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February 18, 2021

AS AMENDED

SENATE BILL NO. 757

By: Pugh

[violations and delivery of alcoholic beverage
products - small brewer and small farm winery
delivery - licensee - third-party vendor - effective
date -
emergency]

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

SECTION 1. AMENDATORY Section 45, Chapter 366, O.S.L. 2016, as amended by Section 2, Chapter 155, O.S.L. 2020 (37A O.S. Supp. 2020, Section 2-133), is amended to read as follows:

Section 2-133. Each licensee authorized to deliver alcoholic beverage products to consumers in Section 4 2-161 of this ~~act~~ title and each bottle club or mixed beverage, beer and wine, caterer, public event, charitable event or special event licensee shall be held responsible for violation of any alcoholic beverage law or administrative rule of the ABLE Commission affecting his or her license privileges and for any act or omission of his or her servant, agent, employee, third party vendor or representative in violation of any law, municipal ordinance or administrative rule affecting his or her license privileges.

SECTION 2. AMENDATORY Section 1, Chapter 155, O.S.L.

2020 (37A O.S. Supp. 2020, Section 2-161), is amended to read as follows:

Section 2-161. A. Retail spirit licensees may sell curbside and deliver alcoholic beverages including beer, wine, and spirits in sealed original containers to consumers aged twenty-one (21) years and older as follows:

1. ~~Only employees~~ Employees of the retail spirit licensee or a third-party vendor shall be permitted to make alcoholic beverage product deliveries to consumers;

2. Payment for alcoholic beverage product delivery by the retail spirit licensee may be made by cash, check, transportable credit/debit card processors or advance on-line payment methods; and

3. The retail spirit licensee shall be responsible for his or her delivery employees or a third-party vendor shall be responsible as provided in Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~ this title.

B. Small brewers and small farm wineries licensed by the Oklahoma ABLE Commission may sell curbside and deliver only alcoholic beverages produced by such licensee in sealed original containers to consumers aged twenty-one (21) years and older as follows:

1 1. ~~Only employees~~ Employees of the licensed small brewer or
2 small farm winery or a third-party vendor shall be permitted to make
3 alcoholic beverage product deliveries to consumers;

4 2. Payment for alcoholic beverage product delivery by licensed
5 small brewers or small farm wineries may be made by cash, check,
6 transportable credit/debit card processors, or advance on-line
7 payment methods; and

8 3. Small brewers and small farm wineries shall be responsible
9 for their delivery employees or a third-party vendor as provided in
10 Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~ this title.

11 C. Restaurants, bars and clubs holding mixed beverage, beer and
12 wine, or caterer/mixed beverage licenses issued by the Oklahoma ABLE
13 Commission may sell curbside and deliver only closed packages of
14 beer and wine to consumers aged twenty-one (21) years and older as
15 follows:

16 1. ~~Only employees~~ Employees of such restaurant, bar or club
17 licensee or a third-party vendor shall be permitted to make
18 alcoholic beverage package deliveries to consumers;

19 2. Payment for alcoholic beverage package delivery by licensed
20 restaurants, bars and clubs may be made by cash, check,
21 transportable credit/debit card processors, or advance on-line
22 payment methods; and

23 3. Restaurants, bars and clubs licensed by the Oklahoma ABLE
24 Commission shall be responsible for their delivery employees or a

1 third-party vendor as provided in Section 2-133 of ~~Title 37A of the~~
2 ~~Oklahoma Statutes~~ this title.

3 D. Grocery and convenience stores holding a retail beer and/or
4 retail wine license issued by the Oklahoma ABLE Commission may sell
5 curbside and deliver original sealed containers of beer and/or wine
6 only according to the license held to consumers aged twenty-one (21)
7 years and older as follows:

8 1. ~~Only employees~~ Employees of such licensed grocery or
9 convenience store or a third-party vendor shall be permitted to make
10 alcoholic beverage product deliveries to consumers;

11 2. Payment for alcoholic beverage product delivery by a
12 licensed grocery or convenience store may be made by cash, check,
13 transportable credit/debit card processors or advance on-line
14 payment methods; and

15 3. Grocery and convenience store licensees shall be responsible
16 for their delivery employees or a third-party vendor as provided in
17 Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~ this title.

18 E. Licensees authorized by this section to make alcoholic
19 beverage product deliveries to consumers ~~are prohibited from by~~
20 utilizing third-party vendors ~~or delivery services~~ for purposes of
21 completing such product deliveries to consumers shall be required to
22 have a written contractual agreement with each third-party vendor
23 prior to delivery of any alcoholic beverage products.

24

1 F. Licensees authorized by this section to make alcoholic
2 beverage product deliveries to consumers by employees or third-party
3 vendors shall comply with the laws, rules, procedures and executive
4 orders incumbent on such licensee.

5 G. The Oklahoma ABLE Commission is authorized to promulgate
6 rules, regulations, forms and procedures necessary to implement and
7 enforce the provisions of this section.

8 H. For purposes of this section each delivery authorized by a
9 licensee to be made ~~by his or her employee~~ to a consumer shall be
10 deemed a direct hand-to-hand sale as though the consumer was
11 physically present on the licensed premises and authorized by law by
12 such licensee.

13 I. 1. For purposes of this section:

14 a. "third-party vendor" means an independent contractor
15 driver or technology services company contracted by
16 the licensee whose primary business is food delivery
17 or passenger transport and excludes a vendor whose
18 business is the shipment of goods, and

19 b. "technology services company" means a company that
20 provides software or an application for connecting
21 customers, retailers and/or restaurants to a delivery
22 driver that is employed by or contracted with the
23 technology service company and excludes a company
24 whose business is the shipment of goods.

1 2. A third-party vendor delivery person shall be twenty-one
2 (21) years of age or older and such person shall not have been
3 convicted of any criminal offense relating to alcoholic beverages.
4 The third-party vendor shall have completed a criminal history
5 records check on each delivery driver who delivers alcoholic
6 beverages for a licensee as authorized under this section.

7 3. A third-party vendor contracted by the licensee shall only
8 be authorized to deliver alcoholic beverages and such food or items
9 allowed to be sold by the licensee with the point of sale being at
10 the licensee's retail location.

11 4. A third-party vendor shall be authorized to charge the
12 consumer a delivery fee but shall not charge, add on or collect any
13 portion of the amount of the retail sales price for the alcoholic
14 beverages. All sales of alcoholic beverages shall be the
15 responsibility of the licensee and the sales price for the delivery
16 of alcoholic beverages shall not exceed the retail price at the
17 store from which the alcoholic beverages were purchased.

18 5. A third-party vendor delivery driver shall be required to
19 confirm the purchaser receiving the alcoholic beverages is twenty-
20 one (21) years of age or older before completing a delivery of
21 alcoholic beverages. No package containing alcoholic beverages may
22 be delivered to or left unattended at a residence or business
23 address except for the delivery of such package in person to the
24 purchaser confirmed to be twenty-one (21) years of age or older.

1 SECTION 3. This act shall become effective July 1, 2021.

2 SECTION 4. It being immediately necessary for the preservation
3 of the public peace, health or safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

6 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
7 February 18, 2021 - DO PASS AS AMENDED
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