

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3076

By: Hays

AS INTRODUCED

An Act relating to alcoholic beverages; 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 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 straw testing; amending 37A O.S. 2021, Section 6-105, as amended by Section 2, Chapter 82, O.S.L. 2022, and Section 6-109 (37A O.S. Supp. 2023, Section 6-105), which relate to prohibited acts; providing for certain license holders to provide alcohol to employees for certain purposes; providing for exception to prohibition of certain employees from consuming alcoholic beverages while on duty; providing certain requirements; providing exemption for straw testing; and declaring an emergency.

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

SECTION 1. AMENDATORY 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), is amended to read as follows:

Section 5-132. A. Except as provided in subsection D of this 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.  
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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 total amount of spirits produced in a single year is no  
4 greater than fifty-three (53) gallons, in which case the annual fee  
5 for registration of any brand label shall be Seventy-five Dollars  
6 (\$75.00). The annual fee for registration of any brand label for  
7 beer shall be Two Hundred Dollars (\$200.00). The annual fee for  
8 registration of any brand label for wine made in the United States,  
9 or for registration of any category of imported wine as defined by  
10 the Tax Commission, shall be Two Hundred Dollars (\$200.00). Beer  
11 manufactured in this state shall be exempt from brand label  
12 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 2. AMENDATORY 37A O.S. 2021, Section 1-103, as  
14 amended by Section 2, Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2023,  
15 Section 1-103), is amended to read as follows:

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

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

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

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

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

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

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

23 7. "Beer distributor" means and includes any person licensed to  
24 distribute beer for retail sale in the state, but does not include a  
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1 holder of a small brewer self-distribution license or brewpub self-  
2 distribution license. The term distributor, as used in the Oklahoma  
3 Alcoholic Beverage Control Act, shall be construed to refer to a  
4 beer distributor;

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

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

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

17 11. "Brand extension" means:

18 a. after October 1, 2018, any brand of beer or cider  
19 introduced by a manufacturer in this state which  
20 either:

21 (1) incorporates all or a substantial part of the  
22 unique features of a preexisting brand of the  
23 same licensed brewer, or  
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- (2) relies to a significant extent on the goodwill associated with the preexisting brand, or
- b. any brand of beer that a brewer, the majority of whose total volume of all brands of beer distributed in this state by such brewer on January 1, 2016, was distributed as low-point beer, desires to sell, introduces, begins selling or theretofore has sold and desires to continue selling a strong beer in this state which either:
- (1) incorporates or incorporated all or a substantial part of the unique features of a preexisting low-point beer brand of the same licensed brewer, or
- (2) relies or relied to a significant extent on the goodwill associated with a preexisting low-point beer brand;

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

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

1       14. "Cider" means any alcoholic beverage obtained by the  
2 alcoholic fermentation of fruit juice, including but not limited to  
3 flavored, sparkling or carbonated cider. For the purposes of the  
4 manufacture of this product, cider may be manufactured by either  
5 manufacturers or brewers. For the purposes of the distribution of  
6 this product, cider may be distributed by either wine and spirits  
7 wholesalers or beer distributors;

8       15. "Club suite" means a designated area within the premises of  
9 a mixed beverage licensee designed to provide an exclusive space  
10 which is limited to a patron or patrons specifically granted access  
11 by a mixed beverage licensee and is not accessible to other patrons  
12 of the mixed beverage licensee or the public. A club suite must  
13 have a clearly designated point of access for a patron or patrons  
14 specifically granted access by the mixed beverage licensee to ensure  
15 that persons present in the suite are limited to patrons  
16 specifically granted access by the mixed beverage licensee and  
17 employees providing services to the club suite;

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

22       17. "Convicted" and "conviction" mean and include a finding of  
23 guilt resulting from a plea of guilty or nolo contendere, the  
24 decision of a court or magistrate or the verdict of a jury,  
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1 irrespective of the pronouncement of judgment or the suspension  
2 thereof;

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

6 19. "Designated wholesaler" means a wine and spirits wholesaler  
7 who has been selected by a manufacturer as a wholesaler appointed to  
8 distribute designated products;

9 20. "Director" means the Director of the ABLE Commission;

10 21. "Distiller" means any person who produces spirits from any  
11 source or substance, or any person who brews or makes mash, wort or  
12 wash, fit for distillation or for the production of spirits (except  
13 a person making or using such material in the authorized production  
14 of wine or beer, or the production of vinegar by fermentation), or  
15 any person who by any process separates alcoholic spirits from any  
16 fermented substance, or any person who, making or keeping mash, wort  
17 or wash, has also in his or her possession or use a still;

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

21 23. "Drug store" means a person primarily engaged in retailing  
22 prescription and nonprescription drugs and medicines;  
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1       24. "Dual-strength beer" means a brand of beer that,  
2 immediately prior to April 15, 2017, was being sold and distributed  
3 in this state:

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

7           b. as strong beer pursuant to the Alcoholic Beverage  
8 Control Act in effect immediately prior to October 1,  
9 2018,

10 and continues to be sold and distributed as such on October 1, 2018.

11 Dual-strength beer does not include a brand of beer that arose as a  
12 result of a brand extension as defined in this section;

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

19       26. "Good cause" means:

20           a. failure by the distributor to comply with the material  
21 and reasonable provisions of a written agreement or  
22 understanding with the brewer, or

23           b. failure by the distributor to comply with the duty of  
24 good faith;  
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1       27. "Good faith" means the duty of each party to any  
2 distributor agreement and all officers, employees or agents thereof  
3 to act with honesty in fact and within reasonable standards of fair  
4 dealing in the trade;

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

9       29. "Hotel" or "motel" means an establishment which is licensed  
10 to sell alcoholic beverages by the individual drink and which  
11 contains guestroom accommodations with respect to which the  
12 predominant relationship existing between the occupants thereof and  
13 the owner or operator of the establishment is that of innkeeper and  
14 guest. For purposes of this section, the existence of other legal  
15 relationships as between some occupants and the owner or operator  
16 thereof shall be immaterial;

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

20       31. "Licensee" means any person holding a license under the  
21 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or  
22 employee of such licensee while in the performance of any act or  
23 duty in connection with the licensed business or on the licensed  
24 premises;

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

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

10       34. "Manufacturer's agent" means a salaried or commissioned  
11 salesperson who is the agent authorized to act on behalf of the  
12 manufacturer or nonresident seller in the state;

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

18       36. "Mini-bar" means a closed container, either refrigerated in  
19 whole or in part, or nonrefrigerated, and access to the interior of  
20 which is:

- 21           a. restricted by means of a locking device which requires  
22               the use of a key, magnetic card or similar device, or  
23           b. controlled at all times by the licensee;
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1        37. "Mixed beverage cooler" means any beverage, by whatever  
2 name designated, consisting of an alcoholic beverage and fruit or  
3 vegetable juice, fruit or vegetable flavorings, dairy products or  
4 carbonated water containing more than one-half of one percent (1/2  
5 of 1%) of alcohol measured by volume but not more than seven percent  
6 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is  
7 packaged in a container not larger than three hundred seventy-five  
8 (375) milliliters. Such term shall include but not be limited to  
9 the beverage popularly known as a "wine cooler";

10       38. "Mixed beverages" means one or more servings of a beverage  
11 composed in whole or part of an alcoholic beverage in a sealed or  
12 unsealed container of any legal size for consumption on the premises  
13 where served or sold by the holder of a mixed beverage, beer and  
14 wine, caterer, public event, charitable event or special event  
15 license;

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

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

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

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

4       43. "Occupation" as used in connection with "occupation tax"  
5 means the sites occupied as the places of business of the  
6 manufacturers, brewers, wholesalers, beer distributors, retailers,  
7 mixed beverage licensees, on-premises beer and wine licensees,  
8 bottle clubs, caterers, public event and special event licensees;

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

11       45. "Package store" means any sole proprietor or partnership  
12 that qualifies to sell wine, beer and/or spirits for off-premises  
13 consumption and that is not a grocery store, convenience store or  
14 drug store, or other retail outlet that is not permitted to sell  
15 wine or beer for off-premises consumption;

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

18       47. "Person" means an individual, any type of partnership,  
19 corporation, association, limited liability company or any  
20 individual involved in the legal structure of any such business  
21 entity;

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

6 a. allowing the presence and consumption of alcoholic  
7 beverages by private parties which are closed to the  
8 general public, or

9 b. allowing the services of a caterer serving alcoholic  
10 beverages provided by a private party.

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

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

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

22 51. "Rectifier" means any person who rectifies, purifies or  
23 refines spirits or wines by any process (other than by original and  
24 continuous distillation, or original and continuous processing, from  
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1 mash, wort, wash or other substance, through continuous closed  
2 vessels and pipes, until the production thereof is complete), and  
3 any person who, without rectifying, purifying or refining spirits,  
4 shall by mixing (except for immediate consumption on the premises  
5 where mixed) such spirits, wine or other liquor with any material,  
6 manufactures any spurious, imitation or compound liquors for sale,  
7 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials  
8 or any other name;

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

11 53. "Restaurant" means an establishment that is licensed to  
12 sell alcoholic beverages by the individual drink for on-premises  
13 consumption and where food is prepared and sold for immediate  
14 consumption on the premises;

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

18 55. "Retailer" means a package store, grocery store,  
19 convenience store or drug store licensed to sell alcoholic beverages  
20 for off-premises consumption pursuant to a Retail Spirits License,  
21 Retail Wine License or Retail Beer License;

22 56. "Sale" means any transfer, exchange or barter in any manner  
23 or by any means whatsoever, and includes and means all sales made by  
24 any person, whether as principal, proprietor or as an agent, servant  
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1 or employee. The term sale is also declared to be and include the  
2 use or consumption in this state of any alcoholic beverage obtained  
3 within or imported from without this state, upon which the excise  
4 tax levied by the Oklahoma Alcoholic Beverage Control Act has not  
5 been paid or exempted;

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

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

17 59. "Small brewer" means a brewer who manufactures less than  
18 sixty-five thousand barrels of beer annually pursuant to a validly  
19 issued Small Brewer License hereunder;

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

23 61. "Small farm winery" means a wine-making establishment that  
24 does not annually produce for sale more than fifteen thousand  
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1 (15,000) gallons of wine as reported on the United States Department  
2 of the Treasury Alcohol and Tobacco Tax and Trade Bureau, Report of  
3 Wine Premises Operations (TTB Form 5120.17);

4 62. "Sparkling wine" means champagne or any artificially  
5 carbonated wine;

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

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

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

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

23 67. "Tax Commission" means the Oklahoma Tax Commission;  
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1       68. "Territory" means a geographic region with a specified  
2 boundary;

3       69. "Wine and spirits wholesaler" or "wine and spirits  
4 distributor" means and includes any sole proprietorship or  
5 partnership licensed to distribute wine and spirits in the state.  
6 The term "wholesaler", as used in the Oklahoma Alcoholic Beverage  
7 Control Act, shall be construed to refer to a wine and spirits  
8 wholesaler;

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

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

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

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

4 Words in the plural include the singular, and vice versa, and  
5 words imparting the masculine gender include the feminine, as well  
6 as persons and licensees as defined in this section.

7 SECTION 3. AMENDATORY 37A O.S. 2021, Section 6-105, as  
8 amended by Section 2, Chapter 82, O.S.L. 2022 (37A O.S. Supp. 2023,  
9 Section 6-105), is amended to read as follows:

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

12 1. Purchase or receive any alcoholic beverage other than from a  
13 person holding a wine and spirit wholesaler or beer distributor  
14 license issued pursuant to the Oklahoma Alcoholic Beverage Control  
15 Act; provided, a mixed beverage or on-premises beer and wine  
16 licensee whose premises are a restaurant may purchase wine produced  
17 at wineries in this state directly from a winemaker as provided in  
18 Section 2 of Article XXVIII A of the Oklahoma Constitution;

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

22 3. Use or allow the use of any mark or label on a container of  
23 alcoholic beverage which is kept for sale which does not clearly and  
24 precisely indicate the nature of the contents or which might deceive  
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1 or conceal the nature, composition, quantity, age or quality of such  
2 beverage;

3 4. Keep or knowingly permit any alcoholic beverage to be kept,  
4 brought or consumed on the licensed premises which is not allowed to  
5 be sold or served upon such premises; provided, alcoholic beverages  
6 may be provided by a wine and spirits wholesaler, beer distributor,  
7 brewer, small brewer, distiller, winemaker, small farm winery,  
8 rectifier, manufacturer, nonresident seller licensees and kept,  
9 brought, or consumed on the licensed premises for educational  
10 training tasting purposes pursuant to Section 6-109 of this title;  
11 or

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

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

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

11 b. to a designated bar area which is a concession stand  
12 serving beer and wine, in addition to food and non-  
13 alcoholic beverages, which concession stand is located  
14 at, in, or on the premises of a sports, music or  
15 entertainment venue, convention center, fairgrounds or  
16 similar facility, or

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

22 SECTION 4. AMENDATORY 37A O.S. 2021, Section 6-109, is  
23 amended to read as follows:  
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1 Section 6-109. No mixed beverage, beer and wine, bottle club,  
2 caterer, charitable event, public event or special event licensee or  
3 any employee, manager, operator or agent thereof shall:

4 1. Consume or be under the influence of alcoholic beverages  
5 during the hours he or she is on duty. For the purposes of this  
6 section, licensees will be deemed to be on duty from the time the  
7 licensee first comes on duty until the time the licensee goes off  
8 duty at the end of the shift including any break periods permitted  
9 by management.

10 This paragraph shall not apply for purposes of employee education  
11 training; provided, all such tastings are conducted on a licensed  
12 premises and under the direct supervision of the licensee. Samples  
13 shall be poured by a licensee who is lawfully permitted to serve  
14 alcoholic beverages in the State of Oklahoma. Tastings shall be  
15 restricted to employees who are twenty-one (21) years of age or  
16 older. Participation in tastings for educational purposes may be  
17 required by an employer; however, the choice to taste or consume  
18 alcoholic beverages shall always be voluntary. No employee may be  
19 required to taste or consume alcohol at tastings as a condition of  
20 employment. An educational tasting of beer may consist of not more  
21 than six (6) separate individual beers of not more than two (2)  
22 ounces each, served together at one time. No employee may sample  
23 more than a total of twelve (12) fluid ounces of beer per day. An  
24 educational tasting of wine may consist of not more than six (6)

1 separate individual wines of not more than one (1) ounce each,  
2 served together at one time. No employee may sample more than a  
3 total of six (6) fluid ounces of wine per day. An educational  
4 tasting of spirits shall consist of not more than three (3) separate  
5 individual spirits of not more than one-half (0.5) ounce each,  
6 served together at one time. No employee may sample more than a  
7 total of one and one-half (1.5) fluid ounces of spirits per day. An  
8 education tasting of a mixed beverage shall consist of not more than  
9 one (1) individual mixed beverage consisting of not more than twelve  
10 (12) ounces of beer, six (6) ounces of wine, or one and one-half  
11 (1.5) ounces of spirits, combined with an unlimited amount of  
12 ingredients that are nonalcoholic in nature, served at one time. No  
13 employee may sample more than a total of twelve (12) ounces of beer,  
14 six (6) ounces of wine, or one and one-half (1.5) ounces of spirits  
15 in a mixed beverage per day. Only one (1) type of alcoholic  
16 beverage (beer, wine, spirits, or mixed beverage) shall be allowed  
17 at any educational training tasting. No combination tasting shall  
18 be allowed. Employees who choose to taste an alcoholic beverage but  
19 do not wish to consume the alcoholic beverage shall be allowed to  
20 spit the beverage in a cup for disposal. Employees may participate  
21 in educational tastings before, during, or after regular business  
22 hours unless otherwise prohibited by law. All licensees serving  
23 samples of beer shall ensure that all samples are poured only from  
24 original sealed packaging; any alcoholic beverages remaining in



1 unsealed packaging used to provide samples, excluding spirits and  
2 wine, are poured out by the end of the day. Not more than six (6)  
3 bottles of alcoholic beverages are unsealed at any given time during  
4 a tasting. No person shall remove any poured samples from the  
5 licensed premises or location where the tasting has occurred. Straw  
6 testing during operating hours shall be permitted.

7 This paragraph shall not apply to any person who works on the  
8 premises as an entertainer only;

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

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

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

20 5. Refuse or fail to promptly open a door to the licensed  
21 premises upon request of an employee of the ABLE Commission or any  
22 other peace officer to enter the premises when the licensee or  
23 employee knows or should know that such request is made by an  
24 employee of the ABLE Commission or a peace officer. This provision

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 also contains a common use  
16 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 5. 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.

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