

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 385

By: Coleman of the Senate

and

Strom of the House

COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending Section 21, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 81, O.S.L. 2020, Section 143, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 237, O.S.L. 2019 and Section 148, Chapter 366, O.S.L. 2016, as last amended by Section 22, Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020, Sections 2-109, 6-103 and 6-108), which relate to retail licenses and prohibited acts for retail licensees; authorizing certain tastings of beer, wine and spirits in retail spirit licensee premises; stating authority and procedure for offering certain samples; directing licensed person pour alcoholic beverages; providing for purchases and payment of taxes; restricting tastings to certain aged persons; prohibiting removal of alcoholic beverages used for tastings from licensed premises; limiting size of sample served; limiting number of unsealed bottles; directing remaining alcoholic beverage be poured out at end of day; prohibiting unsealed containers at end of day; and providing an effective date.

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

SECTION 1. AMENDATORY Section 21, Chapter 366, O.S.L.

2016, as amended by Section 1, Chapter 81, O.S.L. 2020 (37A O.S. Supp. 2020, Section 2-109), is amended to read as follows:

Section 2-109. A. A retail spirits license shall authorize the holder thereof:

1. To purchase wine or spirits from a wine and spirits wholesaler;

2. To purchase beer from a beer distributor or from the holder of a small brewer self-distribution license; ~~and~~

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, spirits, wine and beer may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses; and

4. To host alcoholic beverage tastings consistent with subsections D and E of this section.

B. A retail wine license shall authorize the holder thereof:

1. To purchase wine from a wine and spirits wholesaler;

2. To purchase wine from a small farm winemaker who is permitted and has elected to self-distribute as provided in Article XXVIII-A of the Oklahoma Constitution; ~~and~~

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, wine may be sold to charitable organizations that are

holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses; and

4. To host an alcoholic beverage tasting, consistent with subsection D and E of this section.

Provided, no holder of a retail wine license may sell wine with alcohol beverage volume in excess of fifteen percent (15%).

C. A retail beer license shall authorize the holder thereof:

1. To purchase beer from a beer distributor;

2. To purchase beer from the holder of a small brewer self-distribution license; ~~and~~

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, beer may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses; and

4. To host alcoholic beverage tastings consistent with subsections D and E of this section.

Provided, no holder of a retail beer license may sell a malt beverage with alcohol beverage volume in excess of fifteen percent (15%).

D. All tastings conducted under this section shall:

1. Be conducted under the direct supervision of the licensee authorized to host the tasting;

1 2. Be poured by any ABLE licensee lawfully permitted to serve
2 alcoholic beverages, provided no wine or spirits wholesaler, beer
3 distributor or employee of a wine or spirits wholesaler or beer
4 distributor shall be allowed to pour samples for tastings;

5 3. Use alcoholic beverages purchased by the licensee authorized
6 to host the tastings from a licensed wine and spirits wholesaler,
7 beer distributor, self-distributor, small brewer or self-
8 distributing winery authorized to sell the same, and the licensee
9 shall pay the applicable taxes on the alcoholic beverages purchased;
10 provided, the licensee may only provide samples of alcoholic
11 beverages that its license is authorized to sell;

12 4. Be restricted to persons twenty-one (21) years of age or
13 older;

14 5. Be limited to no more than one (1) fluid ounce of spirits,
15 two (2) fluid ounces of wine or three (3) fluid ounces of beer per
16 consumer per day; and

17 6. Be consumed on the licensed premises of the licensee
18 authorized to host the tastings or at a location other than the
19 licensed premises, provided no samples served on the licensed
20 premises shall be permitted to be removed from the licensed
21 premises.

22 E. All licensees authorized to serve samples pursuant to
23 subsection D of this section shall ensure that:

24 1. All samples are poured only from original sealed packaging;

1 2. Any alcoholic beverages remaining in unsealed packaging used
2 to provide samples, excluding spirits, are poured out by the end of
3 the day;

4 3. No more than six (6) bottles of alcoholic beverages are
5 unsealed at any given time; and

6 4. No person shall remove any samples from the licensed
7 premises or location where the tasting has occurred.

8 SECTION 2. AMENDATORY Section 143, Chapter 366, O.S.L.
9 2016, as last amended by Section 1, Chapter 237, O.S.L. 2019 (37A
10 O.S. Supp. 2020, Section 6-103), is amended to read as follows:

11 Section 6-103. A. No retail spirits licensee shall:

12 1. Purchase or receive any alcoholic beverage other than from a
13 wine and spirits wholesaler, beer distributor, winery or small
14 brewer self-distribution licensee who elects to self-distribute;

15 2. Suffer or permit any retail container to be opened, or any
16 alcoholic beverage to be consumed on the licensed premises, ~~unless~~
17 except when serving samples as authorized by Section 2-109 of this
18 title or otherwise permitted by law; provided, the licensee shall
19 not permit any alcoholic beverage content or retail container
20 unsealed in connection with sampling authorized by Section 2-109 of
21 this title to remain on the licensed premises at the close of
22 business on that day, excluding spirits;

23 3. Sell any alcoholic beverages at any hour other than between
24 the hours of 8:00 a.m. and midnight Monday through Saturday, and

1 shall not be permitted to be open on Thanksgiving Day or Christmas
2 Day; provided, a county may, pursuant to the provisions of
3 subsections B and C of Section 3-124 of this title, elect to allow
4 such sales between the hours of noon and midnight on Sunday. Retail
5 spirits licensees shall be permitted to sell alcoholic beverages on
6 the day of any General, Primary, Runoff Primary or Special Election
7 whether on a national, state, county or city election, provided that
8 the election day does not occur on any day on which such sales are
9 otherwise prohibited by law;

10 4. Sell spirits in a city or town, unless such city or town has
11 a population in excess of two hundred (200) according to the latest
12 Federal Decennial Census;

13 5. Sell any alcoholic beverage on credit; provided, that
14 acceptance by a licensee of a cash or debit card or a nationally
15 recognized credit card in lieu of actual cash payment does not
16 constitute the extension of credit; provided, further, as used in
17 this section:

18 a. "cash or debit card" means any instrument or device
19 whether known as a debit card or by any other name,
20 issued with or without fee by an issuer for the use of
21 the cardholder in depositing, obtaining or
22 transferring funds from a consumer banking electronic
23 facility, and
24

1 b. "nationally recognized credit card" means any
2 instrument or device, whether known as a credit card,
3 credit plate, charge plate or by any other name,
4 issued with or without fee by an issuer for the use of
5 the cardholder in obtaining money, goods, services or
6 anything else of value on credit which is accepted by
7 over one hundred retail locations;

8 6. Offer or furnish any prize, premium, gift or similar
9 inducement to a consumer in connection with the sale of alcoholic
10 beverages, except that goods or merchandise included by the
11 manufacturer in packaging with alcoholic beverages or for packaging
12 with alcoholic beverages shall not be included in this prohibition,
13 but no wholesaler or retailer shall sell any alcoholic beverage
14 prepackaged with other goods or merchandise at a price which is
15 greater than the price at which the alcoholic beverage alone is
16 sold; or

17 7. Pay for alcoholic beverages by a check or draft which is
18 dishonored by the drawee when presented to such drawee for payment;
19 and the ABLE Commission may cancel or suspend the license of any
20 retailer who has given a check or draft, as maker or endorser, which
21 is so dishonored upon presentation.

22 B. No retail spirits licensee shall permit any person under
23 twenty-one (21) years of age to enter into or remain within or about
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1 the licensed premises unless accompanied by the person's parent or
2 legal guardian.

3 SECTION 3. AMENDATORY Section 148, Chapter 366, O.S.L.
4 2016, as last amended by Section 22, Chapter 161, O.S.L. 2020 (37A
5 O.S. Supp. 2020, Section 6-108), is amended to read as follows:

6 Section 6-108. No holder of a Retail Wine License or a Retail
7 Beer License shall:

8 1. Purchase or receive any alcoholic beverage other than from a
9 wine and spirits wholesaler, beer distributor, winery or small
10 brewer self-distribution licensee;

11 2. Suffer or permit any retail container to be opened, or any
12 alcoholic beverage to be consumed on the licensed premises, ~~unless~~
13 except when serving samples as authorized by Section 2-109 of this
14 title or as otherwise permitted by law; provided, the licensee shall
15 not permit any alcoholic beverages content or retail container
16 unsealed in connection with sampling authorized by Section 2-109 of
17 this title to remain on the licensed premises at the close of the
18 business on that day;

19 3. Sell any beer or wine at any hour other than between the
20 hours of 6:00 a.m. and 2:00 a.m. the following day, Monday through
21 Sunday. Retail wine and retail beer licensees shall be permitted to
22 sell beer and wine on the day of any General, Primary, Runoff
23 Primary or Special Election whether on a national, state, county or
24 city election;

1 4. Sell any beer and wine on credit; except as follows:

2 a. the acceptance by a grocery store, convenience store
3 or drug store of a cash or debit card, or a
4 nationally recognized credit card, in lieu of
5 actual cash payment does not constitute the
6 extension of credit; provided, further, as used
7 in this section:

8 (1) "cash or debit card" means any instrument or
9 device whether known as a debit card or by any
10 other name, issued with or without fee by an
11 issuer for the use of the cardholder in
12 depositing, obtaining or transferring funds from
13 a consumer banking electronic facility, and

14 (2) "nationally recognized credit card" means any
15 instrument or device, whether known as a credit
16 card, credit plate, charge plate or by any other
17 name, issued with or without fee by an issuer for
18 the use of the cardholder in obtaining money,
19 goods, services or anything else of value on
20 credit which is accepted by over one hundred
21 retail locations, and

22 b. when the holder of a Retail Wine License, Retail Beer
23 License or Mixed Beverage License is a private
24 membership club, marina, golf course or country club

1 that normally charges food, drinks and other purchases
2 to the member's monthly dues account in the regular
3 course of business, in lieu of actual cash payment at
4 the time of purchase, such practice does not
5 constitute the extension of credit;

6 5. Offer or furnish any prize, premium, gift or similar
7 inducement to a consumer in connection with the sale of beer or
8 wine, except that goods or merchandise included by the manufacturer
9 in packaging with beer or wine or for packaging with beer or wine
10 shall not be included in this prohibition, nor shall a retail wine
11 or retail beer license holder selling wine or beer at a multiunit
12 discount be included in this prohibition; but no retail wine or
13 retail beer licensee shall sell any beer or wine prepackaged with
14 other goods or merchandise at a price which is greater than the
15 price at which the alcoholic beverage alone is sold; or

16 6. Pay for beer or wine by a check or draft which is dishonored
17 by the drawee when presented to such drawee for payment; and the
18 ABLE Commission may cancel or suspend the license of any retailer
19 who has given a check or draft, as maker or endorser, which is so
20 dishonored upon presentation.

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

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