

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 ENGROSSED SENATE
5 BILL NO. 1749

By: Leewright of the Senate

and

McEntire of the House

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9 An Act relating to alcoholic beverages; amending 37A
10 O.S. 2021, Sections 2-110, as amended by Section 2,
11 Chapter 462, O.S.L. 2021, and 2-128, which relate to
12 mixed beverage license and on-premises beer and wine
13 license; allowing for the sale of beer in sealed
14 original packages by licensed golf course or country
15 club; providing exception from unlawful inducement
16 under Oklahoma Alcoholic Beverage Control Act;
17 allowing for removal of sealed original packages for
18 off-premises use; and declaring an emergency.

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

22 SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-110, as
23 amended by Section 2, Chapter 462, O.S.L. 2021, is amended to read
24 as follows:

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

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

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

3 a. the holder of a mixed beverage license issued for an
4 establishment which is also a restaurant may purchase
5 wine directly from a winemaker and beer directly from
6 a small brewer who is permitted and has elected to
7 self-distribute as provided in Article XXVIII-A of the
8 Oklahoma Constitution, and

9 b. the holder of a mixed beverage license that is also a
10 holder of a retail wine license or retail beer license
11 or both a retail wine license and retail beer license
12 shall not be prohibited from the on-premises sale of
13 wine or beer, according to the license held, for off-
14 premises consumption, subject to the limitations of
15 the retail wine license or retail beer license; and

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

18 a. spirits in their original packages shall remain and be
19 consumed in the club suite of a mixed beverage
20 licensee and may not be removed from the club suite if
21 not consumed in their entirety at or before the
22 conclusion of the period for which the club suite was
23 made available to a specific patron or patrons by the
24 mixed beverage licensee, and

1 b. spirits in their original packages to be consumed in
2 the club suite are provided exclusively by the mixed
3 beverage licensee.

4 B. Sales and service of mixed beverages by holders of mixed
5 beverage licenses shall be limited to the licensed premises of the
6 licensee unless the holder of the mixed beverage license also
7 obtains a caterer license or a mixed beverage/caterer combination
8 license. A mixed beverage license shall only be issued in counties
9 of this state where the sale of alcoholic beverages by the
10 individual drink for on-premises consumption has been authorized. A
11 separate license shall be required for each place of business.

12 C. Holders of a mixed beverage license shall not be prohibited
13 from obtaining and holding a retail beer license or retail wine
14 license or both a retail beer license and retail wine license;
15 provided, that each holder qualifies and maintains the
16 qualifications for each license held as set forth in this title and
17 the rules promulgated by the ABLE Commission.

18 D. Upon application, a mixed beverage license shall be issued
19 for any place of business functioning as a motion picture theater,
20 as defined by Section 1-103 of this title. Provided, that upon
21 proof of legal age to consume alcohol, every patron being served
22 alcoholic beverages shall be required to wear a wrist bracelet or
23 receive a hand stamp identifying the patron as being of legal age to
24 consume alcohol. This requirement shall only apply inside a motion

1 picture theater auditorium where individuals under the legal age to
2 consume alcohol are allowed.

3 E. Holders of a mixed beverage license with a licensed premises
4 on a business establishment that meets the classification of a golf
5 course or country club pursuant to the most recently adopted North
6 American Industry Classification System (NAICS) may also sell beer
7 in sealed original packages for on-premises consumption. Such
8 holders' sales of more than two (2) sealed original packages to one
9 person at one time for on-premises consumption shall not be
10 considered an unlawful inducement to stimulate consumption of
11 alcoholic beverages under the Oklahoma Alcoholic Beverage Control
12 Act, and patrons may remove sealed original packages from the
13 licensed premises.

14 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-128, is
15 amended to read as follows:

16 Section 2-128. A. An on-premises beer and wine license shall
17 authorize the holder thereof:

18 1. To purchase beer and wine in retail containers from the
19 holder of a wholesaler, beer distributor, small brewer self-
20 distribution or brewpub self-distribution license or as specifically
21 provided by law. The holder of an on-premises beer and wine license
22 issued for an establishment which is also a restaurant may purchase
23 wine from a winemaker who is permitted and has elected to self-
24

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

3 2. To sell, offer for sale and possess beer and wine for on-
4 premises consumption only; provided, an on-premises beer and wine
5 licensee may sell beer and wine for off-premises consumption if it
6 meets the classification of a golf course, country club, or marina
7 pursuant to ~~the most recently adopted North American Industry~~
8 ~~Classification System (NAICS)~~ subsection C of this section. The
9 mixed beverage licensee shall be permitted to sell beer and wine for
10 off-premises consumption during all days and hours in which a retail
11 beer licensee or retail wine licensee is permitted to sell beer or
12 wine. The gross receipts tax set forth in Section 5-105 of this
13 title shall apply to all alcoholic beverages sold by the on-premises
14 beer and wine licensee, whether those alcoholic beverages are
15 intended for on- or off-premises consumption. The ABLE Commission
16 shall promulgate rules for the implementation of a special off-
17 premises permit consistent with this subsection. The on-premises
18 beer and wine licensee shall secure the special off-premises permit
19 prior to selling beer and wine for off-premises consumption.

20 B. Sales and service of beer and wine by holders of on-premises
21 beer and wine licenses shall be limited to the licensed premises of
22 the licensee unless the holder of the on-premises beer and wine
23 license also obtains a caterer license. An on-premises beer and
24 wine license shall only be issued in counties of this state where

1 the sale of alcoholic beverages by the individual drink for on-
2 premises consumption has been authorized. A separate license shall
3 be required for each place of business. No spirits shall be stored,
4 possessed or consumed on the licensed premises of an on-premises
5 beer and wine license, unless the premises also has a mixed beverage
6 license.

7 C. Holders of an on-premises beer and wine license with a
8 licensed premises on a business establishment that meets the
9 classification of a golf course or country club pursuant to the most
10 recently adopted North American Industry Classification System
11 (NAICS) may also sell beer in sealed original packages for on-
12 premises consumption. Such holders' sales of more than two (2)
13 sealed original packages to one person at one time for on-premises
14 consumption shall not be considered an unlawful inducement to
15 stimulate consumption of alcoholic beverages under the Oklahoma
16 Alcoholic Beverage Control Act, and patrons may remove sealed
17 original packages from the licensed premises.

18 SECTION 3. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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23 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
24 SUBSTANCES, dated 04/14/2022 - DO PASS.