

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1392

By: Bashore

AS INTRODUCED

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

1 a. a mixed beverage, beer and wine, caterer, public
2 event, special event, bottle club, retail wine or
3 retail beer licensee may employ servers or sales
4 clerks who are at least eighteen (18) years of age,
5 except persons under twenty-one (21) years of age may
6 not serve in designated bar or lounge areas, and

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

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

21 4. Use any of the following means or inducements to stimulate
22 the consumption of alcoholic beverages, including but not limited
23 to:
24

1 a. deliver more than two drinks to one person at one
2 time, except:

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

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

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

- c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public,
- d. sell or offer to sell drinks to any person or group of persons on any one day or portion thereof at prices less than those charged the general public on that day, except at private functions not open to the public,
- e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week, or
- f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

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

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

Provided, this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed original

1 wine containers removed from the premises of restaurants, hotels and
2 motels, or to closed original containers of alcoholic beverages
3 transported to and from the place of business of a licensed caterer
4 by the caterer or an employee of the caterer;

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

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

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

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

20 b. each licensee offering a patron self-pour service of
21 wine or beer, or both, from any automated device shall
22 provide constant video monitoring of the automated
23 device at all times during which the licensee is open
24 to the public. The licensee shall keep recorded

1 footage from the video monitoring for at least sixty
2 (60) days, and shall provide the footage, upon
3 request, to any agent of the Director of the ABLE
4 Commission or other authorized law enforcement agent.

5 B. 1. The compensation required by subparagraph a of paragraph
6 8 of subsection A of this section shall be in the form of a radio
7 frequency identification (RFID) device, mobile application or any
8 other technology approved by the ABLE Commission containing a fixed
9 amount of volume of thirty-two (32) ounces for beer and ten (10)
10 ounces for wine that may be directly exchanged for beer or wine
11 dispensed from the automated device:

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

22 2. In order to obtain an RFID device from a licensee, each
23 patron shall produce a valid driver license, identification card or
24 other government-issued document that contains a photograph of the

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

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

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

- 11 a. once an RFID device has been used to dispense ten (10)
12 ounces of wine or thirty-two (32) ounces of beer to a
13 patron, the RFID device shall become inactive, and
- 14 b. any patron in possession of an inactive RFID device
15 may, upon production of the patron's valid
16 identification to the licensee or licensee's employee,
17 have the RFID device reactivated to allow the
18 dispensing of an additional ten (10) ounces of wine or
19 thirty-two (32) ounces of beer from an automated
20 device.

21 Paragraphs 1, 2, 3 and 4 of this subsection shall not apply to wine
22 or beer that is dispensed directly to the licensee or the licensee's
23 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 written
18 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, 2023.

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