

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1723 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: TJ Marti

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR  
HOUSE BILL NO. 1723

By: Marti

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 2-113, as amended by Section 1, Chapter 42, O.S.L. 2023 (37A O.S. Supp. 2023, Section 2-113), which relates to catering licenses; providing that a caterer may be issued a storage license; providing that upon issuance of a license to the on-premises beer and wine applicant, the mixed beverage/caterer combination applicant, or the mixed beverage applicant, any alcoholic beverages on the licensed storage premises may be transferred by the caterer to the on-premises beer and wine licensee, the mixed beverage/caterer combination licensee, or the mixed beverage licensee; and declaring an emergency.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-113, as amended by Section 1, Chapter 42, O.S.L. 2023 (37A O.S. Supp. 2023, Section 2-113), is amended to read as follows:

Section 2-113. A. 1. A caterer license may be issued to any person for the purpose of sale, delivery or distribution of alcoholic beverages incidental to the sale or distribution of food

1 on a premises not licensed by the ABLE Commission. For purposes of  
2 this section, "incidental to the sale or distribution of food" means  
3 food sales constituting at least thirty-five percent (35%) of the  
4 caterer's total combined annual sales. A caterer license shall not  
5 be issued to a person whose main purpose is the sale of alcoholic  
6 beverages.

7 2. A caterer license may only be issued to those persons that  
8 prepare, sell and distribute food for consumption either on licensed  
9 or unlicensed premises. In order to renew a caterer license, annual  
10 food sales must constitute at least thirty-five percent (35%) of the  
11 caterer's total combined sales based on the most recent calendar  
12 year. A caterer shall not be required to prepare, sell and  
13 distribute food at every catered event as long as the caterer  
14 satisfies the requirement set forth in this section.

15 3. Each caterer shall submit an annual sales report containing  
16 revenue attributable to alcoholic beverages, food and all other  
17 revenues attributable to the catering service. The annual sales  
18 report must be submitted thirty (30) days prior to expiration of the  
19 caterer license on forms prescribed by the ABLE Commission. The  
20 caterer license may not be renewed if the caterer fails to provide  
21 complete or sufficient financial data.

22 4. Each caterer shall submit a monthly event report containing  
23 information on all events scheduled for the subsequent month. If an  
24 event is scheduled after the first day of the month for an event to

1 occur in the same month, then the caterer shall report that event  
2 within twenty-four (24) hours of scheduling the event or within  
3 twenty-four (24) hours prior to the event, whichever occurs first.  
4 The monthly event report shall be submitted on the first day of each  
5 month.

6 5. All reports shall be submitted electronically on forms  
7 prescribed by the ABLE Commission. Provided, if the caterer does  
8 not have access to the Internet, then monthly reports must be  
9 submitted by facsimile to the ABLE Commission's office in Oklahoma  
10 City, in which case the caterer must retain a copy of the facsimile  
11 confirmation sheet for at least twelve (12) months.

12 6. Any caterer who fails to submit a monthly report shall have  
13 the caterer license automatically suspended until such time that the  
14 caterer has fully complied with all reporting requirements. Any  
15 caterer whose annual food sales do not exceed thirty-five percent  
16 (35%) of his or her total annual combined sales shall not have the  
17 caterer's license renewed.

18 B. The ABLE Commission shall promulgate rules governing the  
19 application for and the issuance of caterer licenses.

20 C. The restrictions and rules which apply to the sale of mixed  
21 beverages on the premises of a mixed beverage licensee also apply to  
22 the sale under the authority of a caterer license. Any act which if  
23 done on the premises of a mixed beverage licensee would be a ground  
24

1 for revocation or suspension of the mixed beverage license is a  
2 ground for revocation or suspension of a caterer license.

3 D. If the premises where the event being catered is held are  
4 already operating pursuant to another type of license issued by the  
5 ABLE Commission, the caterer and the other licensee shall both be  
6 responsible for the actions of the caterer and shall both be subject  
7 to penalties for violations by the caterer of the Oklahoma Alcoholic  
8 Beverage Control Act and any rules promulgated thereto.

9 E. A caterer licensee may not store alcoholic beverages unless  
10 the licensee has a storage license issued by the ABLE Commission. A  
11 caterer licensee selling beer and cider to consumers shall only  
12 purchase such beer and cider from the distributor or wholesaler  
13 within the county in which the licensee will be selling the beer and  
14 cider to consumers.

15 F. A caterer may provide alcoholic beverage sales on the  
16 premises of a person currently applying for an on-premises beer and  
17 wine license, mixed beverage/caterer combination license, or mixed  
18 beverage license, provided the following terms have been satisfied:

19 1. The caterer shall take reasonable steps to ensure that the  
20 on-premises beer and wine applicant, mixed beverage/caterer  
21 combination applicant, or mixed beverage applicant uses only  
22 licensed employees to perform licensable activities while using the  
23 caterer's license. The caterer shall use his or her best efforts to  
24 attempt to have a licensed employee on-site supervising the sale of

1 such caterer's alcoholic beverages at all times, but the caterer  
2 shall not be disciplined for failing to have a licensed employee on-  
3 site. The caterer expressly acknowledges that he or she is liable  
4 for all violations of the Oklahoma Alcoholic Beverage Control Act  
5 and rules of the ABLE Commission that are committed by the on-  
6 premises beer and wine applicant, the mixed beverage/caterer  
7 combination applicant, or the mixed beverage applicant and its  
8 employees during this period;

9 2. The caterer and the on-premises beer and wine applicant, the  
10 mixed beverage/caterer combination applicant, or the mixed beverage  
11 applicant must submit to the ABLE Commission a written agreement  
12 setting forth all the terms of the catering agreement at least  
13 twenty-four (24) hours prior to the commencement of the catered  
14 event; ~~and~~

15 3. The caterer may not provide alcoholic beverage sales on the  
16 unlicensed premises of the on-premises beer and wine applicant,  
17 mixed beverage/caterer combination applicant, or the mixed beverage  
18 applicant for more than sixty (60) days, or after the applicant's  
19 license has been denied, whichever occurs first;

20 4. The caterer may be issued a storage license to be used to  
21 store any alcoholic beverages purchased pursuant to this subsection  
22 on the unlicensed premises of the applicant during the period of the  
23 written agreement; and  
24

1        5. Upon the issuance of a license to the on-premises beer and  
2 wine applicant, the mixed beverage/caterer combination applicant, or  
3 the mixed beverage applicant, any alcoholic beverages on the  
4 licensed storage premises may be transferred by the caterer to the  
5 on-premises beer and wine licensee, the mixed beverage/caterer  
6 combination licensee, or the mixed beverage licensee consistent with  
7 the provisions of Section 2-155 of this title.

8        G. A caterer may provide alcoholic beverage services for  
9 temporary public events which have been licensed and approved by the  
10 ABLE Commission.

11        H. A caterer may provide alcoholic beverage services for a  
12 mixed beverage licensee which holds a live performing arts  
13 presentation and is open to the public not more than one hundred  
14 twenty (120) days per year.

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

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20        59-2-10514        JL        02/27/24  
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