

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

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

4   HOUSE BILL 3638

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

5  
6   and

7   **Coleman and Kidd** of the  
Senate

8  
9  
10                                       AS INTRODUCED

11           An Act relating to revenue and taxation; amending 37A  
12           O.S. 2021, Section 5-101, which relates to alcohol  
13           excise tax; exempting certain spirits from tax; and  
14           providing an effective date.

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

16           SECTION 1.       AMENDATORY       37A O.S. 2021, Section 5-101, is  
17   amended to read as follows:

18           Section 5-101.   A.   Except as provided in this subsection, an  
19   excise tax is hereby levied and imposed upon all alcoholic beverages  
20   imported or manufactured, for sale, use or distribution, or used or  
21   possessed in this state at the following rates:

22           1.   One Dollar and forty-seven cents (\$1.47) per liter, and a  
23   proportionate rate on fractions thereof, on each liter of spirits;  
24

1 provided, spirits manufactured in this state for export shall not be  
2 taxed;

3 2. Nineteen cents (\$0.19) per liter, and a proportionate rate  
4 on fractions thereof, on each liter of wine;

5 3. Fifty-five cents (\$0.55) per liter, and a proportionate rate  
6 on fractions thereof, on each liter of sparkling wine; and

7 4. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-  
8 one (31) wine gallons) and a proportionate rate on portions thereof,  
9 on each barrel of beer; provided, beer manufactured in this state  
10 for export shall not be taxed.

11 B. The excise tax levied on alcoholic beverages except beer  
12 under subsection A of this section shall be paid as follows:

13 1. Payment of the excise tax levied by this section with  
14 respect to all alcoholic beverages, other than beer, shall be made  
15 as follows:

16 a. the excise tax on all wine and spirits shall be  
17 collected and remitted by the Oklahoma wine and  
18 spirits wholesaler who purchases the alcoholic  
19 beverages for sale within the state, unless otherwise  
20 provided by subparagraph b of this paragraph,

21 b. the excise tax on all wine shipped directly to a  
22 consumer by a winery maintaining a Winemaker Self-  
23 Distribution License pursuant to Section 2-105 of this  
24 title or a winery maintaining a Direct Wine Shipper's

1 Permit pursuant to Section 3-106 of this title shall  
2 be collected and remitted by the winery maintaining  
3 this license or permit; and

4 2. The due and payable excise tax levied by this section shall  
5 be remitted electronically simultaneously with tax returns  
6 electronically filed with the Oklahoma Tax Commission using  
7 procedures prescribed by the Tax Commission. The tax returns shall  
8 be made under oath by the person liable for the tax on forms  
9 prescribed and provided by the Tax Commission and shall be  
10 accompanied by payment of the taxes due and any additional sums due  
11 as provided by this section. Invoices describing all alcoholic  
12 beverages as described in this section which are shipped into this  
13 state or which are first sold in this state shall be delivered to  
14 the Tax Commission immediately following shipment of liquors into  
15 the state or delivery to the first purchaser. Tax returns and  
16 payment of excise tax and other sums due shall be electronically  
17 filed with the Tax Commission no later than the twentieth day of the  
18 month immediately succeeding the month of shipment, importation or  
19 first sale of the alcoholic beverages as provided in paragraph 1 of  
20 this subsection.

21 C. For the purpose of collecting and remitting the excise tax  
22 imposed under this section, the person liable for such tax is hereby  
23 declared to be the agent of the state for such purposes.

1 D. Nothing herein shall be construed to impose an additional  
2 excise tax on alcoholic beverages held in inventory by wholesalers  
3 and retailers upon which the excise tax was paid prior to the  
4 effective date of any excise tax increase.

5 E. The retail sale of alcoholic beverages shall be subject to  
6 the sales tax statutes enacted by the Legislature.

7 SECTION 2. This act shall become effective November 1, 2022.  
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9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
10 03/02/2022 - DO PASS, As Coauthored.  
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