

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1659

By: Ikley-Freeman

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5  
6 AS INTRODUCED

7 An Act relating to spirit distillers; amending  
8 Section 15, Chapter 366 O.S.L. 2016 (37A O.S. Supp.  
9 2019, Section 2-103), which relates to distiller  
10 licenses; expanding authority of license; providing  
11 for samples at trade shows and festivals; authorizing  
12 sale and consumption on-premises and off-premises;  
13 authorizing sales and purchases of beer; updating  
14 statutory references; allowing self-distribution of  
15 spirits; stating authority of self-distribution  
16 license; setting maximum gallons of spirits sold in  
17 tasting rooms for self-distribution license;  
18 requiring sales to certain licensees on certain price  
19 basis; requiring certain mode of transportation;  
20 construing unconstitutional provisions on direct  
21 sales; setting distiller self-distribution license  
22 fee; amending Section 13, Chapter 366, O.S.L. 2016,  
23 as last amended by Section 2, Chapter 420, O.S.L.  
24 2018 (37A O.S. Supp. 2019, Section 2-101), which  
relates to license fees; setting distiller self-  
distribution license fee; updating statutory  
references; providing for codification; and making  
act conditional upon vote of people on a  
constitutional amendment authorizing the sale of  
spirits to consumers.

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

22 SECTION 1. AMENDATORY Section 15, Chapter 366, O.S.L.  
23 2016 (37A O.S. Supp. 2019, Section 2-103), is amended to read as  
24 follows:

1 Section 2-103. A distiller license shall authorize the holder  
2 thereof:

3 1. To manufacture including such mixing, blending and cellar  
4 treatment as authorized by federal law, bottle, package and store  
5 spirits on licensed premises; provided, the bottle or package sizes  
6 authorized shall be limited to the capacities approved by the United  
7 States Alcohol and Tobacco Tax and Trade Bureau;

8 2. To sell spirits in this state to licensed wholesalers and  
9 manufacturers ~~only~~;

10 3. To sell spirits out of this state to qualified persons; ~~to~~

11 4. To purchase from licensed brewers, winemakers, distillers  
12 and rectifiers in this state, and import spirits from without this  
13 state beers, wine, brandy and fruit spirits for manufacturing  
14 purposes in accordance with federal laws and regulations; ~~and~~

15 ~~4.~~ 5. To serve free samples of spirits produced only by the  
16 licensee to visitors twenty-one (21) years of age and older. For  
17 purposes of this section, no visitor may sample more than a total of  
18 three (3) fluid ounces of spirits per day. The distiller shall  
19 restrict the distribution and consumption of spirits samples to an  
20 area within the licensed premises designated by the distiller. A  
21 current floor plan that includes the designated sampling area shall  
22 be on file with the ABLE Commission. No visitor under twenty-one  
23 (21) years of age shall be permitted to enter the designated  
24 sampling area when samples are being distributed and consumed.

1 Samples of spirits served by a distiller under this section shall  
2 not be considered a sale of spirits within the meaning of Article  
3 ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution or Section ~~3~~ 1-103 of  
4 this ~~act~~ title; provided, such samples of spirits shall be  
5 considered removed or withdrawn from the distillery for use or  
6 consumption within the meaning of Section ~~113~~ 5-110 of this ~~act~~  
7 title for excise tax determination and reporting requirements;

8 6. To serve free samples of spirits produced at the licensed  
9 distillery at public events such as festivals and trade shows;

10 7. To sell spirits produced at the licensed distillery for  
11 either on-premises or off-premises consumption;

12 8. To sell spirits produced at the licensed distillery from any  
13 fermentable source for either on-premises or off-premises  
14 consumption to consumers on the premises of the distillery;

15 9. To sell and serve Oklahoma manufactured spirits, beers,  
16 wines, mulled wine or spiced wine mixed with nonalcoholic beverages  
17 or food items such as water, sugar, fruits and vegetables at any  
18 temperature for either on-premises or off-premises consumption;

19 10. To purchase beer in retail containers from the holder of a  
20 wholesaler, beer distributor, small brewer self-distributor or  
21 brewpub self-distributor licensee or as specifically provided by  
22 law; and

23 11. To sell, offer for sale and possess beer for on-premises  
24 consumption.

1 SECTION 2. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 2-103.1 of Title 37A, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. A distiller self-distribution license shall authorize a  
5 licensed distiller within or without this state which is permitted  
6 by Article XXVIII-A of the Oklahoma Constitution and this act:

7 1. To distribute its spirits directly to retail spirits, retail  
8 wine and retail beer licensees, mixed beverage licensees, beer and  
9 wine licensees, and restaurants in this state; and

10 2. If such a distiller elects to do so, to sell and deliver its  
11 spirits directly to licensed retail package stores, mixed beverage  
12 licensees, beer and wine licensees, and restaurants in this state in  
13 full case lots only, and in accordance with the provisions of the  
14 Oklahoma Alcoholic Beverage Control Act and such rules as the ABLE  
15 Commission shall promulgate.

16 B. A distiller that annually sells no more than twenty-five  
17 thousand (25,000) gallons of spirits may elect to sell and self-  
18 distribute the spirits produced by such distillery directly to  
19 licensed retail package stores, mixed beverage licensees, beer and  
20 wine licensees, and restaurants in this state; provided:

21 1. Any such distiller which elects to directly sell its spirits  
22 to package stores, mixed beverage licensees, beer and wine  
23 licensees, and restaurants shall be required to sell its spirits to  
24 every package store, mixed beverage licensee, beer and wine

1 licensee, and restaurant licensee who desires to purchase the same,  
2 on the same price basis and without discrimination;

3 2. If a distiller or distillery sells directly to a retail  
4 package store, mixed beverage licensee, beer and wine licensee or  
5 restaurant, the distiller shall transport the spirits from the  
6 distiller's distillery to the premises where the spirits are to be  
7 delivered only in vehicles owned or leased by the distiller and not  
8 by common or private contract carriers and shall obtain all  
9 necessary permits as required by the Oklahoma Alcoholic Beverage  
10 Control Act; and

11 3. If the production volume limit applicable to distillers is  
12 ruled to be unconstitutional by a court of competent jurisdiction,  
13 then no distiller shall be permitted to directly sell its spirits to  
14 retail package stores, non-package-store retailers, mixed beverage  
15 licensees, beer and wine licensees or restaurants in this state.

16 SECTION 3. AMENDATORY Section 13, Chapter 366, O.S.L.  
17 2016, as last amended by Section 2, Chapter 420, O.S.L. 2018 (37A  
18 O.S. Supp. 2019, Section 2-101), is amended to read as follows:

19 Section 2-101. A. Except as otherwise provided in this  
20 section, the licenses issued by the ABLE Commission, and the annual  
21 fees therefor, shall be as follows:

- 22 1. Brewer License..... \$1,250.00
- 23 2. Small Brewer License..... \$125.00
- 24 3. Distiller License..... \$3,125.00



1	15.	Bottle Club License.....	\$1,000.00
2			(initial license)
3			\$900.00
4			(renewal)
5	16.	Caterer License.....	\$1,005.00
6			(initial license)
7			\$905.00
8			(renewal)
9	17.	Annual Special Event License.....	\$55.00
10	18.	Quarterly Special Event License.....	\$55.00
11	19.	Hotel Beverage License.....	\$1,005.00
12			(initial license)
13			\$905.00
14			(renewal)
15	20.	Airline/Railroad Beverage License.....	\$1,005.00
16			(initial license)
17			\$905.00
18			(renewal)
19	21.	Agent License.....	\$55.00
20	22.	Employee License.....	\$30.00
21	23.	Industrial License.....	\$23.00
22	24.	Carrier License.....	\$23.00
23	25.	Private Carrier License.....	\$23.00
24	26.	Bonded Warehouse License.....	\$190.00

1	27.	Storage License.....	\$23.00
2	28.	Nonresident Seller License or	
3		Manufacturer's License.....	\$750.00
4	29.	Manufacturer's Agent License.....	\$55.00
5	30.	Sacramental Wine Supplier License.....	\$100.00
6	31.	Charitable Auction License.....	\$1.00
7	32.	Charitable Alcoholic Beverage License.....	\$55.00
8	33.	Winemaker Self-Distribution License.....	\$750.00
9	34.	Annual Public Event License.....	\$1,005.00
10	35.	One-Time Public Event License.....	\$255.00
11	36.	Small Brewer Self-Distribution License.....	\$750.00
12	37.	Brewpub License.....	\$1,005.00
13	38.	Brewpub Self-Distribution License.....	\$750.00
14	39.	Satellite Tasting Room License.....	\$100.00
15	40.	<u>Distiller Self-Distribution License.....</u>	<u>\$750.00</u>

16 B. 1. There shall be added to the initial or renewal fees for  
17 a Mixed Beverage License an administrative fee, which shall not be  
18 deemed to be a license fee, in the amount of Five Hundred Dollars  
19 (\$500.00), which shall be paid at the same time and in the same  
20 manner as the license fees prescribed by paragraph 10 of subsection  
21 A of this section; provided, this fee shall not be assessed against  
22 service organizations or fraternal beneficiary societies which are  
23 exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue  
24 Code.

1           2. There shall be added to the fee for a Mixed Beverage/Caterer  
2 Combination License an administrative fee, which shall not be deemed  
3 to be a license fee, in the amount of Two Hundred Fifty Dollars  
4 (\$250.00), which shall be paid at the same time and in the same  
5 manner as the license fee prescribed by paragraph 11 of subsection A  
6 of this section.

7           C. Notwithstanding the provisions of subsection A of this  
8 section:

9           1. The license fee for a mixed beverage or bottle club license  
10 for those service organizations or fraternal beneficiary societies  
11 which are exempt under Section 501(c)(19), (8) or (10) of the  
12 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per  
13 year; and

14           2. The renewal fee for an airline/railroad beverage license  
15 held by a railroad described in 49 U.S.C., Section 24301, shall be  
16 One Hundred Dollars (\$100.00).

17           D. An applicant may apply for and receive both an on-premises  
18 beer and wine license and a caterer license.

19           E. All licenses, except as otherwise provided, shall be valid  
20 for one (1) year from date of issuance unless revoked or  
21 surrendered. Provided, all employee licenses shall be valid for two  
22 (2) years.

23           F. The holder of a license, issued by the ABLE Commission, for  
24 a bottle club located in a county of this state where the sale of  
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1 alcoholic beverages by the individual drink for on-premises  
2 consumption has been authorized, may exchange the bottle club  
3 license for a mixed beverage license or an on-premises beer and wine  
4 license and operate the licensed premises as a mixed beverage  
5 establishment or an on-premises beer and wine establishment subject  
6 to the provisions of the Oklahoma Alcoholic Beverage Control Act.  
7 There shall be no additional fee for such exchange and the mixed  
8 beverage license or on-premises beer and wine license issued shall  
9 expire one (1) year from the date of issuance of the original bottle  
10 club license.

11 G. In addition to the applicable licensing fee, the following  
12 surcharge shall be assessed annually on the following licenses:

- 13 1. Nonresident Seller or Manufacturer License..... \$2,500.00
- 14 2. Wine and Spirits Wholesaler License..... \$2,500.00
- 15 3. Beer Distributor..... \$1,000.00
- 16 4. Retail Spirits License for cities and towns  
17 over 5,000 population..... \$250.00
- 18 5. Retail Spirits License for cities and towns  
19 from 2,501 to 5,000 population..... \$200.00
- 20 6. Retail Spirits License for cities and towns  
21 from 200 to 2,500 population..... \$150.00
- 22 7. Retail Wine License..... \$250.00
- 23 8. Retail Beer License..... \$250.00
- 24 9. Mixed Beverage License..... \$25.00

- 1 10. Mixed Beverage/Caterer Combination License..... \$25.00
- 2 11. Caterer License..... \$25.00
- 3 12. On-Premises Beer and Wine License..... \$25.00
- 4 13. Annual Public Event License..... \$25.00
- 5 14. Small Farm Winery License..... \$25.00
- 6 15. Small Brewer License..... \$35.00

7 The surcharge shall be paid concurrent with the licensee's  
8 annual licensing fee and, in addition to Five Dollars (\$5.00) of the  
9 employee license fee, shall be deposited in the Alcoholic Beverage  
10 Governance Revolving Fund established pursuant to Section 5-128 of  
11 this title.

12 H. Any license issued by the ABLE Commission under this title  
13 may be relied upon by other licensees as a valid license, and no  
14 other licensee shall have any obligation to independently determine  
15 the validity of such license or be held liable solely as a  
16 consequence of another licensee's failure to maintain a valid  
17 license.

18 SECTION 4. This act shall become effective upon the passage of  
19 a vote of the people on a constitutional amendment authorizing the  
20 sale of spirits to consumers.

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