

1 ENGROSSED HOUSE
2 BILL NO. 2380

By: Marti and Davis of the
House

3 and

4 Coleman of the Senate
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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:
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- 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 himself or
21 herself any alcoholic beverage, except a licensee may offer a patron
22 self-pour service of beer or wine, or both, from automated devices
23 on licensed 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 patron 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:

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

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

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

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

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

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

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

Passed the House of Representatives the 9th day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the day of , 2021.

Presiding Officer of the Senate