

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 ENGROSSED SENATE
5 BILL NO. 1784

By: Coleman of the Senate

and

Marti of the House

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9 An Act relating to alcoholic beverages; amending 37A
10 O.S. 2021, Sections 6-103, 6-105, and 6-114, which
11 relate to prohibited acts; providing exception for
12 certain employees of licensees to conduct work under
13 certain circumstances; updating statutory language;
14 and declaring an emergency.

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

16 SECTION 1. AMENDATORY 37A O.S. 2021, Section 6-103, is
17 amended to read as follows:

18 Section 6-103. A. No retail spirits licensee shall:

19 1. Purchase or receive any alcoholic beverage other than from a
20 wine and spirits wholesaler, beer distributor, winery or small
21 brewer self-distribution licensee who elects to self-distribute;

22 2. Suffer or permit any retail container to be opened, or any
23 alcoholic beverage to be consumed on the licensed premises, except
24 when serving samples as authorized by Section 2-109 of this title or
25 otherwise permitted by law; provided, the licensee shall not permit

1 any alcoholic beverage content or retail container unsealed in
2 connection with sampling authorized by Section 2-109 of this title
3 to remain on the licensed premises at the close of business on that
4 day, excluding spirits;

5 3. Sell any alcoholic beverages at any hour other than between
6 the hours of 8:00 a.m. and midnight Monday through Saturday, and
7 shall not be permitted to be open on Thanksgiving Day or Christmas
8 Day; provided, a county may, pursuant to the provisions of
9 subsections B and C of Section 3-124 of this title, elect to allow
10 such sales between the hours of noon and midnight on Sunday. Retail
11 spirits licensees shall be permitted to sell alcoholic beverages on
12 the day of any General, Primary, Runoff Primary or Special Election
13 whether on a national, state, county or city election, provided that
14 the election day does not occur on any day on which such sales are
15 otherwise prohibited by law;

16 4. Sell spirits in a city or town, unless such city or town has
17 a population in excess of two hundred (200) according to the latest
18 Federal Decennial Census;

19 5. Sell any alcoholic beverage on credit; provided, that
20 acceptance by a licensee of a cash or debit card or a nationally
21 recognized credit card in lieu of actual cash payment does not
22 constitute the extension of credit; provided, further, as used in
23 this section:

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- 1 a. "cash or debit card" means any instrument or device
2 whether known as a debit card or by any other name,
3 issued with or without fee by an issuer for the use of
4 the cardholder in depositing, obtaining or
5 transferring funds from a consumer banking electronic
6 facility, and
- 7 b. "nationally recognized credit card" means any
8 instrument or device, whether known as a credit card,
9 credit plate, charge plate or by any other name,
10 issued with or without fee by an issuer for the use of
11 the cardholder in obtaining money, goods, services or
12 anything else of value on credit which is accepted by
13 over one hundred retail locations;

14 6. Offer or furnish any prize, premium, gift or similar
15 inducement to a consumer in connection with the sale of alcoholic
16 beverages, except that goods or merchandise included by the
17 manufacturer in packaging with alcoholic beverages or for packaging
18 with alcoholic beverages shall not be included in this prohibition,
19 but no wholesaler or retailer shall sell any alcoholic beverage
20 prepackaged with other goods or merchandise at a price which is
21 greater than the price at which the alcoholic beverage alone is
22 sold; or

23 7. Pay for alcoholic beverages by a check or draft which is
24 dishonored by the drawee when presented to such drawee for payment;

1 and the ABLE Commission may cancel or suspend the license of any
2 retailer who has given a check or draft, as maker or endorser, which
3 is so dishonored upon presentation.

4 B. No retail spirits licensee shall permit any person under
5 twenty-one (21) years of age to enter into or remain within or about
6 the licensed premises unless accompanied by the person's parent or
7 legal guardian; provided, however, this restriction shall not apply
8 to an employee of a licensed beer distributor or wine and spirits
9 wholesaler who:

10 1. Is at least eighteen (18) years of age;

11 2. Is accompanied by a coworker at least twenty-one (21) years
12 of age; and

13 3. Enters for the sole purpose of merchandising or delivering
14 product to the licensee in the normal course of business.

15 SECTION 2. AMENDATORY 37A O.S. 2021, Section 6-105, is
16 amended to read as follows:

17 Section 6-105. No mixed beverage, public event, special event
18 or on-premises beer and wine licensee shall:

19 1. Purchase or receive any alcoholic beverage other than from a
20 person holding a wine and spirit wholesaler or beer distributor
21 license issued pursuant to the Oklahoma Alcoholic Beverage Control
22 Act; provided, a mixed beverage or on-premises beer and wine
23 licensee whose premises are a restaurant may purchase wine produced
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1 at wineries in this state directly from a winemaker as provided in
2 Section 2 of Article XXVIII A of the Oklahoma Constitution;

3 2. Transport alcoholic beverages from the place of purchase to
4 the licensed premises unless the licensee also holds a private
5 carrier license issued by the ABLE Commission;

6 3. Use or allow the use of any mark or label on a container of
7 alcoholic beverage which is kept for sale which does not clearly and
8 precisely indicate the nature of the contents or which might deceive
9 or conceal the nature, composition, quantity, age or quality of such
10 beverage;

11 4. Keep or knowingly permit any alcoholic beverage to be kept,
12 brought or consumed on the licensed premises which is not allowed to
13 be sold or served upon such premises; or

14 5. Allow any person under twenty-one (21) years of age to enter
15 into, remain within or loiter about the designated bar area of the
16 licensed premises, except for persons who incidentally pass through
17 the designated area.

18 The prohibition in this subsection against persons under twenty-
19 one (21) years of age entering or remaining within the designated
20 bar area of the licensed premises shall not apply:

- 21 a. if the licensed premises are closed to the public
22 during a time the premises are legally permitted to be
23 open for business and the premises are used for a
24 private party at which alcoholic beverages may be

1 served to persons twenty-one (21) years of age or
2 older. Any alcoholic beverages served at a private
3 party on the licensed premises may be purchased from
4 the licensee at a negotiated price or purchased
5 privately and served at the private party on the
6 licensed premises. Any licensee who desires to
7 conduct such a private party shall notify the ABLE
8 Commission, in writing, at least ten (10) calendar
9 days prior to the private party. The notification
10 shall include the date, time and purpose of the
11 private party and any other information the ABLE
12 Commission may deem necessary, ~~or~~

13 b. to a designated bar area which is a ~~concessions~~
14 concession stand serving beer and wine, in addition to
15 food and non-alcoholic beverages, which concession
16 stand is located at, in, or on the premises of a
17 sports, music or entertainment venue, convention
18 center, fairgrounds or similar facility, or

19 c. to an employee of a beer distributor or wine and
20 spirits wholesaler who is at least eighteen (18) years
21 of age and enters for the purpose of merchandising or
22 delivering product to the licensee in the normal
23 course of business.
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1 SECTION 3. AMENDATORY 37A O.S. 2021, Section 6-114, is
2 amended to read as follows:

3 Section 6-114. A. 1. If the premises of a licensee of the
4 ABLE Commission contains a separate or enclosed lounge or bar area,
5 which has as its main purpose the sale or distribution of alcoholic
6 beverages for on-premises consumption, notwithstanding that as an
7 incidental service, meals or short order foods are made available
8 therein, no person under twenty-one (21) years of age shall be
9 admitted to such area, except for members of a musical band employed
10 or hired as provided in paragraph 2 of Section ~~142 of this act~~ 6-102
11 of this title when the band is to perform within such area,
12 employees of a beer distributor or wine and spirits wholesaler who
13 are at least eighteen (18) years of age and enter for the purpose of
14 merchandising or delivering product to the licensee in the normal
15 course of business, or persons under twenty-one (21) years of age
16 who are on the licensed premises for the limited purpose of
17 performing maintenance, construction, remodeling, painting or other
18 similar services relating to the building or equipment installation,
19 repair or maintenance on the premises during those hours when the
20 licensed establishment is closed for business. The provisions of
21 this section shall not prohibit persons under twenty-one (21) years
22 of age from being admitted to an area which has as its main purpose
23 some objective other than the sale or mixing or serving of alcoholic
24 beverages, in which sales or serving of alcoholic beverages are

1 incidental to the main purpose, as long as the persons under twenty-
2 one (21) years of age are not sold or served alcoholic beverages.
3 The incidental service of food in the bar area shall not exempt a
4 licensee from the provisions of this section. The ABLE Commission
5 shall have the authority to designate the portions of the premises
6 of a licensee where persons under twenty-one (21) years of age shall
7 not be admitted pursuant to this section. When determining a
8 licensee's main purpose, a licensee that operates a full kitchen,
9 sells food items from a full menu, and has thirty-five percent (35%)
10 or more of its monthly gross sales attributable to food items, shall
11 have as its main purpose other than the sale of alcoholic beverages.
12 The main purpose of those mixed beverage establishments whose main
13 purpose was other than the sale of alcoholic beverages prior to
14 October 1, 2018, shall not automatically lose that designation upon
15 the elimination of low-point beer in the state. If the ABLE
16 Commission wishes to change ~~said~~ the mixed beverage establishments'
17 main purpose designation, it shall be the burden of the ABLE
18 Commission to prove by clear and convincing evidence that ~~said~~ the
19 mixed beverage establishments no longer qualify for that
20 designation.

21 2. A new licensee that claims as its main purpose some
22 objective other than the sale of alcoholic beverages may be granted
23 a separate or enclosed lounge or bar area for a period of ninety
24 (90) days. At the end of that ninety-day period, the licensee shall

1 have the burden of showing that the business continues to qualify
2 for a separate or enclosed bar area. If the licensee fails to
3 satisfy this burden, then that licensee's main purpose shall
4 automatically convert to the sale of alcoholic beverages.

5 B. Except as otherwise provided, an admission charge shall not
6 be considered in any calculation designed to determine the main
7 purpose of an establishment pursuant to subsection A of this
8 section. As used in this section, "admission charge" means any form
9 of consideration received by an establishment from a person in order
10 for that person to gain entrance into the establishment.

11 C. The provisions of subsection B of this section shall not
12 apply:

13 1. If only persons eighteen (18) years of age or older are
14 permitted to enter the licensed premises; provided, if the licensee
15 is claiming an exception from the requirements of subsection B of
16 this section pursuant to this paragraph and fails to restrict the
17 entry by persons under age eighteen (18) into the licensed premises,
18 the ABLE Commission shall designate that only persons twenty-one
19 (21) years of age or older are allowed on the licensed premises;

20 2. If the licensed premises are owned or operated by a service
21 organization or fraternal establishment which is exempt under
22 Section 501(c)(19), (8), or (10) of the Internal Revenue Code; or

23 3. To a public event held in a facility owned or operated by
24 any agency, political subdivision or public trust of this state.

1 D. The ABLE Commission shall promulgate rules necessary to
2 implement the provisions of this section.

3 SECTION 4. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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