

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB4071 \_\_\_\_\_  
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**

Adopted: \_\_\_\_\_  
\_\_\_\_\_  
Reading Clerk

Amendment submitted by: Kevin Wallace  
\_\_\_\_\_

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

PROPOSED  
COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 4071

By: Wallace

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 2-109, which relates to retail spirits license holder privileges; authorizing the sale of refrigerated spirits; limiting the sale of refrigerated spirits to certain size volumes; amending 37A O.S. 2021, Section 3-123, as amended by Section 3, Chapter 94, O.S.L. 2023 (37A O.S. Supp. 2023, Section 3-123), which relates to the privileges and limitations of alcoholic beverage licensees; establishing certain right of licensees to purchase certain refrigerating equipment; limiting right; and providing an effective date.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-109, is amended to read as follows:

Section 2-109. A. A retail spirits license shall authorize the holder thereof:

1. To purchase wine or spirits from a wine and spirits wholesaler;

1        2. To purchase beer from a beer distributor or from the holder  
2 of a small brewer self-distribution license;

3        3. To sell ~~same~~ beer, wine, and spirits, refrigerated or non-  
4 refrigerated, on the licensed premises in such containers to  
5 consumers for off-premises consumption only and not for resale;  
6 provided that for refrigerated spirits, any such sales shall be  
7 limited to individual container sizes of 375 milliliters or less,  
8 and further provided that, spirits, wine, and beer may be sold to  
9 charitable organizations that are holders of charitable alcoholic  
10 beverage auction or charitable alcoholic beverage event licenses;  
11 and

12        4. To host alcoholic beverage tastings consistent with  
13 subsections D and E of this section.

14        B. A retail wine license shall authorize the holder thereof:

15        1. To purchase wine from a wine and spirits wholesaler;

16        2. To purchase wine from a small farm winemaker who is  
17 permitted and has elected to self-distribute as provided in Article  
18 XXVIII-A of the Oklahoma Constitution;

19        3. To sell same on the licensed premises in such containers to  
20 consumers for off-premises consumption only and not for resale;  
21 provided, wine may be sold to charitable organizations that are  
22 holders of charitable alcoholic beverage auction or charitable  
23 alcoholic beverage event licenses; and  
24

1        4. To host an alcoholic beverage tasting, consistent with  
2 subsections D and E of this section.

3        Provided, no holder of a retail wine license may sell wine with  
4 alcohol beverage volume in excess of fifteen percent (15%).

5        C. A retail beer license shall authorize the holder thereof:

6        1. To purchase beer from a beer distributor;

7        2. To purchase beer from the holder of a small brewer self-  
8 distribution license;

9        3. To sell same on the licensed premises in such containers to  
10 consumers for off-premises consumption only and not for resale;  
11 provided, beer may be sold to charitable organizations that are  
12 holders of charitable alcoholic beverage auction or charitable  
13 alcoholic beverage event licenses; and

14       4. To host alcoholic beverage tastings consistent with  
15 subsections D and E of this section.

16       Provided, no holder of a retail beer license may sell a malt  
17 beverage with alcohol beverage volume in excess of fifteen percent  
18 (15%).

19       D. All tastings conducted under this section shall:

20       1. Be conducted under the direct supervision of the licensee  
21 authorized to host the tasting;

22       2. Be poured by any ABLE Commission licensee lawfully permitted  
23 to serve alcoholic beverages, provided no wine or spirits  
24 wholesaler, beer distributor or employee of a wine or spirits

1 wholesaler or beer distributor shall be allowed to pour samples for  
2 tastings;

3 3. Use alcoholic beverages purchased by the licensee authorized  
4 to host the tastings from a licensed wine and spirits wholesaler,  
5 beer distributor, self-distributor, small brewer or self-  
6 distributing winery authorized to sell the same, and the licensee  
7 shall pay the applicable taxes on the alcoholic beverages purchased;  
8 provided, the licensee may only provide samples of alcoholic  
9 beverages that its license is authorized to sell;

10 4. Be restricted to persons twenty-one (21) years of age or  
11 older;

12 5. Be limited to no more than one (1) fluid ounce of spirits,  
13 two (2) fluid ounces of wine or three (3) fluid ounces of beer per  
14 consumer per day; and

15 6. Be consumed on the licensed premises of the licensee  
16 authorized to host the tastings or at a location other than the  
17 licensed premises, provided no samples served on the licensed  
18 premises shall be permitted to be removed from the licensed  
19 premises.

20 E. All licensees authorized to serve samples pursuant to  
21 subsection D of this section shall ensure that:

22 1. All samples are poured only from original sealed packaging;  
23  
24

2. Any alcoholic beverages remaining in unsealed packaging used to provide samples, excluding spirits, are poured out by the end of the day;

3. No more than six (6) bottles of alcoholic beverages are unsealed at any given time; and

4. No person shall remove any samples from the licensed premises or location where the tasting has occurred.

SECTION 2. AMENDATORY 37A O.S. 2021, Section 3-123, as amended by Section 3, Chapter 94, O.S.L. 2023 (37A O.S. Supp. 2023, Section 3-123), is amended to read as follows:

Section 3-123.

§37A-3-123. Sale of alcoholic beverages to wholesalers, beer distributors or retailers - Unlawful to discriminate in price - Violations.

A. It shall be unlawful for any person privileged to sell alcoholic beverages to wholesalers, beer distributors or retailers:

1. To discriminate, directly or indirectly, in price between one wine and spirits wholesaler and another wine and spirits wholesaler, when that manufacturer has not designated a single wine and spirits wholesaler, or between one retailer and another retailer purchasing alcoholic beverages bearing the same brand or trade name and of like age and quality, unless otherwise provided by law; or
2. To grant, directly or indirectly, any discount, rebate, free goods, allowance or other inducement.

1       B. The ABLE Commission is hereby authorized to promulgate rules  
2 which are necessary to carry out the purpose of this section and to  
3 prevent its circumvention by offering or giving of any rebate,  
4 allowance, free goods, discount or any other thing or service of  
5 value; provided, the posting or invoicing of charges per order for  
6 processing minimum orders or per case for the handling or repacking  
7 of goods by wine and spirits wholesalers and beer distributors for  
8 sales in less than full case lots shall not constitute a violation  
9 of this section.

10       C. For the violation of any provision of this section or of any  
11 rule duly promulgated under this section, the ABLE Commission may  
12 issue a written warning, fine, suspend or revoke a license as  
13 follows:

14       1. For a first offense, a written warning which may be  
15 accompanied by a fine not to exceed Five Thousand Dollars  
16 (\$5,000.00);

17       2. For a second offense, not exceeding ten (10) days'  
18 suspension of license; and

19       3. For a third offense, the ABLE Commission shall revoke the  
20 license.

21       Provided, however, prior to suspending or revoking a license,  
22 the ABLE Commission shall first provide written notice to a licensee  
23 of the violation and a period of ninety (90) days following such  
24 notice to cure or remedy such violation. For purposes of this

1 section, a "second offense" and "third offense" shall mean  
2 violations that are related to or arising out of and occurring  
3 within twelve (12) months of the "first offense".

4 D. 1. For purposes of this section, and except as otherwise  
5 provided in subsection E of this section, "inducement" means  
6 directly or indirectly offering, selling, trading, giving or  
7 furnishing any discount, free goods, electronic or nonelectronic  
8 refrigerated equipment, barrels, tubs, fixtures, dispensing  
9 equipment, outdoor electric or nonelectric advertising structure  
10 displaying the retailer's name, permanent shelving, supplies, gifts,  
11 prizes, instantly redeemable coupons, premiums, retailer rebates,  
12 services of any employee including but not limited to affixing price  
13 labels or tags, routinely stocking product on shelves other than the  
14 stocking of cold boxes, paying a third party for entering product  
15 and price information into a retailer's computer system, portal,  
16 website, spreadsheet or third-party system, handling product that  
17 was not sold to the retailer by the licensee, paying a slotting fee,  
18 selling on consignment, operating a retailer's cash register,  
19 conducting janitorial services, providing decorations, samples of  
20 alcoholic beverages, personal property or other inducement or thing  
21 of value to any retail spirit, retail beer, retail wine, beer and  
22 wine, mixed beverage, caterer, bottle club or special event  
23 licensee, wine and spirits wholesaler or beer distributor, their  
24 agents or employees.



1        2. No provision of this section or interpretation of  
2 administrative code by an agency shall limit the right of a retail  
3 spirit licensee, their agents, or employees to purchase electronic  
4 or non-electronic refrigerating equipment used for the sale and  
5 display of spirits from any manufacturer, distiller, rectifier,  
6 nonresidential seller, wine or spirits wholesaler, or other such  
7 industry members selling such equipment to retail spirit licensees,  
8 provided that such equipment is sold at a price not less than the  
9 cost to the industry member and payment is collected within thirty  
10 (30) days of such sale.

11        E. It shall not be deemed an inducement for a brewer, beer  
12 distributor, small brewer self-distributor or brewpub self-  
13 distributor to voluntarily take the following merchandising actions  
14 with the permission of the retail licensee:

15        1. Furnish point-of-sale advertising materials and consumer  
16 advertising specialties, as those terms are defined in 27 C.F.R.,  
17 Section 6.84 and in compliance with the other limits and  
18 restrictions provided in 27 C.F.R., Section 6.84;

19        2. Give or sell product displays, including but not limited to  
20 barrels and tubs, provided that the value of such displays does not  
21 exceed the limits and restrictions provided in 27 C.F.R., Section  
22 6.83;

23        3. Build product displays, accessible to the customer for the  
24 product being delivered by the beer distributor;

1        4. Affix pricing to the shelf strip or product display for the  
2 product being delivered by the beer distributor, small brewer self-  
3 distributor or brewpub self-distributor, or brewed by the brewer;

4        5. Routinely stock and restock shelves and cold boxes and  
5 rotate product that has been sold to the retail licensee by the beer  
6 distributor, small brewer self-distributor or brewpub self-  
7 distributor, or brewed by the brewer;

8        6. Periodically perform product resets, with permission of the  
9 retail licensee, pursuant to a provided shelf plan or shelf  
10 schematic;

11       7. Furnish things of value to a temporary retailer, as defined  
12 in 27 C.F.R., Section 6.85;

13       8. Sell equipment or supplies to a retail licensee, provided  
14 the equipment or supplies are sold at a price not less than the cost  
15 to the industry member and payment is collected within thirty (30)  
16 days of the sale;

17       9. Install dispensing accessories at the retail location, as  
18 long as the retailer bears the cost of installation including  
19 equipment; or furnish, give or sell coil cleaning services to a  
20 retailer;

21       10. Withdraw quantities of beer or cider in undamaged, original  
22 packaging from the retail licensee's stock, provided the beer  
23 distributor, small brewer self-distributor, brewpub self-distributor  
24 or brewer sold such beer, directly or indirectly, to the retail

1 licensee and such removal is otherwise permitted under Section 3-115  
2 of this title; provided, however, replacing with beer or cider of  
3 equivalent value shall not be considered a consignment sale;

4 11. Provide mail-in rebates for beer, cider and nonalcoholic  
5 beverage merchandise items, funded by the brewer and redeemed by the  
6 brewer, either by itself or through a third-party fulfillment  
7 company, for a discount or rebate on the beer, cider or nonalcoholic  
8 item;

9 12. Provide a recommended shelf plan or shelf schematic to a  
10 retail licensee for all or any portion of the inventory sold by the  
11 retail licensee;

12 13. Furnish or give a sample of beer or cider to a retailer who  
13 has not purchased the brand from that brewer, beer distributor,  
14 small brewer self-distributor or brewpub self-distributor within the  
15 last twelve (12) months, provided that the brewer, beer distributor,  
16 small brewer self-distributor or brewpub self-distributor may not  
17 give more than thirty-six (36) ounces of any brand of beer or cider  
18 to a specific retailer;

19 14. Furnish or give newspaper cuts, mats or engraved blocks for  
20 use in retailers' advertisements;

21 15. Package and distribute beer or cider in combination with  
22 other nonalcoholic items for sale to consumers;

23 16. Give or sponsor educational seminars for employees of  
24 retailers either at the brewer, beer distributor, small brewer self-

1 distributor or brewpub self-distributor's premises or at the  
2 retailer's establishment, including seminars dealing with use of a  
3 retailer's equipment, training seminars for employees of retailers  
4 or tours of the brewer, beer distributor, small brewer self-  
5 distributor, or brewpub self-distributor's plant premises, provided  
6 that the brewer, beer distributor, small brewer self-distributor or  
7 brewpub self-distributor shall not pay the retailer for the  
8 employees' travel, lodging or other expenses in conjunction with an  
9 educational seminar but may provide nominal hospitality during the  
10 event;

11 17. Conduct tasting or sampling activities at a retail  
12 establishment and purchase the products to be used from the retailer  
13 so long as the purchase price paid does not exceed the ordinary  
14 retail price; provided, a beer distributor shall not be required to  
15 provide labor for such sampling activities;

16 18. Offer contest prizes, premium offers, refunds and like  
17 items directly to consumers so long as officers, employees and  
18 representatives of brewers, beer distributors, small brewer self-  
19 distributors, brewpub self-distributors and licensed retailers are  
20 excluded from participation;

21 19. List the names and addresses of two or more unaffiliated  
22 retailers selling the products of a brewer, beer distributor, small  
23 brewer, small brewer self-distributor or brewpub self-distributor in  
24 an advertisement of such brewer, beer distributor, small brewer,

1 small brewer self-distributor or brewpub self-distributor so long as  
2 the requirements of 27 C.F.R., Section 6.98 are satisfied,  
3 considering applicable guidance issued by the United States  
4 Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau;  
5 provided, nothing in the Oklahoma Alcoholic Beverage Control Act  
6 shall prohibit a retail, mixed beverage, on-premises beer and wine,  
7 public event, special event, charitable auction, charitable  
8 alcoholic beverage event, or complimentary beverage licensee from  
9 communicating with a brewer, beer distributor, small brewer, small  
10 brewer self-distributor or brewpub self-distributor on social media  
11 or sharing media on the social media page or site of a brewer, beer  
12 distributor, small brewer, small brewer self-distributor or brewpub  
13 self-distributor. A retail, mixed beverage, on-premises beer and  
14 wine, public event, special event, charitable auction, charitable  
15 alcoholic beverage event, or complimentary beverage licensee may  
16 request free social media advertising from a brewer, beer  
17 distributor, small brewer, small brewer self-distributor or brewpub  
18 self-distributor; provided, nothing in this section shall prohibit a  
19 brewer, beer distributor, small brewer, small brewer self-  
20 distributor or brewpub self-distributor from sharing, reposting or  
21 forwarding a social media post by a retail, mixed beverage, on-  
22 premises beer and wine, public event, special event, charitable  
23 auction, charitable alcoholic beverage event, or complimentary  
24 beverage licensee, as long as the sharing, reposting or forwarding

1 of the social media post does not contain the retail price of any  
2 alcoholic beverage. No brewer, beer distributor, small brewer,  
3 small brewer self-distributor or brewpub self-distributor shall pay  
4 or reimburse a retail, mixed beverage, on-premises beer and wine,  
5 public event, special event, charitable auction, charitable  
6 alcoholic beverage event, or complimentary beverage licensee,  
7 directly or indirectly, for any social media advertising services.  
8 No retail, mixed beverage, on-premises beer and wine, public event,  
9 special event, charitable auction, charitable alcoholic beverage  
10 event, or complimentary beverage licensee shall accept any payment  
11 or reimbursement, directly or indirectly, for any social media  
12 advertising service offered by a brewer, beer distributor, small  
13 brewer, small brewer self-distributor or brewpub self-distributor.  
14 For purposes of this paragraph, "social media" means a service,  
15 platform or site where users communicate with one another and share  
16 media, such as pictures, videos, music and blogs, with other users  
17 free of charge; or

18 20. Entering product and price information into a retailer's  
19 portal, website, spreadsheet or third-party system. A brewer may  
20 pay for a third-party system that provides data and pricing services  
21 to the brewer or a beer distributor.

22 F. It shall not be deemed an inducement for a brewer, beer  
23 distributor, small brewer self-distributor or brewpub self-  
24 distributor to engage in the following marketing activities,

1 provided that the brewer, beer distributor, small brewer self-  
2 distributor or brewpub self-distributor shall not pay the retailer's  
3 travel costs other than those for local transportation or lodging:

4 1. Provide tickets to a retailer for a sporting or  
5 entertainment event so long as a representative of the brewer, beer  
6 distributor, small brewer self-distributor or brewpub self-  
7 distributor attends the event with the retailer;

8 2. Provide food and beverage to a retailer for immediate  
9 consumption:

10 a. at a meeting at which the primary purpose is the  
11 discussion of business,

12 b. at a convention when the food and beverages are  
13 offered to all participants, or

14 c. at a sports or entertainment event that the  
15 representatives of a brewer, beer distributor, small  
16 brewer self-distributor or brewpub self-distributor  
17 attend with the retailer;

18 3. Participate in retailer association activities by engaging  
19 in the following actions:

20 a. displaying products at a convention or trade show,

21 b. renting display booth space if the rental fee is the  
22 same as paid by all exhibitors at the event,

23 c. providing its own hospitality which is independent  
24 from association-sponsored activities,

- d. purchasing tickets to functions and paying registration fees if the payments or fees are the same as paid by all attendees, participants or exhibitors at the event, or
- e. making payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show; or

4. Giving or selling outdoor signs to a retailer so long as the following requirements of 27 C.F.R., Section 6.102 are satisfied:

- a. the sign bears conspicuous and substantial advertising matter about the product or the brewer, beer distributor, small brewer self-distributor or brewpub self-distributor which is permanently inscribed or securely affixed,
- b. the retailer is not compensated, directly or indirectly, such as through a sign company, for displaying the signs, and
- c. a permanent outdoor sign does not contain the retailer's name.

G. It shall not be deemed an inducement or a discriminatory action for a brewer, beer distributor, small brewer self-distributor, brewpub self-distributor, or a wine and spirits wholesaler to establish individualized servicing and delivery schedules for its retailers based on each retailer's actual needs,



1 including, without limitation, on the basis of the retailer's sales  
2 volume.

3 SECTION 3. This act shall become effective November 1, 2024.

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