

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3859 _____
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: Judd Strom

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 3859

By: Strom

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 6-102, which relates to licensee prohibited acts under the Oklahoma Alcoholic Beverage Control Act; providing that mixed beverage licensees may sale to-go drinks at a different price than on-premises drinks; and providing an effective date.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 6-102, is amended to read as follows:

Section 6-102. A. No licensee of the ABLE Commission shall:

1. Receive, possess or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

2. Employ any person under eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits. Provided:

- 1 a. a mixed beverage, beer and wine, caterer, public
2 event, special event, bottle club, retail wine or
3 retail beer licensee may employ servers or sales
4 clerks who are at least eighteen (18) years of age,
5 except persons under twenty-one (21) years of age may
6 not serve in designated bar or lounge areas, and
7 b. a mixed beverage, beer and wine, caterer, public
8 event, special event or bottle club licensee may
9 employ or hire musical bands who have musicians who
10 are under eighteen (18) years of age if each such
11 musician is either accompanied by a parent or legal
12 guardian or has on their person, to be made available
13 for inspection upon demand by any employee of the ABLE
14 Commission or law enforcement officer, a written,
15 notarized affidavit from the parent or legal guardian
16 giving the underage musician permission to perform in
17 designated bar or lounge areas;

18 3. Give any alcoholic beverage as a prize, premium or
19 consideration for any lottery, game of chance or skill or any type
20 of competition;

21 4. Use any of the following means or inducements to stimulate
22 the consumption of alcoholic beverages, including but not limited
23 to:
24

- 1 a. deliver more than two drinks to one person at one
2 time, except as provided for serving tasting flights
3 defined in Section 6-102.1 of this title,
- 4 b. sell or offer to sell to any person or group of
5 persons any drinks at a price that is less than six
6 percent (6%) below the markup of the cost to the mixed
7 beverage licensee; provided, a mixed beverage licensee
8 shall be permitted to offer these drink specials on
9 any particular hour of any particular day and shall
10 not be required to offer these drink specials for an
11 entire calendar week or from open to close, and shall
12 not be required to offer such drink specials at all
13 venues operating under the same mixed beverage
14 license; provided, a mixed beverage licensee selling
15 wine, six packs of beer, or cocktails to-go shall be
16 permitted to offer these to-go drinks at a different
17 price than on-premises drinks,
- 18 c. sell or offer to sell to any person an unlimited
19 number of drinks during any set period of time for a
20 fixed price, except at private functions not open to
21 the public,
- 22 d. sell or offer to sell drinks to any person or group of
23 persons on any one day or portion thereof at prices
24 less than those charged the general public on that

1 day, except at private functions not open to the
2 public,

3 e. increase the volume of alcoholic beverages contained
4 in a drink without increasing proportionately the
5 price regularly charged for such drink during the same
6 calendar week, or

7 f. encourage or permit, on the licensed premises, any
8 game or contest which involves drinking or the
9 awarding of drinks as prizes.

10 Provided, that the provisions of this paragraph shall not
11 prohibit the advertising or offering of food, entertainment or
12 bottle service in licensed establishments;

13 5. Permit or allow any patron or person to exit the licensed
14 premises with an open container of any alcoholic beverage.

15 Provided, this prohibition shall not be applicable to closed
16 original containers of alcoholic beverages which are carried from
17 the licensed premises of a bottle club by a patron, closed original
18 wine containers removed from the premises of restaurants, hotels and
19 motels, or to closed original containers of alcoholic beverages
20 transported to and from the place of business of a licensed caterer
21 by the caterer or an employee of the caterer;

22 6. Serve or sell alcoholic beverages with an expired license
23 issued by the ABLE Commission;

1 7. Permit any person to be drunk or intoxicated on the
2 licensee's licensed premises; or

3 8. Permit or allow any patron to serve or pour himself or
4 herself any alcoholic beverage, except a licensee may offer a patron
5 self-pour service of beer or wine, or both, from automated devices
6 on licensed premises so long as:

7 a. the licensee monitors and has the ability to control
8 the dispensing of such beer or wine, or both, from the
9 automated devices. "Automated device" shall mean any
10 mechanized device capable of dispensing wine or beer,
11 or both, directly to a patron in exchange for
12 compensation that a licensee has received directly
13 from the patron, and

14 b. each licensee offering a patron self-pour service of
15 wine or beer, or both, from any automated device shall
16 provide constant video monitoring of the automated
17 device at all times during which the licensee is open
18 to the public. The licensee shall keep recorded
19 footage from the video monitoring for at least sixty
20 (60) days, and shall provide the footage, upon
21 request, to any agent of the Director of the ABLE
22 Commission or other authorized law enforcement agent.

23 B. 1. The compensation required by subparagraph a of paragraph
24 8 of subsection A of this section shall be in the form of a radio

1 frequency identification (RFID) device, mobile application or any
2 other technology approved by the ABLE Commission containing a fixed
3 amount of volume of thirty-two (32) ounces for beer and ten (10)
4 ounces for wine that may be directly exchanged for beer or wine
5 dispensed from the automated device:

- 6 a. RFID devices may be assigned, used or reactivated only
7 during a business day,
- 8 b. each RFID device shall be obtained from the licensee
9 by a patron,
- 10 c. a licensee shall not issue more than one active RFID
11 device to a patron, and
- 12 d. an RFID device shall be deemed active if the RFID
13 device contains volume credit or has not yet been used
14 to dispense ten (10) ounces of wine or thirty-two (32)
15 ounces of beer.

16 2. In order to obtain an RFID device from a licensee, each
17 patron shall produce a valid driver license, identification card or
18 other government-issued document that contains a photograph of the
19 individual and demonstrates that the individual is at least twenty-
20 one (21) years of age. Each RFID device shall be programmed to
21 require the production of the patron's valid identification before
22 the RFID device can be used for the first time during any business
23 day or for any subsequent reactivation.

1 3. Each RFID device shall become inactive at the end of each
2 business day.

3 4. Each RFID device shall be programmed to allow the dispensing
4 of no more than ten (10) ounces of wine or thirty-two (32) ounces of
5 beer to a patron:

6 a. once an RFID device has been used to dispense ten (10)
7 ounces of wine or thirty-two (32) ounces of beer to a
8 patron, the RFID device shall become inactive, and

9 b. any patron in possession of an inactive RFID device
10 may, upon production of the patron's valid
11 identification to the licensee or licensee's employee,
12 have the RFID device reactivated to allow the
13 dispensing of an additional ten (10) ounces of wine or
14 thirty-two (32) ounces of beer from an automated
15 device.

16 Paragraphs 1, 2, 3 and 4 of this subsection shall not apply to wine
17 or beer that is dispensed directly to the licensee or the licensee's
18 agent or employee.

19 C. A mixed beverage or beer and wine licensee shall not be
20 deemed to have violated the provisions of paragraph 5 of subsection
21 A of this section if it allowed a patron to leave the licensed
22 premises with an open container of beer or wine only and:

23 1. The otherwise prohibited act was committed during the hours
24 of 8 a.m. to midnight on the day of a scheduled home football game

1 of institutions within The Oklahoma State System of Higher
2 Education, and the establishment is located within two thousand
3 (2,000) feet of the institution;

4 2. The licensee is participating by invitation in a municipally
5 sanctioned art, music or sporting event within city limits when the
6 municipality has provided written notice of the event and a list of
7 invited licensees to the ABLE Commission at least five (5) days
8 prior to the event; or

9 3. The patron remains on the connected, physical property of
10 the licensee or in a public area adjacent to the physical property
11 of the licensee with prior municipal approval; provided that written
12 notice of the use of the connected, physical property of the
13 licensee or public area shall be provided to the ABLE Commission at
14 least five (5) days prior to such use.

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

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