

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 1723

By: Marti

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 on a premises not licensed by the ABLE Commission. For purposes of

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

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

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

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

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

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

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

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

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

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

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

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

17 1. The caterer shall take reasonable steps to ensure that the  
18 on-premises beer and wine applicant, mixed beverage/caterer  
19 combination applicant, or mixed beverage applicant uses only  
20 licensed employees to perform licensable activities while using the  
21 caterer's license. The caterer shall use his or her best efforts to  
22 attempt to have a licensed employee on-site supervising the sale of  
23 such caterer's alcoholic beverages at all times, but the caterer  
24 shall not be disciplined for failing to have a licensed employee on-

1 site. The caterer expressly acknowledges that he or she is liable  
2 for all violations of the Oklahoma Alcoholic Beverage Control Act  
3 and rules of the ABLE Commission that are committed by the on-  
4 premises beer and wine applicant, the mixed beverage/caterer  
5 combination applicant, or the mixed beverage applicant and its  
6 employees during this period;

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

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

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

22 5. Upon the issuance of a license to the on-premises beer and  
23 wine applicant, the mixed beverage/caterer combination applicant, or  
24 the mixed beverage applicant, any alcoholic beverages on the

1 licensed storage premises may be transferred by the caterer to the  
2 on-premises beer and wine licensee, the mixed beverage/caterer  
3 combination licensee, or the mixed beverage licensee consistent with  
4 the provisions of Section 2-155 of this title.

5 G. A caterer may provide alcoholic beverage services for  
6 temporary public events which have been licensed and approved by the  
7 ABLE Commission.

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

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

16  
17 59-2-10598 JL 02/29/24  
18  
19  
20  
21  
22  
23  
24