

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. 2213

By: McDugle and **Humphrey** of the
House

and

Coleman of the Senate

7
8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to alcoholic beverages; amending
12 Section 15, Chapter 366, O.S.L. 2016 (37A O.S. Supp.
13 2020, Section 2-103), which relates to distiller
14 licenses; modifying authority of holders of distiller
15 licenses; amending Section 19, Chapter 366, O.S.L.
16 2016, as amended by Section 11, Chapter 364, O.S.L.
17 2017 (37A O.S. Supp. 2020, Section 2-107), which
18 relates to wine and spirits; modifying authorized
19 acts of certain wholesalers; and declaring an
20 emergency.

21
22
23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY Section 15, Chapter 366, O.S.L.
2016 (37A O.S. Supp. 2020, Section 2-103), is amended to read as
follows:

Section 2-103. A. A distiller license shall authorize the
holder thereof:

1 1. To manufacture, bottle, package and store spirits on
2 licensed premises;

3 2. To sell spirits in this state to licensed wholesalers and
4 manufacturers only;

5 3. To sell spirits out of this state to qualified persons; to
6 purchase from licensed distillers and rectifiers in this state, and
7 import spirits from without this state for manufacturing purposes in
8 accordance with federal laws and regulations; ~~and~~

9 4. To serve free samples of spirits produced only by the
10 licensee to visitors twenty-one (21) years of age and older. For
11 purposes of this section, no visitor may sample more than a total of
12 three (3) fluid ounces of spirits per day. The distiller shall
13 restrict the distribution and consumption of spirits samples to an
14 area within the licensed premises designated by the distiller. A
15 current floor plan that includes the designated sampling area shall
16 be on file with the ABLE Commission. No visitor under twenty-one
17 (21) years of age shall be permitted to enter the designated
18 sampling area when samples are being distributed and consumed.
19 Samples of spirits served by a distiller under this section shall
20 not be considered a sale of spirits within the meaning of Article
21 ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution or Section ~~3~~ 1-103 of
22 this ~~act~~ title; provided, such samples of spirits shall be
23 considered removed or withdrawn from the distillery for use or
24

consumption within the meaning of Section ~~113~~ 5-110 of this ~~act~~
title for excise tax determination and reporting requirements;

5. To sell spirits produced by the licensee for either on-
premises or off-premises consumption to consumers on the licensed
distillery premises or in an area controlled by the licensee located
contiguous to the licensed distillery premises. Product offered for
sale by the Oklahoma licensed distiller will have been sold to and
shipped to an Oklahoma licensed wine and spirits wholesaler and then
made available for purchase by the Oklahoma licensed distiller for
sale; and

6. To sell spirits at public events such as trade shows or
festivals. Products offered for sale by the Oklahoma licensed
distiller will have been sold to and shipped to an Oklahoma licensed
wine and spirits wholesaler and then made available for purchase by
the Oklahoma licensed distiller.

B. Spirits sold pursuant to paragraphs 5 and 6 of subsection A
of this section shall not exceed fifteen thousand (15,000) US
gallons per calendar year in combination.

SECTION 2. AMENDATORY Section 19, Chapter 366, O.S.L.
2016, as amended by Section 11, Chapter 364, O.S.L. 2017 (37A O.S.
Supp. 2020, Section 2-107), is amended to read as follows:

Section 2-107. A. A wine and spirits wholesaler license shall
authorize the holder thereof:

1 1. To purchase and import into this state spirits and wines
2 from persons authorized to sell same who are the holders of a
3 manufacturer or nonresident seller license, and their agents who are
4 the holders of manufacturer's agent licenses;

5 2. To purchase spirits and wines from licensed distillers,
6 rectifiers and winemakers in this state;

7 3. To purchase spirits and wines from licensed wholesalers, to
8 the extent set forth in subsections B and C of this section;

9 4. To sell in retail containers in this state to retailers,
10 mixed beverage, caterer, special event, public event, hotel beverage
11 or airline/railroad beverage licensees, spirits and wines which have
12 been received and unloaded at the bonded warehouse facilities of the
13 wholesaler before such sale;

14 5. To sell to licensed wholesalers, to the extent set forth in
15 subsections B and C of this section, spirits and wines which have
16 been received and unloaded at the bonded warehouse facilities of the
17 wholesaler before such sale; and

18 6. To sell spirits and wines out of this state to qualified
19 persons; and

20 7. To sell to licensed distillers spirits that were
21 manufactured by that distiller and which have been received and
22 unloaded at a bonded warehouse facility of a wholesaler before such
23 sale.
24

1 Provided, however, sales of spirits and wine in containers with
2 a capacity of less than one-twentieth (1/20) gallon by a holder of a
3 wholesaler license shall be in full case lots and in the original
4 unbroken case. Wholesalers shall be authorized to place such signs
5 outside their place of business as are required by Acts of Congress
6 and by such laws and regulations promulgated under such Acts.

7 B. A wholesaler may sell spirits and wine to other wholesalers
8 or purchase spirits and wines from other wholesalers without
9 complying with subsection A of this section in the case of the sale,
10 purchase or other transfer or acquisition of the entire business of
11 a wholesaler, including the inventory of spirits and wine.

12 C. A wholesaler license shall authorize the holder thereof to:

13 1. Maintain not more than three ~~(3)~~ self-owned or leased and
14 self-operated bonded warehouses within this state. All invoices
15 shall be stored at the principal place of business for which the
16 wholesaler license was granted; and

17 2. Accept as payment cash, personal check, cashier's check,
18 money order or electronic fund transfer from persons licensed to
19 purchase alcoholic beverages; provided, a wholesaler shall not be
20 permitted to accept payment by credit card.

21 SECTION 3. It being immediately necessary for the preservation
22 of the public peace, health or safety, an emergency is hereby
23
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3
4 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
5 SUBSTANCES, dated 03/01/2021 - DO PASS, As Amended and Coauthored.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24