal permits; and

18       3. Any other documentation that the ABLE Commission believes is  
19 reasonably necessary to verify the identity and physical location of  
20 the winery.

21       C. With regard to direct wine shipments permitted by this  
22 section, Direct Wine Shipper permit holders:

23       1. Shall not ship more than six nine-liter cases of wine  
24 annually to any person for his or her personal use;

2. Shall not ship wine intended for resale;

3. Shall ensure that all packages containing wine shipped directly to a resident in this state are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or are conspicuously labeled with alternative wording preapproved by the ABLE Commission;

4. Shall require the transporter or common carrier that delivers the wine to obtain the signature of a person twenty-one (21) years of age or older at the delivery address at the time of delivery. At the expense of the Direct Wine Shipper, the Direct Wine Shipper shall receive a delivery confirmation from the express company, common carrier or contract carrier indicating the location of delivery and the name and signature of the individual who accepted the delivery. The ABLE Commission shall design and create a label or approve a label that must be affixed to the shipping container by the licensee;

5. Shall report to the ABLE Commission annually, by a method prescribed by the ABLE Commission, the total amount of wine shipped into the state the preceding calendar year;

6. Shall annually pay to the Oklahoma Tax Commission all applicable taxes due on sales authorized by this section to Oklahoma residents in the preceding calendar year. The amount of such taxes shall be calculated as if the sale were in Oklahoma at the location where delivery is made. Upon request, permit holders shall permit

1 the Tax Commission to perform an audit of the permit holder's  
2 records in order to assure compliance;

3 7. Shall be deemed to have consented to the jurisdiction of any  
4 agency or court of the State of Oklahoma tasked with the enforcement  
5 of or adjudication of controversies related to this section and any  
6 related laws or rules; and

7 8. Shall require the consumer to verify, by electronic means or  
8 otherwise, that the consumer is at least twenty-one (21) years of  
9 age.

10 D. Every express company, common carrier, contract carrier and  
11 every firm or corporation that shall bring, carry or transport wine  
12 for delivery to any person in the state, except wine or spirit  
13 wholesalers or beer distributors, shall prepare and file quarterly  
14 with the ABLE Commission a report, which shall not be subject to the  
15 Oklahoma Open Records Act, of known wine shipments containing:

16 1. The name of the company, carrier, person, firm or  
17 corporation making the report;

18 2. The period of time covered by the report;

19 3. The name and business address of the consignor shipping the  
20 wine;

21 4. The weight of the packages shipped;

22 5. The unique tracking number of the delivery; and

23 6. The date of delivery.  
24

1 E. The provisions of this section do not apply to a motor  
2 carrier or freight forwarder as defined in Section 13102 of Title 49  
3 of the United States Code or to an air carrier as defined in Section  
4 40102 of Title 49 of the United States Code.

5 F. The holder of a Direct Wine Shipper's Permit may ship wine,  
6 as authorized by this section, from any of its licensed premises in  
7 its state of residence or from a fulfillment warehouse with which it  
8 has contracted. For the purposes of this section, a "fulfillment  
9 warehouse" means a business operating a warehouse and providing  
10 storage, packaging and shipping services to wineries. The holder of  
11 a Direct Wine Shipper's Permit shall list on its application the  
12 addresses of each of its licensed premises or fulfillment houses in  
13 the state of its licensure.

14 SECTION 8. AMENDATORY Section 141, Chapter 366, O.S.L.  
15 2016, as amended by Section 5, Chapter 113, O.S.L. 2018 (37A O.S.  
16 Supp. 2018, Section 6-101), is amended to read as follows:

17 Section 6-101. A. No person shall:

18 1. Knowingly sell, deliver or furnish alcoholic beverages to  
19 any person under twenty-one (21) years of age;

20 2. Sell, deliver or knowingly furnish alcoholic beverages to an  
21 intoxicated person or to any person who has been adjudged insane or  
22 mentally deficient;



1        3. Open a retail container or consume alcoholic beverages on  
2 the premises of a package store, grocery store, convenience store or  
3 drug store, unless otherwise permitted by law;

4        4. Import into this state, except as provided for in the  
5 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;  
6 provided, that nothing herein shall prohibit the importation or  
7 possession for personal use of not more than one (1) liter of  
8 alcoholic beverages upon which the Oklahoma excise tax is  
9 delinquent;

10       5. Receive, possess or use any alcoholic beverage in violation  
11 of the provisions of the Oklahoma Alcoholic Beverage Control Act;

12       6. Knowingly transport into, within or through this state more  
13 than one (1) liter of alcoholic beverages upon which the Oklahoma  
14 excise tax has not been paid unless the person accompanying or in  
15 charge of the vehicle transporting same shall possess a true copy of  
16 a bill of lading, invoice, manifest or other document particularly  
17 identifying that alcoholic beverages are being transported and  
18 showing the name and address of the consignor and consignee;  
19 provided, this prohibition shall not apply to the first one hundred  
20 eighty (180) liters of alcoholic beverages classified as household  
21 goods by military personnel, age twenty-one (21) or older, when  
22 entering Oklahoma from temporary active assignment outside the  
23 contiguous United States;

1        7. Knowingly transport in any vehicle upon a public highway,  
2 street or alley any alcoholic beverage except in the original  
3 container which shall not have been opened and the seal upon which  
4 shall not have been broken and from which the original cap or cork  
5 shall not have been removed, unless the opened container be in the  
6 rear trunk or rear compartment, which shall include the spare tire  
7 compartment in a vehicle commonly known as a station wagon and panel  
8 truck, or any outside compartment which is not accessible to the  
9 driver or any other person in the vehicle while it is in motion;

10       8. ~~Consume spirits in public except on the premises of a~~  
11 ~~licensee of the ABLE Commission who is authorized to sell or serve~~  
12 ~~spirits by the individual drink, or be~~ Be intoxicated in a public  
13 place. This provision shall be cumulative and in addition to  
14 existing law;

15       9. Forcibly resist lawful arrest, or by physical contact  
16 interfere with an investigation of any infringement of the Oklahoma  
17 Alcoholic Beverage Control Act or with any lawful search or seizure  
18 being made by a law enforcement officer or an employee of the ABLE  
19 Commission, when such person knows or should know that such acts are  
20 being performed by a state, county or municipal officer or employee  
21 of the ABLE Commission;

22       10. Manufacture, duplicate, counterfeit or in any way imitate  
23 any bottle club membership card required to be issued by the ABLE  
24 Commission without the permission of the ABLE Commission;

1        11. Consume or possess alcoholic beverages on the licensed  
2 premises of a bottle club unless such person possesses a valid  
3 membership card for that club issued by the club;

4        12. Knowingly possess any bottle club membership card required  
5 to be issued by the ABLE Commission which has been manufactured,  
6 counterfeited, imitated or in any way duplicated without the  
7 permission of the ABLE Commission; or

8        13. Knowingly and willfully permit any individual under twenty-  
9 one (21) years of age who is an invitee to the person's residence,  
10 any building, structure or room owned, occupied, leased or otherwise  
11 procured by the person or on any land owned, occupied, leased or  
12 otherwise procured by the person, to possess or consume any  
13 alcoholic beverage as defined by Section 1-103 of this title, any  
14 controlled dangerous substance as defined in the Uniform Controlled  
15 Dangerous Substances Act, or any combination thereof, in such place.

16        B. Except as provided for in subsection C of this section,  
17 punishment for violation of paragraph 13 of subsection A of this  
18 section shall be as follows:

19        1. Any person who is convicted of a violation of the provisions  
20 of paragraph 13 of subsection A of this section shall be deemed  
21 guilty of a misdemeanor for the first offense and be punished by a  
22 fine of not more than Five Hundred Dollars (\$500.00);

23        2. Any person who, within ten (10) years after previous  
24 convictions of a violation:

- 1           a.    of paragraph 13 of subsection A of this section,  
2           b.    of the provisions of any law of another state  
3                prohibiting the offense provided for in paragraph 13  
4                of subsection A of this section, or  
5           c.    in a municipal criminal court of record for the  
6                violation of a municipal ordinance prohibiting the  
7                offense provided for in paragraph 13 of subsection A  
8                of this section,

9 shall be guilty of a misdemeanor and shall be punished by a fine of  
10 not more than One Thousand Dollars (\$1,000.00);

11        3. Any person who, within ten (10) years after two or more  
12 previous convictions of a violation:

- 13           a.    of paragraph 13 of subsection A of this section,  
14           b.    of the provisions of any law of another state  
15                prohibiting the offense provided for in paragraph 13  
16                of subsection A of this section, ~~or~~  
17           c.    in a municipal criminal court of record for the  
18                violation of a municipal ordinance prohibiting the  
19                offense provided for in paragraph 13 of subsection A  
20                of this section, or  
21           d.    ~~or~~ any combination of two or more thereof,

22 shall be guilty of a felony and shall be punished by a fine of not  
23 more than Two Thousand Five Hundred Dollars (\$2,500.00), or by  
24

1 imprisonment in the custody of the Department of Corrections for not  
2 more than five (5) years, or by both such fine and imprisonment.

3 C. Any person who violates paragraph 13 of subsection A of this  
4 section, and such actions cause great bodily injury or the death of  
5 a person, shall, in addition to any other penalty provided by law,  
6 be guilty of a felony, punishable by imprisonment in the custody of  
7 the Department of Corrections for not more than five (5) years, a  
8 fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00)  
9 nor more than Five Thousand Dollars (\$5,000.00), or both such fine  
10 and imprisonment.

11 D. Except as provided in subsection C of Section 6-126 of this  
12 title, any person who shall engage in any of the following and  
13 disturb the peace of any person:

14 1. In any public place, or in or upon any passenger coach,  
15 streetcar, or in or upon any other vehicle commonly used for the  
16 transportation of passengers, or in or about any depot, platform,  
17 waiting station or room, drink or otherwise consume any intoxicating  
18 liquor unless authorized by the Oklahoma Alcoholic Beverage Control  
19 Act, intoxicating substance or intoxicating compound of any kind, or  
20 inhale glue, paint or other intoxicating substance;

21 2. Be drunk or intoxicated in any public or private road, or in  
22 any passenger coach, streetcar or any public place or building, or  
23 at any public gathering, from drinking or consuming such  
24 intoxicating liquor, intoxicating substance or intoxicating compound

1 or from inhalation of glue, paint or other intoxicating substance;  
2 or

3 3. Be drunk or intoxicated from any cause,  
4 shall be guilty of a misdemeanor, and upon conviction thereof shall  
5 be punished by a fine of not less than Ten Dollars (\$10.00), nor  
6 more than One Hundred Dollars (\$100.00) or by imprisonment for not  
7 less than five (5) days nor more than thirty (30) days or by both  
8 such fine and imprisonment.

9 SECTION 9. AMENDATORY Section 142, Chapter 366, O.S.L.  
10 2016 (37A O.S. Supp. 2018, Section 6-102), is amended to read as  
11 follows:

12 Section 6-102. No licensee of the ABLE Commission shall:

13 1. Receive, possess or sell any alcoholic beverage except as  
14 authorized by the Oklahoma Alcoholic Beverage Control Act and by the  
15 license or permit which the licensee holds;

16 2. Employ any person under eighteen (18) years of age in the  
17 selling of beer or wine or employ any person under twenty-one (21)  
18 years of age in the selling of spirits. Provided:

19 a. a mixed beverage, beer and wine, caterer, public  
20 event, special event, bottle club, retail wine or  
21 retail beer licensee may employ servers or sales  
22 clerks who are at least eighteen (18) years of age,  
23 except persons under twenty-one (21) years of age may  
24 not serve in designated bar or lounge areas, and

1           b.    a mixed beverage, beer and wine, caterer, public  
2                event, special event or bottle club licensee may  
3                employ or hire musical bands who have musicians who  
4                are under eighteen (18) years of age if each such  
5                musician is either accompanied by a parent or legal  
6                guardian or has on their person, to be made available  
7                for inspection upon demand by any employee of the ABLE  
8                Commission or law enforcement officer, a written,  
9                notarized affidavit from the parent or legal guardian  
10              giving the underage musician permission to perform in  
11              designated bar or lounge areas;

12           3.   Give any alcoholic beverage as a prize, premium or  
13                consideration for any lottery, game of chance or skill or any type  
14                of competition;

15           4.   Use any of the following means or inducements to stimulate  
16                the consumption of alcoholic beverages, including but not limited  
17                to:

18           a.   ~~deliver more than two drinks to one person at one~~  
19                ~~time,~~

20           ~~b.~~   sell or offer to sell to any person or group of  
21                persons any drinks at a price that is less than six  
22                percent (6%) below the markup of the cost to the mixed  
23                beverage licensee; provided, a mixed beverage licensee  
24                shall be permitted to offer these drink specials on

1 any particular hour of any particular day and shall  
2 not be required to offer these drink specials for an  
3 entire calendar week or from open to close,

4 ~~e.~~ b. sell or offer to sell to any person an unlimited  
5 number of drinks during any set period of time for a  
6 fixed price, except at private functions not open to  
7 the public,

8 ~~d.~~ ~~sell or offer to sell drinks to any person or group of~~  
9 ~~persons on any one day or portion thereof at prices~~  
10 ~~less than those charged the general public on that~~  
11 ~~day, except at private functions not open to the~~  
12 ~~public,~~

13 ~~e.~~ c. increase the volume of alcoholic beverages contained  
14 in a drink without increasing proportionately the  
15 price regularly charged for such drink during the same  
16 calendar week, or

17 ~~f.~~ d. encourage or permit, on the licensed premises, any  
18 game or contest which involves drinking or the  
19 awarding of drinks as prizes.

20 Provided, that the provisions of this paragraph shall not  
21 prohibit the advertising ~~or~~, offering of food or entertainment or  
22 bottle service in licensed establishments; further provided that the  
23 provisions of this paragraph shall not prohibit the offer of food  
24 and an alcoholic beverage as a single item, regardless of whether



1 the sum of the prices of the individual items, if separately  
2 offered, is more than the single-item offering of food and alcoholic  
3 beverage;

4 5. Permit or allow any patron or person to exit the licensed  
5 premises with an open container of any alcoholic beverage.

6 Provided, this prohibition shall not be applicable to closed  
7 original containers of alcoholic beverages which are carried from  
8 the licensed premises of a bottle club by a patron, closed original  
9 wine containers removed from the premises of restaurants, hotels and  
10 motels, or to closed original containers of alcoholic beverages  
11 transported to and from the place of business of a licensed caterer  
12 by the caterer or an employee of the caterer;

13 6. Serve or sell alcoholic beverages with an expired license  
14 issued by the ABLE Commission; or

15 7. Permit any person to be drunk or intoxicated on the  
16 licensee's licensed premises.

17 SECTION 10. AMENDATORY Section 143, Chapter 366, O.S.L.  
18 2016, as last amended by Section 2, Chapter 340, O.S.L. 2017 (37A  
19 O.S. Supp. 2018, Section 6-103), is amended to read as follows:

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

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

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

4        3. Sell any alcoholic beverages at any hour other than between  
5 the hours of 8:00 a.m. and midnight Monday through Saturday, and  
6 shall not be permitted to be open on Thanksgiving Day or Christmas  
7 Day; provided, a county may, pursuant to the provisions of  
8 subsections B and C of Section 3-124 of this title, elect to allow  
9 such sales between the hours of noon and midnight on Sunday. Retail  
10 spirits licensees shall be permitted to sell alcoholic beverages on  
11 the day of any General, Primary, Runoff Primary or Special Election  
12 whether on a national, state, county or city election, provided that  
13 the election day does not occur on any day on which such sales are  
14 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~~; provided that:

15 a. goods or merchandise included by the manufacturer in  
16 packaging with alcoholic beverages or for packaging  
17 with alcoholic beverages shall not be included in this  
18 prohibition, ~~but~~; however, no wholesaler or retailer  
19 shall sell any alcoholic beverage prepackaged with  
20 other goods or merchandise at a price which is greater  
21 than the price at which the alcoholic beverage alone  
22 is sold, and

1           b. the offering of a discounted price for purchase of a  
2           certain quantity of product shall not be considered an  
3           inducement for purposes of this paragraph; or

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

9           B. No retail spirits licensee shall permit any person under  
10 twenty-one (21) years of age to enter into or remain within or about  
11 the licensed premises unless the person is under twelve (12) years  
12 of age and is accompanied by an adult who holds direct supervisory  
13 responsibility over said minor.

14           SECTION 11.       REPEALER       Section 144, Chapter 366, O.S.L.  
15 2016, as amended by Section 24, Chapter 364, O.S.L. 2017 (37A O.S.  
16 Supp. 2018, Section 6-104), is hereby repealed.

17           SECTION 12. This act shall become effective November 1, 2019.

18 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
19 April 11, 2019 - DO PASS AS AMENDED  
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