

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 385, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Coleman

Coleman-NP-FS-Req#1757
2/22/2021 1:39 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 385

By: Coleman of the Senate

and

Strom of the House

FLOOR 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 are poured out by the end of the day;

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

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

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

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

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

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

22 3. Sell any alcoholic beverages at any hour other than between
23 the hours of 8:00 a.m. and midnight Monday through Saturday, and
24 shall not be permitted to be open on Thanksgiving Day or Christmas

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

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

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

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

23 b. "nationally recognized credit card" means any
24 instrument or device, whether known as a credit card,

1 credit plate, charge plate or by any other name,
2 issued with or without fee by an issuer for the use of
3 the cardholder in obtaining money, goods, services or
4 anything else of value on credit which is accepted by
5 over one hundred retail locations;

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

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

20 B. No retail spirits licensee shall permit any person under
21 twenty-one (21) years of age to enter into or remain within or about
22 the licensed premises unless accompanied by the person's parent or
23 legal guardian.
24

SECTION 3. AMENDATORY 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, Section 6-108), is amended to read as follows:

Section 6-108. No holder of a Retail Wine License or a Retail Beer License 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;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed on the licensed premises, ~~unless~~ except when serving samples as authorized by Section 2-109 of this title or as otherwise permitted by law; provided, the licensee shall not permit any alcoholic beverages 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 the business on that day;

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

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

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

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

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

21 b. when the holder of a Retail Wine License, Retail Beer
22 License or Mixed Beverage License is a private
23 membership club, marina, golf course or country club
24 that normally charges food, drinks and other purchases

1 to the member's monthly dues account in the regular
2 course of business, in lieu of actual cash payment at
3 the time of purchase, such practice does not
4 constitute the extension of credit;

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

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

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

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