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March 3, 2022

By: Coleman

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Sections 2-102, as last amended by Section 1, Chapter 396, O.S.L. 2021, and 2-132, which relate to brewer and brewpub licenses; authorizing licensees to purchase from certain businesses and import beer into the state in accordance with federal laws and regulations; and declaring an emergency.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-102, as last amended by Section 1, Chapter 396, O.S.L. 2021, is amended to read as follows:

Section 2-102. A. A brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer and cider on the licensed premises; and

2. To sell beer and cider in this state to holders of beer distributor licenses and to sell beer and cider out of this state to qualified persons; and

1 3. To purchase from licensed brewers, small brewers, and
2 brewpubs in this state, and to import beer into this state for use
3 in manufacturing in accordance with federal laws and regulations.

4 B. A small brewer license shall authorize the holder thereof:

5 1. To manufacture, bottle, package and store beer produced by
6 the licensee on licensed premises;

7 2. To sell beer in this state to holders of beer distributor
8 licenses and retail licenses or to sell beer out of this state to
9 qualified persons;

10 3. To serve free samples of beer produced by the licensee to
11 visitors twenty-one (21) years of age or older;

12 4. To sell beer produced by the licensee for either on-premises
13 or off-premises consumption to consumers on the brewery premises, or
14 on premises located contiguous thereto;

15 5. To sell beer at public events such as trade shows or
16 festivals;

17 6. To purchase wine in retail containers from the holder of a
18 wholesaler license or as specifically provided by law; ~~and~~

19 7. To sell, offer for sale and possess wine for on-premises
20 consumption; and

21 8. To purchase from licensed brewers, small brewers, and
22 brewpubs in this state, and to import beer into this state for use
23 in manufacturing in accordance with federal laws and regulations.
24

1 C. The holder of multiple small brewer licenses may sell beer
2 produced at up to three breweries for which the licensee has a
3 license, at any other of such three licensed breweries or on
4 premises located contiguous thereto.

5 D. Nothing in the Alcoholic Beverage Control Act shall prohibit
6 the holder of a small brewer license from also holding or owning an
7 interest in the holder of a brewpub license.

8 E. For purposes of this section, no visitor may sample more
9 than a total of twelve (12) fluid ounces of beer per day. The
10 brewer must restrict the distribution and consumption of beer
11 samples to an area within the licensed premises designated by the
12 brewer. A current floor plan that includes the designated sampling
13 area must be on file with the ABLE Commission. No visitor under
14 twenty-one (21) years of age shall be permitted to enter this
15 designated sampling area when samples are being distributed or
16 consumed. Samples of beer served by a brewery under this section
17 shall not be considered a sale of beer within the meaning of Article
18 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
19 title; however, such samples of beer shall be considered beer
20 removed or withdrawn from the brewery for use or consumption within
21 the meaning of Section 5-110 of this title for excise tax
22 determination and reporting requirements. Sales and sampling may
23 only occur between the hours of 10:00 a.m. and 2:00 a.m.
24

1 F. A small brewer self-distribution license shall authorize
2 holders of a small brewer license to distribute beer produced only
3 by such licensee to a holder of a retail beer license, retail
4 spirits license, mixed beverage license, beer and wine license,
5 caterer's license, special event license, public event license,
6 charitable auction license or brewpub license. A small brewer shall
7 elect whether it will distribute through a distributor or self-
8 distribute in a subject territory; however, a small brewer may not
9 elect to do both simultaneously in a subject territory. The
10 election shall be made through notice to the ABLE Commission. Any
11 changes to the election shall require immediate notification to the
12 ABLE Commission before the change in election will take effect. A
13 small brewer that elects to self-distribute in multiple territories
14 shall only be required to have one small brewer self-distribution
15 license.

16 G. All manufacturer's licenses held by brewers during the first
17 calendar year beginning October 1, 2018, shall automatically convert
18 to brewer licenses and be deemed effective as of the date of the
19 first issuance of the manufacturer's license. Upon the first
20 renewal of the license, the brewer will need to obtain the
21 appropriate brewer's license. If a brewer elects to market wine and
22 spirits, the brewer will also be required to obtain a manufacturer's
23 license and comply with the rules and regulations for both licenses.

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1 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-132, is
2 amended to read as follows:

3 Section 2-132. A. A brewpub license shall authorize a small
4 brewer to:

5 1. Manufacture, bottle, package and store beer on the licensed
6 premises;

7 2. Sell beer produced by the licensee for either on-premises or
8 off-premises consumption to consumers on the brewery premises, or
9 premises located contiguous thereto;

10 3. Sell beer at public events such as trade shows or festivals;

11 4. Also hold a mixed beverage license, beer and wine license or
12 caterer's license; ~~and~~

13 5. Hold a brewpub self-distribution license; and

14 6. Purchase from licensed brewers, small brewers, and brewpubs
15 in this state, and to import beer into this state for use in
16 manufacturing in accordance with federal laws and regulations.

17 B. A brewpub self-distribution license shall authorize holders
18 of a brewpub license to distribute beer produced only by such
19 licensee and operated by an entity which has common owners with such
20 brewpub licensee, regardless of which place of business brews the
21 beverage. "Common owners" means that the owners at each place or
22 entity together own more than fifty percent (50%) of the interest in
23 each place or entity that holds a type of license listed in this
24 subsection.

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

COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
March 3, 2022 - DO PASS