

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 2380

By: Davis

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; amending  
9 Section 142, Chapter 366, O.S.L. 2016, as last  
10 amended by Section 20, Chapter 161, O.S.L. 2020 (37A  
11 O.S. Supp. 2020, Section 6-102), which relates to  
licensee prohibited acts; providing requirements for  
patron self-pour service of beer and wine; defining  
term; and providing an effective date.

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

15 SECTION 1. AMENDATORY Section 142, Chapter 366, O.S.L.  
16 2016, as last amended by Section 20, Chapter 161, O.S.L. 2020 (37A  
17 O.S. Supp. 2020, Section 6-102), is amended to read as follows:

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

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

22 2. Employ any person under eighteen (18) years of age in the  
23 selling of beer or wine or employ any person under twenty-one (21)  
24 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 ~~2~~ 6-102.1 of this ~~act~~ 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,
- 12 c. sell or offer to sell to any person an unlimited  
13 number of drinks during any set period of time for a  
14 fixed price, except at private functions not open to  
15 the public,
- 16 d. sell or offer to sell drinks to any person or group of  
17 persons on any one day or portion thereof at prices  
18 less than those charged the general public on that  
19 day, except at private functions not open to the  
20 public,
- 21 e. increase the volume of alcoholic beverages contained  
22 in a drink without increasing proportionately the  
23 price regularly charged for such drink during the same  
24 calendar week, or

1 f. encourage or permit, on the licensed premises, any  
2 game or contest which involves drinking or the  
3 awarding of drinks as prizes.

4 Provided, that the provisions of this paragraph shall not  
5 prohibit the advertising or offering of food or entertainment in  
6 licensed establishments;

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

9 Provided, this prohibition shall not be applicable to closed  
10 original containers of alcoholic beverages which are carried from  
11 the licensed premises of a bottle club by a patron, closed original  
12 wine containers removed from the premises of restaurants, hotels and  
13 motels, or to closed original containers of alcoholic beverages  
14 transported to and from the place of business of a licensed caterer  
15 by the caterer or an employee of the caterer;

16 6. Serve or sell alcoholic beverages with an expired license  
17 issued by the ABLE Commission; ~~or~~

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

20 8. Permit or allow any patron to serve or pour themselves any  
21 alcoholic beverage, except a licensee may offer a patron self-pour  
22 service of beer or wine, or both, from automated devices on licensed  
23 premises so long as:

1       a.   the licensee monitors and has the ability to control  
2       the dispensing of such beer or wine, or both, from the  
3       automated devices. "Automated device" shall mean any  
4       mechanized device capable of dispensing wine or beer,  
5       or both, directly to a customer in exchange for  
6       compensation that a licensee has received directly  
7       from the patron, and

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

17      B. 1. The compensation required by subparagraph a of paragraph  
18      8 of subsection A of this section shall be in the form of a radio-  
19      frequency identification (RFID) device, mobile application or any  
20      other technology approved by the ABLE Commission containing a fixed  
21      amount of volume of thirty-two (32) ounces for beer and ten (10)  
22      ounces for wine that may be directly exchanged for beer or wine  
23      dispensed from the automated device:

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

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

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

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

- 1        a. once a RFID device has been used to dispense ten (10)  
2        ounces of wine or thirty-two (32) ounces of beer to a  
3        patron, the RFID device shall become inactive, and  
4        b. any patron in possession of an inactive RFID device  
5        may, upon production of the patron's valid  
6        identification to the licensee or licensee's employee,  
7        have the RFID device reactivated to allow the  
8        dispensing of an additional ten (10) ounces of wine or  
9        thirty-two (32) ounces of beer from an automated  
10       device.

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

14       ~~B.~~ C. A mixed beverage or beer and wine licensee shall not be  
15 deemed to have violated the provisions of paragraph 5 of subsection  
16 A of this section if it allowed a patron to leave the licensed  
17 premises with an open container of beer or wine only and:

18       1. The otherwise prohibited act was committed during the hours  
19 of 8 a.m. to midnight on the day of a scheduled home football game  
20 of institutions within The Oklahoma State System of Higher  
21 Education, and the establishment is located within two thousand  
22 (2,000) feet of the institution;

23       2. The licensee is participating by invitation in a municipally  
24 sanctioned art, music or sporting event within city limits when the

1 municipality has provided written notice of the event and a list of  
2 invited licensees to the ABLE Commission at least five (5) days  
3 prior to the event; or

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

10 SECTION 2. This act shall become effective November 1, 2021.

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