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February 28, 2019

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 728

By: Leewright

An Act relating to alcoholic beverages; amending Section 22, Chapter 366, O.S.L. 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 and Section 40, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 366, O.S.L. 2017 (37A O.S. Supp. 2018, Sections 2-110 and 2-128), which relate to mixed beverage licenses and on-premises beer and wine license; allowing certain licensees to purchase from self-distributors; allowing certain licensee to sell beer and wine for off-premises consumption; stating qualifications for golf course, country club and marina; providing for taxes; directing the ABLE Commission to promulgate rules; securing special off-premises permit; and declaring an emergency.

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:

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

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

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

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

3 3. 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-; and

11 4. 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 2. AMENDATORY Section 40, Chapter 366, O.S.L.  
21 2016, as amended by Section 1, Chapter 366, O.S.L. 2017 (37A O.S.  
22 Supp. 2018, Section 2-128), is amended to read as follows:

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

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

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

1 The ABLE Commission shall promulgate rules for the implementation of  
2 a special off-premises permit consistent with this subsection. The  
3 on-premises beer and wine licensee shall secure the special off-  
4 premises permit prior to selling beer and wine for off-premises  
5 consumption.

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

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

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