

An Act

ENROLLED SENATE
BILL NO. 1784

By: Coleman of the Senate

and

Marti of the House

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Sections 6-103, 6-105, and 6-114, which relate to prohibited acts; providing exception for certain employees of licensees to conduct work under certain circumstances; updating statutory language; and declaring an emergency.

SUBJECT: Alcoholic beverages

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 6-103, is amended to read as follows:

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

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

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

3. Sell any alcoholic beverages at any hour other than between the hours of 8:00 a.m. and midnight Monday through Saturday, and shall not be permitted to be open on Thanksgiving Day or Christmas Day; provided, a county may, pursuant to the provisions of subsections B and C of Section 3-124 of this title, elect to allow such sales between the hours of noon and midnight on Sunday. Retail spirits licensees shall be permitted to sell alcoholic beverages on the day of any General, Primary, Runoff Primary or Special Election whether on a national, state, county or city election, provided that the election day does not occur on any day on which such sales are otherwise prohibited by law;

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

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

- a. "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility, and
- b. "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred retail locations;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverages, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages shall not be included in this prohibition,

but no wholesaler or retailer shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold; or

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

B. No retail spirits licensee shall permit any person under twenty-one (21) years of age to enter into or remain within or about the licensed premises unless accompanied by the person's parent or legal guardian; provided, however, this restriction shall not apply to an employee of a licensed beer distributor or wine and spirits wholesaler who:

1. Is at least eighteen (18) years of age;

2. Is accompanied by a coworker at least twenty-one (21) years of age; and

3. Enters for the sole purpose of merchandising or delivering product to the licensee in the normal course of business.

SECTION 2. AMENDATORY 37A O.S. 2021, Section 6-105, is amended to read as follows:

Section 6-105. No mixed beverage, public event, special event or on-premises beer and wine licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wine and spirit wholesaler or beer distributor license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; provided, a mixed beverage or on-premises beer and wine licensee whose premises are a restaurant may purchase wine produced at wineries in this state directly from a winemaker as provided in Section 2 of Article XXVIII A of the Oklahoma Constitution;

2. Transport alcoholic beverages from the place of purchase to the licensed premises unless the licensee also holds a private carrier license issued by the ABLE Commission;

3. Use or allow the use of any mark or label on a container of alcoholic beverage which is kept for sale which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of such beverage;

4. Keep or knowingly permit any alcoholic beverage to be kept, brought or consumed on the licensed premises which is not allowed to be sold or served upon such premises; or

5. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises, except for persons who incidentally pass through the designated area.

The prohibition in this subsection against persons under twenty-one (21) years of age entering or remaining within the designated bar area of the licensed premises shall not apply:

- a. if the licensed premises are closed to the public during a time the premises are legally permitted to be open for business and the premises are used for a private party at which alcoholic beverages may be served to persons twenty-one (21) years of age or older. Any alcoholic beverages served at a private party on the licensed premises may be purchased from the licensee at a negotiated price or purchased privately and served at the private party on the licensed premises. Any licensee who desires to conduct such a private party shall notify the ABLE Commission, in writing, at least ten (10) calendar days prior to the private party. The notification shall include the date, time and purpose of the private party and any other information the ABLE Commission may deem necessary, ~~or~~
- b. to a designated bar area which is a ~~concessions~~ concession stand serving beer and wine, in addition to

food and non-alcoholic beverages, which concession stand is located at, in, or on the premises of a sports, music or entertainment venue, convention center, fairgrounds or similar facility, or

- c. to an employee of a beer distributor or wine and spirits wholesaler who is at least eighteen (18) years of age and enters for the purpose of merchandising or delivering product to the licensee in the normal course of business.

SECTION 3. AMENDATORY 37A O.S. 2021, Section 6-114, is amended to read as follows:

Section 6-114. A. 1. If the premises of a licensee of the ABLE Commission contains a separate or enclosed lounge or bar area, which has as its main purpose the sale or distribution of alcoholic beverages for on-premises consumption, notwithstanding that as an incidental service, meals or short order foods are made available therein, no person under twenty-one (21) years of age shall be admitted to such area, except for members of a musical band employed or hired as provided in paragraph 2 of Section ~~142 of this act~~ 6-102 of this title when the band is to perform within such area, employees of a beer distributor or wine and spirits wholesaler who are at least eighteen (18) years of age and enter for the purpose of merchandising or delivering product to the licensee in the normal course of business, or persons under twenty-one (21) years of age who are on the licensed premises for the limited purpose of performing maintenance, construction, remodeling, painting or other similar services relating to the building or equipment installation, repair or maintenance on the premises during those hours when the licensed establishment is closed for business. The provisions of this section shall not prohibit persons under twenty-one (21) years of age from being admitted to an area which has as its main purpose some objective other than the sale or mixing or serving of alcoholic beverages, in which sales or serving of alcoholic beverages are incidental to the main purpose, as long as the persons under twenty-one (21) years of age are not sold or served alcoholic beverages. The incidental service of food in the bar area shall not exempt a licensee from the provisions of this section. The ABLE Commission shall have the authority to designate the portions of the premises of a licensee where persons under twenty-one (21) years of age shall

not be admitted pursuant to this section. When determining a licensee's main purpose, a licensee that operates a full kitchen, sells food items from a full menu, and has thirty-five percent (35%) or more of its monthly gross sales attributable to food items, shall have as its main purpose other than the sale of alcoholic beverages. The main purpose of those mixed beverage establishments whose main purpose was other than the sale of alcoholic beverages prior to October 1, 2018, shall not automatically lose that designation upon the elimination of low-point beer in the state. If the ABLE Commission wishes to change ~~said~~ the mixed beverage establishments' main purpose designation, it shall be the burden of the ABLE Commission to prove by clear and convincing evidence that ~~said~~ the mixed beverage establishments no longer qualify for that designation.

2. A new licensee that claims as its main purpose some objective other than the sale of alcoholic beverages may be granted a separate or enclosed lounge or bar area for a period of ninety (90) days. At the end of that ninety-day period, the licensee shall have the burden of showing that the business continues to qualify for a separate or enclosed bar area. If the licensee fails to satisfy this burden, then that licensee's main purpose shall automatically convert to the sale of alcoholic beverages.

B. Except as otherwise provided, an admission charge shall not be considered in any calculation designed to determine the main purpose of an establishment pursuant to subsection A of this section. As used in this section, "admission charge" means any form of consideration received by an establishment from a person in order for that person to gain entrance into the establishment.

C. The provisions of subsection B of this section shall not apply:

1. If only persons eighteen (18) years of age or older are permitted to enter the licensed premises; provided, if the licensee is claiming an exception from the requirements of subsection B of this section pursuant to this paragraph and fails to restrict the entry by persons under age eighteen (18) into the licensed premises, the ABLE Commission shall designate that only persons twenty-one (21) years of age or older are allowed on the licensed premises;

2. If the licensed premises are owned or operated by a service organization or fraternal establishment which is exempt under Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

3. To a public event held in a facility owned or operated by any agency, political subdivision or public trust of this state.

D. The ABLE Commission shall promulgate rules necessary to implement the provisions of this section.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 7th day of March, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2022.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____