

1 **SENATE FLOOR VERSION**

2 February 28, 2019

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 660

By: Pugh

6  
7 An Act relating to alcoholic beverages; amending  
8 Section 21, Chapter 366, O.S.L. 2016, and Section  
9 143, Chapter 366, O.S.L. 2016, as last amended by  
10 Section 2, Chapter 340, O.S.L. 2017 (37A O.S. Supp.  
11 2018, Sections 2-109 and 6-103), which relate to  
12 retail licenses and prohibited acts for retail  
13 licensees; authorizing samples of beer, wine and  
14 spirits in retail spirit licensee premises; stating  
15 authority and procedure for offering certain samples;  
16 limiting size of sample; limiting number of unsealed  
17 bottles; requiring records be kept for certain period  
18 of time; making records available for inspection;  
19 requiring sample be served by licensed persons;  
20 providing certain exception to prohibition for  
21 unsealed bottles; and providing an effective date.

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

23 SECTION 1. AMENDATORY Section 21, Chapter 366, O.S.L.  
24 2016 (37A O.S. Supp. 2018, Section 2-109), is amended to read as  
follows:

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

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

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

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

8        4. To serve samples of beer, wine and spirits to consumers on  
9 its licensed premises consistent with subsections D and E of this  
10 section.

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

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

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

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

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

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

24        1. To purchase beer from a beer distributor;

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

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

8        Provided, no holder of a ~~Retail Beer License~~ retail beer license  
9 may sell a malt beverage with alcohol beverage volume in excess of  
10 eight and ninety-nine/one hundredths percent (8.99%).

11        D. A retail spirits licensee authorized to serve samples of  
12 beer, wine and spirits to consumers under this section shall ensure  
13 that all samples are:

14        1. Served by the retail spirits licensee or an employee of the  
15 retail spirits licensee;

16        2. Poured from its original sealed container purchased by the  
17 retail spirits licensee from a licensed wine and spirits wholesaler  
18 or beer distributor authorized to sell the same, and the retail  
19 spirits licensee shall pay the applicable sales tax on the alcoholic  
20 beverages purchased;

21        3. Offered only to consumers at least twenty-one (21) years of  
22 age and without charge;

1       4. Limited to no more than one (1) fluid ounce of spirits, two  
2       (2) fluid ounces of wine, or three (3) fluid ounces of beer per  
3       consumer per day; and

4       5. Consumed on the licensed premises of the retail spirits  
5       licensee and not permitted to be removed from the licensed premises.

6       E. Any retail spirits licensee that serves samples pursuant to  
7       subsection D of this section shall:

8       1. Have no more than six unsealed bottles of alcoholic  
9       beverages available for sample on any given date;

10       2. Pour out any alcoholic beverage remaining in an unsealed  
11       bottle used for sampling at the end of the business day; and

12       3. Maintain a written record of every alcoholic beverage  
13       sampled on a form prescribed by the ABLE Commission. This record  
14       shall include the brand name and bottle size of the alcoholic  
15       beverage sampled, the date and time in which sample was served, and  
16       the name of the ABLE licensee(s) that served the samples. This  
17       record shall be maintained by the retail spirits licensee for at  
18       least one (1) year following the sampling date and shall be made  
19       available to the ABLE Commission upon request.

20       SECTION 2.       AMENDATORY       Section 143, Chapter 366, O.S.L.  
21       2016, as last amended by Section 2, Chapter 340, O.S.L. 2017 (37A  
22       O.S. Supp. 2018, Section 6-103), is amended to read as follows:

23       Section 6-103. A. No retail spirits licensee shall:  
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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 except when serving samples as authorized by Section 2-109 of this  
7 title or otherwise permitted by law, provided, the licensee shall  
8 not permit any alcoholic beverage content or retail container  
9 unsealed in connection with sampling authorized by Section 2-109 of  
10 this title to remain on the licensed premises at the close of  
11 business on that day;

12        3. Sell any alcoholic beverages at any hour other than between  
13 the hours of 8:00 a.m. and midnight Monday through Saturday, and  
14 shall not be permitted to be open on Thanksgiving Day or Christmas  
15 Day; provided, a county may, pursuant to the provisions of  
16 subsections B and C of Section 3-124 of this title, elect to allow  
17 such sales between the hours of noon and midnight on Sunday. Retail  
18 spirits licensees shall be permitted to sell alcoholic beverages on  
19 the day of any General, Primary, Runoff Primary or Special Election  
20 whether on a national, state, county or city election, provided that  
21 the election day does not occur on any day on which such sales are  
22 otherwise prohibited by law;

1       4. Sell spirits in a city or town, unless such city or town has  
2 a population in excess of two hundred (200) according to the latest  
3 Federal Decennial Census;

4       5. Sell any alcoholic beverage on credit; provided, that  
5 acceptance by a licensee of a cash or debit card or a nationally  
6 recognized credit card in lieu of actual cash payment does not  
7 constitute the extension of credit; provided, further, as used in  
8 this section:

9           a. "cash or debit card" means any instrument or device  
10           whether known as a debit card or by any other name,  
11           issued with or without fee by an issuer for the use of  
12           the cardholder in depositing, obtaining or  
13           transferring funds from a consumer banking electronic  
14           facility, and

15          b. "nationally recognized credit card" means any  
16           instrument or device, whether known as a credit card,  
17           credit plate, charge plate or by any other name,  
18           issued with or without fee by an issuer for the use of  
19           the cardholder in obtaining money, goods, services or  
20           anything else of value on credit which is accepted by  
21           over one hundred retail locations;

22       6. Offer or furnish any prize, premium, gift or similar  
23 inducement to a consumer in connection with the sale of alcoholic  
24 beverages, except that goods or merchandise included by the

1 manufacturer in packaging with alcoholic beverages or for packaging  
2 with alcoholic beverages shall not be included in this prohibition,  
3 but no wholesaler or retailer shall sell any alcoholic beverage  
4 prepackaged with other goods or merchandise at a price which is  
5 greater than the price at which the alcoholic beverage alone is  
6 sold; or

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

12 B. No retail spirits licensee shall permit any person under  
13 twenty-one (21) years of age to enter into or remain within or about  
14 the licensed premises.

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

16 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
17 February 28, 2019 - DO PASS AS AMENDED  
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