

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1636

By: Phillips

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to alcoholic beverages; amending 37A
10 O.S. 2021, Section 5-135, which relates monthly tax
11 reports, gross receipts tax payments, penalties, and
12 tax auditing of certain licensees; removing the
13 authorization of the Oklahoma Tax Commission for
14 auditing any mixed beverage, beer and wine, caterer,
15 public event or special event licensee; and providing
16 an effective date.

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

18 SECTION 1. AMENDATORY 37A O.S. 2021, Section 5-135, is
19 amended to read as follows:

20 Section 5-135. A. Every mixed beverage tax permit holder, or
21 any person transacting business subject to the gross receipts tax
22 levied by Section 108 of this act, shall file with the Oklahoma Tax
23 Commission a monthly report for each place or location of business,
24 on or before the twentieth day of the month immediately following
the month of receipt. The reports shall be made under oath, on

forms prescribed by the Tax Commission, which shall include the following information:

1. Name of mixed beverage tax permit holder;
2. Mixed beverage tax permit number;
3. Sales tax permit number;
4. Mixed beverage, caterer, public event or special event license number;
5. Gross receipts for the month for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages;
6. Gross receipts for the month from charges for the privilege of admission to a mixed beverage establishment which entitles a person to complimentary mixed beverages or discounted prices for mixed beverages;
7. Total retail value of complimentary or discounted alcoholic beverages served for the month; and
8. Such other information as may be required by the Tax Commission to enable it to collect taxes imposed as provided by law.

B. The gross receipts tax levied by Section 108 of this act shall be calculated by multiplying the tax rate, thirteen and one-half percent (13.5%), and the total gross receipts for each month from the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages, the total gross receipts of charges received for admission to mixed beverage

1 establishments, as provided in paragraph 6 of subsection A of this
2 section, and the total retail value of complimentary or discounted
3 mixed beverages. Gross receipts from the sale of food prepared with
4 alcoholic beverages shall not be included in the calculation of the
5 monthly tax liability. The tax due for the preceding month shall
6 accompany the report required in subsection A of this section. All
7 taxes, penalties and interest imposed by the Oklahoma Alcoholic
8 Beverage Control Act may be paid in the form of electronic funds
9 transfer or by a personal or company check, cashier's check,
10 certified check or postal money order payable to the Tax Commission.

11 C. If the gross receipts tax levied pursuant to the provisions
12 of Section 108 of this act is not paid on or before the twentieth
13 day of each month, the tax shall be delinquent, and interest and
14 penalty shall accrue on and from the twenty-first day of each month,
15 pursuant to the provisions of the Uniform Tax Procedure Code.

16 D. Every licensed wholesaler of alcoholic beverages in this
17 state shall file with the Tax Commission a monthly report, under
18 oath, on forms prescribed by the Tax Commission, which shall include
19 the name, location and mixed beverage tax permit number of each
20 mixed beverage, caterer, public event or special event licensee to
21 whom the licensed wholesaler sold alcoholic beverages during the
22 report month.

23 E. If the report required by subsection A of this section is
24 not filed with the Tax Commission on or before the twentieth day of

1 the month, the Tax Commission may assess an additional penalty of
2 Five Dollars (\$5.00) for each day thereafter that the report is not
3 filed pursuant to the provisions of this section. The Tax
4 Commission may waive the penalty assessed pursuant to the provisions
5 of the Uniform Tax Procedure Code; provided, however, the additional
6 penalty, if assessed, shall not exceed an amount equal to twice the
7 amount of tax due for the period for which such report was required
8 to be filed, or the sum of Three Hundred Dollars (\$300.00),
9 whichever is greater.

10 F. Taxes paid as provided by law represented by accounts
11 receivable which are found to be worthless or uncollectible may be
12 credited upon subsequent reports and remittances of such tax, in
13 accordance with rules promulgated by the Tax Commission. If such
14 accounts are thereafter collected, the same shall be reported and
15 the tax shall be paid upon the amount so collected.

16 ~~G. In addition to any other authority granted by law, the Tax~~
17 ~~Commission is hereby authorized to audit any mixed beverage, beer~~
18 ~~and wine, caterer, public event or special event licensee to~~
19 ~~determine if the correct amount of tax payable under Section 108 of~~
20 ~~this act has been collected; provided, if such an audit reveals that~~
21 ~~the amount collected is within the following percentages of the~~
22 ~~amount of tax payable, the taxpayer shall be deemed to be in~~
23 ~~compliance:~~

24

1 ~~1. For spirits, eighty four percent (84%) to one hundred~~
2 ~~sixteen percent (116%);~~

3 ~~2. For wine, ninety percent (90%) to one hundred ten percent~~
4 ~~(110%);~~

5 ~~3. For beer sold at draft and not in original packages, eighty~~
6 ~~six percent (86%) to one hundred fourteen percent (114%); and~~

7 ~~4. For beer sold in original packages, ninety five percent~~
8 ~~(95%) to one hundred five percent (105%).~~

9 SECTION 2. This act shall become effective November 1, 2022.

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11 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
12 SUBSTANCES, dated 03/03/2022 - DO PASS, As Amended.