

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☒ FLOOR AMENDMENT

No. 1

☐ COMMITTEE AMENDMENT

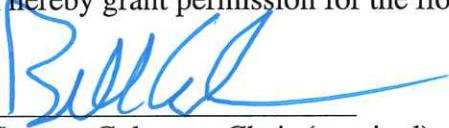
(Date)


I move to amend Senate Bill No. 1035, by the attached floor substitute (Request #2019) for the title, enacting clause and entire body of the measure.

Submitted by:


Senator Coleman

I hereby grant permission for the floor substitute to be adopted.


Senator Coleman, Chair (required)


Senator Thompson (Kristen)


Senator Brooks


Senator Burns


Senator Haste

Senator Jett

Senator Treat, President Pro Tempore

Senator Newhouse

Senator Prieto

Senator Pugh


Senator Seifried


Senator Weaver

Senator Young

Senator McCortney, Majority Floor Leader

Note: Business and Commerce committee majority requires seven (7) members' signatures.

Coleman-MR-FS-SB1035

3/9/2023 2:31 PM

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(Floor Amendments Only)

Date and Time Filed: 3-13-23

2:51 pm *fd*

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 FLOOR SUBSTITUTE

4 FOR

SENATE BILL NO. 1035

By: Coleman of the Senate

5 and

6 Marti of the House

7
8
9 FLOOR SUBSTITUTE

10 An Act relating to alcoholic beverages; amending 37A
11 O.S. 2021, Section 5-135, as amended by Section 1,
Chapter 324, O.S.L. 2022 (37A O.S. Supp. 2022,
12 Section 5-135), which relates to monthly tax reports;
providing acceptable percentages of collected amounts
13 provided in audits to be deemed in compliance;
allowing for a deduction of gross receipts under
14 certain conditions; providing for the promulgation of
rules by Oklahoma Tax Commission; and providing an
effective date.

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16
17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 37A O.S. 2021, Section 5-135, as
19 amended by Section 1, Chapter 324, O.S.L. 2022 (37A O.S. Supp. 2022,
20 Section 5-135), is amended to read as follows:

21 Section 5-135. A. Every mixed beverage tax permit holder, or
22 any person transacting business subject to the gross receipts tax
23 levied by Section 5-105 of this title, shall file with the Oklahoma
24 Tax Commission a monthly report for each place or location of

business, on or before the twentieth day of the month immediately following the month of receipt. The reports shall be made under oath, on forms prescribed by the Tax Commission, which shall include the following information:

1. Name of mixed beverage tax permit holder;
2. Mixed beverage tax permit number;
3. Sales tax permit number;
4. Mixed beverage, caterer, public event or special event license number;
5. Gross receipts for the month for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages mixed with alcoholic beverages;
6. Gross receipts for the month from charges for the privilege of admission to a mixed beverage establishment which entitles a person to complimentary mixed beverages or discounted prices for mixed beverages;
7. Total retail value of complimentary or discounted alcoholic beverages served for the month; and
8. Such other information as may be required by the Tax Commission to enable it to collect taxes imposed as provided by law.

B. The gross receipts tax levied by Section 5-105 of this title shall be calculated by multiplying the tax rate, thirteen and one-half percent (13.5%), and the total gross receipts for each month from the sale, preparation or service of mixed beverages, ice and

1 nonalcoholic beverages mixed with alcoholic beverages, the total
2 gross receipts of charges received for admission to mixed beverage
3 establishments, as provided in paragraph 6 of subsection A of this
4 section, and the total retail value of complimentary or discounted
5 mixed beverages. Gross receipts from the sale of food prepared with
6 alcoholic beverages shall not be included in the calculation of the
7 monthly tax liability. The tax due for the preceding month shall
8 accompany the report required in subsection A of this section. All
9 taxes, penalties and interest imposed by the Oklahoma Alcoholic
10 Beverage Control Act may be paid in the form of electronic funds
11 transfer or by a personal or company check, cashier's check,
12 certified check or postal money order payable to the Tax Commission.

13 C. If the gross receipts tax levied pursuant to the provisions
14 of Section 5-105 of this title is not paid on or before the
15 twentieth day of each month, the tax shall be delinquent, and
16 interest and penalty shall accrue on and from the twenty-first day
17 of each month, pursuant to the provisions of the Uniform Tax
18 Procedure Code.

19 D. Every licensed wholesaler of alcoholic beverages in this
20 state shall file with the Tax Commission a monthly report, under
21 oath, on forms prescribed by the Tax Commission, which shall include
22 the name, location and mixed beverage tax permit number of each
23 mixed beverage, caterer, public event or special event licensee to
24

1 | whom the licensed wholesaler sold alcoholic beverages during the
2 | report month.

3 | E. If the report required by subsection A of this section is
4 | not filed with the Tax Commission on or before the twentieth day of
5 | the month, the Tax Commission may assess an additional penalty of
6 | Five Dollars (\$5.00) for each day thereafter that the report is not
7 | filed pursuant to the provisions of this section. The Tax
8 | Commission may waive the penalty assessed pursuant to the provisions
9 | of the Uniform Tax Procedure Code; provided, however, the additional
10 | penalty, if assessed, shall not exceed an amount equal to twice the
11 | amount of tax due for the period for which such report was required
12 | to be filed, or the sum of Three Hundred Dollars (\$300.00),
13 | whichever is greater.

14 | F. Taxes paid as provided by law represented by accounts
15 | receivable which are found to be worthless or uncollectible may be
16 | credited upon subsequent reports and remittances of such tax, in
17 | accordance with rules promulgated by the Tax Commission. If such
18 | accounts are thereafter collected, the same shall be reported and
19 | the tax shall be paid upon the amount so collected.

20 | G. In addition to any other authority granted by law, the Tax
21 | Commission is hereby authorized to audit any mixed beverage, beer
22 | and wine, caterer, public event or special event licensee to
23 | determine if the correct amount of tax payable under Section 5-105
24 | of this title has been collected. The taxpayer shall be deemed to

1 be in compliance if such an audit reveals that the amount collected
2 is within the following percentages of the amount of tax payable:

3 1. For spirits, eighty-four percent (84%) to one hundred
4 sixteen percent (116%);

5 2. For wine, ninety percent (90%) to one hundred ten percent
6 (110%);

7 3. For beer sold at draft and not in original packages, eighty-
8 six percent (86%) to one hundred fourteen percent (114%); and

9 4. For beer sold in original packages, ninety-five percent
10 (95%) to one hundred five percent (105%).

11 H. A deduction not to exceed ten percent (10%) of the gross
12 receipts tax liability levied pursuant to Section 5-105 of this
13 title and determined by an audit of the purchases from wholesalers
14 of a mixed beverage, beer and wine, caterer, public event, or
15 special event licensee shall be allowed for properly documented
16 losses attributable to breakage, spillage, theft, fire, or other
17 occurrences. The Tax Commission may promulgate rules to provide for
18 loss deductions in addition to the ten percent (10%) allowance and
19 for the documentation required to properly verify loss claim
20 amounts.

21 SECTION 2. This act shall become effective November 1, 2023.

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23 59-1-2019 MR 3/13/2023 3:13:33 PM
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