

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2855

By: Wallace

AS INTRODUCED

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Sections 3-119, 3-120 and 3-121, which relate to business interests and acts prohibited for manufacturers or brewers; modifying language; limiting prohibition to Oklahoma licensed manufacturers or brewers; providing certain exception to ownership interests; prohibiting selling certain products with common ownership interests; and providing an effective date.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 3-119, is amended to read as follows:

Section 3-119. A. It shall be unlawful for any Oklahoma licensed manufacturer, or brewer, or any wine and spirits wholesaler, beer distributor or person authorized to sell alcoholic beverages to a wholesaler, or any employee, officer, director, stockholder owning fifteen percent (15%) or more of the stock, any type of partner, manager, member or agent thereof, to directly or indirectly:

1 1. Have any financial interest in any premises upon which any
2 alcoholic beverage is sold at retail or in any business connected
3 with the retailing of alcoholic beverages; provided, nothing in ~~this~~
4 ~~act~~ the Oklahoma Alcoholic Beverage Control Act shall prohibit the
5 operation of a mixed beverage licensee, beer and wine licensee or
6 caterer licensee by an entity which has common owners with the
7 holder of a small brewer license or a brewpub license;

8 2. Lend any money or other thing of value, or to make any gift
9 or offer any gratuity, to any package store, retail wine, retail
10 beer, mixed beverage, beer and wine, public event or bottle club
11 licensee or caterer;

12 3. Guarantee any loan or the repayment of any financial
13 obligation of any retailer, mixed beverage, beer and wine, public
14 event or bottle club licensee or caterer;

15 4. Require any wine and spirits wholesaler, beer distributor,
16 retailer, mixed beverage, on-premises beer and wine licensee, public
17 event or caterer to purchase and dispose of any quota of alcoholic
18 beverages, or to require any retailer to purchase any kind, type,
19 size, container or brand of alcoholic beverages in order to obtain
20 any other kind, type, size, container or brand of alcoholic
21 beverages;

22 5. Sell to any retailer, mixed beverage, on-premises beer and
23 wine licensee, public event licensee or caterer licensee any
24 alcoholic beverage on consignment, or upon condition, or with the

1 privilege of return, or on any condition other than a bona fide
2 sale; provided, the following shall not be considered a violation of
3 this paragraph:

- 4 a. delivery in good faith, through mistake, inadvertence
5 or oversight, of an alcoholic beverage that was not
6 ordered by a retailer, mixed beverage licensee, on-
7 premises beer and wine licensee, caterer, public event
8 or special event licensee to such licensee,
- 9 b. replacement of product breakage that occurred while
10 the alcoholic beverages were in transit from the
11 wholesaler to the licensee, or
- 12 c. replacement of cork-tainted wine that makes the
13 product unsaleable as long as the licensee notifies
14 the wine and spirits wholesaler of the defect in
15 writing within ninety (90) days after delivery of the
16 product; or

17 6. Extend credit to any retailer, other than holders of Federal
18 Liquor Stamps on United States government reservations and
19 installations, mixed beverage, public event or on-premises beer and
20 wine licensee or caterer licensee, other than a state lodge located
21 in a county which has approved the retail sale of alcoholic
22 beverages by the individual drink for on-premises consumption. The
23 acceptance of a postdated check or draft or the failure to deposit
24 for collection a current check or draft by the second banking day

1 after receipt shall be deemed an extension of credit. Violation of
2 this section shall be grounds for suspension of the license.

3 B. Notwithstanding any statutory provision to the contrary, the
4 holder of a Retail Beer or Retail Wine License who was licensed and
5 permitted to sell low-point beer for off-premises consumption until
6 the passage of State Question 792, Legislative Referendum No. 370,
7 on November 8, 2016, shall not be prohibited from holding an
8 ownership interest in a manufacturer whose products are made outside
9 of this state, provided:

10 1. This right shall only apply to the ownership interests in
11 the manufacturer that were held by the Oklahoma licensed retailer,
12 or its successor in interest, as of November 8, 2016; and

13 2. The Oklahoma licensed retailer that is commonly owned by a
14 manufacturer does not offer for sale at its Oklahoma retail
15 locations any wine or spirits that are made by the commonly owned
16 manufacturer.

17 SECTION 2. AMENDATORY 37A O.S. 2021, Section 3-120, is
18 amended to read as follows:

19 Section 3-120. A. No mixed beverage, beer and wine, caterer,
20 public event or bottle club licensee, partner in any type of
21 partnership, manager or member of a limited liability company,
22 officer, director or stockholder of any corporate licensee owning
23 more than fifteen percent (15%) of the stock shall have any right,
24 title, lien, claim or interest, financial or otherwise in, upon or

1 to the premises, equipment, business or merchandise of any package
2 store, beer distributor, wholesaler, brewer, or Oklahoma licensed
3 manufacturer or wholesaler. The provisions of this section shall
4 not prohibit a person who is an officer or director of a fraternal
5 or veteran's organization which is a tax exempt organization under
6 Section 501(c)(8), (10) or (19) of the Internal Revenue Code and
7 which holds a license issued by the ABLE Commission from having a
8 right, title, lien, claim or interest in the premises, equipment,
9 business or merchandise of a package store.

10 B. Notwithstanding any statutory provision to the contrary, the
11 holder of a Retail Beer or Retail Wine License who was licensed and
12 permitted to sell low-point beer for off-premises consumption until
13 the passage of State Question 792, Legislative Referendum No. 370,
14 on November 8, 2016, shall not be prohibited from holding an
15 ownership interest in a manufacturer whose products are made outside
16 of this state, provided:

17 1. This right shall only apply to the ownership interests in
18 the manufacturer that were held by the Oklahoma licensed retailer,
19 or its successor in interest, as of November 8, 2016; and

20 2. The Oklahoma licensed retailer that is commonly owned by a
21 manufacturer does not offer for sale at its Oklahoma retail
22 locations any wine or spirits that are made by the commonly owned
23 manufacturer.

1 SECTION 3. AMENDATORY 37A O.S. 2021, Section 3-121, is
2 amended to read as follows:

3 Section 3-121. A. No Oklahoma licensed manufacturer, or
4 brewer, or any wine and spirits wholesaler, beer distributor,
5 partner in any type of partnership, manager or member of a limited
6 liability company, or officer, director or stockholder of any
7 nonresident seller, brewer, or manufacturer licensee, owning more
8 than fifteen percent (15%) of the stock shall have any right, title,
9 claim or interest, financial or otherwise in, upon or to the
10 premises, equipment, business or merchandise of any mixed beverage,
11 beer and wine, caterer, public event or bottle club licensee.

12 B. Notwithstanding any statutory provision to the contrary, the
13 holder of a Retail Beer or Retail Wine License who was licensed and
14 permitted to sell low-point beer for off-premises consumption until
15 the passage of State Question 792, Legislative Referendum No. 370,
16 on November 8, 2016, shall not be prohibited from holding an
17 ownership interest in a manufacturer whose products are made outside
18 of this state, provided:

19 1. This right shall only apply to the ownership interests in
20 the manufacturer that were held by the Oklahoma licensed retailer,
21 or its successor in interest, as of November 8, 2016; and

22 2. The Oklahoma licensed retailer that is commonly owned by a
23 manufacturer does not offer for sale at its Oklahoma retail
24

1 locations any wine or spirits that are made by the commonly owned
2 manufacturer.

3 SECTION 4. This act shall become effective November 1, 2023.

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