

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2135

By: McEntire of the House

and

Thompson of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to alcoholic beverages; amending
12 Section 89, Chapter 366, O.S.L. 2016, as last amended
13 by Section 1, Chapter 431, O.S.L. 2019 (37A O.S.
14 Supp. 2020, Section 3-119), which relates to business
15 interests and acts prohibited for manufacturers, wine
16 and spirits wholesalers, beer distributors, persons
17 authorized to sell alcoholic beverages to wholesalers
18 and others; modifying to apply to Oklahoma licensed
19 manufacturers or wholesalers; providing requirements
20 for manufacturers and brewers whose products are
21 made outside of the state to have an ownership
22 interest in an Oklahoma retailer; amending Section
23 90, Chapter 366, O.S.L. 2016, as amended by Section
24 23, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2020,
 Section 3-120), which relates to business interests
 prohibited for beverage, beer and wine, caterer,
 public events or bottle club licensees; modifying to
 apply to Oklahoma licensed manufacturers or
 wholesalers; amending Section 91, Chapter 366, O.S.L.
 2016, as amended by Section 24, Chapter 322, O.S.L.
 2019 (37A O.S. Supp. 2020, Section 3-121), which
 relates to limitations on ownership interest in mixed
 beverage, beer and wine, caterers, public events or
 bottle club licensees; modifying to apply to Oklahoma
 licensed manufacturer, brewer, wine and spirits
 wholesaler, beer distributor, partner in any type of
 partnership, manager or member of a limited liability

1 company, or officer, director or stockholder of any
2 nonresident seller, brewer, or manufacturer licensee;
3 and providing an effective date.
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5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. AMENDATORY Section 89, Chapter 366, O.S.L.
7 2016, as last amended by Section 1, Chapter 431, O.S.L. 2019 (37A
8 O.S. Supp. 2020, Section 3-119), is amended to read as follows:

9 Section 3-119. A. It shall be unlawful for any Oklahoma
10 Licensed manufacturer, brewer, wine and spirits wholesaler, beer
11 distributor or person authorized to sell alcoholic beverages to a
12 wholesaler, or any employee, officer, director, stockholder owning
13 fifteen percent (15%) or more of the stock, any type of partner,
14 manager, member or agent thereof, to directly or indirectly:

15 1. Have any financial interest in any premises upon which any
16 alcoholic beverage is sold at retail or in any business connected
17 with the retailing of alcoholic beverages; provided, nothing in this
18 act shall prohibit the operation of a mixed beverage licensee, beer
19 and wine licensee or caterer licensee by an entity which has common
20 owners with the holder of a small brewer license or a brewpub
21 license;

22 2. Lend any money or other thing of value, or to make any gift
23 or offer any gratuity, to any package store, retail wine, retail
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1 beer, mixed beverage, beer and wine, public event or bottle club
2 licensee or caterer;

3 3. Guarantee any loan or the repayment of any financial
4 obligation of any retailer, mixed beverage, beer and wine, public
5 event or bottle club licensee or caterer;

6 4. Require any wine and spirits wholesaler, beer distributor,
7 retailer, mixed beverage, on-premises beer and wine licensee, public
8 event or caterer to purchase and dispose of any quota of alcoholic
9 beverages, or to require any retailer to purchase any kind, type,
10 size, container or brand of alcoholic beverages in order to obtain
11 any other kind, type, size, container or brand of alcoholic
12 beverages;

13 5. Sell to any retailer, mixed beverage, on-premises beer and
14 wine licensee, public event or caterer any alcoholic beverage on
15 consignment, or upon condition, or with the privilege of return, or
16 on any condition other than a bona fide sale; provided, the
17 following shall not be considered a violation of this paragraph:

- 18 a. delivery in good faith, through mistake, inadvertence
19 or oversight, of an alcoholic beverage that was not
20 ordered by a retailer, mixed beverage licensee, on-
21 premises beer and wine licensee, caterer, public event
22 or special event licensee to such licensee,
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1 b. replacement of product breakage that occurred while
2 the alcoholic beverages were in transit from the
3 wholesaler to the licensee, or

4 c. replacement of cork-tainted wine that makes the
5 product unsaleable as long as the licensee notifies
6 the wine and spirits wholesaler of the defect in
7 writing within ninety (90) days after delivery of the
8 product; or

9 6. Extend credit to any retailer, other than holders of Federal
10 Liquor Stamps on United States government reservations and
11 installations, mixed beverage, public event or on-premises beer and
12 wine licensee or caterer, other than a state lodge located in a
13 county which has approved the retail sale of alcoholic beverages by
14 the individual drink for on-premises consumption. The acceptance of
15 a postdated check or draft or the failure to deposit for collection
16 a current check or draft by the second banking day after receipt
17 shall be deemed an extension of credit. Violation of this section
18 shall be grounds for suspension of the license.

19 B. Notwithstanding anything to the contrary stated above or in
20 any other statutory provision in this title, no manufacturer or
21 brewer whose products are made outside of the State of Oklahoma
22 shall be prohibited from having any ownership interest in an
23 Oklahoma retailer, provided that the Oklahoma retailer that is
24 commonly owned by a manufacturer or brewer does not offer for sale

1 at its Oklahoma retail locations the beer, wine, or spirits that are
2 made by the manufacturer outside of the State.

3 SECTION 2. AMENDATORY Section 90, Chapter 366, O.S.L.
4 2016, as amended by Section 23, Chapter 322, O.S.L. 2019 (37A O.S.
5 Supp. 2020, Section 3-120), is amended to read as follows:

6 Section 3-120. No mixed beverage, beer and wine, caterer,
7 public event or bottle club licensee, partner in any type of
8 partnership, manager or member of a limited liability company,
9 officer, director or stockholder of any corporate licensee owning
10 more than fifteen percent (15%) of the stock shall have any right,
11 title, lien, claim or interest, financial or otherwise in, upon or
12 to the premises, equipment, business or merchandise of any package
13 store, beer distributor, brewer, Oklahoma Licensed manufacturer or
14 wholesaler. The provisions of this section shall not prohibit a
15 person who is an officer or director of a fraternal or veteran's
16 organization which is a tax exempt organization under Section
17 501(c)(8), (10) or (19) of the Internal Revenue Code and which holds
18 a license issued by the ABLE Commission from having a right, title,
19 lien, claim or interest in the premises, equipment, business or
20 merchandise of a package store.

21 SECTION 3. AMENDATORY Section 91, Chapter 366, O.S.L.
22 2016, as amended by Section 24, Chapter 322, O.S.L. 2019 (37A O.S.
23 Supp. 2020, Section 3-121), is amended to read as follows:

1 Section 3-121. No Oklahoma licensed manufacturer, brewer, wine
2 and spirits wholesaler, beer distributor, partner in any type of
3 partnership, manager or member of a limited liability company, or
4 officer, director or stockholder of any nonresident seller, brewer,
5 or manufacturer licensee, owning more than fifteen percent (15%) of
6 the stock shall have any right, title, claim or interest, financial
7 or otherwise in, upon or to the premises, equipment, business or
8 merchandise of any mixed beverage, beer and wine, caterer, public
9 event or bottle club licensee.

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

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12 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
13 SUBSTANCES, dated 03/01/2021 - DO PASS, As Amended and Coauthored.
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