

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE

FOR

SENATE BILL 8

By: Garvin

COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Sections 2-102, as amended by Section 1, Chapter 396, O.S.L. 2021, 2-103, 2-104, and 2-131, which relate to brewer, winemaker, distillery, and small farm winery licenses; allowing certain license holders to host off-site events under certain conditions; defining term; 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; updating statutory language and reference; repealing 37A O.S. 2021, Section 2-102, as amended by Section 1, Chapter 226, O.S.L. 2019, which relates to brewer license; 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 396, O.S.L. 2021, is amended to read as follows:

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

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

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

6 3. To host off-site events pursuant to Section 5 of this act.

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

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

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

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

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

18 5. To sell beer and cider at ~~public events such as~~ attended by
19 the public including, but not limited to, trade shows or, festivals,
20 farmers markets, boat shows, RV shows, home and garden shows, fairs,
21 car shows, swap meets, city events, county events, or state events
22 for either on-premises or off-premises consumption, regardless of
23 whether such events are held at premises covered by a license to
24 sell, serve, or store alcoholic beverages. A small brewer license

holder shall not be required to secure or control the premises of an event attended by the public where the small brewer license holder sells beer or cider;

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 5 of this act.

C. The holder of multiple small brewer licenses may sell beer and cider produced at up to three breweries for which the licensee has a license, at any other of such three licensed breweries or on premises located contiguous thereto.

D. Nothing in the Oklahoma Alcoholic Beverage Control Act shall prohibit the holder of a small brewer license from also holding or owning an interest in the holder of a brewpub license.

E. For purposes of this section, no visitor may sample more than a total of twelve (12) fluid ounces of beer and cider per day. The brewer must restrict the distribution ~~and consumption~~ of beer and cider samples to an area within the licensed premises ~~designated by the brewer~~ as defined in this subsection. A current floor plan that includes the designated ~~sampling~~ serving area must be on file with the ABLE Commission. No visitor under twenty-one (21) years of age shall be permitted to enter this designated ~~sampling~~ serving area ~~when samples are being distributed or consumed~~. Accompanied

1 visitors under twenty-one (21) years of age shall be allowed
2 anywhere on the premises except for a serving area. Samples of beer
3 and cider served by a brewery under this section shall not be
4 considered a sale of beer and cider within the meaning of Article
5 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
6 title; however, such samples of beer and cider shall be considered
7 beer and cider removed or withdrawn from the brewery for use or
8 consumption within the meaning of Section 5-110 of this title for
9 excise tax determination and reporting requirements. Sales and
10 sampling may only occur between the hours of 10:00 a.m. and 2:00
11 a.m. For purposes of this subsection, "serving area" means the area
12 of the bar where drinks are sold, prepared, and served to paying
13 customers and shall not include other areas of the brewery where
14 customers consume purchased products.

15 F. A small brewer self-distribution license shall authorize
16 holders of a small brewer license to distribute beer and cider
17 produced only by such licensee to a holder of a retail beer license,
18 retail spirits license, mixed beverage license, beer and wine
19 license, caterer's license, special event license, public event
20 license, winemaker license, charitable auction license or brewpub
21 license. A small brewer shall elect whether it will distribute
22 through a distributor or self-distribute in a subject territory;
23 however, a small brewer may not elect to do both simultaneously in a
24 subject territory. The election shall be made through notice to the

1 ABLE Commission. Any changes to the election shall require
2 immediate notification to the ABLE Commission before the change in
3 election will take effect. A small brewer that elects to self-
4 distribute in multiple territories shall only be required to have
5 one small brewer self-distribution license.

6 G. All manufacturer's licenses held by brewers during the first
7 calendar year beginning October 1, 2018, shall automatically convert
8 to brewer licenses and be deemed effective as of the date of the
9 first issuance of the manufacturer's license. Upon the first
10 renewal of the license, the brewer will need to obtain the
11 appropriate brewer's license. If a brewer elects to market wine and
12 spirits, the brewer will also be required to obtain a manufacturer's
13 license and comply with the rules and regulations for both licenses.

14 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-103, is
15 amended to read as follows:

16 Section 2-103. A. A distiller license shall authorize the
17 holder thereof:

18 1. To manufacture, bottle, package and store spirits on
19 licensed premises;

20 2. To sell spirits in this state to licensed wholesalers and
21 manufacturers only;

22 3. To sell spirits out of this state to qualified persons; to
23 purchase from licensed distillers and rectifiers in this state, and
24

1 import spirits from without this state for manufacturing purposes in
2 accordance with federal laws and regulations;

3 4. To serve free samples of spirits produced only by the
4 licensee to visitors twenty-one (21) years of age and older. For
5 purposes of this section, no visitor may sample more than a total of
6 three (3) fluid ounces of spirits per day. The distiller shall
7 restrict the distribution and consumption of spirits samples to an
8 area within the licensed premises designated by the distiller. A
9 current floor plan that includes the designated sampling area shall
10 be on file with the ABLE Commission. No visitor under twenty-one
11 (21) years of age shall be permitted to enter the designated
12 sampling area when samples are being distributed and consumed.
13 Samples of spirits served by a distiller under this section shall
14 not be considered a sale of spirits within the meaning of Article
15 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
16 title; provided, such samples of spirits shall be considered removed
17 or withdrawn from the distillery for use or consumption within the
18 meaning of Section 5-110 of this title for excise tax determination
19 and reporting requirements;

20 5. To sell spirits produced by the licensee for either on-
21 premises or off-premises consumption to consumers on the licensed
22 distillery premises or in an area controlled by the licensee located
23 contiguous to the licensed distillery premises. Product offered for
24 sale by the Oklahoma licensed distiller will have been sold to and

1 shipped to an Oklahoma licensed wine and spirits wholesaler and then
2 made available for purchase by the Oklahoma licensed distiller for
3 sale; ~~and~~

4 6. To sell spirits at public events such as trade shows or
5 festivals. Products offered for sale by the Oklahoma licensed
6 distiller will have been sold to and shipped to an Oklahoma licensed
7 wine and spirits wholesaler and then made available for purchase by
8 the Oklahoma licensed distiller; and

9 7. To host off-site events pursuant to Section 5 of this act;
10 provided, that products offered for sale by the Oklahoma licensed
11 distiller will have been sold to and shipped to an Oklahoma licensed
12 wine and spirits wholesaler and then made available for purchase by
13 the Oklahoma licensed distiller.

14 B. Spirits sold pursuant to paragraphs 5 and 6 of subsection A
15 of this section shall not exceed fifteen thousand (15,000) gallons
16 per calendar year in combination.

17 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-104, is
18 amended to read as follows:

19 Section 2-104. A winemaker license shall authorize the holder
20 thereof:

21 1. To manufacture (including such mixing, blending and cellar
22 treatment as authorized by federal law), bottle, package and store
23 on licensed premises wine containing not more than twenty-four
24 percent (24%) alcohol by volume; provided, the bottle or package

1 sizes authorized shall be limited to the capacities approved by the
2 United States Alcohol and Tobacco Tax and Trade Bureau;

3 2. To sell wine in this state to licensed wholesalers and
4 manufacturers;

5 3. To sell wine produced at the winery from grapes and other
6 fruits and berries grown in this state, if available, for either on-
7 premises or off-premises consumption to consumers on the premises of
8 the winery;

9 4. To serve free samples of wine produced at the winery to
10 visitors twenty-one (21) years of age and older. For purposes of
11 this section, no visitor may sample more than a total of six (6)
12 fluid ounces of wine per day. The winery shall restrict the
13 distribution and consumption of wine samples to an area within the
14 licensed premises designated by the winery. A current floor plan
15 that includes the designated sampling area shall be on file with the
16 ABLE Commission. No visitor under twenty-one (21) years of age
17 shall be permitted to enter the designated sampling area when
18 samples are being distributed and consumed. Samples of wine served
19 by a winery under this section shall not be considered a sale of
20 wine within the meaning of Article XXVIII-A of the Oklahoma
21 Constitution or Section 1-103 of this title; provided, such samples
22 of wine shall be considered removed or withdrawn from the winery for
23 use or consumption within the meaning of Section 5-110 of this title
24 for excise tax determination and reporting requirements;

1 5. To serve free samples of wine produced at the winery at
2 public events such as festivals and trade shows;

3 6. To sell wine produced at the winery, for either on-premises
4 or off-premises consumption at public events such as festivals and
5 trade shows;

6 7. To sell wine out of this state to qualified persons;

7 8. To purchase from licensed winemakers, distillers and
8 rectifiers in this state, and to import into this state wine, brandy
9 and fruit spirits for use in manufacturing in accordance with
10 federal laws and regulations;

11 9. To sell and serve Oklahoma-manufactured wine, mulled wine,
12 or spiced wine, mixed with nonalcoholic beverages or food items such
13 as water, sugar, fruits and vegetables, at any temperature for
14 either on-premises or off-premises consumption;

15 10. To purchase beer in retail containers from the holder of a
16 wholesaler, beer distributor, small brewer self-distributor or
17 brewpub self-distributor license or as specifically provided by law;

18 11. To sell, offer for sale and possess beer for on-premises
19 consumption; ~~and~~

20 12. To establish satellite tasting rooms as defined and
21 authorized in ~~this act~~ the Oklahoma Alcoholic Beverage Control Act
22 where the winemaker's products may be tasted, sampled, sold and
23 served for on-premises consumption and the winemaker is permitted to
24 sell its products in sealed containers; provided, the small farm

1 winery license or winemaker license is active and in good standing.

2 The wine sold at a satellite tasting room must have been

3 produced/manufactured by the holder of a small farm winery license

4 or winemaker license and must have all manufacturing taxes paid; and

5 13. To host off-site events pursuant to Section 5 of this act.

6 SECTION 4. AMENDATORY 37A O.S. 2021, Section 2-131, is
7 amended to read as follows:

8 Section 2-131. A. A small farm winery license shall authorize
9 the holder thereof:

10 1. To manufacture and bottle wines produced by that small farm
11 winery;

12 2. To bottle and sell wines produced by another small farm
13 winery. In order for a small farm winery to bottle and sell another
14 small farm winery's products, both the selling winery and the buying
15 winery shall be small farm winery permit holders;

16 3. To establish satellite tasting rooms as defined and
17 authorized in ~~this act~~ the Oklahoma Alcoholic Beverage Control Act
18 where the winemaker's products may be tasted, sampled, sold and
19 served for on-premises consumption and the winemaker is permitted to
20 sell its products in sealed containers; provided, the small farm
21 winery license is active and in good standing. The wine sold at a
22 satellite tasting room must have been produced/manufactured by the
23 holder of a small farm winery license and must have all
24 manufacturing taxes paid; ~~and~~

1 4. To host off-site events pursuant to Section 5 of this act;

2 and

3 5. The small farm winery licensee shall have the same authority
4 as the winemaker licensee.

5 B. A small farm wine may display the trademarked "Oklahoma
6 Grown" sticker available from the Oklahoma Grape Industry Council.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A brewer, small brewer, winemaker, distiller, or small farm
11 winery licensee shall be authorized to host an off-site event
12 following the submission and approval of an application to the ABLE
13 Commission. The licensee shall only be authorized to sell for
14 consumption at the off-site event alcoholic beverages authorized for
15 sale under the licensee's respective license. The licensee shall be
16 limited to hosting four (4) off-site events per year.

17 B. The application shall include, but not be limited to, the
18 location of the off-site event with a designated area within the
19 location designed to provide an exclusive space which may be limited
20 to the public and a designated point of access for a patron or
21 patrons specifically granted access to ensure that persons present
22 in the designated area are above twenty-one (21) years of age. The
23 Commission may prescribe a filing fee for each off-site event
24 application not to exceed Twenty-five Dollars (\$25.00).

1 C. The ABLE Commission shall promulgate rules necessary for the
2 implementation of this section.

3 SECTION 6. REPEALER 37A O.S. 2021, Section 2-102, as
4 amended by Section 1, Chapter 226, O.S.L. 2019, is hereby repealed.

5 SECTION 7. 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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