

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2405

By: Kannady

6 AS INTRODUCED

7 An Act relating to alcoholic beverages; amending  
8 Section 60, Chapter 366, O.S.L. 2016, as amended by  
9 Section 1, Chapter 213, O.S.L. 2018 (37A O.S. Supp.  
10 2018, Section 2-148), which relates to revocation and  
11 suspension of licenses; allowing discretion in  
12 license revocation; and providing an effective date.

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

14 SECTION 1. AMENDATORY Section 60, Chapter 366, O.S.L.  
15 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S.  
16 Supp. 2018, Section 2-148), is amended to read as follows:

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

- 22 1. Violated any rule promulgated by the ABLE Commission;  
23 2. Procured a license through fraud, or misrepresentation, or  
24 concealment of a material fact;

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

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

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

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

14       7. Had any permit or license issued by the Tax Commission and  
15 required by the Oklahoma Alcoholic Beverage Control Act, suspended  
16 or revoked by the Tax Commission; or

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

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

22       1. Has acted as an agent of a manufacturer or wholesaler of  
23 alcoholic beverages;

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

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

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

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

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

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

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

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

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

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

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

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

3 F. The ABLE Commission shall have the authority to promulgate  
4 rules to establish a penalty schedule for violations of any  
5 provision of the Oklahoma Alcoholic Beverage Control Act or any rule  
6 of the ABLE Commission. The schedule shall provide for suspension  
7 or revocation of any license for major and minor violations as  
8 determined by the ABLE Commission. Penalties shall be increasingly  
9 severe with each violation by a licensee.

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

15 G. The ABLE Commission or the Tax Commission may impose a  
16 monetary penalty in lieu of or in addition to suspension of a  
17 license. The amount of the fine for a major violation shall be  
18 computed by multiplying the proposed number of days of the  
19 suspension period by One Hundred Dollars (\$100.00). The amount of  
20 the fine for a minor violation shall be computed by multiplying the  
21 number of days of the proposed suspension period by Fifty Dollars  
22 (\$50.00).

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

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

10 SECTION 2. This act shall become effective November 1, 2019.

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12 57-1-5193 MB 01/08/19  
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