

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 59th Legislature (2023)

4   HOUSE BILL 1392

                              By: Bashore

8                               AS INTRODUCED

9           An Act relating to alcoholic beverages; amending 37A  
10          O.S. 2021, Section 6-102, as amended by Section 1,  
11          Chapter 300, O.S.L. 2022 (37A O.S. Supp. 2022,  
12          Section 6-102), which relates to the prohibited acts  
13          of licensees; expanding the exceptions to the means  
14          or inducements to stimulate the consumption of  
15          alcoholic beverages; providing that a specific number  
16          of beers in reusable containers may be delivered to  
17          individuals for on-premises consumption; and  
18          providing an effective date.

18   BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19           SECTION 1.        AMENDATORY        37A O.S. 2021, Section 6-102, as  
20          amended by Section 1, Chapter 300, O.S.L. 2022 (37A O.S. Supp. 2022,  
21          Section 6-102), is amended to read as follows:

22           Section 6-102.   A.   No licensee of the ABLE Commission shall:  
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1        1. Receive, possess or sell any alcoholic beverage except as  
2 authorized by the Oklahoma Alcoholic Beverage Control Act and by the  
3 license or permit which the licensee holds;

4        2. Employ any person under eighteen (18) years of age in the  
5 selling of beer or wine or employ any person under twenty-one (21)  
6 years of age in the selling of spirits. Provided:

7            a. a mixed beverage, beer and wine, caterer, public  
8 event, special event, bottle club, retail wine or  
9 retail beer licensee may employ servers or sales  
10 clerks who are at least eighteen (18) years of age,  
11 except persons under twenty-one (21) years of age may  
12 not serve in designated bar or lounge areas, and

13           b. a mixed beverage, beer and wine, caterer, public  
14 event, special event or bottle club licensee may  
15 employ or hire musical bands who have musicians who  
16 are under eighteen (18) years of age if each such  
17 musician is either accompanied by a parent or legal  
18 guardian or has on their person, to be made available  
19 for inspection upon demand by any employee of the ABLE  
20 Commission or law enforcement officer, a written,  
21 notarized affidavit from the parent or legal guardian  
22 giving the underage musician permission to perform in  
23 designated bar or lounge areas;

1        3. Give any alcoholic beverage as a prize, premium or  
2 consideration for any lottery, game of chance or skill or any type  
3 of competition;

4        4. Use any of the following means or inducements to stimulate  
5 the consumption of alcoholic beverages, including but not limited  
6 to:

7            a. deliver more than two drinks to one person at one  
8 time, except:

9                (1) as provided for serving tasting flights defined  
10                in Section 6-102.1 of this title, or

11                (2) up to six (6) bottles or cans of beer in its  
12                original packaging for on-premises consumption  
13                may be delivered to one person at one time in a  
14                reusable container, including but not limited to  
15                a bucket or insulated cooler which may be cooled  
16                by ice or another cooling method,

17            b. sell or offer to sell to any person or group of  
18 persons any drinks at a price that is less than six  
19 percent (6%) below the markup of the cost to the mixed  
20 beverage licensee; provided, a mixed beverage licensee  
21 shall be permitted to offer these drink specials on  
22 any particular hour of any particular day and shall  
23 not be required to offer these drink specials for an  
24 entire calendar week or from open to close, and shall

1 not be required to offer such drink specials at all  
2 venues operating under the same mixed beverage  
3 license; provided, a mixed beverage licensee selling  
4 wine, beer, or cocktails to-go shall be permitted to  
5 offer these to-go drinks at a different price than on-  
6 premises drinks,

7 c. sell or offer to sell to any person an unlimited  
8 number of drinks during any set period of time for a  
9 fixed price, except at private functions not open to  
10 the public,

11 d. sell or offer to sell drinks to any person or group of  
12 persons on any one day or portion thereof at prices  
13 less than those charged the general public on that  
14 day, except at private functions not open to the  
15 public,

16 e. increase the volume of alcoholic beverages contained  
17 in a drink without increasing proportionately the  
18 price regularly charged for such drink during the same  
19 calendar week, or

20 f. encourage or permit, on the licensed premises, any  
21 game or contest which involves drinking or the  
22 awarding of drinks as prizes.  
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1        Provided, that the provisions of this paragraph shall not  
2 prohibit the advertising or offering of food, entertainment or  
3 bottle service in licensed establishments;

4        5. Permit or allow any patron or person to exit the licensed  
5 premises with an open container of any alcoholic beverage.

6        Provided, this prohibition shall not be applicable to closed  
7 original containers of alcoholic beverages which are carried from  
8 the licensed premises of a bottle club by a patron, closed original  
9 wine containers removed from the premises of restaurants, hotels and  
10 motels, or to closed original containers of alcoholic beverages  
11 transported to and from the place of business of a licensed caterer  
12 by the caterer or an employee of the caterer;

13        6. Serve or sell alcoholic beverages with an expired license  
14 issued by the ABLE Commission;

15        7. Permit any person to be drunk or intoxicated on the  
16 licensee's licensed premises; or

17        8. Permit or allow any patron to serve or pour himself or  
18 herself any alcoholic beverage, except a licensee may offer a patron  
19 self-pour service of beer or wine, or both, from automated devices  
20 on licensed premises so long as:

- 21            a. the licensee monitors and has the ability to control  
22 the dispensing of such beer or wine, or both, from the  
23 automated devices. "Automated device" shall mean any  
24 mechanized device capable of dispensing wine or beer,

1 or both, directly to a patron in exchange for  
2 compensation that a licensee has received directly  
3 from the patron, and

- 4 b. each licensee offering a patron self-pour service of  
5 wine or beer, or both, from any automated device shall  
6 provide constant video monitoring of the automated  
7 device at all times during which the licensee is open  
8 to the public. The licensee shall keep recorded  
9 footage from the video monitoring for at least sixty  
10 (60) days, and shall provide the footage, upon  
11 request, to any agent of the Director of the ABLE  
12 Commission or other authorized law enforcement agent.

13 B. 1. The compensation required by subparagraph a of paragraph  
14 8 of subsection A of this section shall be in the form of a radio  
15 frequency identification (RFID) device, mobile application or any  
16 other technology approved by the ABLE Commission containing a fixed  
17 amount of volume of thirty-two (32) ounces for beer and ten (10)  
18 ounces for wine that may be directly exchanged for beer or wine  
19 dispensed from the automated device:

- 20 a. RFID devices may be assigned, used or reactivated only  
21 during a business day,  
22 b. each RFID device shall be obtained from the licensee  
23 by a patron,  
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1           c.    a licensee shall not issue more than one active RFID  
2                device to a patron, and

3           d.    an RFID device shall be deemed active if the RFID  
4                device contains volume credit or has not yet been used  
5                to dispense ten (10) ounces of wine or thirty-two (32)  
6                ounces of beer.

7           2.    In order to obtain an RFID device from a licensee, each  
8   patron shall produce a valid driver license, identification card or  
9   other government-issued document that contains a photograph of the  
10 individual and demonstrates that the individual is at least twenty-  
11 one (21) years of age. Each RFID device shall be programmed to  
12 require the production of the patron's valid identification before  
13 the RFID device can be used for the first time during any business  
14 day or for any subsequent reactivation.

15          3.    Each RFID device shall become inactive at the end of each  
16 business day.

17          4.    Each RFID device shall be programmed to allow the dispensing  
18 of no more than ten (10) ounces of wine or thirty-two (32) ounces of  
19 beer to a patron:

20           a.    once an RFID device has been used to dispense ten (10)  
21                ounces of wine or thirty-two (32) ounces of beer to a  
22                patron, the RFID device shall become inactive, and

23           b.    any patron in possession of an inactive RFID device  
24                may, upon production of the patron's valid

1 identification to the licensee or licensee's employee,  
2 have the RFID device reactivated to allow the  
3 dispensing of an additional ten (10) ounces of wine or  
4 thirty-two (32) ounces of beer from an automated  
5 device.

6 Paragraphs 1, 2, 3 and 4 of this subsection shall not apply to wine  
7 or beer that is dispensed directly to the licensee or the licensee's  
8 agent or employee.

9 C. A mixed beverage or beer and wine licensee shall not be  
10 deemed to have violated the provisions of paragraph 5 of subsection  
11 A of this section if it allowed a patron to leave the licensed  
12 premises with an open container of beer or wine only and:

13 1. The otherwise prohibited act was committed during the hours  
14 of 8 a.m. to midnight on the day of a scheduled home football game  
15 of institutions within The Oklahoma State System of Higher  
16 Education, and the establishment is located within two thousand  
17 (2,000) feet of the institution;

18 2. The licensee is participating by invitation in a municipally  
19 sanctioned art, music or sporting event within city limits when the  
20 municipality has provided written notice of the event and a list of  
21 invited licensees to the ABLE Commission at least five (5) days  
22 prior to the event; or

23 3. The patron remains on the connected, physical property of  
24 the licensee or in a public area adjacent to the physical property



1 of the licensee with prior municipal approval; provided that written  
2 notice of the use of the connected, physical property of the  
3 licensee or public area shall be provided to the ABLE Commission at  
4 least five (5) days prior to such use.

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

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7 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED  
8 SUBSTANCES, dated 02/15/2023 - DO PASS.

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