

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1811

By: Garvin

AS INTRODUCED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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
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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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