

1 ENGROSSED SENATE
2 BILL NO. 385

By: Coleman of the Senate

3 and

4 Strom of the House

5
6 An Act relating to alcoholic beverages; amending
7 Section 21, Chapter 366, O.S.L. 2016, as amended by
8 Section 1, Chapter 81, O.S.L. 2020, Section 143,
9 Chapter 366, O.S.L. 2016, as last amended by Section
10 1, Chapter 237, O.S.L. 2019 and Section 148, Chapter
11 366, O.S.L. 2016, as last amended by Section 22,
12 Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020,
13 Sections 2-109, 6-103 and 6-108), which relate to
14 retail licenses and prohibited acts for retail
15 licensees; authorizing certain tastings of beer, wine
16 and spirits in retail spirit licensee premises;
17 stating authority and procedure for offering certain
18 samples; directing licensed person pour alcoholic
19 beverages; providing for purchases and payment of
20 taxes; restricting tastings to certain aged persons;
21 prohibiting removal of alcoholic beverages used for
22 tastings from licensed premises; limiting size of
23 sample served; limiting number of unsealed bottles;
24 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 1. To purchase wine or spirits from a wine and spirits
2 wholesaler;
3 2. To purchase beer from a beer distributor or from the holder
4 of a small brewer self-distribution license; ~~and~~
5 3. To sell same on the licensed premises in such containers to
6 consumers for off-premises consumption only and not for resale;
7 provided, spirits, wine and beer may be sold to charitable
8 organizations that are holders of charitable alcoholic beverage
9 auction or charitable alcoholic beverage event licenses; and
10 4. To host alcoholic beverage tastings consistent with
11 subsections D and E of this section.

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

13 1. To purchase wine from a wine and spirits wholesaler;
14 2. To purchase wine from a small farm winemaker who is
15 permitted and has elected to self-distribute as provided in Article
16 XXVIII-A of the Oklahoma Constitution; ~~and~~
17 3. To sell same on the licensed premises in such containers to
18 consumers for off-premises consumption only and not for resale;
19 provided, wine may be sold to charitable organizations that are
20 holders of charitable alcoholic beverage auction or charitable
21 alcoholic beverage event licenses; and
22 4. To host an alcoholic beverage tasting, consistent with
23 subsection D and E of this section.
24

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

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

4 1. To purchase beer from a beer distributor;

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

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

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

14 Provided, no holder of a retail beer license may sell a malt
15 beverage with alcohol beverage volume in excess of fifteen percent
16 (15%).

17 D. All tastings conducted under this section shall:

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

20 2. Be poured by any ABLE licensee lawfully permitted to serve
21 alcoholic beverages, provided no wine or spirits wholesaler, beer
22 distributor or employee of a wine or spirits wholesaler or beer
23 distributor shall be allowed to pour samples for tastings;
24

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

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

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

13 6. Be consumed on the licensed premises of the licensee
14 authorized to host the tastings or at a location other than the
15 licensed premises, provided no samples served on the licensed
16 premises shall be permitted to be removed from the licensed
17 premises.

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

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

21 2. Any alcoholic beverages remaining in unsealed packaging used
22 to provide samples are poured out by the end of the day;

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

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

3 SECTION 2. AMENDATORY Section 143, Chapter 366, O.S.L.
4 2016, as last amended by Section 1, Chapter 237, O.S.L. 2019 (37A
5 O.S. Supp. 2020, Section 6-103), is amended to read as follows:

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

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

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

18 3. Sell any alcoholic beverages at any hour other than between
19 the hours of 8:00 a.m. and midnight Monday through Saturday, and
20 shall not be permitted to be open on Thanksgiving Day or Christmas
21 Day; provided, a county may, pursuant to the provisions of
22 subsections B and C of Section 3-124 of this title, elect to allow
23 such sales between the hours of noon and midnight on Sunday. Retail
24 spirits licensees shall be permitted to sell alcoholic beverages on

1 the day of any General, Primary, Runoff Primary or Special Election
2 whether on a national, state, county or city election, provided that
3 the election day does not occur on any day on which such sales are
4 otherwise prohibited by law;

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

8 5. Sell any alcoholic beverage on credit; provided, that
9 acceptance by a licensee of a cash or debit card or a nationally
10 recognized credit card in lieu of actual cash payment does not
11 constitute the extension of credit; provided, further, as used in
12 this section:

13 a. "cash or debit card" means any instrument or device
14 whether known as a debit card or by any other name,
15 issued with or without fee by an issuer for the use of
16 the cardholder in depositing, obtaining or
17 transferring funds from a consumer banking electronic
18 facility, and

19 b. "nationally recognized credit card" means any
20 instrument or device, whether known as a credit card,
21 credit plate, charge plate or by any other name,
22 issued with or without fee by an issuer for the use of
23 the cardholder in obtaining money, goods, services or
24

1 anything else of value on credit which is accepted by
2 over one hundred retail locations;

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

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

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

21 SECTION 3. AMENDATORY Section 148, Chapter 366, O.S.L.
22 2016, as last amended by Section 22, Chapter 161, O.S.L. 2020 (37A
23 O.S. Supp. 2020, Section 6-108), is amended to read as follows:
24

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

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

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

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

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

21 a. the acceptance by a grocery store, convenience store
22 or drug store of a cash or debit card, or a
23 nationally recognized credit card, in lieu of
24 actual cash payment does not constitute the

1 extension of credit; provided, further, as used
2 in this section:

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

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

17 b. when the holder of a Retail Wine License, Retail Beer
18 License or Mixed Beverage License is a private
19 membership club, marina, golf course or country club
20 that normally charges food, drinks and other purchases
21 to the member's monthly dues account in the regular
22 course of business, in lieu of actual cash payment at
23 the time of purchase, such practice does not
24 constitute the extension of credit;

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

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

16 SECTION 4. This act shall become effective November 1, 2021.
17
18
19
20
21
22
23
24

1 Passed the Senate the 2nd day of March, 2021.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

7
8 _____
9 Presiding Officer of the House
10 of Representatives