

1 ENGROSSED SENATE
2 BILL NO. 8

By: Garvin of the Senate

3 and

4 Marti of the House
5

6 An Act relating to alcoholic beverages; amending 37A
7 O.S. 2021, Sections 2-102, as amended by Section 1,
8 Chapter 396, O.S.L. 2021, 2-103, 2-104, and 2-131,
9 which relate to brewer, winemaker, distillery, and
10 small farm winery licenses; allowing certain license
11 holders to host off-site events under certain
12 conditions; defining term; authorizing the ABLE
13 Commission to permit certain license holders to host
14 off-site events following application; requiring
15 licensees to sell only the products covered by
16 licenses; providing details of application; allowing
17 Commission to assess fee; updating statutory language
18 and reference; repealing 37A O.S. 2021, Section 2-
19 102, as amended by Section 1, Chapter 226, O.S.L.
20 2019, which relates to brewer license; providing for
21 codification; and declaring an emergency.
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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. To manufacture, bottle, package and store beer and cider on
the licensed premises; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 3. To sell spirits out of this state to qualified persons; to
22 purchase from licensed distillers and rectifiers in this state, and
23 import spirits from without this state for manufacturing purposes in
24 accordance with federal laws and regulations;

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

18 5. To sell spirits produced by the licensee for either on-
19 premises or off-premises consumption to consumers on the licensed
20 distillery premises or in an area controlled by the licensee located
21 contiguous to the licensed distillery premises. Product offered for
22 sale by the Oklahoma licensed distiller will have been sold to and
23 shipped to an Oklahoma licensed wine and spirits wholesaler and then
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1 made available for purchase by the Oklahoma licensed distiller for
2 sale; ~~and~~

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

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

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

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

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

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

winery license or winemaker license is active and in good standing.
The wine sold at a satellite tasting room must have been
produced/manufactured by the holder of a small farm winery license
or winemaker license and must have all manufacturing taxes paid; and

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

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

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

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

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

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

9 Passed the Senate the 13th day of March, 2023.

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11 _____
12 Presiding Officer of the Senate

13 Passed the House of Representatives the ____ day of _____,
14 2023.

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17 Presiding Officer of the House
18 of Representatives
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