

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1811

By: Garvin

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5  
6 AS INTRODUCED

7 An Act relating to alcoholic beverages; amending 37A  
8 O.S. 2021, Sections 2-102, as amended by Section 1,  
9 Chapter 226, O.S.L. 2019, 2-103, and 2-104, which  
10 relate to brewer, winemaker, and distillery licenses;  
11 allowing certain license holders to host off-site  
12 events under certain conditions; authorizing the ABLE  
13 Commission to permit certain license holders to host  
14 off-site events following application; requiring  
15 licensees to sell only the products covered by  
16 licenses; providing details of application; allowing  
17 Commission to assess fee; providing for codification;  
18 and declaring an emergency.

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

20 SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-102, as  
21 amended by Section 1, Chapter 226, O.S.L. 2019, is amended to read  
22 as follows:

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

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

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

4           3. To host off-site events pursuant to Section 4 of this act.

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

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

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

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

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

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

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

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

22           8. To host off-site events pursuant to Section 4 of this act.

1 C. Nothing in the Oklahoma Alcoholic Beverage Control Act shall  
2 prohibit the holder of a small brewer license from also holding or  
3 owning an interest in the holder of a brewpub license.

4 D. For purposes of this section, no visitor may sample more  
5 than a total of twelve (12) fluid ounces of beer or cider per day.  
6 The brewer must restrict the distribution of beer or cider to the  
7 serving area within the licensed premises as defined in this  
8 subsection. A current floor plan that includes the designated  
9 serving area must be on file with the ABLE Commission. No visitor  
10 under twenty-one (21) years of age shall be permitted to enter this  
11 designated serving area. Accompanied visitors under twenty-one (21)  
12 years of age shall be allowed anywhere on the premises except for a  
13 serving area. Samples of beer or cider served by a brewery under  
14 this section shall not be considered a sale of beer or cider within  
15 the meaning of Article XXVIII A of the Oklahoma Constitution or  
16 Section 1-103 of this title; however, such samples of beer or cider  
17 shall be considered beer or cider removed or withdrawn from the  
18 brewery for use or consumption within the meaning of Section 5-110  
19 of this title for excise tax determination and reporting  
20 requirements. Sales and sampling may only occur between the hours  
21 of 10:00 a.m. and 2:00 a.m. For purposes of this subsection,  
22 "serving area" means the area of the bar where drinks are sold,  
23 prepared and served to paying customers and shall not include other  
24 areas of the brewery where customers consume purchased products.

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

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

18 Section 2-103. A. A distiller license shall authorize the  
19 holder thereof:

20 1. To manufacture, bottle, package and store spirits on  
21 licensed premises;

22 2. To sell spirits in this state to licensed wholesalers and  
23 manufacturers only;

1           3. To sell spirits out of this state to qualified persons; to  
2 purchase from licensed distillers and rectifiers in this state, and  
3 import spirits from without this state for manufacturing purposes in  
4 accordance with federal laws and regulations;

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

22           5. To sell spirits produced by the licensee for either on-  
23 premises or off-premises consumption to consumers on the licensed  
24 distillery premises or in an area controlled by the licensee located

1 contiguous to the licensed distillery premises. Product offered for  
2 sale by the Oklahoma licensed distiller will have been sold to and  
3 shipped to an Oklahoma licensed wine and spirits wholesaler and then  
4 made available for purchase by the Oklahoma licensed distiller for  
5 sale; ~~and~~

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

11 7. To host off-site events pursuant to Section 4 of this act;  
12 provided, that products offered for sale by the Oklahoma licensed  
13 distiller will have been sold to and shipped to an Oklahoma licensed  
14 wine and spirits wholesaler and then available for purchase by the  
15 Oklahoma licensed distiller.

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

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

21 Section 2-104. A winemaker license shall authorize the holder  
22 thereof:

23 1. To manufacture (including such mixing, blending and cellar  
24 treatment as authorized by federal law), bottle, package and store  
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1 on licensed premises wine containing not more than twenty-four  
2 percent (24%) alcohol by volume, provided the bottle or package  
3 sizes authorized shall be limited to the capacities approved by the  
4 United States Alcohol and Tobacco Tax and Trade Bureau;

5 2. To sell wine in this state to licensed wholesalers and  
6 manufacturers;

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

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

1 use or consumption within the meaning of Section 5-110 of this title  
2 for excise tax determination and reporting requirements;

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

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

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

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

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

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

20 11. To sell, offer for sale and possess beer for on-premises  
21 consumption; and

22 12. To establish satellite tasting rooms as defined and  
23 authorized in this act where the winemaker's products may be tasted,  
24 sampled, sold and served for on-premises consumption and the

1 winemaker is permitted to sell its products in sealed containers;  
2 provided, the small farm winery license or winemaker license is  
3 active and in good standing. The wine sold at a satellite tasting  
4 room must have been produced/manufactured by the holder of a small  
5 farm winery license or winemaker license and must have all  
6 manufacturing taxes paid; and

7 13. To host off-site events pursuant to Section 4 of this act.

8 SECTION 4. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there  
10 is created a duplication in numbering, reads as follows:

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

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

3 C. The ABLE Commission shall promulgate rules necessary for the  
4 implementation of this section.

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

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