

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4

March 3, 2022

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1811

By: Garvin

[alcoholic beverages - certain license holders to
host off-site events - ABLE Commission - only the
products covered by licenses - fee - codification -
emergency]

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-102, as 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

3. To host off-site events pursuant to Section 5 of this act.

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

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

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

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

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

9 5. To sell beer at public events such as trade shows or
10 festivals;

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

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

15 8. To host off-site events pursuant to Section 5 of this act.

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

20 D. Nothing in the Oklahoma Alcoholic Beverage Control Act shall
21 prohibit the holder of a small brewer license from also holding or
22 owning an interest in the holder of a brewpub license.

23 E. For purposes of this section, no visitor may sample more
24 than a total of twelve (12) fluid ounces of beer per day. The

1 brewer must restrict the distribution and consumption of beer
2 samples to an area within the licensed premises designated by the
3 brewer. A current floor plan that includes the designated sampling
4 area must be on file with the ABLE Commission. No visitor under
5 twenty-one (21) years of age shall be permitted to enter this
6 designated sampling area when samples are being distributed or
7 consumed. Samples of beer served by a brewery under this section
8 shall not be considered a sale of beer within the meaning of Article
9 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
10 title; however, such samples of beer shall be considered beer
11 removed or withdrawn from the brewery for use or consumption within
12 the meaning of Section 5-110 of this title for excise tax
13 determination and reporting requirements. Sales and sampling may
14 only occur between the hours of 10:00 a.m. and 2:00 a.m.

15 F. A small brewer self-distribution license shall authorize
16 holders of a small brewer license to distribute beer produced only
17 by such licensee to a holder of a retail beer license, retail
18 spirits license, mixed beverage license, beer and wine license,
19 caterer's license, special event license, public event license,
20 charitable auction license or brewpub license. A small brewer shall
21 elect whether it will distribute through a distributor or self-
22 distribute in a subject territory; however, a small brewer may not
23 elect to do both simultaneously in a subject territory. The
24 election shall be made through notice to the ABLE Commission. Any

1 changes to the election shall require immediate notification to the
2 ABLE Commission before the change in election will take effect. A
3 small brewer that elects to self-distribute in multiple territories
4 shall only be required to have one small brewer self-distribution
5 license.

6 G. All manufacturer's licenses held by brewers during the first
7 calendar year beginning October 1, 2018, shall automatically convert
8 to brewer licenses and be deemed effective as of the date of the
9 first issuance of the manufacturer's license. Upon the first
10 renewal of the license, the brewer will need to obtain the
11 appropriate brewer's license. If a brewer elects to market wine and
12 spirits, the brewer will also be required to obtain a manufacturer's
13 license and comply with the rules and regulations for both licenses.

14 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-103, is
15 amended to read as follows:

16 Section 2-103. A. A distiller license shall authorize the
17 holder thereof:

18 1. To manufacture, bottle, package and store spirits on
19 licensed premises;

20 2. To sell spirits in this state to licensed wholesalers and
21 manufacturers only;

22 3. To sell spirits out of this state to qualified persons; to
23 purchase from licensed distillers and rectifiers in this state, and
24

1 import spirits from without this state for manufacturing purposes in
2 accordance with federal laws and regulations;

3 4. To serve free samples of spirits produced only by the
4 licensee to visitors twenty-one (21) years of age and older. For
5 purposes of this section, no visitor may sample more than a total of
6 three (3) fluid ounces of spirits per day. The distiller shall
7 restrict the distribution and consumption of spirits samples to an
8 area within the licensed premises designated by the distiller. A
9 current floor plan that includes the designated sampling area shall
10 be on file with the ABLE Commission. No visitor under twenty-one
11 (21) years of age shall be permitted to enter the designated
12 sampling area when samples are being distributed and consumed.
13 Samples of spirits served by a distiller under this section shall
14 not be considered a sale of spirits within the meaning of Article
15 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
16 title; provided, such samples of spirits shall be considered removed
17 or withdrawn from the distillery for use or consumption within the
18 meaning of Section 5-110 of this title for excise tax determination
19 and reporting requirements;

20 5. To sell spirits produced by the licensee for either on-
21 premises or off-premises consumption to consumers on the licensed
22 distillery premises or in an area controlled by the licensee located
23 contiguous to the licensed distillery premises. Product offered for
24 sale by the Oklahoma licensed distiller will have been sold to and

1 shipped to an Oklahoma licensed wine and spirits wholesaler and then
2 made available for purchase by the Oklahoma licensed distiller for
3 sale; ~~and~~

4 6. To sell spirits at public events such as trade shows or
5 festivals. Products offered for sale by the Oklahoma licensed
6 distiller will have been sold to and shipped to an Oklahoma licensed
7 wine and spirits wholesaler and then made available for purchase by
8 the Oklahoma licensed distiller; and

9 7. To host off-site events pursuant to Section 5 of this act;
10 provided, that products offered for sale by the Oklahoma licensed
11 distiller will have been sold to and shipped to an Oklahoma licensed
12 wine and spirits wholesaler and then made available for purchase by
13 the Oklahoma licensed distiller.

14 B. Spirits sold pursuant to paragraphs 5 and 6 of subsection A
15 of this section shall not exceed fifteen thousand (15,000) gallons
16 per calendar year in combination.

17 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-104, is
18 amended to read as follows:

19 Section 2-104. A winemaker license shall authorize the holder
20 thereof:

21 1. To manufacture (including such mixing, blending and cellar
22 treatment as authorized by federal law), bottle, package and store
23 on licensed premises wine containing not more than twenty-four
24 percent (24%) alcohol by volume; provided, the bottle or package

1 sizes authorized shall be limited to the capacities approved by the
2 United States Alcohol and Tobacco Tax and Trade Bureau;

3 2. To sell wine in this state to licensed wholesalers and
4 manufacturers;

5 3. To sell wine produced at the winery from grapes and other
6 fruits and berries grown in this state, if available, for either on-
7 premises or off-premises consumption to consumers on the premises of
8 the winery;

9 4. To serve free samples of wine produced at the winery to
10 visitors twenty-one (21) years of age and older. For purposes of
11 this section, no visitor may sample more than a total of six (6)
12 fluid ounces of wine per day. The winery shall restrict the
13 distribution and consumption of wine samples to an area within the
14 licensed premises designated by the winery. A current floor plan
15 that includes the designated sampling area shall be on file with the
16 ABLE Commission. No visitor under twenty-one (21) years of age
17 shall be permitted to enter the designated sampling area when
18 samples are being distributed and consumed. Samples of wine served
19 by a winery under this section shall not be considered a sale of
20 wine within the meaning of Article XXVIII-A of the Oklahoma
21 Constitution or Section 1-103 of this title; provided, such samples
22 of wine shall be considered removed or withdrawn from the winery for
23 use or consumption within the meaning of Section 5-110 of this title
24 for excise tax determination and reporting requirements;

1 5. To serve free samples of wine produced at the winery at
2 public events such as festivals and trade shows;

3 6. To sell wine produced at the winery, for either on-premises
4 or off-premises consumption at public events such as festivals and
5 trade shows;

6 7. To sell wine out of this state to qualified persons;

7 8. To purchase from licensed winemakers, distillers and
8 rectifiers in this state, and to import into this state wine, brandy
9 and fruit spirits for use in manufacturing in accordance with
10 federal laws and regulations;

11 9. To sell and serve Oklahoma-manufactured wine, mulled wine,
12 or spiced wine, mixed with nonalcoholic beverages or food items such
13 as water, sugar, fruits and vegetables, at any temperature for
14 either on-premises or off-premises consumption;

15 10. To purchase beer in retail containers from the holder of a
16 wholesaler, beer distributor, small brewer self-distributor or
17 brewpub self-distributor license or as specifically provided by law;

18 11. To sell, offer for sale and possess beer for on-premises
19 consumption; ~~and~~

20 12. To establish satellite tasting rooms as defined and
21 authorized in this act where the winemaker's products may be tasted,
22 sampled, sold and served for on-premises consumption and the
23 winemaker is permitted to sell its products in sealed containers;
24 provided, the small farm winery license or winemaker license is

1 active and in good standing. The wine sold at a satellite tasting
2 room must have been produced/manufactured by the holder of a small
3 farm winery license or winemaker license and must have all
4 manufacturing taxes paid; and

5 13. To host off-site events pursuant to Section 5 of this act.

6 SECTION 4. AMENDATORY 37A O.S. 2021, Section 2-131, is
7 amended to read as follows:

8 Section 2-131. A. A small farm winery license shall authorize
9 the holder thereof:

10 1. To manufacture and bottle wines produced by that small farm
11 winery;

12 2. To bottle and sell wines produced by another small farm
13 winery. In order for a small farm winery to bottle and sell another
14 small farm winery's products, both the selling winery and the buying
15 winery shall be small farm winery permit holders;

16 3. To establish satellite tasting rooms as defined and
17 authorized in this act where the winemaker's products may be tasted,
18 sampled, sold and served for on-premises consumption and the
19 winemaker is permitted to sell its products in sealed containers;
20 provided, the small farm winery license is active and in good
21 standing. The wine sold at a satellite tasting room must have been
22 produced/manufactured by the holder of a small farm winery license
23 and must have all manufacturing taxes paid; ~~and~~

1 4. To host off-site events pursuant to Section 5 of this act;

2 and

3 5. The small farm winery licensee shall have the same authority
4 as the winemaker licensee.

5 B. A small farm wine may display the trademarked "Oklahoma
6 Grown" sticker available from the Oklahoma Grape Industry Council.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A small brewer, winemaker, distiller, or small farm winery
11 licensee shall be authorized to host an off-site event following the
12 submission and approval of an application to the ABLE Commission.
13 The licensee shall only be authorized to sell for consumption at the
14 off-site event alcoholic beverages authorized for sale under the
15 licensee's respective license. The licensee shall be limited to
16 hosting four (4) off-site events per year.

17 B. The application shall include, but not be limited to, the
18 location of the off-site event with a designated area within the
19 location designed to provide an exclusive space which may be limited
20 to the public and a designated point of access for a patron or
21 patrons specifically granted access to ensure that persons present
22 in the designated area are above twenty-one (21) years of age. The
23 Commission may prescribe a filing fee for each off-site event
24 application not to exceed Twenty-five Dollars (\$25.00).

1 C. The ABLE Commission shall promulgate rules necessary for the
2 implementation of this section.

3 SECTION 6. 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.

7 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
8 March 3, 2022 - DO PASS AS AMENDED
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24