

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 841

By: Thompson

COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending Sections 89, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 431, O.S.L. 2019, Section 90, Chapter 366, O.S.L. 2016, as amended by Section 23, Chapter 322, O.S.L. 2019, and Section 91, Chapter 366, O.S.L. 2016, as amended by Section 24, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2020, Section 3-119, 3-120 and 3-121), which relate to business interests and acts prohibited for manufacturers or brewers; modifying language; limiting prohibition to Oklahoma licensed manufacturers or brewers; providing certain exception to ownership interests; prohibiting selling certain products with common ownership interests; and providing an effective date.

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

SECTION 1. AMENDATORY Section 89, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 431, O.S.L. 2019 (37A O.S. Supp. 2020, Section 3-119), is amended to read as follows:

Section 3-119. A. It shall be unlawful for any Oklahoma licensed manufacturer, or brewer, or any wine and spirits wholesaler, beer distributor or person authorized to sell alcoholic

1 beverages to a wholesaler, or any employee, officer, director,
2 stockholder owning fifteen percent (15%) or more of the stock, any
3 type of partner, manager, member or agent thereof, to directly or
4 indirectly:

5 1. Have any financial interest in any premises upon which any
6 alcoholic beverage is sold at retail or in any business connected
7 with the retailing of alcoholic beverages; provided, nothing in ~~this~~
8 ~~act~~ the Oklahoma Alcoholic Beverage Control Act shall prohibit the
9 operation of a mixed beverage licensee, beer and wine licensee or
10 caterer licensee by an entity which has common owners with the
11 holder of a small brewer license or a brewpub license;

12 2. Lend any money or other thing of value, or to make any gift
13 or offer any gratuity, to any package store, retail wine, retail
14 beer, mixed beverage, beer and wine, public event or bottle club
15 licensee or caterer;

16 3. Guarantee any loan or the repayment of any financial
17 obligation of any retailer, mixed beverage, beer and wine, public
18 event or bottle club licensee or caterer;

19 4. Require any wine and spirits wholesaler, beer distributor,
20 retailer, mixed beverage, on-premises beer and wine licensee, public
21 event or caterer to purchase and dispose of any quota of alcoholic
22 beverages, or to require any retailer to purchase any kind, type,
23 size, container or brand of alcoholic beverages in order to obtain
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1 any other kind, type, size, container or brand of alcoholic
2 beverages;

3 5. Sell to any retailer, mixed beverage, on-premises beer and
4 wine licensee, public event or caterer any alcoholic beverage on
5 consignment, or upon condition, or with the privilege of return, or
6 on any condition other than a bona fide sale; provided, the
7 following shall not be considered a violation of this paragraph:

8 a. delivery in good faith, through mistake, inadvertence
9 or oversight, of an alcoholic beverage that was not
10 ordered by a retailer, mixed beverage licensee, on-
11 premises beer and wine licensee, caterer, public event
12 or special event licensee to such licensee,

13 b. replacement of product breakage that occurred while
14 the alcoholic beverages were in transit from the
15 wholesaler to the licensee, or

16 c. replacement of cork-tainted wine that makes the
17 product unsaleable as long as the licensee notifies
18 the wine and spirits wholesaler of the defect in
19 writing within ninety (90) days after delivery of the
20 product; or

21 6. Extend credit to any retailer, other than holders of Federal
22 Liquor Stamps on United States government reservations and
23 installations, mixed beverage, public event or on-premises beer and
24 wine licensee or caterer, other than a state lodge located in a

1 county which has approved the retail sale of alcoholic beverages by
2 the individual drink for on-premises consumption. The acceptance of
3 a postdated check or draft or the failure to deposit for collection
4 a current check or draft by the second banking day after receipt
5 shall be deemed an extension of credit. Violation of this section
6 shall be grounds for suspension of the license.

7 B. Notwithstanding any statutory provision to the contrary, a
8 manufacturer or brewer whose products are made outside the State of
9 Oklahoma shall not be prohibited from having any ownership interest
10 in an Oklahoma licensed retailer; provided, the Oklahoma retailer
11 that is commonly owned by a manufacturer or brewer does not offer
12 for sale at its Oklahoma retail locations any beer, wine or spirits
13 that are made by the manufacturer or brewer within or outside this
14 state.

15 SECTION 2. AMENDATORY Section 90, Chapter 366, O.S.L.
16 2016, as amended by Section 23, Chapter 322, O.S.L. 2019 (37A O.S.
17 Supp. 2020, Section 3-120), is amended to read as follows:

18 Section 3-120. A. No mixed beverage, beer and wine, caterer,
19 public event or bottle club licensee, partner in any type of
20 partnership, manager or member of a limited liability company,
21 officer, director or stockholder of any corporate licensee owning
22 more than fifteen percent (15%) of the stock shall have any right,
23 title, lien, claim or interest, financial or otherwise in, upon or
24 to the premises, equipment, business or merchandise of any package

1 store, beer distributor, wholesaler, brewer, or Oklahoma licensed
2 manufacturer ~~or wholesaler~~. The provisions of this section shall
3 not prohibit a person who is an officer or director of a fraternal
4 or veteran's organization which is a tax exempt organization under
5 Section 501(c)(8), (10) or (19) of the Internal Revenue Code and
6 which holds a license issued by the ABLE Commission from having a
7 right, title, lien, claim or interest in the premises, equipment,
8 business or merchandise of a package store.

9 B. Notwithstanding any statutory provision to the contrary, a
10 manufacturer or brewer whose products are made outside the State of
11 Oklahoma shall not be prohibited from having any ownership interest
12 in an Oklahoma licensed retailer; provided, the Oklahoma retailer
13 that is commonly owned by a manufacturer or brewer does not offer
14 for sale at its Oklahoma retail locations any beer, wine or spirits
15 that are made by the manufacturer or brewer within or outside this
16 state.

17 SECTION 3. AMENDATORY Section 91, Chapter 366, O.S.L.
18 2016, as amended by Section 24, Chapter 322, O.S.L. 2019 (37A O.S.
19 Supp. 2020, Section 3-121), is amended to read as follows:

20 Section 3-121. A. No Oklahoma licensed manufacturer, or
21 brewer, or any wine and spirits wholesaler, beer distributor,
22 partner in any type of partnership, manager or member of a limited
23 liability company, or officer, director or stockholder of any
24 nonresident seller, brewer, or manufacturer licensee, owning more

1 than fifteen percent (15%) of the stock shall have any right, title,
2 claim or interest, financial or otherwise in, upon or to the
3 premises, equipment, business or merchandise of any mixed beverage,
4 beer and wine, caterer, public event or bottle club licensee.

5 B. Notwithstanding any statutory provision to the contrary, a
6 manufacturer or brewer whose products are made outside the State of
7 Oklahoma shall not be prohibited from having any ownership interest
8 in an Oklahoma licensed retailer; provided, the Oklahoma retailer
9 that is commonly owned by a manufacturer or brewer does not offer
10 for sale at its Oklahoma retail locations any beer, wine or spirits
11 that are made by the manufacturer or brewer within or outside this
12 state.

13 SECTION 4. This act shall become effective November 1, 2021.

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