

1 **SENATE FLOOR VERSION**

2 March 25, 2021

3 ENGROSSED HOUSE
4 BILL NO. 2380

By: Marti and Davis of the
House

5 and

6 Coleman of the Senate

7
8
9 An Act relating to alcoholic beverages; amending
10 Section 142, Chapter 366, O.S.L. 2016, as last
amended by Section 20, Chapter 161, O.S.L. 2020 (37A
11 O.S. Supp. 2020, Section 6-102), which relates to
licensee prohibited acts; providing requirements for
12 patron self-pour service of beer and wine; defining
term; and providing an effective date.

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

16 SECTION 1. AMENDATORY Section 142, Chapter 366, O.S.L.
17 2016, as last amended by Section 20, Chapter 161, O.S.L. 2020 (37A
18 O.S. Supp. 2020, Section 6-102), is amended to read as follows:

19 Section 6-102. A. No licensee of the ABLE Commission shall:

20 1. Receive, possess or sell any alcoholic beverage except as
21 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
22 license or permit which the licensee holds;

1 2. Employ any person under eighteen (18) years of age in the
2 selling of beer or wine or employ any person under twenty-one (21)
3 years of age in the selling of spirits. Provided:

4 a. a mixed beverage, beer and wine, caterer, public
5 event, special event, bottle club, retail wine or
6 retail beer licensee may employ servers or sales
7 clerks who are at least eighteen (18) years of age,
8 except persons under twenty-one (21) years of age may
9 not serve in designated bar or lounge areas, and

10 b. a mixed beverage, beer and wine, caterer, public
11 event, special event or bottle club licensee may
12 employ or hire musical bands who have musicians who
13 are under eighteen (18) years of age if each such
14 musician is either accompanied by a parent or legal
15 guardian or has on their person, to be made available
16 for inspection upon demand by any employee of the ABLE
17 Commission or law enforcement officer, a written,
18 notarized affidavit from the parent or legal guardian
19 giving the underage musician permission to perform in
20 designated bar or lounge areas;

21 3. Give any alcoholic beverage as a prize, premium or
22 consideration for any lottery, game of chance or skill or any type
23 of competition;
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1 4. Use any of the following means or inducements to stimulate
2 the consumption of alcoholic beverages, including but not limited
3 to:

4 a. deliver more than two drinks to one person at one
5 time, except as provided for serving tasting flights
6 defined in Section ~~2~~ 6-102.1 of this ~~act~~ title,

7 b. sell or offer to sell to any person or group of
8 persons any drinks at a price that is less than six
9 percent (6%) below the markup of the cost to the mixed
10 beverage licensee; provided, a mixed beverage licensee
11 shall be permitted to offer these drink specials on
12 any particular hour of any particular day and shall
13 not be required to offer these drink specials for an
14 entire calendar week or from open to close,

15 c. sell or offer to sell to any person an unlimited
16 number of drinks during any set period of time for a
17 fixed price, except at private functions not open to
18 the public,

19 d. sell or offer to sell drinks to any person or group of
20 persons on any one day or portion thereof at prices
21 less than those charged the general public on that
22 day, except at private functions not open to the
23 public,

- 1 e. increase the volume of alcoholic beverages contained
2 in a drink without increasing proportionately the
3 price regularly charged for such drink during the same
4 calendar week, or
- 5 f. encourage or permit, on the licensed premises, any
6 game or contest which involves drinking or the
7 awarding of drinks as prizes.

8 Provided, that the provisions of this paragraph shall not
9 prohibit the advertising or offering of food or entertainment in
10 licensed establishments;

11 5. Permit or allow any patron or person to exit the licensed
12 premises with an open container of any alcoholic beverage.

13 Provided, this prohibition shall not be applicable to closed
14 original containers of alcoholic beverages which are carried from
15 the licensed premises of a bottle club by a patron, closed original
16 wine containers removed from the premises of restaurants, hotels and
17 motels, or to closed original containers of alcoholic beverages
18 transported to and from the place of business of a licensed caterer
19 by the caterer or an employee of the caterer;

20 6. Serve or sell alcoholic beverages with an expired license
21 issued by the ABLE Commission; ~~or~~

22 7. Permit any person to be drunk or intoxicated on the
23 licensee's licensed premises; or
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1 8. Permit or allow any patron to serve or pour himself or
2 herself any alcoholic beverage, except a licensee may offer a patron
3 self-pour service of beer or wine, or both, from automated devices
4 on licensed premises so long as:

5 a. the licensee monitors and has the ability to control
6 the dispensing of such beer or wine, or both, from the
7 automated devices. "Automated device" shall mean any
8 mechanized device capable of dispensing wine or beer,
9 or both, directly to a patron in exchange for
10 compensation that a licensee has received directly
11 from the patron, and

12 b. each licensee offering a patron self-pour service of
13 wine or beer, or both, from any automated device shall
14 provide constant video monitoring of the automated
15 device at all times during which the licensee is open
16 to the public. The licensee shall keep recorded
17 footage from the video monitoring for at least sixty
18 (60) days, and shall provide the footage, upon
19 request, to any agent of the Director of the ABLE
20 Commission or other authorized law enforcement agent.

21 B. 1. The compensation required by subparagraph a of paragraph
22 8 of subsection A of this section shall be in the form of a radio
23 frequency identification (RFID) device, mobile application or any
24 other technology approved by the ABLE Commission containing a fixed

1 amount of volume of thirty-two (32) ounces for beer and ten (10)
2 ounces for wine that may be directly exchanged for beer or wine
3 dispensed from the automated device:

- 4 a. RFID devices may be assigned, used or reactivated only
5 during a business day,
- 6 b. each RFID device shall be obtained from the licensee
7 by a patron,
- 8 c. a licensee shall not issue more than one active RFID
9 device to a patron, and
- 10 d. a RFID device shall be deemed active if the RFID
11 device contains volume credit or has not yet been used
12 to dispense ten (10) ounces of wine or thirty-two (32)
13 ounces of beer.

14 2. In order to obtain an RFID device from a licensee, each
15 patron shall produce a valid driver license, identification card or
16 other government-issued document that contains a photograph of the
17 individual and demonstrates that the individual is at least twenty-
18 one (21) years of age. Each RFID device shall be programmed to
19 require the production of the patron's valid identification before
20 the RFID device can be used for the first time during any business
21 day or for any subsequent reactivation.

22 3. Each RFID device shall become inactive at the end of each
23 business day.

1 4. Each RFID device shall be programmed to allow the dispensing
2 of no more than ten (10) ounces of wine or thirty-two (32) ounces of
3 beer to a patron:

4 a. once a RFID device has been used to dispense ten (10)
5 ounces of wine or thirty-two (32) ounces of beer to a
6 patron, the RFID device shall become inactive, and

7 b. any patron in possession of an inactive RFID device
8 may, upon production of the patron's valid
9 identification to the licensee or licensee's employee,
10 have the RFID device reactivated to allow the
11 dispensing of an additional ten (10) ounces of wine or
12 thirty-two (32) ounces of beer from an automated
13 device.

14 Paragraphs 1, 2, 3 and 4 of this subsection shall not apply to wine
15 or beer that is dispensed directly to the licensee or the licensee's
16 agent or employee.

17 ~~B.~~ C. A mixed beverage or beer and wine licensee shall not be
18 deemed to have violated the provisions of paragraph 5 of subsection
19 A of this section if it allowed a patron to leave the licensed
20 premises with an open container of beer or wine only and:

21 1. The otherwise prohibited act was committed during the hours
22 of 8 a.m. to midnight on the day of a scheduled home football game
23 of institutions within The Oklahoma State System of Higher
24

1 Education, and the establishment is located within two thousand
2 (2,000) feet of the institution;

3 2. The licensee is participating by invitation in a municipally
4 sanctioned art, music or sporting event within city limits when the
5 municipality has provided written notice of the event and a list of
6 invited licensees to the ABLE Commission at least five (5) days
7 prior to the event; or

8 3. The patron remains on the connected, physical property of
9 the licensee or in a public area adjacent to the physical property
10 of the licensee with prior municipal approval; provided that written
11 notice of the use of the connected, physical property of the
12 licensee or public area shall be provided to the ABLE Commission at
13 least five (5) days prior to such use.

14 SECTION 2. This act shall become effective November 1, 2021.

15 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
16 March 25, 2021 - DO PASS
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