

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2380

By: Davis

AS INTRODUCED

An Act relating to alcoholic beverages; amending Section 142, Chapter 366, O.S.L. 2016, as last amended by Section 20, Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020, Section 6-102), which relates to licensee prohibited acts; providing requirements for patron self-pour service of beer and wine; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY Section 142, Chapter 366, O.S.L. 2016, as last amended by Section 20, Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020, Section 6-102), is amended to read as follows:

Section 6-102. A. No licensee of the ABLE Commission shall:

1. Receive, possess or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

2. Employ any person under eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits. Provided:

1 a. a mixed beverage, beer and wine, caterer, public
2 event, special event, bottle club, retail wine or
3 retail beer licensee may employ servers or sales
4 clerks who are at least eighteen (18) years of age,
5 except persons under twenty-one (21) years of age may
6 not serve in designated bar or lounge areas, and

7 b. a mixed beverage, beer and wine, caterer, public
8 event, special event or bottle club licensee may
9 employ or hire musical bands who have musicians who
10 are under eighteen (18) years of age if each such
11 musician is either accompanied by a parent or legal
12 guardian or has on their person, to be made available
13 for inspection upon demand by any employee of the ABLE
14 Commission or law enforcement officer, a written,
15 notarized affidavit from the parent or legal guardian
16 giving the underage musician permission to perform in
17 designated bar or lounge areas;

18 3. Give any alcoholic beverage as a prize, premium or
19 consideration for any lottery, game of chance or skill or any type
20 of competition;

21 4. Use any of the following means or inducements to stimulate
22 the consumption of alcoholic beverages, including but not limited
23 to:
24

- 1 a. deliver more than two drinks to one person at one
2 time, except as provided for serving tasting flights
3 defined in Section ~~2~~ 6-102.1 of this ~~act~~ title,
- 4 b. sell or offer to sell to any person or group of
5 persons any drinks at a price that is less than six
6 percent (6%) below the markup of the cost to the mixed
7 beverage licensee; provided, a mixed beverage licensee
8 shall be permitted to offer these drink specials on
9 any particular hour of any particular day and shall
10 not be required to offer these drink specials for an
11 entire calendar week or from open to close,
- 12 c. sell or offer to sell to any person an unlimited
13 number of drinks during any set period of time for a
14 fixed price, except at private functions not open to
15 the public,
- 16 d. sell or offer to sell drinks to any person or group of
17 persons on any one day or portion thereof at prices
18 less than those charged the general public on that
19 day, except at private functions not open to the
20 public,
- 21 e. increase the volume of alcoholic beverages contained
22 in a drink without increasing proportionately the
23 price regularly charged for such drink during the same
24 calendar week, or

1 f. encourage or permit, on the licensed premises, any
2 game or contest which involves drinking or the
3 awarding of drinks as prizes.

4 Provided, that the provisions of this paragraph shall not
5 prohibit the advertising or offering of food or entertainment in
6 licensed establishments;

7 5. Permit or allow any patron or person to exit the licensed
8 premises with an open container of any alcoholic beverage.

9 Provided, this prohibition shall not be applicable to closed
10 original containers of alcoholic beverages which are carried from
11 the licensed premises of a bottle club by a patron, closed original
12 wine containers removed from the premises of restaurants, hotels and
13 motels, or to closed original containers of alcoholic beverages
14 transported to and from the place of business of a licensed caterer
15 by the caterer or an employee of the caterer;

16 6. Serve or sell alcoholic beverages with an expired license
17 issued by the ABLE Commission; ~~or~~

18 7. Permit any person to be drunk or intoxicated on the
19 licensee's licensed premises; or

20 8. Permit or allow any patron to serve or pour themselves any
21 alcoholic beverage, except a licensee may offer a patron self-pour
22 service of beer or wine, or both, from automated devices on licensed
23 premises so long as:

1 a. the licensee monitors and has the ability to control
2 the dispensing of such beer or wine, or both, from the
3 automated devices. "Automated device" shall mean any
4 mechanized device capable of dispensing wine or beer,
5 or both, directly to a customer in exchange for
6 compensation that a licensee has received directly
7 from the patron, and

8 b. each licensee offering a patron self-pour service of
9 wine or beer, or both, from any automated device shall
10 provide constant video monitoring of the automated
11 device at all times during which the licensee is open
12 to the public. The licensee shall keep recorded
13 footage from the video monitoring for at least sixty
14 (60) days, and shall provide the footage, upon
15 request, to any agent of the Director of the ABLE
16 Commission or other authorized law enforcement agent.

17 B. 1. The compensation required by subparagraph a of paragraph
18 8 of subsection A of this section shall be in the form of a
19 programmable, preloaded access card or bracelet containing a fixed
20 amount of volume of thirty-two (32) ounces for beer and ten (10)
21 ounces for wine that may be directly exchanged for beer or wine
22 dispensed from the automated device:

23 a. access cards or bracelets may be assigned, used or
24 reactivated only during a business day,

- 1 b. each access card or bracelet shall be obtained from
2 the licensee by a patron,
- 3 c. a licensee shall not issue more than one active access
4 card or bracelet to a patron, and
- 5 d. an access card or bracelet shall be deemed active if
6 the access card or bracelet contains volume credit or
7 has not yet been used to dispense ten (10) ounces of
8 wine or thirty-two (32) ounces of beer.

9 2. In order to obtain an access card or bracelet from a
10 licensee, each patron shall produce a valid driver license,
11 identification card or other government-issued document that
12 contains a photograph of the individual and demonstrates that the
13 individual is at least twenty-one (21) years of age. Each access
14 card or bracelet shall be programmed to require the production of
15 the patron's valid identification before the access card or bracelet
16 can be used for the first time during any business day or for any
17 subsequent reactivation.

18 3. Each access card or bracelet shall become inactive at the
19 end of each business day.

20 4. Each access card or bracelet shall be programmed to allow
21 the dispensing of no more than ten (10) ounces of wine or thirty-two
22 (32) ounces of beer to a patron:

- 23 a. once an access card has been used to dispense ten (10)
24 ounces of wine or thirty-two (32) ounces of beer to a

1 patron, the access card or bracelet shall become
2 inactive, and

3 b. any patron in possession of an inactive access card or
4 bracelet may, upon production of the patron's valid
5 identification to the licensee or licensee's employee,
6 have the access card or bracelet reactivated to allow
7 the dispensing of an additional ten (10) ounces of
8 wine or thirty-two (32) ounces of beer from an
9 automated device.

10 Paragraphs 1, 2, 3 and 4 of this subsection shall not apply to wine
11 or beer that is dispensed directly to the licensee or the licensee's
12 agent or employee.

13 ~~B.~~ C. A mixed beverage or beer and wine licensee shall not be
14 deemed to have violated the provisions of paragraph 5 of subsection
15 A of this section if it allowed a patron to leave the licensed
16 premises with an open container of beer or wine only and:

17 1. The otherwise prohibited act was committed during the hours
18 of 8 a.m. to midnight on the day of a scheduled home football game
19 of institutions within The Oklahoma State System of Higher
20 Education, and the establishment is located within two thousand
21 (2,000) feet of the institution;

22 2. The licensee is participating by invitation in a municipally
23 sanctioned art, music or sporting event within city limits when the
24 municipality has provided written notice of the event and a list of

1 invited licensees to the ABLE Commission at least five (5) days
2 prior to the event; or

3 3. The patron remains on the connected, physical property of
4 the licensee or in a public area adjacent to the physical property
5 of the licensee with prior municipal approval; provided that written
6 notice of the use of the connected, physical property of the
7 licensee or public area shall be provided to the ABLE Commission at
8 least five (5) days prior to such use.

9 SECTION 2. This act shall become effective November 1, 2021.
10

11 58-1-7231 JL 01/20/21
12
13
14
15
16
17
18
19
20
21
22
23
24