

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3868

By: Boatman

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5  
6 AS INTRODUCED

7 An Act relating to alcoholic beverages; creating the  
8 alcoholic beverage gift basket license; providing  
9 guidelines for alcoholic beverage gift basket sales  
10 and deliveries; providing that alcoholic beverage  
11 gift basket licensee is responsible for delivery  
12 employees; providing maximum amount of alcohol that  
13 can be in the gift basket; requiring the alcoholic  
14 beverages to be purchased from a retail spirit  
15 licensee holder; requiring the holder of an alcoholic  
16 beverage gift basket license to maintain records and  
17 submit reports to the Oklahoma ABLE Commission;  
18 authorizing the Oklahoma ABLE Commission to  
19 promulgate rules, regulations, forms and procedures  
20 necessary to implement and enforce this license;  
21 amending 37a O.S. 2021, Section 2-101, which relates  
22 to alcoholic beverage licenses; providing cost for an  
23 alcoholic beverage gift basket license; amending 37A  
24 O.S. 2021, Section 2-133, which relates to licensee  
responsibility for violation of law; adding alcoholic  
beverage gift basket licensee; providing for  
codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there  
is created a duplication in numbering, reads as follows:

A. An alcoholic beverage gift basket license shall authorize  
the holder thereof to sell and deliver alcoholic beverages including

1 beer, wine, and spirits in sealed original containers to consumers  
2 aged twenty-one (21) years and older as follows:

3 1. Only employees of the alcoholic beverage gift basket  
4 licensee, who are twenty-one (21) years old and older shall be  
5 permitted to make alcoholic beverage gift basket deliveries to  
6 consumers;

7 2. Payment for alcoholic beverage gift basket delivery by the  
8 alcoholic beverage gift basket licensee may be made by cash, check,  
9 transportable credit/debit card processors or advance on-line  
10 payment methods; and

11 3. The alcoholic beverage gift basket licensee shall be  
12 responsible for his or her delivery employees as provided in Section  
13 2-133 of Title 37A of the Oklahoma Statutes.

14 B. Alcoholic beverage gift baskets may not contain more than:

15 1. One-hundred forty-four (144) ounces of beer;

16 2. Two thousand two hundred fifty (2,250) milliliters of wine;

17 and

18 3. One thousand five hundred (1,500) milliliters of liquor.

19 C. The alcoholic beverages contained in a gift basket shall be  
20 purchased from a retail spirit licensee holder.

21 D. A holder of an alcoholic beverage gift basket license shall  
22 maintain records and submit reports as required by the ABLE  
23 Commission.  
24

1 E. The ABLE Commission is authorized to promulgate rules,  
2 regulations, forms and procedures necessary to implement and enforce  
3 the provisions of this section.

4 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-101, is  
5 amended to read as follows:

6 Section 2-101. A. Except as otherwise provided in this  
7 section, the licenses issued by the ABLE Commission, and the annual  
8 fees therefor, shall be as follows:

- 9 1. Brewer License..... \$1,250.00
- 10 2. Small Brewer License..... \$125.00
- 11 3. Distiller License..... \$3,125.00
- 12 4. Winemaker License..... \$625.00
- 13 5. Small Farm Winery License..... \$75.00
- 14 6. Rectifier License..... \$3,125.00
- 15 7. Wine and Spirits Wholesaler License..... \$3,000.00
- 16 8. Beer Distributor License..... \$750.00

17 9. The following retail spirits license fees  
18 shall be determined by the latest Federal  
19 Decennial Census:

- 20 a. Retail Spirits License for cities and  
21 towns from 200 to 2,500 population..... \$305.00
- 22 b. Retail Spirits License for cities and  
23 towns from 2,501 to 5,000 population..... \$605.00

1	c.	Retail Spirits License for cities and	
2		towns over 5,000 population.....	\$905.00
3	10.	Retail Wine License.....	\$1,000.00
4	11.	Retail Beer License.....	\$500.00
5	12.	Mixed Beverage License.....	\$1,005.00
6		(initial license)	
7			\$905.00
8		(renewal)	
9	13.	Mixed Beverage/Caterer Combination License.....	\$1,250.00
10	14.	On-Premises Beer and Wine License.....	\$500.00
11		(initial license)	
12			\$450.00
13		(renewal)	
14	15.	Bottle Club License.....	\$1,000.00
15		(initial license)	
16			\$900.00
17		(renewal)	
18	16.	Caterer License.....	\$1,005.00
19		(initial license)	
20			\$905.00
21		(renewal)	
22	17.	Annual Special Event License.....	\$55.00
23	18.	Quarterly Special Event License.....	\$55.00
24	19.	Hotel Beverage License.....	\$1,005.00

1		(initial license)	
2		\$905.00	
3		(renewal)	
4	20.	Airline/Railroad/Commercial Passenger Vessel Beverage	
5		License.....	\$1,005.00
6		(initial license)	
7		\$905.00	
8		(renewal)	
9	21.	Agent License.....	\$55.00
10	22.	Employee License.....	\$30.00
11	23.	Industrial License.....	\$23.00
12	24.	Carrier License.....	\$23.00
13	25.	Private Carrier License.....	\$23.00
14	26.	Bonded Warehouse License.....	\$190.00
15	27.	Storage License.....	\$23.00
16	28.	Nonresident Seller License .....	\$750.00
17	29.	Manufacturer License:	
18	a.	50 cases or less sold in Oklahoma in	
19		last calendar year.....	\$50.00
20	b.	51 to 500 cases sold in Oklahoma in	
21		last calendar year.....	\$75.00
22	c.	501 cases or more sold in Oklahoma in	
23		last calendar year.....	\$150.00
24	30.	Manufacturer's Agent License.....	\$55.00

1	31.	Sacramental Wine Supplier License.....	\$100.00
2	32.	Charitable Auction License.....	\$1.00
3	33.	Charitable Alcoholic Beverage License.....	\$55.00
4	34.	Winemaker Self-Distribution License.....	\$750.00
5	35.	Annual Public Event License.....	\$1,005.00
6	36.	One-Time Public Event License.....	\$255.00
7	37.	Small Brewer Self-Distribution License.....	\$750.00
8	38.	Brewpub License.....	\$1,005.00
9	39.	Brewpub Self-Distribution License.....	\$750.00
10	40.	Complimentary Beverage License.....	\$75.00
11	41.	Satellite Tasting Room License.....	\$100.00
12	42.	<u>Alcoholic Beverage Gift Basket License.....</u>	<u>\$100.00</u>

B. 1. There shall be added to the initial or renewal fees for a Mixed Beverage License an administrative fee, which shall not be deemed to be a license fee, in the amount of Five Hundred Dollars (\$500.00), which shall be paid at the same time and in the same manner as the license fees prescribed by paragraph 12 of subsection A of this section; provided, this fee shall not be assessed against service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code.

2. There shall be added to the fee for a Mixed Beverage/Caterer Combination License an administrative fee, which shall not be deemed to be a license fee, in the amount of Two Hundred Fifty Dollars

1 (\$250.00), which shall be paid at the same time and in the same  
2 manner as the license fee prescribed by paragraph 13 of subsection A  
3 of this section.

4 C. Notwithstanding the provisions of subsection A of this  
5 section:

6 1. The license fee for a mixed beverage or bottle club license  
7 for those service organizations or fraternal beneficiary societies  
8 which are exempt under Section 501(c)(19), (8) or (10) of the  
9 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per  
10 year; and

11 2. The renewal fee for an airline/railroad/commercial passenger  
12 vessel beverage license held by a railroad described in 49 U.S.C.,  
13 Section 24301, shall be One Hundred Dollars (\$100.00).

14 D. An applicant may apply for and receive both an on-premises  
15 beer and wine license and a caterer license.

16 E. All licenses, except as otherwise provided, shall be valid  
17 for one (1) year from date of issuance unless revoked or  
18 surrendered. Provided, all employee licenses shall be valid for two  
19 (2) years.

20 F. The holder of a license, issued by the ABLE Commission, for  
21 a bottle club located in a county of this state where the sale of  
22 alcoholic beverages by the individual drink for on-premises  
23 consumption has been authorized, may exchange the bottle club  
24 license for a mixed beverage license or an on-premises beer and wine

1 license and operate the licensed premises as a mixed beverage  
2 establishment or an on-premises beer and wine establishment subject  
3 to the provisions of the Oklahoma Alcoholic Beverage Control Act.  
4 There shall be no additional fee for such exchange and the mixed  
5 beverage license or on-premises beer and wine license issued shall  
6 expire one (1) year from the date of issuance of the original bottle  
7 club license.

8 G. In addition to the applicable licensing fee, the following  
9 surcharge shall be assessed annually on the following licenses:

10 1. Nonresident Seller License..... \$2,500.00

11 2. Manufacturer License:

12 a. 50 cases or less sold in Oklahoma in  
13 last calendar year..... \$100.00

14 b. 51 to 500 cases sold in Oklahoma in  
15 last calendar year..... \$225.00

16 c. 501 cases or more sold in Oklahoma in  
17 last calendar year..... \$450.00

18 3. Wine and Spirits Wholesaler License..... \$2,500.00

19 4. Beer Distributor..... \$1,000.00

20 5. Retail Spirits License for cities and towns  
21 over 5,000 population..... \$250.00

22 6. Retail Spirits License for cities and towns  
23 from 2,501 to 5,000 population..... \$200.00  
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- 1        7.    Retail Spirits License for cities and towns  
2                from 200 to 2,500 population..... \$150.00  
3        8.    Retail Wine License..... \$250.00  
4        9.    Retail Beer License..... \$250.00  
5        10.   Mixed Beverage License..... \$25.00  
6        11.   Mixed Beverage/Caterer Combination License..... \$25.00  
7        12.   Caterer License..... \$25.00  
8        13.   On-Premises Beer and Wine License..... \$25.00  
9        14.   Annual Public Event License..... \$25.00  
10       15.   Small Farm Winery License..... \$25.00  
11       16.   Small Brewer License..... \$35.00  
12       17.   Complimentary Beverage License..... \$25.00

13       The surcharge shall be paid concurrent with the licensee's  
14       annual licensing fee and, in addition to Five Dollars (\$5.00) of the  
15       employee license fee, shall be deposited in the Alcoholic Beverage  
16       Governance Revolving Fund established pursuant to Section 5-128 of  
17       this title.

18       H.    Any license issued by the ABLE Commission under this title  
19       may be relied upon by other licensees as a valid license, and no  
20       other licensee shall have any obligation to independently determine  
21       the validity of such license or be held liable solely as a  
22       consequence of another licensee's failure to maintain a valid  
23       license.  
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1       SECTION 3.       AMENDATORY       37A O.S. 2021, Section 2-133, is  
2 amended to read as follows:

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

13       SECTION 4. This act shall become effective November 1, 2022.

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15       58-2-8597       JL       12/06/21

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