

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3003 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Steve Bashore

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR  
HOUSE BILL NO. 3003

By: Bashore

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 1-103, which relates to definition; changing the definition of beer to include alcoholic seltzers; and providing an effective date.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 1-103, is amended to read as follows:

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

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

2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol or spirits of wine, from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in

1 accordance with Acts of Congress and regulations promulgated  
2 thereunder;

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

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

11 5. "Beer" means any beverage of alcohol by volume and obtained  
12 by the alcoholic fermentation of an infusion or decoction of barley,  
13 or other grain, malt or similar products. "Beer" may or may not  
14 contain hops or other vegetable products. "Beer" includes, among  
15 other things, beer, ale, stout, lager beer, porter, alcoholic  
16 seltzers that do not exceed twelve percent (12%) alcohol by volume  
17 (ABV), and other malt or brewed liquors, but does not include sake,  
18 known as Japanese rice wine;

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

21 7. "Beer distributor" means and includes any person licensed to  
22 distribute beer for retail sale in the state, but does not include a  
23 holder of a small brewer self-distribution license or brewpub self-  
24 distribution license. The term "distributor", as used in the

1 Oklahoma Alcoholic Beverage Control Act, shall be construed to refer  
2 to a beer distributor;

3 8. "Bottle club" means any establishment in a county which has  
4 not authorized the retail sale of alcoholic beverages by the  
5 individual drink, which is required to be licensed to keep, mix and  
6 serve alcoholic beverages belonging to club members on club  
7 premises;

8 9. "Bottle service" means the sale and provision of spirits in  
9 their original packages by a mixed beverage licensee to be consumed  
10 in that mixed beverage licensee's club suite;

11 10. "Brand" means any word, name, group of letters, symbol or  
12 combination thereof, that is adopted and used by a licensed brewer  
13 to identify a specific beer, wine or spirit and to distinguish that  
14 product from another beer, wine or spirit;

15 11. "Brand extension" means:

16 a. after October 1, 2018, any brand of beer or cider  
17 introduced by a manufacturer in this state which  
18 either:

19 (1) incorporates all or a substantial part of the  
20 unique features of a preexisting brand of the  
21 same licensed brewer, or

22 (2) relies to a significant extent on the goodwill  
23 associated with the preexisting brand, or  
24

b. any brand of beer that a brewer, the majority of whose total volume of all brands of beer distributed in this state by such brewer on January 1, 2016, was distributed as low-point beer, desires to sell, 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 brewer, or

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

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

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;

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

1 manufacture of this product, cider may be manufactured by either  
2 manufacturers or brewers. For the purposes of the distribution of  
3 this product, cider may be distributed by either wine and spirits  
4 wholesalers or beer distributors;

5 15. "Club suite" means a designated area within the premises of  
6 a mixed beverage licensee designed to provide an exclusive space  
7 which is limited to a patron or patrons specifically granted access  
8 by a mixed beverage licensee and is not accessible to other patrons  
9 of the mixed beverage licensee or the public. A club suite must  
10 have a clearly designated point of access for a patron or patrons  
11 specifically granted access by the mixed beverage licensee to ensure  
12 that persons present in the suite are limited to patrons  
13 specifically granted access by the mixed beverage licensee and  
14 employees providing services to the club suite;

15 16. "Convenience store" means any person primarily engaged in  
16 retailing a limited range of general household items and groceries,  
17 with extended hours of operation, whether or not engaged in retail  
18 sales of automotive fuels in combination with such sales;

19 17. "Convicted" and "conviction" mean and include a finding of  
20 guilt resulting from a plea of guilty or nolo contendere, the  
21 decision of a court or magistrate or the verdict of a jury,  
22 irrespective of the pronouncement of judgment or the suspension  
23 thereof;

1        18. "Designated products" means the brands of wine or spirits  
2 offered for sale by a manufacturer that the manufacturer has  
3 assigned to a designated wholesaler for exclusive distribution;

4        19. "Designated wholesaler" means a wine and spirits wholesaler  
5 who has been selected by a manufacturer as a wholesaler appointed to  
6 distribute designated products;

7        20. "Director" means the Director of the ABLE Commission;

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

16        22. "Distributor agreement" means the written agreement between  
17 the distributor and brewer as set forth in Section 3-108 of this  
18 title;

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

21        24. "Dual-strength beer" means a brand of beer that,  
22 immediately prior to April 15, 2017, was being sold and distributed  
23 in this state:  
24

1           a.    as a low-point beer pursuant to the Low-Point Beer  
2                Distribution Act in effect immediately prior to  
3                October 1, 2018, and

4           b.    as strong beer pursuant to the Alcoholic Beverage  
5                Control Act in effect immediately prior to October 1,  
6                2018,

7 and continues to be sold and distributed as such on October 1, 2018.

8 Dual-strength beer does not include a brand of beer that arose as a  
9 result of a brand extension as defined in this section;

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

16       26. "Good cause" means:

17           a.    failure by the distributor to comply with the material  
18                and reasonable provisions of a written agreement or  
19                understanding with the brewer, or

20           b.    failure by the distributor to comply with the duty of  
21                good faith;

22       27. "Good faith" means the duty of each party to any  
23 distributor agreement and all officers, employees or agents thereof  
24



1 to act with honesty in fact and within reasonable standards of fair  
2 dealing in the trade;

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

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

15 30. "Legal newspaper" means a newspaper meeting the requisites  
16 of a newspaper for publication of legal notices as prescribed in  
17 Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

18 31. "Licensee" means any person holding a license under the  
19 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or  
20 employee of such licensee while in the performance of any act or  
21 duty in connection with the licensed business or on the licensed  
22 premises;

23 32. "Low-point beer" shall mean any beverages containing more  
24 than one-half of one percent (1/2 of 1%) alcohol by volume, and not

1 more than three and two-tenths percent (3.2%) alcohol by weight,  
2 including but not limited to, beer or cereal malt beverages obtained  
3 by the alcoholic fermentation of an infusion by barley or other  
4 grain, malt or similar products;

5 33. "Manufacturer" means a distiller, winemaker, rectifier or  
6 bottler of any alcoholic beverage (other than beer) and its  
7 subsidiaries, affiliates and parent companies;

8 34. "Manufacturer's agent" means a salaried or commissioned  
9 salesperson who is the agent authorized to act on behalf of the  
10 manufacturer or nonresident seller in the state;

11 35. "Meals" means foods commonly ordered at lunch or dinner and  
12 at least part of which is cooked on the licensed premises and  
13 requires the use of dining implements for consumption. Provided,  
14 that the service of only food such as appetizers, sandwiches, salads  
15 or desserts shall not be considered "meals";

16 36. "Mini-bar" means a closed container, either refrigerated in  
17 whole or in part, or nonrefrigerated, and access to the interior of  
18 which is:

- 19 a. restricted by means of a locking device which requires  
20 the use of a key, magnetic card or similar device, or
- 21 b. controlled at all times by the licensee;

22 37. "Mixed beverage cooler" means any beverage, by whatever  
23 name designated, consisting of an alcoholic beverage and fruit or  
24 vegetable juice, fruit or vegetable flavorings, dairy products or

1 carbonated water containing more than one-half of one percent (1/2  
2 of 1%) of alcohol measured by volume but not more than seven percent  
3 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is  
4 packaged in a container not larger than three hundred seventy-five  
5 (375) milliliters. Such term shall include but not be limited to  
6 the beverage popularly known as a "wine cooler";

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

13 39. "Motion picture theater" means an establishment which is  
14 licensed by Section 2-110 of this title to sell alcoholic beverages  
15 by the individual drink and where motion pictures are exhibited, and  
16 to which the general public is admitted;

17 40. "Nondesignated products" means the brands of wine or  
18 spirits offered for sale by a manufacturer that have not been  
19 assigned to a designated wholesaler;

20 41. "Nonresident seller" means any person licensed pursuant to  
21 Section 2-135 of this title;

22 42. "Retail salesperson" means a salesperson soliciting orders  
23 from and calling upon retail alcoholic beverage stores with regard  
24 to his or her product;

1       43. "Occupation" as used in connection with "occupation tax"  
2 means the sites occupied as the places of business of the  
3 manufacturers, brewers, wholesalers, beer distributors, retailers,  
4 mixed beverage licensees, on-premises beer and wine licensees,  
5 bottle clubs, caterers, public event and special event licensees;

6       44. "Original package" means any container of alcoholic  
7 beverage filled and stamped or sealed by the manufacturer or brewer;

8       45. "Package store" means any sole proprietor or partnership  
9 that qualifies to sell wine, beer and/or spirits for off-premises  
10 consumption and that is not a grocery store, convenience store or  
11 drug store, or other retail outlet that is not permitted to sell  
12 wine or beer for off-premises consumption;

13       46. "Patron" means any person, customer or visitor who is not  
14 employed by a licensee or who is not a licensee;

15       47. "Person" means an individual, any type of partnership,  
16 corporation, association, limited liability company or any  
17 individual involved in the legal structure of any such business  
18 entity;

19       48. "Premises" means the grounds and all buildings and  
20 appurtenances pertaining to the grounds including any adjacent  
21 premises if under the direct or indirect control of the licensee and  
22 the rooms and equipment under the control of the licensee and used  
23 in connection with or in furtherance of the business covered by a  
24 license. Provided that the ABLE Commission shall have the authority

1 to designate areas to be excluded from the licensed premises solely  
2 for the purpose of:

- 3 a. allowing the presence and consumption of alcoholic  
4 beverages by private parties which are closed to the  
5 general public, or
- 6 b. allowing the services of a caterer serving alcoholic  
7 beverages provided by a private party.

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

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

17 50. "Public event" means any event that can be attended by the  
18 general public;

19 51. "Rectifier" means any person who rectifies, purifies or  
20 refines spirits or wines by any process (other than by original and  
21 continuous distillation, or original and continuous processing, from  
22 mash, wort, wash or other substance, through continuous closed  
23 vessels and pipes, until the production thereof is complete), and  
24 any person who, without rectifying, purifying or refining spirits,

1 shall by mixing (except for immediate consumption on the premises  
2 where mixed) such spirits, wine or other liquor with any material,  
3 manufactures any spurious, imitation or compound liquors for sale,  
4 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials  
5 or any other name;

6 52. "Regulation" or "rule" means a formal rule of general  
7 application promulgated by the ABLE Commission as herein required;

8 53. "Restaurant" means an establishment that is licensed to  
9 sell alcoholic beverages by the individual drink for on-premises  
10 consumption and where food is prepared and sold for immediate  
11 consumption on the premises;

12 54. "Retail container for spirits and wines" means an original  
13 package of any capacity approved by the United States Bureau of  
14 Alcohol, Tobacco and Firearms;

15 55. "Retailer" means a package store, grocery store,  
16 convenience store or drug store licensed to sell alcoholic beverages  
17 for off-premises consumption pursuant to a Retail Spirits License,  
18 Retail Wine License or Retail Beer License;

19 56. "Sale" means any transfer, exchange or barter in any manner  
20 or by any means whatsoever, and includes and means all sales made by  
21 any person, whether as principal, proprietor or as an agent, servant  
22 or employee. The term "sale" is also declared to be and include the  
23 use or consumption in this state of any alcoholic beverage obtained  
24 within or imported from without this state, upon which the excise

1 tax levied by the Oklahoma Alcoholic Beverage Control Act has not  
2 been paid or exempted;

3 57. "Short-order food" means food other than full meals  
4 including but not limited to sandwiches, soups and salads. Provided  
5 that popcorn, chips and other similar snack food shall not be  
6 considered "short-order food";

7 58. "Small brewer" means a brewer who manufactures less than  
8 sixty-five thousand barrels of beer annually pursuant to a validly  
9 issued Small Brewer License hereunder;

10 59. "Small farm wine" means a wine that is produced by a small  
11 farm winery with seventy-five percent (75%) or more Oklahoma-grown  
12 grapes, berries, other fruits, honey or vegetables;

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

18 61. "Sparkling wine" means champagne or any artificially  
19 carbonated wine;

20 62. "Special event" means an entertainment, recreation or  
21 marketing event that occurs at a single location on an irregular  
22 basis and at which alcoholic beverages are sold;

23 63. "Spirits" means any beverage other than wine or beer, which  
24 contains more than one-half of one percent (1/2 of 1%) alcohol

1 measured by volume, and obtained by distillation, whether or not  
2 mixed with other substances in solution and includes those products  
3 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and  
4 fortified wines and similar compounds, but shall not include any  
5 alcohol liquid completely denatured in accordance with the Acts of  
6 Congress and regulations pursuant thereto;

7 64. "Strong beer" means beer which, prior to October 1, 2018,  
8 was distributed pursuant to the Oklahoma Alcoholic Beverage Control  
9 Act, Section 501 et seq. of Title 37 of the Oklahoma Statutes;

10 65. "Successor brewer" means a primary source of supply, a  
11 brewer, a cider manufacturer or an importer that acquires rights to  
12 a beer or cider brand from a predecessor brewer;

13 66. "Tax Commission" means the Oklahoma Tax Commission;

14 67. "Territory" means a geographic region with a specified  
15 boundary;

16 68. "Wine and spirits wholesaler" or "wine and spirits  
17 distributor" means and includes any sole proprietorship or  
18 partnership licensed to distribute wine and spirits in the state.  
19 The term "wholesaler", as used in the Oklahoma Alcoholic Beverage  
20 Control Act, shall be construed to refer to a wine and spirits  
21 wholesaler;

22 69. "Wine" means and includes any beverage containing more than  
23 one-half of one percent (1/2 of 1%) alcohol by volume and not more  
24 than twenty-four percent (24%) alcohol by volume at sixty (60)



1 degrees Fahrenheit obtained by the fermentation of the natural  
2 contents of fruits, vegetables, honey, milk or other products  
3 containing sugar, whether or not other ingredients are added, and  
4 includes vermouth and sake, known as Japanese rice wine;

5 70. "Winemaker" means and includes any person or establishment  
6 who manufactures for human consumption any wine upon which a license  
7 fee and a tax are imposed by any law of this state; and

8 71. "Satellite tasting room" means a licensed establishment  
9 operated off the licensed premises of the holder of a small farm  
10 winery or winemaker license, which serves wine for on-premises or  
11 off-premises consumption.

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

15 SECTION 2. This act shall become effective November 1, 2022.

16

17 58-2-10541 JL 02/15/22

18

19

20

21

22

23

24