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February 19, 2024

By: Coleman

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 6-102, as last amended by Section 8, Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2023, Section 6-102), which relates to prohibited acts of licensees; prohibiting the selling of alcoholic beverages through an automated system; and providing an effective date.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 6-102, as last amended by Section 8, Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2023, Section 6-102), is amended to read as follows:

Section 6-102. A. No licensee of the ABLE Commission shall:

1. Receive, possess or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

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

a. a mixed beverage, beer and wine, caterer, public event, special event, bottle club, retail wine or retail beer licensee may employ servers or sales clerks who are at least eighteen (18) years of age,

1 except persons under twenty-one (21) years of age may
2 not serve in designated bar or lounge areas, and
3 b. a mixed beverage, beer and wine, caterer, public
4 event, special event or bottle club licensee may
5 employ or hire musical bands who have musicians who
6 are under eighteen (18) years of age if each such
7 musician is either accompanied by a parent or legal
8 guardian or has on their person, to be made available
9 for inspection upon demand by any employee of the ABLE
10 Commission or law enforcement officer, a written,
11 notarized affidavit from the parent or legal guardian
12 giving the underage musician permission to perform in
13 designated bar or lounge areas;

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

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

20 a. deliver more than two drinks to one person at one
21 time, except:

22 (1) as provided for serving tasting flights defined
23 in Section 6-102.1 of this title, or
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1 (2) up to six (6) bottles or cans of beer in the
2 original packaging for on-premises consumption
3 may be delivered to one person at one time in a
4 reusable container, including but not limited to
5 a bucket or insulated cooler which may be cooled
6 by ice or another cooling method,

7 b. sell or offer to sell to any person or group of
8 persons any drinks at a price that is less than six
9 percent (6%) below the markup of the cost to the mixed
10 beverage licensee; provided, a mixed beverage licensee
11 shall be permitted to offer these drink specials on
12 any particular hour of any particular day and shall
13 not be required to offer these drink specials for an
14 entire calendar week or from open to close, and shall
15 not be required to offer such drink specials at all
16 venues operating under the same mixed beverage
17 license; provided, a mixed beverage licensee selling
18 wine, beer, or cocktails to-go shall be permitted to
19 offer these to-go drinks at a different price than on-
20 premises drinks,

21 c. sell or offer to sell to any person an unlimited
22 number of drinks during any set period of time for a
23 fixed price, except at private functions not open to
24 the public,

- 1 d. sell or offer to sell drinks to any person or group of
2 persons on any one day or portion thereof at prices
3 less than those charged the general public on that
4 day, except at private functions not open to the
5 public,
- 6 e. increase the volume of alcoholic beverages contained
7 in a drink without increasing proportionately the
8 price regularly charged for such drink during the same
9 calendar week, or
- 10 f. encourage or permit, on the licensed premises, any
11 game or contest which involves drinking or the
12 awarding of drinks as prizes.

13 Provided, that the provisions of this paragraph shall not
14 prohibit the advertising or offering of food, entertainment or
15 bottle service in licensed establishments;

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

18 Provided, this prohibition shall not be applicable to closed
19 original containers of alcoholic beverages which are carried from
20 the licensed premises of a bottle club by a patron, closed original
21 wine containers removed from the premises of restaurants, hotels and
22 motels, or to closed original containers of alcoholic beverages
23 transported to and from the place of business of a licensed caterer
24 by the caterer or an employee of the caterer;

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

3 7. Permit any person to be drunk or intoxicated on the
4 licensee's licensed premises; ~~or~~

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

9 a. the licensee monitors and has the ability to control
10 the dispensing of such beer or wine, or both, from the
11 automated devices. "Automated device" shall mean any
12 mechanized device capable of dispensing wine or beer,
13 or both, directly to a patron in exchange for
14 compensation that a licensee has received directly
15 from the patron, and

16 b. each licensee offering a patron self-pour service of
17 wine or beer, or both, from any automated device shall
18 provide constant video monitoring of the automated
19 device at all times during which the licensee is open
20 to the public. The licensee shall keep recorded
21 footage from the video monitoring for at least sixty
22 (60) days, and shall provide the footage, upon
23 request, to any agent of the Director of the ABLE
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Commission or other authorized law enforcement agent;
or

9. Permit or allow any customer to purchase alcoholic beverages for himself or herself through the use of an on-premises customer-operated, automated, or self-checkout machine.

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

- a. RFID devices may be assigned, used or reactivated only during a business day,
- b. each RFID device shall be obtained from the licensee by a patron,
- c. a licensee shall not issue more than one active RFID device to a patron, and
- d. an RFID device shall be deemed active if the RFID device contains volume credit or has not yet been used to dispense ten (10) ounces of wine or thirty-two (32) ounces of beer.

2. In order to obtain an RFID device from a licensee, each patron shall produce a valid driver license, identification card or

1 other government-issued document that contains a photograph of the
2 individual and demonstrates that the individual is at least twenty-
3 one (21) years of age. Each RFID device shall be programmed to
4 require the production of the patron's valid identification before
5 the RFID device can be used for the first time during any business
6 day or for any subsequent reactivation.

7 3. Each RFID device shall become inactive at the end of each
8 business day.

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

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

15 b. any patron in possession of an inactive RFID device
16 may, upon production of the patron's valid
17 identification to the licensee or licensee's employee,
18 have the RFID device reactivated to allow the
19 dispensing of an additional ten (10) ounces of wine or
20 thirty-two (32) ounces of beer from an automated
21 device.

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

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

5 1. The otherwise prohibited act was committed during the hours
6 of 8 a.m. to midnight on the day of a scheduled home football game
7 of institutions within The Oklahoma State System of Higher
8 Education, and the establishment is located within two thousand
9 (2,000) feet of the institution;

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

15 3. The patron remains on the connected, physical property of
16 the licensee or in a public area adjacent to the physical property
17 of the licensee with prior municipal approval; provided, that
18 written notice of the use of the connected, physical property of the
19 licensee or public area shall be provided to the ABLE Commission at
20 least five (5) days prior to such use.

21 SECTION 2. This act shall become effective November 1, 2024.

22 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
23 February 19, 2024 - DO PASS
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