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February 4, 2021

SENATE BILL NO. 385

By: Coleman of the Senate

and

Strom of the House

An Act relating to alcoholic beverages; amending Section 21, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 81, O.S.L. 2020, and Section 143, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 237, O.S.L. 2019 (37A O.S. Supp. 2020, Sections 2-109 and 6-103), which relate to retail licenses and prohibited acts for retail licensees; authorizing samples of beer, wine and spirits in retail spirit licensee premises; stating authority and procedure for offering certain samples; limiting size of sample; limiting number of unsealed bottles; requiring records be kept for certain period of time; making records available for inspection; requiring sample be served by licensed persons; providing certain exception to prohibition for unsealed bottles; 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 1. To purchase wine or spirits from a wine and spirits
2 wholesaler;
3 2. To purchase beer from a beer distributor or from the holder
4 of a small brewer self-distribution license; ~~and~~
5 3. To sell same on the licensed premises in such containers to
6 consumers for off-premises consumption only and not for resale;
7 provided, spirits, wine and beer may be sold to charitable
8 organizations that are holders of charitable alcoholic beverage
9 auction or charitable alcoholic beverage event licenses; and
10 4. To serve samples of beer, wine and spirits to consumers on
11 its licensed premises consistent with subsections D and E of this
12 section.

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

14 1. To purchase wine from a wine and spirits wholesaler;
15 2. To purchase wine from a small farm winemaker who is
16 permitted and has elected to self-distribute as provided in Article
17 XXVIII-A of the Oklahoma Constitution; and
18 3. To sell same on the licensed premises in such containers to
19 consumers for off-premises consumption only and not for resale;
20 provided, wine may be sold to charitable organizations that are
21 holders of charitable alcoholic beverage auction or charitable
22 alcoholic beverage event licenses.

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

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

2 1. To purchase beer from a beer distributor;

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

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

10 Provided, no holder of a retail beer license may sell a malt
11 beverage with alcohol beverage volume in excess of fifteen percent
12 (15%).

13 D. A retail spirits licensee authorized to serve samples of
14 beer, wine and spirits to consumers under this section shall ensure
15 that all samples are:

16 1. Served by the retail spirits licensee or an employee of the
17 retail spirits licensee;

18 2. Poured from its original sealed container purchased by the
19 retail spirits licensee from a licensed wine and spirits wholesaler
20 or beer distributor authorized to sell the same, and the retail
21 spirits licensee shall pay the applicable sales tax on the alcoholic
22 beverages purchased;

23 3. Offered only to consumers at least twenty-one (21) years of
24 age and without charge;

1 4. Limited to no more than one (1) fluid ounce of spirits, two
2 (2) fluid ounces of wine, or three (3) fluid ounces of beer per
3 consumer per day; and

4 5. Consumed on the licensed premises of the retail spirits
5 licensee and not permitted to be removed from the licensed premises.

6 E. Any retail spirits licensee that serves samples pursuant to
7 subsection D of this section shall:

8 1. Have no more than six unsealed bottles of alcoholic
9 beverages available for sample on any given date;

10 2. Pour out any alcoholic beverage remaining in an unsealed
11 bottle used for sampling at the end of the business day; and

12 3. Maintain a written record of every alcoholic beverage
13 sampled on a form prescribed by the ABLE Commission. This record
14 shall include the brand name and bottle size of the alcoholic
15 beverage sampled, the date and time in which sample was served, and
16 the name of the ABLE licensee(s) that served the samples. This
17 record shall be maintained by the retail spirits licensee for at
18 least one (1) year following the sampling date and shall be made
19 available to the ABLE Commission upon request.

20 SECTION 2. AMENDATORY Section 143, Chapter 366, O.S.L.
21 2016, as last amended by Section 1, Chapter 237, O.S.L. 2019 (37A
22 O.S. Supp. 2020, Section 6-103), is amended to read as follows:

23 Section 6-103. A. No retail spirits licensee shall:
24

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

4 2. Suffer or permit any retail container to be opened, or any
5 alcoholic beverage to be consumed on the licensed premises, ~~unless~~
6 except when serving samples as authorized by Section 2-109 of this
7 title or otherwise permitted by law; provided, the licensee shall
8 not permit any alcoholic beverage content or retail container
9 unsealed in connection with sampling authorized by Section 2-109 of
10 this title to remain on the licensed premises at the close of
11 business on that day;

12 3. Sell any alcoholic beverages at any hour other than between
13 the hours of 8:00 a.m. and midnight Monday through Saturday, and
14 shall not be permitted to be open on Thanksgiving Day or Christmas
15 Day; provided, a county may, pursuant to the provisions of
16 subsections B and C of Section 3-124 of this title, elect to allow
17 such sales between the hours of noon and midnight on Sunday. Retail
18 spirits licensees shall be permitted to sell alcoholic beverages on
19 the day of any General, Primary, Runoff Primary or Special Election
20 whether on a national, state, county or city election, provided that
21 the election day does not occur on any day on which such sales are
22 otherwise prohibited by law;

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

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

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

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

22 6. Offer or furnish any prize, premium, gift or similar
23 inducement to a consumer in connection with the sale of alcoholic
24 beverages, except that goods or merchandise included by the

1 manufacturer in packaging with alcoholic beverages or for packaging
2 with alcoholic beverages shall not be included in this prohibition,
3 but no wholesaler or retailer shall sell any alcoholic beverage
4 prepackaged with other goods or merchandise at a price which is
5 greater than the price at which the alcoholic beverage alone is
6 sold; or

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

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

16 SECTION 3. This act shall become effective November 1, 2021.

17 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
18 February 4, 2021 - DO PASS
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