

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 HOUSE BILL 2726

By: Pittman and **Davis** of the
House

5
6 and

7 **Coleman** of the Senate

8
9
10 AS INTRODUCED

11 An Act relating to alcoholic beverages; providing for
12 bottle service; amending Section 3, Chapter 366,
13 O.S.L. 2016, as last amended by Section 6, Chapter
14 161, O.S.L. 2020 (37A O.S. Supp. 2020, Section 1-
15 103), which relates to definitions; defining certain
16 terms; amending Section 22, Chapter 366, O.S.L. 2016,
17 as last amended by Section 1, Chapter 424, O.S.L.
18 2019 (37A O.S. Supp. 2020, Section 2-110), which
19 relates to mixed beverage licenses; granting
20 additional authorities to mixed beverage licensees;
21 amending Section 142, Chapter 366, O.S.L. 2016, as
22 last amended by Section 20, Chapter 161, O.S.L. 2020
23 (37A O.S. Supp. 2020, Section 6-102), which relates
24 to prohibited acts of licensees; providing certain
 exception to prohibited acts; and providing an
 effective date.

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

22 SECTION 1. AMENDATORY Section 3, Chapter 366, O.S.L.
23 2016, as last amended by Section 6, Chapter 161, O.S.L. 2020 (37A
24 O.S. Supp. 2020, Section 1-103), is amended to read as follows:

1 Section 1-103. As used in the Oklahoma Alcoholic Beverage
2 Control Act:

3 1. "ABLE Commission" or "Commission" means the Alcoholic
4 Beverage Laws Enforcement Commission;

5 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
6 alcohol, ethanol or spirits of wine, from whatever source or by
7 whatever process produced. It does not include wood alcohol or
8 alcohol which has been denatured or produced as denatured in
9 accordance with Acts of Congress and regulations promulgated
10 thereunder;

11 3. "Alcoholic beverage" means alcohol, spirits, beer and wine
12 as those terms are defined herein and also includes every liquid or
13 solid, patented or not, containing alcohol, spirits, wine or beer
14 and capable of being consumed as a beverage by human beings;

15 4. "Applicant" means any individual, legal or commercial
16 business entity, or any individual involved in any legal or
17 commercial business entity allowed to hold any license issued in
18 accordance with the Oklahoma Alcoholic Beverage Control Act;

19 5. "Beer" means any beverage of alcohol by volume and obtained
20 by the alcoholic fermentation of an infusion or decoction of barley,
21 or other grain, malt or similar products. "Beer" may or may not
22 contain hops or other vegetable products. "Beer" includes, among
23 other things, beer, ale, stout, lager beer, porter and other malt or
24

1 brewed liquors, but does not include sake, known as Japanese rice
2 wine;

3 6. "Beer keg" means any brewer-sealed, single container that
4 contains not less than four (4) gallons of beer;

5 7. "Beer distributor" means and includes any person licensed to
6 distribute beer for retail sale in the state, but does not include a
7 holder of a small brewer self-distribution license or brewpub self-
8 distribution license. The term "distributor", as used in the
9 Oklahoma Alcoholic Beverage Control Act, shall be construed to refer
10 to a beer distributor;

11 8. "Bottle club" means any establishment in a county which has
12 not authorized the retail sale of alcoholic beverages by the
13 individual drink, which is required to be licensed to keep, mix and
14 serve alcoholic beverages belonging to club members on club
15 premises;

16 9. "Bottle service" means the sale and provision of spirits in
17 their original packages by a mixed beverage licensee to be consumed
18 in that mixed beverage licensee's club suite;

19 10. "Brand" means any word, name, group of letters, symbol or
20 combination thereof, that is adopted and used by a licensed brewer
21 to identify a specific beer, wine or spirit and to distinguish that
22 product from another beer, wine or spirit;

23 ~~10.~~ 11. "Brand extension" means:
24

1 a. after October 1, 2018, any brand of beer or cider
2 introduced by a manufacturer in this state which
3 either:

4 (1) incorporates all or a substantial part of the
5 unique features of a preexisting brand of the
6 same licensed brewer, or

7 (2) relies to a significant extent on the goodwill
8 associated with the preexisting brand, or

9 b. any brand of beer that a brewer, the majority of whose
10 total volume of all brands of beer distributed in this
11 state by such brewer on January 1, 2016, was
12 distributed as low-point beer, desires to sell,
13 introduces, begins selling or theretofore has sold and
14 desires to continue selling a strong beer in this
15 state which either:

16 (1) incorporates or incorporated all or a substantial
17 part of the unique features of a preexisting low-
18 point beer brand of the same licensed brewer, or

19 (2) relies or relied to a significant extent on the
20 goodwill associated with a preexisting low-point
21 beer brand;

22 ~~11.~~ 12. "Brewer" means and includes any person who manufactures
23 for human consumption by the use of raw materials or other
24

1 ingredients any beer or cider upon which a license fee and a tax are
2 imposed by any law of this state;

3 ~~12.~~ 13. "Brewpub" means a licensed establishment operated on
4 the premises of, or on premises located contiguous to, a small
5 brewer, that prepares and serves food and beverages, including
6 alcoholic beverages, for on-premises consumption;

7 ~~13.~~ 14. "Cider" means any alcoholic beverage obtained by the
8 alcoholic fermentation of fruit juice, including but not limited to
9 flavored, sparkling or carbonated cider. For the purposes of the
10 manufacture of this product, cider may be manufactured by either
11 manufacturers or brewers. For the purposes of the distribution of
12 this product, cider may be distributed by either wine and spirits
13 wholesalers or beer distributors;

14 15. "Club suite" means a designated area within the premises of
15 a mixed beverage licensee designed to provide an exclusive space
16 which is limited to a patron or patrons specifically granted access
17 by a mixed beverage licensee and is not accessible to other patrons
18 of the mixed beverage licensee or the public. A club suite must
19 have a clearly designated point of access for a patron or patrons
20 specifically granted access by the mixed beverage licensee to ensure
21 that persons present in the suite are limited to patrons
22 specifically granted access by the mixed beverage licensee and
23 employees providing services to the club suite;
24

1 ~~14.~~ 16. "Convenience store" means any person primarily engaged
2 in retailing a limited range of general household items and

3 groceries, with extended hours of operation, whether or not engaged
4 in retail sales of automotive fuels in combination with such sales;

5 ~~15.~~ 17. "Convicted" and "conviction" mean and include a finding
6 of guilt resulting from a plea of guilty or nolo contendere, the
7 decision of a court or magistrate or the verdict of a jury,
8 irrespective of the pronouncement of judgment or the suspension
9 thereof;

10 ~~16.~~ 18. "Designated products" means the brands of wine or
11 spirits offered for sale by a manufacturer that the manufacturer has
12 assigned to a designated wholesaler for exclusive distribution;

13 ~~17.~~ 19. "Designated wholesaler" means a wine and spirits
14 wholesaler who has been selected by a manufacturer as a wholesaler
15 appointed to distribute designated products;

16 ~~18.~~ 20. "Director" means the Director of the ABLE Commission;

17 ~~19.~~ 21. "Distiller" means any person who produces spirits from
18 any source or substance, or any person who brews or makes mash, wort
19 or wash, fit for distillation or for the production of spirits
20 (except a person making or using such material in the authorized
21 production of wine or beer, or the production of vinegar by
22 fermentation), or any person who by any process separates alcoholic
23 spirits from any fermented substance, or any person who, making or
24

1 keeping mash, wort or wash, has also in his or her possession or use
2 a still;

3 ~~20.~~ 22. "Distributor agreement" means the written agreement
4 between the distributor and brewer as set forth in Section 3-108 of
5 this title;

6 ~~21.~~ 23. "Drug store" means a person primarily engaged in
7 retailing prescription and nonprescription drugs and medicines;

8 ~~22.~~ 24. "Dual-strength beer" means a brand of beer that,
9 immediately prior to April 15, 2017, was being sold and distributed
10 in this state:

11 a. as a low-point beer pursuant to the Low-Point Beer
12 Distribution Act in effect immediately prior to
13 October 1, 2018, and

14 b. as strong beer pursuant to the Alcoholic Beverage
15 Control Act in effect immediately prior to October 1,
16 2018,

17 and continues to be sold and distributed as such on October 1, 2018.
18 Dual-strength beer does not include a brand of beer that arose as a
19 result of a brand extension as defined in this section;

20 ~~23.~~ 25. "Fair market value" means the value in the subject
21 territory covered by the written agreement with the distributor or
22 wholesaler that would be determined in an arm's length transaction
23 entered into without duress or threat of termination of the
24

1 distributor's or wholesaler's rights and shall include all elements
2 of value, including goodwill and going-concern value;

3 ~~24.~~ 26. "Good cause" means:

4 a. failure by the distributor to comply with the material
5 and reasonable provisions of a written agreement or
6 understanding with the brewer, or

7 b. failure by the distributor to comply with the duty of
8 good faith;

9 ~~25.~~ 27. "Good faith" means the duty of each party to any
10 distributor agreement and all officers, employees or agents thereof
11 to act with honesty in fact and within reasonable standards of fair
12 dealing in the trade;

13 ~~26.~~ 28 "Grocery store" means a person primarily engaged in
14 retailing a general line of food, such as canned or frozen foods,
15 fresh fruits and vegetables, and fresh and prepared meats, fish and
16 poultry;

17 ~~27.~~ 29. "Hotel" or "motel" means an establishment which is
18 licensed to sell alcoholic beverages by the individual drink and
19 which contains guestroom accommodations with respect to which the
20 predominant relationship existing between the occupants thereof and
21 the owner or operator of the establishment is that of innkeeper and
22 guest. For purposes of this section, the existence of other legal
23 relationships as between some occupants and the owner or operator
24 thereof shall be immaterial;

1 ~~28.~~ 30. "Legal newspaper" means a newspaper meeting the
2 requisites of a newspaper for publication of legal notices as
3 prescribed in Sections 101 through 114 of Title 25 of the Oklahoma
4 Statutes;

5 ~~29.~~ 31. "Licensee" means any person holding a license under the
6 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or
7 employee of such licensee while in the performance of any act or
8 duty in connection with the licensed business or on the licensed
9 premises;

10 ~~30.~~ 32. "Low-point beer" shall mean any beverages containing
11 more than one-half of one percent (1/2 of 1%) alcohol by volume, and
12 not more than three and two-tenths percent (3.2%) alcohol by weight,
13 including but not limited to, beer or cereal malt beverages obtained
14 by the alcoholic fermentation of an infusion by barley or other
15 grain, malt or similar products;

16 ~~31.~~ 33. "Manufacturer" means a distiller, winemaker, rectifier
17 or bottler of any alcoholic beverage (other than beer) and its
18 subsidiaries, affiliates and parent companies;

19 ~~32.~~ 34. "Manufacturer's agent" means a salaried or commissioned
20 salesperson who is the agent authorized to act on behalf of the
21 manufacturer or nonresident seller in the state;

22 ~~33.~~ 35. "Meals" means foods commonly ordered at lunch or dinner
23 and at least part of which is cooked on the licensed premises and
24 requires the use of dining implements for consumption. Provided,

1 that the service of only food such as appetizers, sandwiches, salads
2 or desserts shall not be considered "meals";

3 ~~34.~~ 36. "Mini-bar" means a closed container, either refrigerated
4 in whole or in part, or nonrefrigerated, and access to the interior
5 of which is:

- 6 a. restricted by means of a locking device which requires
- 7 the use of a key, magnetic card or similar device, or
- 8 b. controlled at all times by the licensee;

9 ~~35.~~ 37. "Mixed beverage cooler" means any beverage, by whatever
10 name designated, consisting of an alcoholic beverage and fruit or
11 vegetable juice, fruit or vegetable flavorings, dairy products or
12 carbonated water containing more than one-half of one percent (1/2
13 of 1%) of alcohol measured by volume but not more than seven percent
14 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
15 packaged in a container not larger than three hundred seventy-five
16 (375) milliliters. Such term shall include but not be limited to
17 the beverage popularly known as a "wine cooler";

18 ~~36.~~ 38. "Mixed beverages" means one or more servings of a
19 beverage composed in whole or part of an alcoholic beverage in a
20 sealed or unsealed container of any legal size for consumption on
21 the premises where served or sold by the holder of a mixed beverage,
22 beer and wine, caterer, public event, charitable event or special
23 event license;

1 ~~37.~~ 39. "Motion picture theater" means an establishment which
2 is licensed by Section 2-110 of this title to sell alcoholic
3 beverages by the individual drink and where motion pictures are
4 exhibited, and to which the general public is admitted;

5 ~~38.~~ 40. "Nondesignated products" means the brands of wine or
6 spirits offered for sale by a manufacturer that have not been
7 assigned to a designated wholesaler;

8 ~~39.~~ 41. "Nonresident seller" means any person licensed pursuant
9 to Section 2-135 of this title;

10 ~~40.~~ 42. "Retail salesperson" means a salesperson soliciting
11 orders from and calling upon retail alcoholic beverage stores with
12 regard to his or her product;

13 ~~41.~~ 43. "Occupation" as used in connection with "occupation
14 tax" means the sites occupied as the places of business of the
15 manufacturers, brewers, wholesalers, beer distributors, retailers,
16 mixed beverage licensees, on-premises beer and wine licensees,
17 bottle clubs, caterers, public event and special event licensees;

18 ~~42.~~ 44. "Original package" means any container of alcoholic
19 beverage filled and stamped or sealed by the manufacturer or brewer;

20 ~~43.~~ 45. "Package store" means any sole proprietor or
21 partnership that qualifies to sell wine, beer and/or spirits for
22 off-premises consumption and that is not a grocery store,
23 convenience store or drug store, or other retail outlet that is not
24 permitted to sell wine or beer for off-premises consumption;

1 ~~44.~~ 46. "Patron" means any person, customer or visitor who is
2 not employed by a licensee or who is not a licensee;

3 ~~45.~~ 47. "Person" means an individual, any type of partnership,
4 corporation, association, limited liability company or any
5 individual involved in the legal structure of any such business
6 entity;

7 ~~46.~~ 48. "Premises" means the grounds and all buildings and
8 appurtenances pertaining to the grounds including any adjacent
9 premises if under the direct or indirect control of the licensee and
10 the rooms and equipment under the control of the licensee and used
11 in connection with or in furtherance of the business covered by a
12 license. Provided that the ABLE Commission shall have the authority
13 to designate areas to be excluded from the licensed premises solely
14 for the purpose of:

15 a. allowing the presence and consumption of alcoholic
16 beverages by private parties which are closed to the
17 general public, or

18 b. allowing the services of a caterer serving alcoholic
19 beverages provided by a private party.

20 This exception shall in no way limit the licensee's concurrent
21 responsibility for any violations of the Oklahoma Alcoholic Beverage
22 Control Act occurring on the licensed premises;

23 ~~47.~~ 49. "Private event" means a social gathering or event
24 attended by invited guests who share a common cause, membership,

1 business or task and have a prior established relationship. For
2 purposes of this definition, advertisement for general public
3 attendance or sales of tickets to the general public shall not
4 constitute a private event;

5 ~~48.~~ 50. "Public event" means any event that can be attended by
6 the general public;

7 ~~49.~~ 51. "Rectifier" means any person who rectifies, purifies or
8 refines spirits or wines by any process (other than by original and
9 continuous distillation, or original and continuous processing, from
10 mash, wort, wash or other substance, through continuous closed
11 vessels and pipes, until the production thereof is complete), and
12 any person who, without rectifying, purifying or refining spirits,
13 shall by mixing (except for immediate consumption on the premises
14 where mixed) such spirits, wine or other liquor with any material,
15 manufactures any spurious, imitation or compound liquors for sale,
16 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
17 or any other name;

18 ~~50.~~ 52. "Regulation" or "rule" means a formal rule of general
19 application promulgated by the ABLE Commission as herein required;

20 ~~51.~~ 53. "Restaurant" means an establishment that is licensed to
21 sell alcoholic beverages by the individual drink for on-premises
22 consumption and where food is prepared and sold for immediate
23 consumption on the premises;

1 ~~52.~~ 54. "Retail container for spirits and wines" means an
2 original package of any capacity approved by the United States
3 Bureau of Alcohol, Tobacco and Firearms;

4 ~~53.~~ 55. "Retailer" means a package store, grocery store,
5 convenience store or drug store licensed to sell alcoholic beverages
6 for off-premises consumption pursuant to a Retail Spirits License,
7 Retail Wine License or Retail Beer License;

8 ~~54.~~ 56. "Sale" means any transfer, exchange or barter in any
9 manner or by any means whatsoever, and includes and means all sales
10 made by any person, whether as principal, proprietor or as an agent,
11 servant or employee. The term "sale" is also declared to be and
12 include the use or consumption in this state of any alcoholic
13 beverage obtained within or imported from without this state, upon
14 which the excise tax levied by the Oklahoma Alcoholic Beverage
15 Control Act has not been paid or exempted;

16 ~~55.~~ 57. "Short-order food" means food other than full meals
17 including but not limited to sandwiches, soups and salads. Provided
18 that popcorn, chips and other similar snack food shall not be
19 considered "short-order food";

20 ~~56.~~ 58. "Small brewer" means a brewer who manufactures less
21 than sixty-five thousand (65,000) barrels of beer annually pursuant
22 to a validly issued Small Brewer License hereunder;

1 ~~57.~~ 59. "Small farm wine" means a wine that is produced by a
2 small farm winery with seventy-five percent (75%) or more Oklahoma-
3 grown grapes, berries, other fruits, honey or vegetables;

4 ~~58.~~ 60. "Small farm winery" means a wine-making establishment
5 that does not annually produce for sale more than fifteen thousand
6 (15,000) gallons of wine as reported on the United States Department
7 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
8 Wine Premises Operations (TTB Form 5120.17);

9 ~~59.~~ 61. "Sparkling wine" means champagne or any artificially
10 carbonated wine;

11 ~~60.~~ 62. "Special event" means an entertainment, recreation or
12 marketing event that occurs at a single location on an irregular
13 basis and at which alcoholic beverages are sold;

14 ~~61.~~ 63. "Spirits" means any beverage other than wine or beer,
15 which contains more than one-half of one percent (1/2 of 1%) alcohol
16 measured by volume, and obtained by distillation, whether or not
17 mixed with other substances in solution and includes those products
18 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
19 fortified wines and similar compounds, but shall not include any
20 alcohol liquid completely denatured in accordance with the Acts of
21 Congress and regulations pursuant thereto;

22 ~~62.~~ 64. "Strong beer" means beer which, prior to October 1,
23 2018, was distributed pursuant to the Oklahoma Alcoholic Beverage
24

Control Act, Section 501 et seq. of Title 37 of the Oklahoma Statutes;

~~63.~~ 65. "Successor brewer" means a primary source of supply, a brewer, a cider manufacturer or an importer that acquires rights to a beer or cider brand from a predecessor brewer;

~~64.~~ 66. "Tax Commission" means the Oklahoma Tax Commission;

~~65.~~ 67. "Territory" means a geographic region with a specified boundary;

~~66.~~ 68. "Wine and spirits wholesaler" or "wine and spirits distributor" means and includes any sole proprietorship or partnership licensed to distribute wine and spirits in the state. The term "wholesaler", as used the Oklahoma Alcoholic Beverage Control Act, shall be construed to refer to a wine and spirits wholesaler;

~~67.~~ 69. "Wine" means and includes any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine;

~~68.~~ 70. "Winemaker" means and includes any person or establishment who manufactures for human consumption any wine upon

1 which a license fee and a tax are imposed by any law of this state;
2 and

3 ~~69.~~ 71. "Satellite tasting room" means a licensed establishment
4 operated off the licensed premises of the holder of a small farm
5 winery or winemaker license, which serves wine for on-premises or
6 off-premises consumption.

7 Words in the plural include the singular, and vice versa, and
8 words imparting the masculine gender include the feminine, as well
9 as persons and licensees as defined in this section.

10 SECTION 2. AMENDATORY Section 22, Chapter 366, O.S.L.
11 2016, as last amended by Section 1, Chapter 424, O.S.L. 2019 (37A
12 O.S. Supp. 2020, Section 2-110), is amended to read as follows:

13 Section 2-110. A. A mixed beverage license shall authorize the
14 holder thereof:

15 1. To purchase alcohol, spirits, beer and/or wine in retail
16 containers from the holder of a wine and spirits wholesaler and beer
17 distributor license as specifically provided by law; and

18 2. To sell, offer for sale and possess mixed beverages for on-
19 premises consumption only, provided:

20 a. the holder of a mixed beverage license issued for an
21 establishment which is also a restaurant may purchase
22 wine directly from a winemaker and beer directly from
23 a small brewer who is permitted and has elected to
24

1 self-distribute as provided in Article XXVIII-A of the
2 Oklahoma Constitution, and

3 b. the holder of a mixed beverage license that is also a
4 holder of a retail wine license or retail beer license
5 or both a retail wine license and retail beer license
6 shall not be prohibited from the on-premises sale of
7 wine or beer, according to the license held, for off-
8 premises consumption, subject to the limitations of
9 the retail wine license or retail beer license; and

10 3. To sell spirits in their original packages for consumption
11 on its premises under the following conditions:

12 a. spirits in their original packages shall remain and be
13 consumed in the club suite of a mixed beverage
14 licensee and may not be removed from the club suite if
15 not consumed in their entirety at or before the
16 conclusion of the period for which the club suite was
17 made available to a specific patron or patrons by the
18 mixed beverage licensee, and

19 b. spirits in their original packages to be consumed in
20 the club suite are provided exclusively by the mixed
21 beverage licensee.

22 B. Sales and service of mixed beverages by holders of mixed
23 beverage licenses shall be limited to the licensed premises of the
24 licensee unless the holder of the mixed beverage license also

1 obtains a caterer license or a mixed beverage/caterer combination
2 license. A mixed beverage license shall only be issued in counties
3 of this state where the sale of alcoholic beverages by the
4 individual drink for on-premises consumption has been authorized. A
5 separate license shall be required for each place of business.

6 C. Holders of a mixed beverage license shall not be prohibited
7 from obtaining and holding a retail beer license or retail wine
8 license or both a retail beer license and retail wine license;
9 provided, that each holder qualifies and maintains the
10 qualifications for each license held as set forth in this title and
11 the rules promulgated by the ABLE Commission.

12 D. Upon application, a mixed beverage license shall be issued
13 for any place of business functioning as a motion picture theater,
14 as defined by Section 1-103 of this title. Provided, that upon
15 proof of legal age to consume alcohol, every patron being served
16 alcoholic beverages shall be required to wear a wrist bracelet or
17 receive a hand stamp identifying the patron as being of legal age to
18 consume alcohol. This requirement shall only apply inside a motion
19 picture theater auditorium where individuals under the legal age to
20 consume alcohol are allowed.

21 SECTION 3. AMENDATORY Section 142, Chapter 366, O.S.L.
22 2016, as last amended by Section 20, Chapter 161, O.S.L. 2020 (37A
23 O.S. Supp. 2020, Section 6-102), is amended to read as follows:

24 Section 6-102. A. No licensee of the ABLE Commission shall:

1 1. Receive, possess or sell any alcoholic beverage except as
2 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
3 license or permit which the licensee holds;

4 2. Employ any person under eighteen (18) years of age in the
5 selling of beer or wine or employ any person under twenty-one (21)
6 years of age in the selling of spirits. Provided:

7 a. a mixed beverage, beer and wine, caterer, public
8 event, special event, bottle club, retail wine or
9 retail beer licensee may employ servers or sales
10 clerks who are at least eighteen (18) years of age,
11 except persons under twenty-one (21) years of age may
12 not serve in designated bar or lounge areas, and

13 b. a mixed beverage, beer and wine, caterer, public
14 event, special event or bottle club licensee may
15 employ or hire musical bands who have musicians who
16 are under eighteen (18) years of age if each such
17 musician is either accompanied by a parent or legal
18 guardian or has on their person, to be made available
19 for inspection upon demand by any employee of the ABLE
20 Commission or law enforcement officer, a written,
21 notarized affidavit from the parent or legal guardian
22 giving the underage musician permission to perform in
23 designated bar or lounge areas;

1 3. Give any alcoholic beverage as a prize, premium or
2 consideration for any lottery, game of chance or skill or any type
3 of competition;

4 4. Use any of the following means or inducements to stimulate
5 the consumption of alcoholic beverages, including but not limited
6 to:

7 a. deliver more than two drinks to one person at one
8 time, except as provided for serving tasting flights
9 defined in Section ~~2~~ 6-102.1 of this ~~act~~ title,

10 b. sell or offer to sell to any person or group of
11 persons any drinks at a price that is less than six
12 percent (6%) below the markup of the cost to the mixed
13 beverage licensee; provided, a mixed beverage licensee
14 shall be permitted to offer these drink specials on
15 any particular hour of any particular day and shall
16 not be required to offer these drink specials for an
17 entire calendar week or from open to close,

18 c. sell or offer to sell to any person an unlimited
19 number of drinks during any set period of time for a
20 fixed price, except at private functions not open to
21 the public,

22 d. sell or offer to sell drinks to any person or group of
23 persons on any one day or portion thereof at prices
24 less than those charged the general public on that

1 day, except at private functions not open to the
2 public,

3 e. increase the volume of alcoholic beverages contained
4 in a drink without increasing proportionately the
5 price regularly charged for such drink during the same
6 calendar week, or

7 f. encourage or permit, on the licensed premises, any
8 game or contest which involves drinking or the
9 awarding of drinks as prizes.

10 Provided, that the provisions of this paragraph shall not
11 prohibit the advertising or offering of food ~~or~~, entertainment or
12 bottle service in licensed establishments;

13 5. Permit or allow any patron or person to exit the licensed
14 premises with an open container of any alcoholic beverage.

15 Provided, this prohibition shall not be applicable to closed
16 original containers of alcoholic beverages which are carried from
17 the licensed premises of a bottle club by a patron, closed original
18 wine containers removed from the premises of restaurants, hotels and
19 motels, or to closed original containers of alcoholic beverages
20 transported to and from the place of business of a licensed caterer
21 by the caterer or an employee of the caterer;

22 6. Serve or sell alcoholic beverages with an expired license
23 issued by the ABLE Commission; or
24

1 7. Permit any person to be drunk or intoxicated on the
2 licensee's licensed premises.

3 B. A mixed beverage or beer and wine licensee shall not be
4 deemed to have violated the provisions of paragraph 5 of subsection
5 A of this section if it allowed a patron to leave the licensed
6 premises with an open container of beer or wine only and:

7 1. The otherwise prohibited act was committed during the hours
8 of 8 a.m. to midnight on the day of a scheduled home football game
9 of institutions within The Oklahoma State System of Higher
10 Education, and the establishment is located within two thousand
11 (2,000) feet of the institution;

12 2. The licensee is participating by invitation in a municipally
13 sanctioned art, music or sporting event within city limits when the
14 municipality has provided written notice of the event and a list of
15 invited licensees to the ABLE Commission at least five (5) days
16 prior to the event; or

17 3. The patron remains on the connected, physical property of
18 the licensee or in a public area adjacent to the physical property
19 of the licensee with prior municipal approval; provided that written
20 notice of the use of the connected, physical property of the
21 licensee or public area shall be provided to the ABLE Commission at
22 least five (5) days prior to such use.

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

COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
SUBSTANCES, dated 02/11/2021 - DO PASS, As Coauthored.