

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2740

By: Duel

6 AS INTRODUCED

7 An Act relating to alcoholic beverages; amending 22
8 O.S. 2021, Section 1261, which relates to seized
9 alcoholic beverages; requiring the Alcoholic Beverage
10 Law Enforcement (ABLE) Commission to store seized
11 alcoholic beverages; amending 37A O.S. 2021, Section
1-107, which relates to the powers and duties of the
ABLE Commission; requiring the ABLE Commission to
store seized alcoholic beverages; and providing an
effective date.

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

15 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1261, is
16 amended to read as follows:

17 Section 1261. In all cases where wines, whiskey, beer or other
18 intoxicating liquors mentioned in the Constitution or laws of this
19 state or any personal property used for the purpose of violating any
20 of the prohibitory liquor laws or gambling laws of this state, shall
21 be seized by any officer or person with or without a search warrant,
22 such officer or person is hereby required within five (5) days to
23 make a written report under oath and file the same with the court
24 clerk of the proper or respective county where the same shall be so

1 seized, which report shall in detail state the name of the officer
2 or person making the seizure, the place where seized and an
3 inventory of the property, articles or intoxicating liquors so taken
4 into possession, and within said five (5) days said person is hereby
5 required to deliver the same to the ~~sheriff of the county~~ Alcoholic
6 Beverage Law Enforcement (ABLE) Commission and take ~~the sheriff's~~
7 ABLE's receipt therefor, in duplicate and ~~such sheriff~~ ABLE shall
8 retain the same and all thereof, until the same shall be destroyed
9 pursuant to the orders of the court. In computing the time, five
10 (5) days, Sundays and holidays shall be excluded and not counted. A
11 duplicate copy of said receipt shall immediately be filed with said
12 court clerk, who shall keep a record of same, provided ~~the sheriff~~
13 ~~and his deputies~~ ABLE shall be required to make the affidavit and
14 issue the receipt and otherwise comply with the provisions of this
15 act. Provided, that all liquors so seized shall be preserved for use
16 as evidence in the trial of any action growing out of such seizure
17 and all officers seizing any such liquors are hereby required to
18 mark the bottles or containers for identification by writing thereon
19 the date of the seizure and the name of the person from whom seized.
20 The sheriff shall be liable on his bond for the safe keeping of all
21 such property so turned over to him under the provisions of this
22 act.

23 SECTION 2. AMENDATORY 37A O.S. 2021, Section 1-107, is
24 amended to read as follows:

1 Section 1-107. A. The ABLE Commission shall have the following
2 powers and duties:

3 1. To supervise, inspect and regulate every phase of the
4 business of manufacturing, importing, exporting, transporting,
5 storing, selling, distributing and possessing for the purpose of
6 sale, all alcoholic beverages which shall be necessary and proper to
7 carry out the purposes of the Oklahoma Alcoholic Beverage Control
8 Act;

9 2. To promulgate rules, in the manner herein provided, to carry
10 out the purposes of the Oklahoma Alcoholic Beverage Control Act;

11 3. To have the sole authority to issue any license provided for
12 in the Oklahoma Alcoholic Beverage Control Act and except as
13 provided in Sections 101 and 102 of this act with respect to cities,
14 towns and counties, and except as may be provided under Title 68 of
15 the Oklahoma Statutes with respect to the Oklahoma Tax Commission,
16 no other agency, instrumentality or political subdivision of this
17 state shall be authorized to issue any license or permit allowing
18 any licensee to engage in any activity covered by the Oklahoma
19 Alcoholic Beverage Control Act anywhere within the State of
20 Oklahoma;

21 4. To refuse to issue any license provided for in the Oklahoma
22 Alcoholic Beverage Control Act for cause provided for in the
23 Oklahoma Alcoholic Beverage Control Act;

1 5. To revoke or suspend, for cause after hearing, any license
2 issued under the authority of the Oklahoma Alcoholic Beverage
3 Control Act;

4 6. To prescribe the forms of all reports which it deems
5 necessary in administering the Oklahoma Alcoholic Beverage Control
6 Act;

7 7. To fix standards not in conflict with those prescribed by
8 any law of this state or of the United States, to secure the use of
9 proper ingredients and methods of manufacture and dispensing of
10 alcoholic beverages;

11 8. To make seizures of alcoholic beverages manufactured, sold,
12 possessed, imported or transported in violation of the Oklahoma
13 Alcoholic Beverage Control Act, and apply for the confiscation
14 thereof whenever required by the Oklahoma Alcoholic Beverage Control
15 Act, and cooperate in the prosecution of offenders before any court
16 of competent jurisdiction;

17 9. To submit to the Governor and members of the State
18 Legislature annual or semiannual reports upon request of the
19 Governor;

20 10. To inspect or cause to be inspected any premises where
21 alcoholic beverages are manufactured, stored, distributed, sold,
22 dispensed or served;

23 11. In the conduct of any hearing authorized to be held by the
24 ABLE Commission:

- a. to examine or cause to be examined, under oath, any person,
- b. to examine or cause to be examined books and records of any licensee,
- c. to hear testimony and take proof material for the ABLE Commission's information and the discharge of its duties hereunder,
- d. to administer or cause to be administered oaths, and
- e. to issue subpoenas for the attendance of witnesses and the production of books or records which shall be effective in any part of the state. Any district court or any judge thereof, either in term or vacation, may by order duly entered require the attendance of witnesses and the production of relevant books or records subpoenaed by the ABLE Commission, and the court or judge may compel obedience to the order by proceedings for contempt;

12. To prescribe the kind and size of retail containers of alcoholic beverages which may be purchased, possessed and sold by a licensee;

13. To prescribe by rule, in addition to those herein required, the kinds of records to be kept and reports to be rendered by licensees, and the information to be shown therein; provided, that

1 the period for which all such records and reports be retained shall
2 not be less than five (5) years;

3 14. To gather, compile and print such statistical data as may
4 in the opinion of the ABLE Commission be needed or useful, and
5 prescribe charges or fees to be collected from any person or company
6 to whom such data shall be provided. No reports shall contain sales
7 information by name or license number;

8 15. To educate persons employed by licensees to sell or serve
9 alcoholic beverages as to the provisions of Article XXVIII A of the
10 Oklahoma Constitution and the Oklahoma Alcoholic Beverage Control
11 Act, with emphasis on recognizing and preventing intoxication and
12 particular emphasis on those provisions prohibiting the selling or
13 serving of alcoholic beverages to minors. The ABLE Commission may
14 contract with one or more entities, including but not limited to the
15 Oklahoma Department of Mental Health and Substance Abuse Services,
16 to perform the duties specified in this paragraph;

17 16. To purchase motor vehicles necessary for use in its
18 operations. Such motor vehicles shall not be required to have any
19 type of identifying marking thereon;

20 17. To purchase insurance on the motor vehicles owned and
21 operated by the ABLE Commission in accordance with statutory
22 provisions, subject to the approval of the Risk Management
23 Administrator as provided for in Section 85.58A of Title 74 of the
24 Oklahoma Statutes;

1 18. To approve or reject any official bond required to be filed
2 with the ABLE Commission; ~~and~~

3 19. To exercise all other powers and duties conferred by the
4 Oklahoma Alcoholic Beverage Control Act, and all powers incidental,
5 convenient or necessary to enable it to administer or carry out any
6 of the provisions of the Oklahoma Alcoholic Beverage Control Act;
7 and

8 20. To store seized alcoholic beverages pursuant to Section
9 1261 of Title 22 of the Oklahoma Statutes.

10 B. The ABLE Commission shall promulgate rules, pursuant to the
11 Administrative Procedures Act, to carry out the purposes of the
12 Oklahoma Alcoholic Beverage Control Act.

13 SECTION 3. This act shall become effective November 1, 2023.

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