

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. 841

By: Thompson of the Senate

and

Echols of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to alcoholic beverages; amending
12 Section 89, Chapter 366, O.S.L. 2016, as last amended
13 by Section 1, Chapter 431, O.S.L. 2019, Section 90,
14 Chapter 366, O.S.L. 2016, as amended by Section 23,
15 Chapter 322, O.S.L. 2019, and Section 91, Chapter
16 366, O.S.L. 2016, as amended by Section 24, Chapter
17 322, O.S.L. 2019 (37A O.S. Supp. 2020, Sections 3-
18 119, 3-120 and 3-121), which relate to business
19 interests and acts prohibited for manufacturers;
20 modifying language; limiting prohibition to Oklahoma
21 licensed manufacturers; providing certain exception
22 to ownership interests; prohibiting selling certain
23 products with common ownership interests; and
24 providing an effective date.

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

SECTION 1. AMENDATORY Section 89, Chapter 366, O.S.L.
2016, as last amended by Section 1, Chapter 431, O.S.L. 2019 (37A
O.S. Supp. 2020, Section 3-119), is amended to read as follows:

1 Section 3-119. A. It shall be unlawful for any Oklahoma
2 licensed manufacturer, or brewer, or any wine and spirits
3 wholesaler, beer distributor or person authorized to sell alcoholic
4 beverages to a wholesaler, or any employee, officer, director,
5 stockholder owning fifteen percent (15%) or more of the stock, any
6 type of partner, manager, member or agent thereof, to directly or
7 indirectly:

8 1. Have any financial interest in any premises upon which any
9 alcoholic beverage is sold at retail or in any business connected
10 with the retailing of alcoholic beverages; provided, nothing in ~~this~~
11 ~~act~~ the Oklahoma Alcoholic Beverage Control Act shall prohibit the
12 operation of a mixed beverage licensee, beer and wine licensee or
13 caterer licensee by an entity which has common owners with the
14 holder of a small brewer license or a brewpub license;

15 2. Lend any money or other thing of value, or to make any gift
16 or offer any gratuity, to any package store, retail wine, retail
17 beer, mixed beverage, beer and wine, public event or bottle club
18 licensee or caterer;

19 3. Guarantee any loan or the repayment of any financial
20 obligation of any retailer, mixed beverage, beer and wine, public
21 event or bottle club licensee or caterer;

22 4. Require any wine and spirits wholesaler, beer distributor,
23 retailer, mixed beverage, on-premises beer and wine licensee, public
24 event or caterer to purchase and dispose of any quota of alcoholic

1 beverages, or to require any retailer to purchase any kind, type,
2 size, container or brand of alcoholic beverages in order to obtain
3 any other kind, type, size, container or brand of alcoholic
4 beverages;

5 5. Sell to any retailer, mixed beverage, on-premises beer and
6 wine licensee, public event or caterer any alcoholic beverage on
7 consignment, or upon condition, or with the privilege of return, or
8 on any condition other than a bona fide sale; provided, the
9 following shall not be considered a violation of this paragraph:

- 10 a. delivery in good faith, through mistake, inadvertence
11 or oversight, of an alcoholic beverage that was not
12 ordered by a retailer, mixed beverage licensee, on-
13 premises beer and wine licensee, caterer, public event
14 or special event licensee to such licensee,
- 15 b. replacement of product breakage that occurred while
16 the alcoholic beverages were in transit from the
17 wholesaler to the licensee, or
- 18 c. replacement of cork-tainted wine that makes the
19 product unsaleable as long as the licensee notifies
20 the wine and spirits wholesaler of the defect in
21 writing within ninety (90) days after delivery of the
22 product; or

23 6. Extend credit to any retailer, other than holders of Federal
24 Liquor Stamps on United States government reservations and

1 installations, mixed beverage, public event or on-premises beer and
2 wine licensee or caterer, other than a state lodge located in a
3 county which has approved the retail sale of alcoholic beverages by
4 the individual drink for on-premises consumption. The acceptance of
5 a postdated check or draft or the failure to deposit for collection
6 a current check or draft by the second banking day after receipt
7 shall be deemed an extension of credit. Violation of this section
8 shall be grounds for suspension of the license.

9 B. Notwithstanding any statutory provision to the contrary, the
10 holder of an Oklahoma Retail Beer or Retail Wine License who was
11 licensed and permitted to sell low-point beer for off-premises
12 consumption until the passage of State Question 792 on November 8,
13 2016, shall not be prohibited from holding an ownership interest in
14 a manufacturer whose products are made outside of this state,
15 provided:

16 1. This right shall only apply to the ownership interests in
17 the manufacturer that were held by the Oklahoma licensed retailer,
18 or its successor in interest, as of November 8, 2016; and

19 2. The Oklahoma licensed retailer that is commonly owned by a
20 manufacturer does not offer for sale at its Oklahoma retail
21 locations any wine or spirits that are made by the commonly owned
22 manufacturer.

SECTION 2. AMENDATORY Section 90, Chapter 366, O.S.L. 2016, as amended by Section 23, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2020, Section 3-120), is amended to read as follows:

Section 3-120. A. No mixed beverage, beer and wine, caterer, public event or bottle club licensee, partner in any type of partnership, manager or member of a limited liability company, officer, director or stockholder of any corporate licensee owning more than fifteen percent (15%) of the stock shall have any right, title, lien, claim or interest, financial or otherwise in, upon or to the premises, equipment, business or merchandise of any package store, beer distributor, wholesaler, brewer, or Oklahoma licensed manufacturer or wholesaler. The provisions of this section shall not prohibit a person who is an officer or director of a fraternal or veteran's organization which is a tax exempt organization under Section 501(c)(8), (10) or (19) of the Internal Revenue Code and which holds a license issued by the ABLE Commission from having a right, title, lien, claim or interest in the premises, equipment, business or merchandise of a package store.

B. Notwithstanding any statutory provision to the contrary, the holder of an Oklahoma Retail Beer or Retail Wine License who was licensed and permitted to sell low-point beer for off-premises consumption until the passage of State Question 792 on November 8, 2016, shall not be prohibited from holding an ownership interest in a manufacturer whose products are made outside this state, provided:

1 1. This right shall only apply to the ownership interests in
2 the manufacturer that were held by the Oklahoma licensed retailer,
3 or its successor in interest, as of November 8, 2016; and

4 2. The Oklahoma licensed retailer that is commonly owned by a
5 manufacturer does not offer for sale at its Oklahoma retail
6 locations any wine or spirits that are made by the commonly owned
7 manufacturer.

8 SECTION 3. AMENDATORY Section 91, Chapter 366, O.S.L.
9 2016, as amended by Section 24, Chapter 322, O.S.L. 2019 (37A O.S.
10 Supp. 2020, Section 3-121), is amended to read as follows:

11 Section 3-121. A. No Oklahoma licensed manufacturer, or
12 brewer, or any wine and spirits wholesaler, beer distributor,
13 partner in any type of partnership, manager or member of a limited
14 liability company, or officer, director or stockholder of any
15 nonresident seller, brewer, or manufacturer licensee, owning more
16 than fifteen percent (15%) of the stock shall have any right, title,
17 claim or interest, financial or otherwise in, upon or to the
18 premises, equipment, business or merchandise of any mixed beverage,
19 beer and wine, caterer, public event or bottle club licensee.

20 B. Notwithstanding any statutory provision to the contrary, the
21 holder of an Oklahoma Retail Beer or Retail Wine License who was
22 licensed and permitted to sell low-point beer for off-premises
23 consumption until the passage of State Question 792 on November 8,
24

1 2016, shall not be prohibited from holding an ownership interest in
2 a manufacturer whose products are made outside this state, provided:

3 1. This right shall only apply to the ownership interests in
4 the manufacturer that were held by the Oklahoma licensed retailer,
5 or its successor in interest, as of November 8, 2016; and

6 2. The Oklahoma licensed retailer that is commonly owned by a
7 manufacturer does not offer for sale at its Oklahoma retail
8 locations any wine or spirits that are made by the commonly owned
9 manufacturer.

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

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12 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
13 SUBSTANCES, dated 04/08/2021 - DO PASS, As Amended.
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