

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

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

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 385

By: Coleman and **Bergstrom** of  
the Senate

and

Strom of the House

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10                                   COMMITTEE SUBSTITUTE

11           An Act relating to alcoholic beverages; amending  
12           Section 21, Chapter 366, O.S.L. 2016, as amended by  
13           Section 1, Chapter 81, O.S.L. 2020, Section 143,  
14           Chapter 366, O.S.L. 2016, as last amended by Section  
15           1, Chapter 237, O.S.L. 2019 and Section 148, Chapter  
16           366, O.S.L. 2016, as last amended by Section 22,  
17           Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020,  
18           Sections 2-109, 6-103 and 6-108), which relate to  
19           retail licenses and prohibited acts for retail  
20           licensees; authorizing certain tastings of beer, wine  
21           and spirits in retail spirit licensee premises;  
22           stating authority and procedure for offering certain  
23           samples; directing licensed person pour alcoholic  
24           beverages; providing for purchases and payment of  
              taxes; restricting tastings to certain aged persons;  
              prohibiting removal of alcoholic beverages used for  
              tastings from licensed premises; limiting size of  
              sample served; limiting number of unsealed bottles;  
              directing remaining alcoholic beverage be poured out  
              at end of day; prohibiting unsealed containers at end  
              of day; and providing an effective date.

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

SECTION 1. AMENDATORY Section 21, Chapter 366, O.S.L.

2016, as amended by Section 1, Chapter 81, O.S.L. 2020 (37A O.S. Supp. 2020, Section 2-109), is amended to read as follows:

Section 2-109. A. A retail spirits license shall authorize the holder thereof:

1. To purchase wine or spirits from a wine and spirits wholesaler;

2. To purchase beer from a beer distributor or from the holder of a small brewer self-distribution license; ~~and~~

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, spirits, wine and beer may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses; and

4. To host alcoholic beverage tastings consistent with subsections D and E of this section.

B. A retail wine license shall authorize the holder thereof:

1. To purchase wine from a wine and spirits wholesaler;

2. To purchase wine from a small farm winemaker who is permitted and has elected to self-distribute as provided in Article XXVIII-A of the Oklahoma Constitution; ~~and~~

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, wine may be sold to charitable organizations that are

holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses; and

4. To host an alcoholic beverage tasting, consistent with subsection D and E of this section.

Provided, no holder of a retail wine license may sell wine with alcohol beverage volume in excess of fifteen percent (15%).

C. A retail beer license shall authorize the holder thereof:

1. To purchase beer from a beer distributor;

2. To purchase beer from the holder of a small brewer self-distribution license; ~~and~~

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, beer may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses; and

4. To host alcoholic beverage tastings consistent with subsections D and E of this section.

Provided, no holder of a retail beer license may sell a malt beverage with alcohol beverage volume in excess of fifteen percent (15%).

D. All tastings conducted under this section shall:

1. Be conducted under the direct supervision of the licensee authorized to host the tasting;

1       2. Be poured by any ABLE licensee lawfully permitted to serve  
2 alcoholic beverages, provided no wine or spirits wholesaler, beer  
3 distributor or employee of a wine or spirits wholesaler or beer  
4 distributor shall be allowed to pour samples for tastings;

5       3. Use alcoholic beverages purchased by the licensee authorized  
6 to host the tastings from a licensed wine and spirits wholesaler,  
7 beer distributor, self-distributor, small brewer or self-  
8 distributing winery authorized to sell the same, and the licensee  
9 shall pay the applicable taxes on the alcoholic beverages purchased;  
10 provided, the licensee may only provide samples of alcoholic  
11 beverages that its license is authorized to sell;

12       4. Be restricted to persons twenty-one (21) years of age or  
13 older;

14       5. Be limited to no more than one (1) fluid ounce of spirits,  
15 two (2) fluid ounces of wine or three (3) fluid ounces of beer per  
16 consumer per day; and

17       6. Be consumed on the licensed premises of the licensee  
18 authorized to host the tastings or at a location other than the  
19 licensed premises, provided no samples served on the licensed  
20 premises shall be permitted to be removed from the licensed  
21 premises.

22       E. All licensees authorized to serve samples pursuant to  
23 subsection D of this section shall ensure that:

24       1. All samples are poured only from original sealed packaging;

1        2. Any alcoholic beverages remaining in unsealed packaging used  
2 to provide samples, excluding spirits, are poured out by the end of  
3 the day;

4        3. No more than six (6) bottles of alcoholic beverages are  
5 unsealed at any given time; and

6        4. No person shall remove any samples from the licensed  
7 premises or location where the tasting has occurred.

8        SECTION 2.        AMENDATORY        Section 143, Chapter 366, O.S.L.  
9 2016, as last amended by Section 1, Chapter 237, O.S.L. 2019 (37A  
10 O.S. Supp. 2020, Section 6-103), is amended to read as follows:

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

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

15        2. Suffer or permit any retail container to be opened, or any  
16 alcoholic beverage to be consumed on the licensed premises, ~~unless~~  
17 except when serving samples as authorized by Section 2-109 of this  
18 title or otherwise permitted by law; provided, the licensee shall  
19 not permit any alcoholic beverage content or retail container  
20 unsealed in connection with sampling authorized by Section 2-109 of  
21 this title to remain on the licensed premises at the close of  
22 business on that day, excluding spirits;

23        3. Sell any alcoholic beverages at any hour other than between  
24 the hours of 8:00 a.m. and midnight Monday through Saturday, and

1 shall not be permitted to be open on Thanksgiving Day or Christmas  
2 Day; provided, a county may, pursuant to the provisions of  
3 subsections B and C of Section 3-124 of this title, elect to allow  
4 such sales between the hours of noon and midnight on Sunday. Retail  
5 spirits licensees shall be permitted to sell alcoholic beverages on  
6 the day of any General, Primary, Runoff Primary or Special Election  
7 whether on a national, state, county or city election, provided that  
8 the election day does not occur on any day on which such sales are  
9 otherwise prohibited by law;

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

13 5. Sell any alcoholic beverage on credit; provided, that  
14 acceptance by a licensee of a cash or debit card or a nationally  
15 recognized credit card in lieu of actual cash payment does not  
16 constitute the extension of credit; provided, further, as used in  
17 this section:

18 a. "cash or debit card" means any instrument or device  
19 whether known as a debit card or by any other name,  
20 issued with or without fee by an issuer for the use of  
21 the cardholder in depositing, obtaining or  
22 transferring funds from a consumer banking electronic  
23 facility, and  
24

1           b.    "nationally recognized credit card" means any  
2                   instrument or device, whether known as a credit card,  
3                   credit plate, charge plate or by any other name,  
4                   issued with or without fee by an issuer for the use of  
5                   the cardholder in obtaining money, goods, services or  
6                   anything else of value on credit which is accepted by  
7                   over one hundred retail locations;

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

17          7.   Pay for alcoholic beverages by a check or draft which is  
18   dishonored by the drawee when presented to such drawee for payment;  
19   and the ABLE Commission may cancel or suspend the license of any  
20   retailer who has given a check or draft, as maker or endorser, which  
21   is so dishonored upon presentation.

22          B.   No retail spirits licensee shall permit any person under  
23   twenty-one (21) years of age to enter into or remain within or about  
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1 the licensed premises unless accompanied by the person's parent or  
2 legal guardian.

3 SECTION 3. AMENDATORY Section 148, Chapter 366, O.S.L.  
4 2016, as last amended by Section 22, Chapter 161, O.S.L. 2020 (37A  
5 O.S. Supp. 2020, Section 6-108), is amended to read as follows:

6 Section 6-108. No holder of a Retail Wine License or a Retail  
7 Beer License shall:

8 1. Purchase or receive any alcoholic beverage other than from a  
9 wine and spirits wholesaler, beer distributor, winery or small  
10 brewer self-distribution licensee;

11 2. Suffer or permit any retail container to be opened, or any  
12 alcoholic beverage to be consumed on the licensed premises, ~~unless~~  
13 except when serving samples as authorized by Section 2-109 of this  
14 title or as otherwise permitted by law; provided, the licensee shall  
15 not permit any alcoholic beverages content or retail container  
16 unsealed in connection with sampling authorized by Section 2-109 of  
17 this title to remain on the licensed premises at the close of the  
18 business on that day;

19 3. Sell any beer or wine at any hour other than between the  
20 hours of 6:00 a.m. and 2:00 a.m. the following day, Monday through  
21 Sunday. Retail wine and retail beer licensees shall be permitted to  
22 sell beer and wine on the day of any General, Primary, Runoff  
23 Primary or Special Election whether on a national, state, county or  
24 city election;



1       4.   Sell any beer and wine on credit; except as follows:

2           a.    the acceptance by a grocery store, convenience store  
3                   or drug store of a cash or debit card, or a  
4                   nationally recognized credit card, in lieu of  
5                   actual cash payment does not constitute the  
6                   extension of credit; provided, further, as used  
7                   in this section:

8               (1)  "cash or debit card" means any instrument or  
9                   device whether known as a debit card or by any  
10                  other name, issued with or without fee by an  
11                  issuer for the use of the cardholder in  
12                  depositing, obtaining or transferring funds from  
13                  a consumer banking electronic facility, and

14              (2)  "nationally recognized credit card" means any  
15                  instrument or device, whether known as a credit  
16                  card, credit plate, charge plate or by any other  
17                  name, issued with or without fee by an issuer for  
18                  the use of the cardholder in obtaining money,  
19                  goods, services or anything else of value on  
20                  credit which is accepted by over one hundred  
21                  retail locations, and

22           b.    when the holder of a Retail Wine License, Retail Beer  
23                  License or Mixed Beverage License is a private  
24                  membership club, marina, golf course or country club

1           that normally charges food, drinks and other purchases  
2           to the member's monthly dues account in the regular  
3           course of business, in lieu of actual cash payment at  
4           the time of purchase, such practice does not  
5           constitute the extension of credit;

6           5. Offer or furnish any prize, premium, gift or similar  
7           inducement to a consumer in connection with the sale of beer or  
8           wine, except that goods or merchandise included by the manufacturer  
9           in packaging with beer or wine or for packaging with beer or wine  
10          shall not be included in this prohibition, nor shall a retail wine  
11          or retail beer license holder selling wine or beer at a multiunit  
12          discount be included in this prohibition; but no retail wine or  
13          retail beer licensee shall sell any beer or wine prepackaged with  
14          other goods or merchandise at a price which is greater than the  
15          price at which the alcoholic beverage alone is sold; or

16          6. Pay for beer or wine by a check or draft which is dishonored  
17          by the drawee when presented to such drawee for payment; and the  
18          ABLE Commission may cancel or suspend the license of any retailer  
19          who has given a check or draft, as maker or endorser, which is so  
20          dishonored upon presentation.

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

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23          COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED  
24          SUBSTANCES, dated 04/08/2021 - DO PASS, As Amended and Coauthored.