

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 1811

By: Garvin

COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Sections 2-102, as amended by Section 1, Chapter 396, O.S.L. 2021, 2-103, 2-104, and 2-131, which relate to brewer, winemaker, distillery, and small farm winery licenses; allowing certain license holders to host off-site events under certain conditions; authorizing the ABLE Commission to permit certain license holders to host off-site events following application; requiring licensees to sell only the products covered by licenses; providing details of application; allowing Commission to assess fee; updating statutory language; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-102, as amended by Section 1, Chapter 396, O.S.L. 2021, is amended to read as follows:

Section 2-102. A. A brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer and cider on the licensed premises; and

1 2. To sell beer and cider in this state to holders of beer
2 distributor licenses and to sell beer and cider out of this state to
3 qualified persons; and

4 3. To host off-site events pursuant to Section 5 of this act.

5 B. A small brewer license shall authorize the holder thereof:

6 1. To manufacture, bottle, package and store beer produced by
7 the licensee on licensed premises;

8 2. To sell beer in this state to holders of beer distributor
9 licenses and retail licenses or to sell beer out of this state to
10 qualified persons;

11 3. To serve free samples of beer produced by the licensee to
12 visitors twenty-one (21) years of age or older;

13 4. To sell beer produced by the licensee for either on-premises
14 or off-premises consumption to consumers on the brewery premises, or
15 on premises located contiguous thereto;

16 5. To sell beer at public events such as trade shows or
17 festivals;

18 6. To purchase wine in retail containers from the holder of a
19 wholesaler license or as specifically provided by law; ~~and~~

20 7. To sell, offer for sale and possess wine for on-premises
21 consumption; and

22 8. To host off-site events pursuant to Section 5 of this act.

23 C. The holder of multiple small brewer licenses may sell beer
24 produced at up to three breweries for which the licensee has a

1 license, at any other of such three licensed breweries or on
2 premises located contiguous thereto.

3 D. Nothing in the Oklahoma Alcoholic Beverage Control Act shall
4 prohibit the holder of a small brewer license from also holding or
5 owning an interest in the holder of a brewpub license.

6 E. For purposes of this section, no visitor may sample more
7 than a total of twelve (12) fluid ounces of beer per day. The
8 brewer must restrict the distribution and consumption of beer
9 samples to an area within the licensed premises designated by the
10 brewer. A current floor plan that includes the designated sampling
11 area must be on file with the ABLE Commission. No visitor under
12 twenty-one (21) years of age shall be permitted to enter this
13 designated sampling area when samples are being distributed or
14 consumed. Samples of beer served by a brewery under this section
15 shall not be considered a sale of beer within the meaning of Article
16 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
17 title; however, such samples of beer shall be considered beer
18 removed or withdrawn from the brewery for use or consumption within
19 the meaning of Section 5-110 of this title for excise tax
20 determination and reporting requirements. Sales and sampling may
21 only occur between the hours of 10:00 a.m. and 2:00 a.m.

22 F. A small brewer self-distribution license shall authorize
23 holders of a small brewer license to distribute beer produced only
24 by such licensee to a holder of a retail beer license, retail

1 spirits license, mixed beverage license, beer and wine license,
2 caterer's license, special event license, public event license,
3 charitable auction license or brewpub license. A small brewer shall
4 elect whether it will distribute through a distributor or self-
5 distribute in a subject territory; however, a small brewer may not
6 elect to do both simultaneously in a subject territory. The
7 election shall be made through notice to the ABLE Commission. Any
8 changes to the election shall require immediate notification to the
9 ABLE Commission before the change in election will take effect. A
10 small brewer that elects to self-distribute in multiple territories
11 shall only be required to have one small brewer self-distribution
12 license.

13 G. All manufacturer's licenses held by brewers during the first
14 calendar year beginning October 1, 2018, shall automatically convert
15 to brewer licenses and be deemed effective as of the date of the
16 first issuance of the manufacturer's license. Upon the first
17 renewal of the license, the brewer will need to obtain the
18 appropriate brewer's license. If a brewer elects to market wine and
19 spirits, the brewer will also be required to obtain a manufacturer's
20 license and comply with the rules and regulations for both licenses.

21 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-103, is
22 amended to read as follows:

23 Section 2-103. A. A distiller license shall authorize the
24 holder thereof:

- 1 1. To manufacture, bottle, package and store spirits on
2 licensed premises;
- 3 2. To sell spirits in this state to licensed wholesalers and
4 manufacturers only;
- 5 3. To sell spirits out of this state to qualified persons; to
6 purchase from licensed distillers and rectifiers in this state, and
7 import spirits from without this state for manufacturing purposes in
8 accordance with federal laws and regulations;
- 9 4. To serve free samples of spirits produced only by the
10 licensee to visitors twenty-one (21) years of age and older. For
11 purposes of this section, no visitor may sample more than a total of
12 three (3) fluid ounces of spirits per day. The distiller shall
13 restrict the distribution and consumption of spirits samples to an
14 area within the licensed premises designated by the distiller. A
15 current floor plan that includes the designated sampling area shall
16 be on file with the ABLE Commission. No visitor under twenty-one
17 (21) years of age shall be permitted to enter the designated
18 sampling area when samples are being distributed and consumed.
19 Samples of spirits served by a distiller under this section shall
20 not be considered a sale of spirits within the meaning of Article
21 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
22 title; provided, such samples of spirits shall be considered removed
23 or withdrawn from the distillery for use or consumption within the
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1 meaning of Section 5-110 of this title for excise tax determination
2 and reporting requirements;

3 5. To sell spirits produced by the licensee for either on-
4 premises or off-premises consumption to consumers on the licensed
5 distillery premises or in an area controlled by the licensee located
6 contiguous to the licensed distillery premises. Product offered for
7 sale by the Oklahoma licensed distiller will have been sold to and
8 shipped to an Oklahoma licensed wine and spirits wholesaler and then
9 made available for purchase by the Oklahoma licensed distiller for
10 sale; ~~and~~

11 6. To sell spirits at public events such as trade shows or
12 festivals. Products offered for sale by the Oklahoma licensed
13 distiller will have been sold to and shipped to an Oklahoma licensed
14 wine and spirits wholesaler and then made available for purchase by
15 the Oklahoma licensed distiller; and

16 7. To host off-site events pursuant to Section 5 of this act;
17 provided, that products offered for sale by the Oklahoma licensed
18 distiller will have been sold to and shipped to an Oklahoma licensed
19 wine and spirits wholesaler and then made available for purchase by
20 the Oklahoma licensed distiller.

21 B. Spirits sold pursuant to paragraphs 5 and 6 of subsection A
22 of this section shall not exceed fifteen thousand (15,000) gallons
23 per calendar year in combination.

1 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-104, is
2 amended to read as follows:

3 Section 2-104. A winemaker license shall authorize the holder
4 thereof:

5 1. To manufacture (including such mixing, blending and cellar
6 treatment as authorized by federal law), bottle, package and store
7 on licensed premises wine containing not more than twenty-four
8 percent (24%) alcohol by volume, ; provided, the bottle or package
9 sizes authorized shall be limited to the capacities approved by the
10 United States Alcohol and Tobacco Tax and Trade Bureau;

11 2. To sell wine in this state to licensed wholesalers and
12 manufacturers;

13 3. To sell wine produced at the winery from grapes and other
14 fruits and berries grown in this state, if available, for either on-
15 premises or off-premises consumption to consumers on the premises of
16 the winery;

17 4. To serve free samples of wine produced at the winery to
18 visitors twenty-one (21) years of age and older. For purposes of
19 this section, no visitor may sample more than a total of six (6)
20 fluid ounces of wine per day. The winery shall restrict the
21 distribution and consumption of wine samples to an area within the
22 licensed premises designated by the winery. A current floor plan
23 that includes the designated sampling area shall be on file with the
24 ABLE Commission. No visitor under twenty-one (21) years of age

1 shall be permitted to enter the designated sampling area when
2 samples are being distributed and consumed. Samples of wine served
3 by a winery under this section shall not be considered a sale of
4 wine within the meaning of Article XXVIII-A of the Oklahoma
5 Constitution or Section 1-103 of this title; provided, such samples
6 of wine shall be considered removed or withdrawn from the winery for
7 use or consumption within the meaning of Section 5-110 of this title
8 for excise tax determination and reporting requirements;

9 5. To serve free samples of wine produced at the winery at
10 public events such as festivals and trade shows;

11 6. To sell wine produced at the winery, for either on-premises
12 or off-premises consumption at public events such as festivals and
13 trade shows;

14 7. To sell wine out of this state to qualified persons;

15 8. To purchase from licensed winemakers, distillers and
16 rectifiers in this state, and to import into this state wine, brandy
17 and fruit spirits for use in manufacturing in accordance with
18 federal laws and regulations;

19 9. To sell and serve Oklahoma-manufactured wine, mulled wine,
20 or spiced wine, mixed with nonalcoholic beverages or food items such
21 as water, sugar, fruits and vegetables, at any temperature for
22 either on-premises or off-premises consumption;

1 10. To purchase beer in retail containers from the holder of a
2 wholesaler, beer distributor, small brewer self-distributor or
3 brewpub self-distributor license or as specifically provided by law;

4 11. To sell, offer for sale and possess beer for on-premises
5 consumption; ~~and~~

6 12. To establish satellite tasting rooms as defined and
7 authorized in this act where the winemaker's products may be tasted,
8 sampled, sold and served for on-premises consumption and the
9 winemaker is permitted to sell its products in sealed containers;
10 provided, the small farm winery license or winemaker license is
11 active and in good standing. The wine sold at a satellite tasting
12 room must have been produced/manufactured by the holder of a small
13 farm winery license or winemaker license and must have all
14 manufacturing taxes paid; and

15 13. To host off-site events pursuant to Section 5 of this act.

16 SECTION 4. AMENDATORY 37A O.S. 2021, Section 2-131, is
17 amended to read as follows:

18 Section 2-131. A. A small farm winery license shall authorize
19 the holder thereof:

20 1. To manufacture and bottle wines produced by that small farm
21 winery;

22 2. To bottle and sell wines produced by another small farm
23 winery. In order for a small farm winery to bottle and sell another
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1 small farm winery's products, both the selling winery and the buying
2 winery shall be small farm winery permit holders;

3 3. To establish satellite tasting rooms as defined and
4 authorized in this act where the winemaker's products may be tasted,
5 sampled, sold and served for on-premises consumption and the
6 winemaker is permitted to sell its products in sealed containers;
7 provided, the small farm winery license is active and in good
8 standing. The wine sold at a satellite tasting room must have been
9 produced/manufactured by the holder of a small farm winery license
10 and must have all manufacturing taxes paid; ~~and~~

11 4. To host off-site events pursuant to Section 5 of this act;
12 and

13 5. The small farm winery licensee shall have the same authority
14 as the winemaker licensee.

15 B. A small farm wine may display the trademarked "Oklahoma
16 Grown" sticker available from the Oklahoma Grape Industry Council.

17 SECTION 5. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there
19 is created a duplication in numbering, reads as follows:

20 A. A small brewer, winemaker, distiller, or small farm winery
21 licensee shall be authorized to host an off-site event following the
22 submission and approval of an application to the ABLE Commission.
23 The licensee shall only be authorized to sell for consumption at the
24 off-site event alcoholic beverages authorized for sale under the

1 licensee's respective license. The licensee shall be limited to
2 hosting four (4) off-site events per year.

3 B. The application shall include, but not be limited to, the
4 location of the off-site event with a designated area within the
5 location designed to provide an exclusive space which may be limited
6 to the public and a designated point of access for a patron or
7 patrons specifically granted access to ensure that persons present
8 in the designated area are above twenty-one (21) years of age. The
9 Commission may prescribe a filing fee for each off-site event
10 application not to exceed Twenty-five Dollars (\$25.00).

11 C. The ABLE Commission shall promulgate rules necessary for the
12 implementation of this section.

13 SECTION 6. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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