

1 ENGROSSED HOUSE
2 BILL NO. 2090

By: Echols, Pae, McEntire,
Lawson, McDugle, and
Bennett of the House

3
4 and

Paxton of the Senate

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8 [alcoholic beverages - delivery service license -
9 delivery of alcoholic beverages - delivery fee -
10 direct shipment of alcohol, liquor, wine, or beer -
11 ABLE Commission - direct hand-to-hand sale -
12 employees or independent contractors of retail beer
13 or wine licensees or delivery service licensees -
14 codification]
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17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Any individual, limited liability company, corporation, or
22 partnership that is registered to do business in this state,
23 regardless of the residency of the ownership of the entity, may
24 apply for and be issued a delivery service license that authorizes

1 the licensee to deliver alcoholic beverages from a store holding a
2 retail beer or retail wine license, licensed by the Alcoholic
3 Beverage Law Enforcement (ABLE) Commission to sell alcoholic
4 beverage products, to any person in this state who is at least
5 twenty-one (21) years of age for the individual's personal use and
6 not for resale.

7 B. To receive a delivery service license, an applicant shall do
8 all of the following:

9 1. File an application with the Alcoholic Beverage Law
10 Enforcement (ABLE) Commission;

11 2. Provide to the ABLE Commission a sample contract that the
12 applicant intends to enter into with a retail beer or retail wine
13 licensee for the delivery of alcoholic beverage products, unless the
14 applicant is the holder of a retail beer or retail wine license or
15 operates under the same parent company as the retail beer or retail
16 wine license holder;

17 3. Submit to the ABLE Commission an outline of internal or
18 external training for delivery service personnel that addresses
19 topics such as identifying underage persons, intoxicated persons,
20 and fake or altered identification;

21 4. Provide an attestation that the applicant is at least
22 twenty-one (21) years of age and has not been convicted of a felony
23 in any state or federal court;

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1 5. Provide proof of a general liability insurance policy in an
2 amount not less than One Million Dollars (\$1,000,000.00) per
3 occurrence; and

4 6. Be properly registered to conduct business in Oklahoma.

5 C. A delivery service licensee:

6 1. May contract with any retail beer or retail wine licensee,
7 licensed to sell alcoholic beverage products for off-premises
8 consumption, for the purpose of delivering alcoholic beverage
9 products;

10 2. May use its own employees or independent contractors who are
11 at least twenty-one (21) years of age to deliver such alcoholic
12 beverage products, provided such delivery service personnel shall
13 not have been convicted of any criminal offense relating to
14 alcoholic beverages. The delivery service licensee shall complete a
15 criminal history records check on each delivery driver who delivers
16 alcoholic beverages for a licensee;

17 3. May facilitate orders by telephone, Internet, or by other
18 electronic means for the sale and delivery of alcoholic beverages.
19 If payment is not received at the time of order, the delivery
20 service licensee may act as an agent of the retail licensee in the
21 collection of payments from the sale of alcoholic beverages, but the
22 full amount of each order must be handled in a manner that gives the
23 retail licensee control over the ultimate receipt of the payment
24 from the consumer with the retail licensee operating as the merchant

1 of record. The retail beer or retail wine licensee shall remain
2 responsible for the proper remittance of all applicable taxes on the
3 sale of the product;

4 4. Shall deliver only sealed containers of alcoholic beverage
5 products;

6 5. Shall obtain from the consumer a confirmation that he or she
7 is at least twenty-one (21) years of age at the time the order is
8 placed;

9 6. Shall require the recipient, at the time of delivery, to
10 provide valid photo identification verifying he or she is at least
11 twenty-one (21) years of age and sign for the delivery;

12 7. Shall possess identification scanning software technology or
13 a state-of-the-art alternative at the point of delivery to
14 authenticate that the recipient is at least twenty-one (21) years of
15 age, and collect the recipient's name and date of birth;

16 8. Shall return all alcoholic beverages to the retail beer or
17 retail wine licensee if the recipient is under twenty-one (21) years
18 of age, appears intoxicated, fails to provide proof of
19 identification, fails or refuses to sign for delivery, fails to
20 complete the identification verification process, declines to accept
21 the delivery of alcoholic beverages or beer, or if any circumstances
22 in the delivery environment indicate illegal conduct,
23 overconsumption, or an otherwise unsafe environment for the
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1 consumption of alcohol. Such return shall occur on the same
2 business day;

3 9. May not deliver any alcoholic beverage to any person located
4 within a dry jurisdiction in Oklahoma;

5 10. Shall pick up alcoholic beverages for delivery only during
6 lawful sales hours in that jurisdiction for the retail beer or
7 retail wine licensee holder; provided, that orders may be delivered
8 and completed on the same day within a reasonable time thereafter;

9 11. Shall permit the ABLE Commission to perform an audit of the
10 licensee's records upon request and with sufficient notification;

11 12. Shall be deemed to have consented to the jurisdiction of
12 the ABLE Commission and the Oklahoma courts concerning enforcement
13 of this section and any related laws or rules; and

14 13. Shall be responsible for delivery of alcoholic beverage
15 products as provided in this act and by rule.

16 D. A delivery service licensee may renew its license with the
17 ABLE Commission by maintaining all qualifications, paying annually a
18 renewal fee of Five Hundred Dollars (\$500.00), and providing the
19 Commission with a true copy of its current license. The annual fee
20 for delivery service licensees shall be collected by the ABLE
21 Commission for deposit and credit to the General Revenue Fund of
22 this state.

23 E. A delivery service licensee shall be authorized to charge
24 the consumer a delivery fee but shall not charge, add on, or collect

1 any portion of the amount of the retail sales price for the
2 alcoholic beverages.

3 F. A retail spirits licensee shall be prohibited from using
4 delivery service licensees for the purpose of completing alcoholic
5 beverage product deliveries to consumers.

6 G. Nothing in this act shall be construed to require a
7 technology services company to obtain a delivery service license if
8 the company does not employ or contract with delivery agents, but
9 merely provides software or a digital network application that
10 connects consumers and retail beer or retail wine licensee for the
11 delivery of alcoholic beverages from the retail beer or retail wine
12 licensee. However, the act of connecting consumers to retail beer
13 or retail wine licensee shall serve to grant jurisdiction to the
14 State of Oklahoma.

15 H. The ABLE Commission may enforce the requirements of this
16 section by the same administrative proceedings that apply to all
17 other alcoholic beverage licensees.

18 I. The ABLE Commission may enforce the requirements of this
19 section against any employee or independent contractor of a retail
20 beer or retail wine licensee or delivery service licensee,
21 irrespective of the status of any delivery service personnel as an
22 independent contractor or employee. Delivery to a minor shall be
23 treated as furnishing alcohol to a minor and shall result in any
24 applicable disciplinary action; provided, that the retail beer or

1 retail wine licensee shall not be held liable for violations that
2 occur after transferring possession of the alcohol beverage product
3 to the delivery service licensee.

4 J. Nothing in this act shall be construed to authorize the
5 direct shipment of alcohol, liquor, wine, or beer from any
6 manufacturer.

7 K. No person shall use a license or exercise any privileges
8 granted by the license except as provided by the Oklahoma Alcoholic
9 Beverage Control Act.

10 L. No package containing alcoholic beverages may be delivered
11 to or left unattended at a residence or business address except for
12 the delivery of such package in person to the purchaser confirmed to
13 be twenty-one (21) years of age or older.

14 M. The ABLE Commission is authorized to promulgate rules,
15 regulations, forms, and procedures necessary to implement and
16 enforce the provisions of this section.

17 N. For purposes of this section, each delivery authorized by a
18 licensee to be made to a consumer shall be deemed a direct hand-to-
19 hand sale as though the consumer was physically present on the
20 licensed premises and authorized by law by such licensee.

21 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-101, is
22 amended to read as follows:

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1 Section 2-101. A. Except as otherwise provided in this
2 section, the licenses issued by the ABLE Commission, and the annual
3 fees therefor, shall be as follows:

- 4 1. Brewer License..... \$1,250.00
- 5 2. Small Brewer License..... \$125.00
- 6 3. Distiller License..... \$3,125.00
- 7 4. Winemaker License..... \$625.00
- 8 5. Small Farm Winery License..... \$75.00
- 9 6. Rectifier License..... \$3,125.00
- 10 7. Wine and Spirits Wholesaler License..... \$3,000.00
- 11 8. Beer Distributor License..... \$750.00
- 12 9. The following retail spirits license fees
13 shall be determined by the latest Federal
14 Decennial Census:
 - 15 a. Retail Spirits License for cities and
16 towns from 200 to 2,500 population..... \$305.00
 - 17 b. Retail Spirits License for cities and
18 towns from 2,501 to 5,000 population..... \$605.00
 - 19 c. Retail Spirits License for cities and
20 towns over 5,000 population..... \$905.00
- 21 10. Retail Wine License..... \$1,000.00
- 22 11. Retail Beer License..... \$500.00
- 23 12. Mixed Beverage License..... \$1,005.00

(initial license)

1		\$905.00
2		(renewal)
3	13. Mixed Beverage/Caterer Combination License.....	\$1,250.00
4	14. On-Premises Beer and Wine License.....	\$500.00
5		(initial license)
6		\$450.00
7		(renewal)
8	15. Bottle Club License.....	\$1,000.00
9		(initial license)
10		\$900.00
11		(renewal)
12	16. Caterer License.....	\$1,005.00
13		(initial license)
14		\$905.00
15		(renewal)
16	17. Annual Special Event License.....	\$55.00
17	18. Quarterly Special Event License.....	\$55.00
18	19. Hotel Beverage License.....	\$1,005.00
19		(initial license)
20		\$905.00
21		(renewal)
22	20. Airline/Railroad/Commercial Passenger Vessel Beverage	
23	License.....	\$1,005.00
24		(initial license)

1		\$905.00
2		(renewal)
3	21. Agent License.....	\$55.00
4	22. Employee License.....	\$30.00
5	23. Industrial License.....	\$23.00
6	24. Carrier License.....	\$23.00
7	25. Private Carrier License.....	\$23.00
8	26. Bonded Warehouse License.....	\$190.00
9	27. Storage License.....	\$23.00
10	28. Nonresident Seller License	\$750.00
11	29. Manufacturer License:	
12	a. 50 cases or less sold in Oklahoma in	
13	last calendar year.....	\$50.00
14	b. 51 to 500 cases sold in Oklahoma in	
15	last calendar year.....	\$75.00
16	c. 501 cases or more sold in Oklahoma in	
17	last calendar year.....	\$150.00
18	30. Manufacturer's Agent License.....	\$55.00
19	31. Sacramental Wine Supplier License.....	\$100.00
20	32. Charitable Auction License.....	\$1.00
21	33. Charitable Alcoholic Beverage License.....	\$55.00
22	34. Winemaker Self-Distribution License.....	\$750.00
23	35. Annual Public Event License.....	\$1,005.00
24	36. One-Time Public Event License.....	\$255.00

1	37.	Small Brewer Self-Distribution License.....	\$750.00
2	38.	Brewpub License.....	\$1,005.00
3	39.	Brewpub Self-Distribution License.....	\$750.00
4	40.	Complimentary Beverage License.....	\$75.00
5	41.	Satellite Tasting Room License.....	\$100.00
6	42.	<u>Delivery Service License.....</u>	<u>\$500.00</u>

7 B. 1. There shall be added to the initial or renewal fees for
8 a Mixed Beverage License an administrative fee, which shall not be
9 deemed to be a license fee, in the amount of Five Hundred Dollars
10 (\$500.00), which shall be paid at the same time and in the same
11 manner as the license fees prescribed by paragraph 12 of subsection
12 A of this section; provided, this fee shall not be assessed against
13 service organizations or fraternal beneficiary societies which are
14 exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue
15 Code.

16 2. There shall be added to the fee for a Mixed Beverage/Caterer
17 Combination License an administrative fee, which shall not be deemed
18 to be a license fee, in the amount of Two Hundred Fifty Dollars
19 (\$250.00), which shall be paid at the same time and in the same
20 manner as the license fee prescribed by paragraph 13 of subsection A
21 of this section.

22 C. Notwithstanding the provisions of subsection A of this
23 section:

1 1. The license fee for a mixed beverage or bottle club license
2 for those service organizations or fraternal beneficiary societies
3 which are exempt under Section 501(c)(19), (8) or (10) of the
4 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
5 year; and

6 2. The renewal fee for an airline/railroad/commercial passenger
7 vessel beverage license held by a railroad described in 49 U.S.C.,
8 Section 24301, shall be One Hundred Dollars (\$100.00).

9 D. An applicant may apply for and receive both an on-premises
10 beer and wine license and a caterer license.

11 E. All licenses, except as otherwise provided, shall be valid
12 for one (1) year from date of issuance unless revoked or
13 surrendered. Provided, all employee licenses shall be valid for two
14 (2) years.

15 F. The holder of a license, issued by the ABLE Commission, for
16 a bottle club located in a county of this state where the sale of
17 alcoholic beverages by the individual drink for on-premises
18 consumption has been authorized, may exchange the bottle club
19 license for a mixed beverage license or an on-premises beer and wine
20 license and operate the licensed premises as a mixed beverage
21 establishment or an on-premises beer and wine establishment subject
22 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
23 There shall be no additional fee for such exchange and the mixed
24 beverage license or on-premises beer and wine license issued shall

1 expire one (1) year from the date of issuance of the original bottle
2 club license.

3 G. In addition to the applicable licensing fee, the following
4 surcharge shall be assessed annually on the following licenses:

5 1. Nonresident Seller License..... \$2,500.00

6 2. Manufacturer License:

7 a. 50 cases or less sold in Oklahoma in
8 last calendar year..... \$100.00

9 b. 51 to 500 cases sold in Oklahoma in
10 last calendar year..... \$225.00

11 c. 501 cases or more sold in Oklahoma in
12 last calendar year..... \$450.00

13 3. Wine and Spirits Wholesaler License..... \$2,500.00

14 4. Beer Distributor..... \$1,000.00

15 5. Retail Spirits License for cities and towns
16 over 5,000 population..... \$250.00

17 6. Retail Spirits License for cities and towns
18 from 2,501 to 5,000 population..... \$200.00

19 7. Retail Spirits License for cities and towns
20 from 200 to 2,500 population..... \$150.00

21 8. Retail Wine License..... \$250.00

22 9. Retail Beer License..... \$250.00

23 10. Mixed Beverage License..... \$25.00

24 11. Mixed Beverage/Caterer Combination License..... \$25.00

- 1 12. Caterer License..... \$25.00
- 2 13. On-Premises Beer and Wine License..... \$25.00
- 3 14. Annual Public Event License..... \$25.00
- 4 15. Small Farm Winery License..... \$25.00
- 5 16. Small Brewer License..... \$35.00
- 6 17. Complimentary Beverage License..... \$25.00

7 The surcharge shall be paid concurrent with the licensee's
8 annual licensing fee and, in addition to Five Dollars (\$5.00) of the
9 employee license fee, shall be deposited in the Alcoholic Beverage
10 Governance Revolving Fund established pursuant to Section 5-128 of
11 this title.

12 H. Any license issued by the ABLE Commission under this title
13 may be relied upon by other licensees as a valid license, and no
14 other licensee shall have any obligation to independently determine
15 the validity of such license or be held liable solely as a
16 consequence of another licensee's failure to maintain a valid
17 license.

18 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-161, is
19 amended to read as follows:

20 Section 2-161. A. Retail spirit licensees may sell curbside
21 and deliver alcoholic beverages including beer, wine, and spirits in
22 sealed original containers to consumers aged twenty-one (21) years
23 and older as follows:
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1 1. Only employees of the retail spirit licensee shall be
2 permitted to make alcoholic beverage product deliveries to
3 consumers;

4 2. Payment for alcoholic beverage product delivery by the
5 retail spirit licensee may be made by cash, check, transportable
6 credit/debit card processors or advance ~~on-line~~ online payment
7 methods; and

8 3. The retail spirit licensee shall be responsible for his or
9 her delivery employees as provided in Section 2-133 of ~~Title 37A of~~
10 ~~the Oklahoma Statutes~~ this title.

11 B. Small brewers and small farm wineries licensed by the
12 Oklahoma ABLE Commission may sell curbside only alcoholic beverages
13 produced by such licensee in sealed original containers to consumers
14 aged twenty-one (21) years and older as follows:

15 1. Only employees of the licensed small brewer or small farm
16 winery shall be permitted to make alcoholic beverage product
17 deliveries to consumers;

18 2. Payment for alcoholic beverage product delivery by licensed
19 small brewers or small farm wineries may be made by cash, check,
20 transportable credit/debit card processors, or advance ~~on-line~~
21 online payment methods; and

22 3. Small brewers and small farm wineries shall be responsible
23 for their delivery employees as provided in Section 2-133 of ~~Title~~
24 ~~37A of the Oklahoma Statutes~~ this title.

1 C. Restaurants, bars and clubs holding mixed beverage, beer and
2 wine, or caterer/mixed beverage licenses issued by the Oklahoma ABLE
3 Commission may sell curbside and deliver only closed packages of
4 beer and wine to consumers aged twenty-one (21) years and older as
5 follows:

6 1. Only employees of such restaurant, bar or club licensee
7 shall be permitted to make alcoholic beverage package deliveries to
8 consumers;

9 2. Payment for alcoholic beverage package delivery by licensed
10 restaurants, bars and clubs may be made by cash, check,
11 transportable credit/debit card processors, or advance ~~on-line~~
12 online payment methods; and

13 3. Restaurants, bars and clubs licensed by the Oklahoma ABLE
14 Commission shall be responsible for their delivery employees as
15 provided in Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~ this
16 title.

17 D. Grocery and convenience stores holding a retail beer and/or
18 retail wine license issued by the Oklahoma ABLE Commission may sell
19 curbside and deliver original sealed containers of beer and/or wine
20 only according to the license held to consumers aged twenty-one (21)
21 years and older as follows:

22 1. Only employees of such licensed grocery or convenience store
23 shall be permitted to make alcoholic beverage product deliveries to
24 consumers;

1 2. Payment for alcoholic beverage product delivery by a
2 licensed grocery or convenience store may be made by cash, check,
3 transportable credit/debit card processors or advance ~~on-line~~ online
4 payment methods; and

5 3. Grocery and convenience store licensees shall be responsible
6 for their delivery employees as provided in Section 2-133 of ~~Title~~
7 ~~37A of the Oklahoma Statutes~~ this title.

8 E. Licensees authorized by this section to make alcoholic
9 beverage product deliveries to consumers are prohibited from
10 utilizing third-party vendors or delivery services for purposes of
11 completing such product deliveries to consumers.

12 F. Licensees authorized by this section to make alcoholic
13 beverage product deliveries to consumers shall comply with the laws,
14 rules, procedures and executive orders incumbent on such licensee.

15 G. The Oklahoma ABLE Commission is authorized to promulgate
16 rules, regulations, forms and procedures necessary to implement and
17 enforce the provisions of this section.

18 H. For purposes of this section each delivery authorized by a
19 licensee to be made by his or her employee shall be deemed a direct
20 hand-to-hand sale as though the consumer was physically present on
21 the licensed premises and authorized by law by such licensee.

22 I. Notwithstanding any law or rule to the contrary, a delivery
23 service licensee, or an employee or independent contractor of a
24 delivery service licensee, in accordance with Section 1 of this act,

1 may transport and deliver alcoholic beverage products, including
2 curbside, from a retail beer or retail wine licensees to consumers
3 aged twenty-one (21) years and older for the consumer's personal use
4 and not for resale.

5 J. Employees or independent contractors of licensed grocery
6 stores or convenience stores or delivery service licensees shall be
7 permitted to make alcoholic beverage product deliveries to consumers
8 aged twenty-one (21) years and older for the consumer's personal use
9 and not for resale.

10 K. A delivery service licensee who is authorized by law and by
11 contractual agreement with a grocery or convenience store licensee
12 to deliver alcoholic beverage products to a consumer shall be held
13 responsible for violations of alcoholic beverage laws or
14 administrative rules of the ABLE Commission affecting his or her
15 license privilege to deliver alcoholic beverage products to
16 consumers.

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1 Passed the House of Representatives the 15th day of February,
2024.

4 _____
Presiding Officer of the House
of Representatives

6 Passed the Senate the ____ day of _____, 2024.

8 _____
Presiding Officer of the Senate