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AS AMENDED

By: Hays of the House

Coleman of the Senate

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 1-103, as amended by Section 2, Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2023, Section 1-103), which relates to definitions; defining term; amending 37A O.S. 2021, Section 2-109, which relates to retail spirits license; permitting an employee to sample alcoholic beverages under certain circumstances; specifying amount to be used in tastings; providing for procedure of tastings that shall occur; allowing for certain resealing and storing; exempting samples from certain excise tax provisions; amending 37A O.S. 2021, Section 5-132, as amended by Section 4, Chapter 94, O.S.L. 2023 (37A O.S. Supp. 2023, Section 5-132), which relates to brand labels; providing brand label fee for small batch spirits; amending 37A O.S. 2021, Section 6-105, as amended by Section 2, Chapter 82, O.S.L. 2022 (37A O.S. Supp. 2023, Section 6-105), which relates to prohibited acts of mixed beverage, public event, special event, or on-premises beer and wine licensees; providing exception; amending 37A O.S. 2021, Section 6-109, which relates to prohibited acts; permitting an employee to sample alcoholic beverages under certain circumstances; specifying amount to be used in tastings; providing for procedure of tastings that shall occur; allowing for certain resealing and storing; exempting samples from certain excise tax provisions; updating statutory language; updating statutory reference; **and declaring an emergency.**

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 1-103, as amended by Section 2, Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2023, Section 1-103), is amended to read as follows:

Section 1-103. As used in the Oklahoma Alcoholic Beverage Control Act:

1. "ABLE Commission" or "Commission" means the Alcoholic Beverage Laws Enforcement Commission;

2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol or spirits of wine, from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in accordance with Acts of Congress and regulations promulgated thereunder;

3. "Alcoholic beverage" means alcohol, spirits, beer and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings;

4. "Applicant" means any individual, legal or commercial business entity, or any individual involved in any legal or commercial business entity allowed to hold any license issued in accordance with the Oklahoma Alcoholic Beverage Control Act;

1 5. "Beer" means any beverage containing more than one-half of
2 one percent (0.50%) of alcohol by volume and obtained by the
3 alcoholic fermentation of an infusion or decoction of barley, or
4 other grain, sugar, malt or similar products. For the purposes of
5 taxation, distribution, sales, and regulation, seltzer shall mean
6 the same as beer as provided in this section. Beer may or may not
7 contain hops or other vegetable products. Beer includes, among
8 other things, beer, ale, stout, lager beer, porter, seltzer, and
9 other malt or brewed liquors, but does not include sake, known as
10 Japanese rice wine;

11 6. "Beer keg" means any brewer-sealed, single container that
12 contains not less than four (4) gallons of beer;

13 7. "Beer distributor" means and includes any person licensed to
14 distribute beer for retail sale in ~~the~~ this state, but does not
15 include a holder of a small brewer self-distribution license or
16 brewpub self-distribution license. The term distributor, as used in
17 the Oklahoma Alcoholic Beverage Control Act, shall be construed to
18 refer to a beer distributor;

19 8. "Bottle club" means any establishment in a county which has
20 not authorized the retail sale of alcoholic beverages by the
21 individual drink, which is required to be licensed to keep, mix and
22 serve alcoholic beverages belonging to club members on club
23 premises;

24

1 9. "Bottle service" means the sale and provision of spirits in
2 their original packages by a mixed beverage licensee to be consumed
3 in that mixed beverage licensee's club suite;

4 10. "Brand" means any word, name, group of letters, symbol or
5 combination thereof, that is adopted and used by a licensed brewer
6 to identify a specific beer, wine or spirit and to distinguish that
7 product from another beer, wine or spirit;

8 11. "Brand extension" means:

9 a. after October 1, 2018, any brand of beer or cider
10 introduced by a manufacturer in this state which
11 either:

12 (1) incorporates all or a substantial part of the
13 unique features of a preexisting brand of the
14 same licensed brewer, or

15 (2) relies to a significant extent on the goodwill
16 associated with the preexisting brand, or

17 b. any brand of beer that a brewer, the majority of whose
18 total volume of all brands of beer distributed in this
19 state by such brewer on January 1, 2016, was
20 distributed as low-point beer, desires to sell,
21 introduces, begins selling or theretofore has sold and
22 desires to continue selling a strong beer in this
23 state which either:
24

- 1 (1) incorporates or incorporated all or a substantial
2 part of the unique features of a preexisting low-
3 point beer brand of the same licensed brewer, or
4 (2) relies or relied to a significant extent on the
5 goodwill associated with a preexisting low-point
6 beer brand;

7 12. "Brewer" means and includes any person who manufactures for
8 human consumption by the use of raw materials or other ingredients
9 any beer or cider upon which a license fee and a tax are imposed by
10 any law of this state;

11 13. "Brewpub" means a licensed establishment operated on the
12 premises of, or on premises located contiguous to, a small brewer,
13 that prepares and serves food and beverages, including alcoholic
14 beverages, for on-premises consumption;

15 14. "Cider" means any alcoholic beverage obtained by the
16 alcoholic fermentation of fruit juice, including but not limited to
17 flavored, sparkling or carbonated cider. For the purposes of the
18 manufacture of this product, cider may be manufactured by either
19 manufacturers or brewers. For the purposes of the distribution of
20 this product, cider may be distributed by either wine and spirits
21 wholesalers or beer distributors;

22 15. "Club suite" means a designated area within the premises of
23 a mixed beverage licensee designed to provide an exclusive space
24 which is limited to a patron or patrons specifically granted access

1 by a mixed beverage licensee and is not accessible to other patrons
2 of the mixed beverage licensee or the public. A club suite must
3 have a clearly designated point of access for a patron or patrons
4 specifically granted access by the mixed beverage licensee to ensure
5 that persons present in the suite are limited to patrons
6 specifically granted access by the mixed beverage licensee and
7 employees providing services to the club suite;

8 16. "Convenience store" means any person primarily engaged in
9 retailing a limited range of general household items and groceries,
10 with extended hours of operation, whether or not engaged in retail
11 sales of automotive fuels in combination with such sales;

12 17. "Convicted" and "conviction" mean and include a finding of
13 guilt resulting from a plea of guilty or nolo contendere, the
14 decision of a court or magistrate or the verdict of a jury,
15 irrespective of the pronouncement of judgment or the suspension
16 thereof;

17 18. "Designated products" means the brands of wine or spirits
18 offered for sale by a manufacturer that the manufacturer has
19 assigned to a designated wholesaler for exclusive distribution;

20 19. "Designated wholesaler" means a wine and spirits wholesaler
21 who has been selected by a manufacturer as a wholesaler appointed to
22 distribute designated products;

23 20. "Director" means the Director of the ABLE Commission;
24

1 21. "Distiller" means any person who produces spirits from any
2 source or substance, or any person who brews or makes mash, wort or
3 wash, fit for distillation or for the production of spirits (except
4 a person making or using such material in the authorized production
5 of wine or beer, or the production of vinegar by fermentation), or
6 any person who by any process separates alcoholic spirits from any
7 fermented substance, or any person who, making or keeping mash, wort
8 or wash, has also in his or her possession or use a still;

9 22. "Distributor agreement" means the written agreement between
10 the distributor and brewer as set forth in Section 3-108 of this
11 title;

12 23. "Drug store" means a person primarily engaged in retailing
13 prescription and nonprescription drugs and medicines;

14 24. "Dual-strength beer" means a brand of beer that,
15 immediately prior to April 15, 2017, was being sold and distributed
16 in this state:

17 a. as a low-point beer pursuant to the Low-Point Beer
18 Distribution Act in effect immediately prior to
19 October 1, 2018, and

20 b. as strong beer pursuant to the Alcoholic Beverage
21 Control Act in effect immediately prior to October 1,
22 2018,

1 and continues to be sold and distributed as such on October 1, 2018.
2 Dual-strength beer does not include a brand of beer that arose as a
3 result of a brand extension as defined in this section;

4 25. "Fair market value" means the value in the subject
5 territory covered by the written agreement with the distributor or
6 wholesaler that would be determined in an arm's length transaction
7 entered into without duress or threat of termination of the
8 distributor's or wholesaler's rights and shall include all elements
9 of value, including goodwill and going-concern value;

10 26. "Good cause" means:

- 11 a. failure by the distributor to comply with the material
12 and reasonable provisions of a written agreement or
13 understanding with the brewer, or
14 b. failure by the distributor to comply with the duty of
15 good faith;

16 27. "Good faith" means the duty of each party to any
17 distributor agreement and all officers, employees or agents thereof
18 to act with honesty in fact and within reasonable standards of fair
19 dealing in the trade;

20 28. "Grocery store" means a person primarily engaged in
21 retailing a general line of food, such as canned or frozen foods,
22 fresh fruits and vegetables, and fresh and prepared meats, fish and
23 poultry;

1 29. "Hotel" or "motel" means an establishment which is licensed
2 to sell alcoholic beverages by the individual drink and which
3 contains ~~guestroom~~ guest room accommodations with respect to which
4 the predominant relationship existing between the occupants thereof
5 and the owner or operator of the establishment is that of innkeeper
6 and guest. For purposes of this section, the existence of other
7 legal relationships as between some occupants and the owner or
8 operator thereof shall be immaterial;

9 30. "Legal newspaper" means a newspaper meeting the requisites
10 of a newspaper for publication of legal notices as prescribed in
11 Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

12 31. "Licensee" means any person holding a license under the
13 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or
14 employee of such licensee while in the performance of any act or
15 duty in connection with the licensed business or on the licensed
16 premises;

17 32. "Low-point beer" shall mean any beverages containing more
18 than one-half of one percent (1/2 of 1%) alcohol by volume, and not
19 more than three and two-tenths percent (3.2%) alcohol by weight,
20 including but not limited to ~~7~~ beer or cereal malt beverages obtained
21 by the alcoholic fermentation of an infusion by barley or other
22 grain, malt or similar products;

1 33. "Manufacturer" means a distiller, winemaker, rectifier or
2 bottler of any alcoholic beverage (other than beer) and its
3 subsidiaries, affiliates and parent companies;

4 34. "Manufacturer's agent" means a salaried or commissioned
5 salesperson who is the agent authorized to act on behalf of the
6 manufacturer or nonresident seller in ~~the~~ this state;

7 35. "Meals" means foods commonly ordered at lunch or dinner and
8 at least part of which is cooked on the licensed premises and
9 requires the use of dining implements for consumption. Provided,
10 that the service of only food such as appetizers, sandwiches, salads
11 or desserts shall not be considered meals;

12 36. "Mini-bar" means a closed container, either refrigerated in
13 whole or in part, or ~~nonrefrigerated~~ unrefrigerated, and access to
14 the interior of which is:

- 15 a. restricted by means of a locking device which requires
16 the use of a key, magnetic card or similar device, or
17 b. controlled at all times by the licensee;

18 37. "Mixed beverage cooler" means any beverage, by whatever
19 name designated, consisting of an alcoholic beverage and fruit or
20 vegetable juice, fruit or vegetable flavorings, dairy products or
21 carbonated water containing more than one-half of one percent (1/2
22 of 1%) of alcohol measured by volume but not more than seven percent
23 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
24 packaged in a container not larger than three hundred seventy-five

1 (375) milliliters. Such term shall include but not be limited to
2 the beverage popularly known as a "wine cooler";

3 38. "Mixed beverages" means one or more servings of a beverage
4 composed in whole or in part of an alcoholic beverage in a sealed or
5 unsealed container of any legal size for consumption on the premises
6 where served or sold by the holder of a mixed beverage, beer and
7 wine, caterer, public event, charitable event or special event
8 license;

9 39. "Motion picture theater" means an establishment which is
10 licensed by Section 2-110 of this title to sell alcoholic beverages
11 by the individual drink and where motion pictures are exhibited, and
12 to which the general public is admitted;

13 40. "Nondesignated products" means the brands of wine or
14 spirits offered for sale by a manufacturer that have not been
15 assigned to a designated wholesaler;

16 41. "Nonresident seller" means any person licensed pursuant to
17 Section 2-135 of this title;

18 42. "Retail salesperson" means a salesperson soliciting orders
19 from and calling upon retail alcoholic beverage stores with regard
20 to his or her product;

21 43. "Occupation" as used in connection with "occupation tax"
22 means the sites occupied as the places of business of the
23 manufacturers, brewers, wholesalers, beer distributors, retailers,
24

1 mixed beverage licensees, on-premises beer and wine licensees,
2 bottle clubs, caterers, public event and special event licensees;

3 44. "Original package" means any container of alcoholic
4 beverage filled and stamped or sealed by the manufacturer or brewer;

5 45. "Package store" means any sole proprietor or partnership
6 that qualifies to sell wine, beer and/or spirits for off-premises
7 consumption and that is not a grocery store, convenience store or
8 drug store, or other retail outlet that is not permitted to sell
9 wine or beer for off-premises consumption;

10 46. "Patron" means any person, customer or visitor who is not
11 employed by a licensee or who is not a licensee;

12 47. "Person" means an individual, any type of partnership,
13 corporation, association, limited liability company or any
14 individual involved in the legal structure of any such business
15 entity;

16 48. "Premises" means the grounds and all buildings and
17 appurtenances pertaining to the grounds including any adjacent
18 premises if under the direct or indirect control of the licensee and
19 the rooms and equipment under the control of the licensee and used
20 in connection with or in furtherance of the business covered by a
21 license. Provided that the ABLE Commission shall have the authority
22 to designate areas to be excluded from the licensed premises solely
23 for the purpose of:
24

- a. allowing the presence and consumption of alcoholic beverages by private parties which are closed to the general public, or
- b. allowing the services of a caterer serving alcoholic beverages provided by a private party.

This exception shall in no way limit the licensee's concurrent responsibility for any violations of the Oklahoma Alcoholic Beverage Control Act occurring on the licensed premises;

49. "Private event" means a social gathering or event attended by invited guests who share a common cause, membership, business or task and have a prior established relationship. For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall not constitute a private event;

50. "Public event" means any event that can be attended by the general public;

51. "Rectifier" means any person who rectifies, purifies or refines spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing, from mash, wort, wash or other substance, through continuous closed vessels and pipes, until the production thereof is complete), and any person who, without rectifying, purifying or refining spirits, shall by mixing (except for immediate consumption on the premises where mixed) such spirits, wine or other liquor with any material,

1 manufactures any spurious, imitation or compound liquors for sale,
2 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
3 or any other name;

4 52. "Regulation" or "rule" means a formal rule of general
5 application promulgated by the ABLE Commission as herein required;

6 53. "Restaurant" means an establishment that is licensed to
7 sell alcoholic beverages by the individual drink for on-premises
8 consumption and where food is prepared and sold for immediate
9 consumption on the premises;

10 54. "Retail container for spirits and wines" means an original
11 package of any capacity approved by the United States Bureau of
12 Alcohol, Tobacco, Firearms and Explosives;

13 55. "Retailer" means a package store, grocery store,
14 convenience store or drug store licensed to sell alcoholic beverages
15 for off-premises consumption pursuant to a ~~Retail Spirits License~~
16 retail spirits license, ~~Retail Wine License~~ retail wine license or
17 ~~Retail Beer License~~ retail beer license;

18 56. "Sale" means any transfer, exchange or barter in any manner
19 or by any means whatsoever, and includes and means all sales made by
20 any person, whether as principal, proprietor or as an agent, servant
21 or employee. The term sale is also declared to be and include the
22 use or consumption in this state of any alcoholic beverage obtained
23 within or imported from without this state, upon which the excise
24

1 tax levied by the Oklahoma Alcoholic Beverage Control Act has not
2 been paid or exempted;

3 57. "Seltzer" means any beverage containing more than one-half
4 of one percent (0.50%) of alcohol by volume and obtained by the
5 alcoholic fermentation of malt, rice, grain of any kind, bran,
6 glucose, sugar, or molasses and combined with carbonated water and
7 other flavoring and labeled as "beer" by the Internal Revenue Code;
8 provided, that seltzer shall not include carbonated beverages mixed
9 with wine or spirits;

10 58. "Short-order food" means food other than full meals
11 including but not limited to sandwiches, soups and salads. Provided
12 that popcorn, chips and other similar snack food shall not be
13 considered short-order food;

14 59. "Small brewer" means a brewer who manufactures less than
15 sixty-five thousand (65,000) barrels of beer annually pursuant to a
16 validly issued ~~Small Brewer License~~ small brewer license hereunder;

17 60. "Small farm wine" means a wine that is produced by a small
18 farm winery with seventy-five percent (75%) or more Oklahoma-grown
19 grapes, berries, other fruits, honey or vegetables;

20 61. "Small farm winery" means a wine-making establishment that
21 does not annually produce for sale more than fifteen thousand
22 (15,000) gallons of wine as reported on the United States Department
23 of the Treasury Alcohol and Tobacco Tax and Trade Bureau, Report of
24 Wine Premises Operations (TTB Form 5120.17);

1 62. "Sparkling wine" means champagne or any artificially
2 carbonated wine;

3 63. "Special event" means an entertainment, recreation or
4 marketing event that occurs at a single location on an irregular
5 basis and at which alcoholic beverages are sold;

6 64. "Spirits" means any beverage other than wine or beer, which
7 contains more than one-half of one percent (1/2 of 1%) alcohol
8 measured by volume, and obtained by distillation, whether or not
9 mixed with other substances in solution and includes those products
10 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
11 fortified wines and similar compounds, but shall not include any
12 alcohol liquid completely denatured in accordance with the Acts of
13 Congress and regulations pursuant thereto;

14 65. "Strong beer" means beer which, prior to October 1, 2018,
15 was distributed pursuant to the Oklahoma Alcoholic Beverage Control
16 Act, Section 1-101 et seq. of this title;

17 66. "Successor brewer" means a primary source of supply, a
18 brewer, a cider manufacturer or an importer that acquires rights to
19 a beer or cider brand from a predecessor brewer;

20 67. "Tax Commission" means the Oklahoma Tax Commission;

21 68. "Territory" means a geographic region with a specified
22 boundary;

23 69. "Wine and spirits wholesaler" or "wine and spirits
24 distributor" means and includes any sole proprietorship or

1 partnership licensed to distribute wine and spirits in ~~the~~ this
2 state. The term "wholesaler", as used in the Oklahoma Alcoholic
3 Beverage Control Act, shall be construed to refer to a wine and
4 spirits wholesaler;

5 70. "Wine" means and includes any beverage containing more than
6 one-half of one percent (1/2 of 1%) alcohol by volume and not more
7 than twenty-four percent (24%) alcohol by volume at sixty (60)
8 degrees Fahrenheit obtained by the fermentation of the natural
9 contents of fruits, vegetables, honey, milk or other products
10 containing sugar, whether or not other ingredients are added, and
11 includes vermouth and sake, known as Japanese rice wine;

12 71. "Winemaker" means and includes any person or establishment
13 who manufactures for human consumption any wine upon which a license
14 fee and a tax are imposed by any law of this state; ~~and~~

15 72. "Satellite tasting room" means a licensed establishment
16 operated off the licensed premises of the holder of a small farm
17 winery or winemaker license, which serves wine for on-premises or
18 off-premises consumption; and

19 73. "Straw testing" means the consumption of a de minimis
20 amount of an alcoholic beverage by sanitary means by the holder of
21 an employee license, twenty-one (21) years of age or older, to
22 determine the quality or desired flavor profile of such alcoholic
23 beverage that has been serviced, or is to be served, to a patron.
24

1 Words in the plural include the singular, and vice versa, and
2 words imparting the masculine gender include the feminine, as well
3 as persons and licensees as defined in this section.

4 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-109, is
5 amended to read as follows:

6 Section 2-109. A. A retail spirits license shall authorize the
7 holder thereof:

8 1. To purchase wine or spirits from a wine and spirits
9 wholesaler;

10 2. To purchase beer from a beer distributor or from the holder
11 of a small brewer self-distribution license;

12 3. To sell same on the licensed premises in such containers to
13 consumers for off-premises consumption only and not for resale;
14 provided, spirits, wine and beer may be sold to charitable
15 organizations that are holders of charitable alcoholic beverage
16 auction or charitable alcoholic beverage event licenses; and

17 4. To host alcoholic beverage tastings consistent with
18 subsections D and E of this section.

19 B. A retail wine license shall authorize the holder thereof:

20 1. To purchase wine from a wine and spirits wholesaler;

21 2. To purchase wine from a small farm winemaker who is
22 permitted and has elected to self-distribute as provided in Article
23 XXVIII-A of the Oklahoma Constitution;

1 3. To sell same on the licensed premises in such containers to
2 consumers for off-premises consumption only and not for resale;
3 provided, wine may be sold to charitable organizations that are
4 holders of charitable alcoholic beverage auction or charitable
5 alcoholic beverage event licenses; and

6 4. To host an alcoholic beverage tasting, consistent with
7 subsections D and E of this section.

8 Provided, no holder of a retail wine license may sell wine with
9 alcohol beverage volume in excess of fifteen percent (15%).

10 C. A retail beer license shall authorize the holder thereof:

11 1. To purchase beer from a beer distributor;

12 2. To purchase beer from the holder of a small brewer self-
13 distribution license;

14 3. To sell same on the licensed premises in such containers to
15 consumers for off-premises consumption only and not for resale;
16 provided, beer may be sold to charitable organizations that are
17 holders of charitable alcoholic beverage auction or charitable
18 alcoholic beverage event licenses; and

19 4. To host alcoholic beverage tastings consistent with
20 subsections D and E of this section.

21 Provided, no holder of a retail beer license may sell a malt
22 beverage with alcohol beverage volume in excess of fifteen percent
23 (15%).

24 D. All tastings conducted under this section shall:

1 1. Be conducted under the direct supervision of the licensee
2 authorized to host the tasting;

3 2. Be poured by any ABLE Commission licensee lawfully permitted
4 to serve alcoholic beverages, provided no wine or spirits
5 wholesaler, beer distributor or employee of a wine or spirits
6 wholesaler or beer distributor shall be allowed to pour samples for
7 tastings;

8 3. Use alcoholic beverages purchased by the licensee authorized
9 to host the tastings from a licensed wine and spirits wholesaler,
10 beer distributor, self-distributor, small brewer or self-
11 distributing winery authorized to sell the same, and the licensee
12 shall pay the applicable taxes on the alcoholic beverages purchased;
13 provided, the licensee may only provide samples of alcoholic
14 beverages that its license is authorized to sell;

15 4. Be restricted to persons twenty-one (21) years of age or
16 older;

17 5. Be limited to no more than one (1) fluid ounce of spirits,
18 two (2) fluid ounces of wine or three (3) fluid ounces of beer per
19 consumer per day; and

20 6. Be consumed on the licensed premises of the licensee
21 authorized to host the tastings or at a location other than the
22 licensed premises, provided no samples served on the licensed
23 premises shall be permitted to be removed from the licensed
24 premises.

1 E. All licensees authorized to serve samples pursuant to
2 subsection D of this section shall ensure that:

3 1. All samples are poured only from original sealed packaging;

4 2. Any alcoholic beverages remaining in unsealed packaging used
5 to provide samples, excluding spirits, are poured out by the end of
6 the day;

7 3. No more than six (6) bottles of alcoholic beverages are
8 unsealed at any given time; and

9 4. No person shall remove any samples from the licensed
10 premises or location where the tasting has occurred.

11 F. 1. Retail spirits, retail wine, and retail beer licensees
12 shall be authorized to host educational alcoholic beverage training,
13 which includes tastings, for employees who are licensed to sell such
14 beverages on the licensed premises in such containers to consumers
15 for off-premises consumption only. Alcoholic beverages for training
16 purposes may be provided by wine and spirits wholesaler licensees
17 and beer distributor licensees.

18 2. All such tastings shall be consumed on licensed premises of
19 the licensee authorized to host the tastings or at a location other
20 than the licensed premises, and under the direct supervision of the
21 licensee. Samples shall be poured by a licensee who is lawfully
22 permitted to serve alcoholic beverages on the licensed premises in
23 such containers to consumers for off-premises consumption only in
24 this state. Tastings shall be restricted to employees who are

1 twenty-one (21) years of age or older. Participation in tastings
2 for educational purposes may be required by an employer; however,
3 the choice to taste or consume alcoholic beverages shall always be
4 voluntary. No employee may be required to taste or consume alcohol
5 at tastings as a condition of employment.

6 3. An educational tasting of beer may consist of not more than
7 six separate individual beers of not more than two (2) ounces each,
8 served together at one time. No employee may sample more than a
9 total of twelve (12) fluid ounces of beer per day. An educational
10 tasting of wine may consist of not more than six separate individual
11 wines of not more than one (1) ounce each, served together at one
12 time. No employee may sample more than a total of six (6) fluid
13 ounces of wine per day. An educational tasting of spirits shall
14 consist of not more than three separate individual spirits of not
15 more than one-half (0.5) ounce each, served together at one time.
16 No employee may sample more than a total of one and one-half (1.5)
17 fluid ounces of spirits per day. No employee may sample more than a
18 total of twelve (12) ounces of beer, six (6) ounces of wine, or one
19 and one-half (1.5) ounces of spirits per day. Only one type of
20 alcoholic beverage of beer, wine, or spirits shall be allowed at any
21 education training tasting. No combination tasting shall be
22 allowed. Employees who choose to taste an alcoholic beverage but do
23 not wish to consume the alcoholic beverage shall be allowed to spit
24 the beverage into a cup for disposal. Employees may participate in

1 educational tastings before, during, or after regular business hours
2 unless otherwise prohibited by law. All licensees serving samples
3 of beer shall ensure that all samples are poured only from original
4 sealed packaging and any alcoholic beverages remaining in unsealed
5 packaging used to provide samples, excluding spirits and wine, are
6 poured out by the end of the day. No more than six bottles of
7 alcoholic beverages may be unsealed at any given time during a
8 tasting. All packaging containing samples of wine and spirits shall
9 be clearly marked as a sample and any unused portions of the sample
10 of wine or spirits shall be resealed and retained by the wine and
11 spirits wholesaler for use at the next tasting authorized in this
12 paragraph. Wine and spirits wholesaler employees may transport any
13 resealed samples of wine and spirits in their vehicles. Beer, wine
14 and spirits samples shall not be considered withdrawn from the
15 inventory of the beer distributor or wine and spirits wholesaler for
16 purposes of the collection of the excise tax on beer, wine and
17 spirits. Tastings offered to licensees by wine and spirits
18 wholesalers and beer distributors shall not be deemed discrimination
19 or an inducement under Section 3-123 of this title.

20 SECTION 3. AMENDATORY 37A O.S. 2021, Section 5-132, as
21 amended by Section 4, Chapter 94, O.S.L. 2023 (37A O.S. Supp. 2023,
22 Section 5-132), is amended to read as follows:

23 Section 5-132. A. Except as provided in subsection D of this
24 section, no alcoholic beverage shall be labeled, offered or

1 advertised for sale in this state unless in accordance with rules
2 promulgated pursuant to the provisions of Section 5-130 of this
3 title and unless the brand label shall have been registered with and
4 approved by the ABLE Commission and the appropriate fee paid as
5 provided for in this section.

6 B. An application for registration of a brand label shall be
7 filed by and fees paid by the manufacturer or brewer, winemaker,
8 distiller or nonresident seller of the brand. Licensees, other than
9 the foregoing applicants, shall not be required to verify
10 registration to the ABLE Commission and shall not be penalized for
11 any applicant's failure to register its brand label in accordance
12 with this section. Cordials and wines which differ only as to age
13 or vintage year, as defined by such rules, shall be considered the
14 same brand, and those that differ as to type or class may be
15 considered the same brand by the ABLE Commission where consistent
16 with the purposes of this section.

17 C. The application for registration of a brand label shall be
18 filed on a form prescribed by the ABLE Commission, and shall contain
19 such information as the ABLE Commission shall require. Such
20 application shall be accompanied by a certified check, bank
21 officers' check or draft or money order in the amount of the annual
22 registration fee, or the properly prorated portion thereof
23 prescribed by this section.

1 D. 1. The annual fee for registration of any brand label for
2 spirits shall be Three Hundred Seventy-five Dollars (\$375.00),
3 unless the total amount of spirits made available for sale in a
4 single year is no greater than fifty-three (53) gallons, in which
5 case the annual fee for registration of any brand label shall be
6 Seventy-five Dollars (\$75.00). The annual fee for registration of
7 any brand label for beer shall be Two Hundred Dollars (\$200.00).
8 The annual fee for registration of any brand label for wine made in
9 the United States, or for registration of any category of imported
10 wine as defined by the Tax Commission, shall be Two Hundred Dollars
11 (\$200.00). Beer manufactured in this state shall be exempt from
12 brand label registration fees.

13 2. Each brand label registered and approved pursuant to this
14 section shall be valid for a term of up to one (1) year, expiring on
15 the June 30 next following registration, and may be renewed for
16 subsequent terms of one (1) year beginning on the July 1 following
17 the initial registration. Brand registration fees for labels
18 registered after July 1 may be prorated through the following June
19 30 on a quarterly basis. The brand registration fee shall not be
20 transferable, unless otherwise allowed by law. A nonresident seller
21 who registered brands prior to May 7, 2019, may transfer brand
22 registrations to the brewer or manufacturer that produces those
23 brands, provided the brewer or manufacturer has obtained a license,
24 at no expense to the nonresident seller, brewer or manufacturer.

1 E. If the ABLE Commission shall deny the application for
2 registration of a brand label, it shall return the registration fee
3 to the applicant, less twenty-five percent (25%) of such fee.

4 F. The ABLE Commission may at any time exempt any discontinued
5 brand from fee provisions of this section where a manufacturer,
6 brewer, beer distributor or wholesaler has an inventory of one
7 hundred cases or less of liquor or wine and five hundred cases or
8 less of beer, and certifies to the ABLE Commission in writing that
9 such brand is being discontinued.

10 G. No private labels or control labels shall be approved for
11 sale in this state, except for charity collaboration beer as
12 authorized in Section 2-102.1 of this title.

13 SECTION 4. AMENDATORY 37A O.S. 2021, Section 6-105, as
14 amended by Section 2, Chapter 82, O.S.L. 2022 (37A O.S. Supp. 2023,
15 Section 6-105), is amended to read as follows:

16 Section 6-105. No mixed beverage, public event, special event
17 or on-premises beer and wine licensee shall:

18 1. Purchase or receive any alcoholic beverage other than from a
19 person holding a wine and ~~spirit~~ spirits wholesaler or beer
20 distributor license issued pursuant to the Oklahoma Alcoholic
21 Beverage Control Act; provided, a mixed beverage or on-premises beer
22 and wine licensee whose premises are a restaurant may purchase wine
23 produced at wineries in this state directly from a winemaker as
24

1 provided in Section 2 of Article ~~XXVIII~~ XXVIII-A of the Oklahoma
2 Constitution;

3 2. Transport alcoholic beverages from the place of purchase to
4 the licensed premises unless the licensee also holds a private
5 carrier license issued by the ABLE Commission;

6 3. Use or allow the use of any mark or label on a container of
7 alcoholic beverage which is kept for sale which does not clearly and
8 precisely indicate the nature of the contents or which might deceive
9 or conceal the nature, composition, quantity, age or quality of such
10 beverage;

11 4. Keep or knowingly permit any alcoholic beverage to be kept,
12 brought or consumed on the licensed premises which is not allowed to
13 be sold or served upon such premises; provided, that the alcoholic
14 beverage may be provided by a wine and spirits wholesaler, beer
15 distributor, brewer, small brewer, distiller, winemaker, small farm
16 winery, rectifier, manufacturer, or nonresident seller licensee and
17 kept, brought, or consumed on the licensed premises for educational
18 training tasting purposes pursuant to Section 4 of this act; or

19 5. Allow any person under twenty-one (21) years of age to enter
20 into, remain within or loiter about the designated bar area of the
21 licensed premises, except for persons who incidentally pass through
22 the designated area.

1 The prohibition in this subsection against persons under twenty-
2 one (21) years of age entering or remaining within the designated
3 bar area of the licensed premises shall not apply:

4 a. if the licensed premises are closed to the public
5 during a time the premises are legally permitted to be
6 open for business and the premises are used for a
7 private party at which alcoholic beverages may be
8 served to persons twenty-one (21) years of age or
9 older. Any alcoholic beverages served at a private
10 party on the licensed premises may be purchased from
11 the licensee at a negotiated price or purchased
12 privately and served at the private party on the
13 licensed premises. Any licensee who desires to
14 conduct such a private party shall notify the ABLE
15 Commission, in writing, at least ten (10) calendar
16 days prior to the private party. The notification
17 shall include the date, time and purpose of the
18 private party and any other information the ABLE
19 Commission may deem necessary,

20 b. to a designated bar area which is a concession stand
21 serving beer and wine, in addition to food and non-
22 alcoholic beverages, which concession stand is located
23 at, in, or on the premises of a sports, music or
24

entertainment venue, convention center, fairgrounds or similar facility, or

c. to an employee of a beer distributor or wine and spirits wholesaler who is at least eighteen (18) years of age and enters for the purpose of merchandising or delivering product to the licensee in the normal course of business.

SECTION 5. AMENDATORY 37A O.S. 2021, Section 6-109, is amended to read as follows:

Section 6-109. No mixed beverage, beer and wine, bottle club, caterer, charitable event, public event or special event licensee or any employee, manager, operator or agent thereof shall:

1. Consume or be under the influence of alcoholic beverages during the hours he or she is on duty. For the purposes of this section, licensees will be deemed to be on duty from the time the licensee first comes on duty until the time the licensee goes off duty at the end of the shift including any break periods permitted by management. This paragraph shall not apply for purposes of employee education training; provided, that:

- a. all tastings are conducted on a licensed premises and under the direct supervision of the licensee,
- b. all samples shall be poured by a licensee who is lawfully permitted to serve alcoholic beverages in this state,

1 c. all tastings shall be restricted to employees who are
2 twenty-one (21) years of age or older,

3 d. all participation in tastings for educational purposes
4 may be required by an employer; however, the choice to
5 taste or consume alcoholic beverages shall always be
6 voluntary, and

7 e. no employee may be required to taste or consume
8 alcohol at tastings as a condition of employment.

9 An educational tasting of beer may consist of not more than six
10 separate individual beers of not more than two (2) ounces each,
11 served together at one time. No employee may sample more than a
12 total of twelve (12) fluid ounces of beer per day. An educational
13 tasting of wine may consist of not more than six separate individual
14 wines of not more than one (1) ounce each, served together at one
15 time. No employee may sample more than a total of six (6) fluid
16 ounces of wine per day. An educational tasting of spirits shall
17 consist of not more than three separate individual spirits of not
18 more than one-half (0.5) ounce each, served together at one time.
19 No employee may sample more than a total of one and one-half (1.5)
20 fluid ounces of spirits per day. An education tasting of a mixed
21 beverage shall consist of not more than one individual mixed
22 beverage consisting of not more than twelve (12) ounces of beer, six
23 (6) ounces of wine, or one and one-half (1.5) ounces of spirits,
24 combined with an unlimited amount of ingredients that are non-

1 alcoholic in nature, served at one time. No employee may sample
2 more than a total of twelve (12) ounces of beer, six (6) ounces of
3 wine, or one and one-half (1.5) ounces of spirits in a mixed
4 beverage per day. Only one type of alcoholic beverage, beer, wine,
5 spirits, or mixed beverage shall be allowed at any educational
6 training tasting. No combination tasting shall be allowed.
7 Employees who choose to taste an alcoholic beverage but do not wish
8 to consume the alcoholic beverage shall be allowed to spit the
9 beverage into a cup for disposal. Employees may participate in
10 educational tastings before, during, or after regular business hours
11 unless otherwise prohibited by law. All licensees serving samples
12 of beer shall ensure that all samples are poured only from original
13 sealed packaging and any alcoholic beverages remaining in unsealed
14 packaging used to provide samples, excluding spirits and wine, are
15 poured out by the end of the day. No more than six bottles of
16 alcoholic beverages may be unsealed at any given time during a
17 tasting. All packaging containing samples of wine and spirits shall
18 be clearly marked as a sample and any unused portions of the sample
19 of wine or spirits shall be resealed and retained by the wine and
20 spirits wholesaler for use at the next tasting authorized in this
21 paragraph. Wine and spirits wholesaler employees may transport any
22 resealed samples of wine and spirits in their vehicles. Beer, wine
23 and spirits samples shall not be considered withdrawn from the
24 inventory of the beer distributor or wine and spirits wholesaler for

1 purposes of the collection of the excise tax on beer, wine and
2 spirits. Straw testing during operating hours shall be permitted.
3 Tastings offered to licensees by wine and spirits wholesalers and
4 beer distributors shall not be deemed discrimination or an
5 inducement under Section 3-123 of this title. This paragraph shall
6 not apply to any person who works on the premises as an entertainer
7 only;

8 2. Permit or tolerate any conduct or language which is intended
9 to threaten another with physical harm or any fighting or offensive
10 physical contact, in or upon the licensed premises or areas just
11 outside the licensed premises which are controlled by the licensee;

12 3. Permit empty or discarded alcoholic beverage containers to
13 be in public view outside the licensed premises. All empty or
14 discarded containers shall be disposed of in accordance with ABLE
15 Commission rules and regulations;

16 4. Permit any illegal gambling activity, violations of the
17 state narcotic and dangerous drug laws, prostitution activity or any
18 other criminal conduct to occur on the licensed premises;

19 5. Refuse or fail to promptly open a door to the licensed
20 premises upon request of an employee of the ABLE Commission or any
21 other peace officer to enter the premises when the licensee or
22 employee knows or should know that such request is made by an
23 employee of the ABLE Commission or a peace officer. This provision
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1 shall not be construed to deny employees of the ABLE Commission or
2 peace officers access at any time to any licensed premises;

3 6. Permit a sealed or unsealed container of alcoholic beverage
4 to be removed from the licensed premises. Provided, that
5 restaurants, hotels and motels may permit the removal of closed
6 original wine containers the contents of which have been partially
7 consumed and bottle clubs may permit the removal by a club member of
8 closed original containers of alcoholic beverages belonging to
9 members. The provisions of this paragraph shall not be construed to
10 prohibit or restrict:

11 a. hotels or motels who are holders of mixed beverage or
12 on-premises beer and wine licenses from allowing
13 alcoholic beverages to be served away from the bar
14 area anywhere on the licensed premises,

15 b. licensees, who are lawfully operating in a facility or
16 on property owned or operated by any agency, political
17 subdivision or public trust of this state, from
18 allowing persons to transport alcoholic beverages from
19 one licensed premises to another within the same
20 building or property, provided that the building or
21 property or a part thereof is defined as a common
22 drinking area for consumption of alcohol by resolution
23 of the governing body of the agency, political
24 subdivision or public trust of this state, ~~or~~

1 c. licensees, who are licensed to operate in a facility
2 or on property owned or operated by any agency,
3 political subdivision or public trust of this state,
4 from allowing other licensees to operate on their
5 licensed premises for events that are temporary in
6 nature. In the event that multiple licensees are
7 operating in a facility or on property owned or
8 operated by any agency, political subdivision or
9 public trust of this state, each licensee shall be
10 responsible for violations occurring in their area
11 designated to be their temporary licensed premises~~+~~L
12 or

13 d. licensees, who are lawfully operating in a facility or
14 property intended for multiple licensed premises
15 within the facility and which also contains a common
16 use area, from allowing persons to transport alcoholic
17 beverages within the entire premises, which shall be
18 designated by the ABLE Commission as a common drinking
19 area for the consumption of alcoholic beverages.
20 Provided, further, the property owner and all
21 licensees licensed within the facility or property
22 desiring the entire premises be designated a common
23 drinking area shall notify the ABLE Commission in
24

1 writing of their consent prior to such area being
2 designated a common drinking area; or

3 7. Destroy, damage, alter, remove or conceal potential
4 evidence, or attempt to do so, or refuse to surrender evidence when
5 lawfully requested to do so by an inspector, agent or any other
6 peace officer or incite another person to do any of the above.

7 **SECTION 6. It being immediately necessary for the preservation**
8 **of the public peace, health or safety, an emergency is hereby**
9 **declared to exist, by reason whereof this act shall take effect and**
10 **be in full force from and after its passage and approval.**

11 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
12 March 25, 2024 - DO PASS AS AMENDED
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