

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 8

By: Garvin

AS INTRODUCED

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Sections 2-102, as amended by Section 1, Chapter 396, O.S.L. 2021, 2-103, 2-104, and 2-131, which relate to brewer, winemaker, distillery, and small farm winery licenses; allowing certain license holders to host off-site events under certain conditions; authorizing the ABLE Commission to permit certain license holders to host off-site events following application; requiring licensees to sell only the products covered by licenses; providing details of application; allowing Commission to assess fee; updating statutory language; repealing 37A O.S. 2021, Section 2-102, as amended by Section 1, Chapter 226, O.S.L. 2019; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-102, as amended by Section 1, Chapter 396, O.S.L. 2021, is amended to read as follows:

Section 2-102. A. A brewer license shall authorize the holder thereof:

1 1. To manufacture, bottle, package and store beer and cider on
2 the licensed premises; ~~and~~

3 2. To sell beer and cider in this state to holders of beer
4 distributor licenses and to sell beer and cider out of this state to
5 qualified persons; and

6 3. To host off-site events pursuant to Section 5 of this act.

7 B. A small brewer license shall authorize the holder thereof:

8 1. To manufacture, bottle, package and store beer and cider
9 produced by the licensee on licensed premises;

10 2. To sell beer and cider in this state to holders of beer
11 distributor licenses and retail licenses or to sell beer out of this
12 state to qualified persons;

13 3. To serve free samples of beer and cider produced by the
14 licensee to visitors twenty-one (21) years of age or older;

15 4. To sell beer and cider produced by the licensee for either
16 on-premises or off-premises consumption to consumers on the brewery
17 premises, or on premises located contiguous thereto;

18 5. To sell beer and cider at public events such as trade shows
19 or festivals;

20 6. To purchase wine in retail containers from the holder of a
21 wholesaler license or as specifically provided by law; ~~and~~

22 7. To sell, offer for sale and possess wine for on-premises
23 consumption; and

24 8. To host off-site events pursuant to Section 5 of this act.

1 C. The holder of multiple small brewer licenses may sell beer
2 produced at up to three breweries for which the licensee has a
3 license, at any other of such three licensed breweries or on
4 premises located contiguous thereto.

5 D. Nothing in the Oklahoma Alcoholic Beverage Control Act shall
6 prohibit the holder of a small brewer license from also holding or
7 owning an interest in the holder of a brewpub license.

8 E. For purposes of this section, no visitor may sample more
9 than a total of twelve (12) fluid ounces of beer and cider per day.
10 The brewer must restrict the distribution ~~and consumption~~ of beer
11 and cider samples to an area within the licensed premises ~~designated~~
12 ~~by the brewer~~ as defined in this subsection. A current floor plan
13 that includes the designated ~~sampling~~ serving area must be on file
14 with the ABLE Commission. No visitor under twenty-one (21) years of
15 age shall be permitted to enter this designated ~~sampling~~ serving
16 area ~~when samples are being distributed or consumed~~. Accompanied
17 visitors under twenty-one (21) years of age shall be allowed
18 anywhere on the premises except for a serving area. Samples of beer
19 and cider served by a brewery under this section shall not be
20 considered a sale of beer and cider within the meaning of Article
21 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
22 title; however, such samples of beer and cider shall be considered
23 beer and cider removed or withdrawn from the brewery for use or
24 consumption within the meaning of Section 5-110 of this title for

1 excise tax determination and reporting requirements. Sales and
2 sampling may only occur between the hours of 10:00 a.m. and 2:00
3 a.m. For purposes of this subsection, "serving area" means the area
4 of the bar where drinks are sold, prepared, and served to paying
5 customers and shall not include other areas of the brewery where
6 customers consume purchased products.

7 F. A small brewer self-distribution license shall authorize
8 holders of a small brewer license to distribute beer and cider
9 produced only by such licensee to a holder of a retail beer license,
10 retail spirits license, mixed beverage license, beer and wine
11 license, caterer's license, special event license, public event
12 license, winemaker license, charitable auction license or brewpub
13 license. A small brewer shall elect whether it will distribute
14 through a distributor or self-distribute in a subject territory;
15 however, a small brewer may not elect to do both simultaneously in a
16 subject territory. The election shall be made through notice to the
17 ABLE Commission. Any changes to the election shall require
18 immediate notification to the ABLE Commission before the change in
19 election will take effect. A small brewer that elects to self-
20 distribute in multiple territories shall only be required to have
21 one small brewer self-distribution license.

22 G. All manufacturer's licenses held by brewers during the first
23 calendar year beginning October 1, 2018, shall automatically convert
24 to brewer licenses and be deemed effective as of the date of the

1 first issuance of the manufacturer's license. Upon the first
2 renewal of the license, the brewer will need to obtain the
3 appropriate brewer's license. If a brewer elects to market wine and
4 spirits, the brewer will also be required to obtain a manufacturer's
5 license and comply with the rules and regulations for both licenses.

6 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-103, is
7 amended to read as follows:

8 Section 2-103. A. A distiller license shall authorize the
9 holder thereof:

10 1. To manufacture, bottle, package and store spirits on
11 licensed premises;

12 2. To sell spirits in this state to licensed wholesalers and
13 manufacturers only;

14 3. To sell spirits out of this state to qualified persons; to
15 purchase from licensed distillers and rectifiers in this state, and
16 import spirits from without this state for manufacturing purposes in
17 accordance with federal laws and regulations;

18 4. To serve free samples of spirits produced only by the
19 licensee to visitors twenty-one (21) years of age and older. For
20 purposes of this section, no visitor may sample more than a total of
21 three (3) fluid ounces of spirits per day. The distiller shall
22 restrict the distribution and consumption of spirits samples to an
23 area within the licensed premises designated by the distiller. A
24 current floor plan that includes the designated sampling area shall

1 be on file with the ABLE Commission. No visitor under twenty-one
2 (21) years of age shall be permitted to enter the designated
3 sampling area when samples are being distributed and consumed.
4 Samples of spirits served by a distiller under this section shall
5 not be considered a sale of spirits within the meaning of Article
6 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
7 title; provided, such samples of spirits shall be considered removed
8 or withdrawn from the distillery for use or consumption within the
9 meaning of Section 5-110 of this title for excise tax determination
10 and reporting requirements;

11 5. To sell spirits produced by the licensee for either on-
12 premises or off-premises consumption to consumers on the licensed
13 distillery premises or in an area controlled by the licensee located
14 contiguous to the licensed distillery premises. Product offered for
15 sale by the Oklahoma licensed distiller will have been sold to and
16 shipped to an Oklahoma licensed wine and spirits wholesaler and then
17 made available for purchase by the Oklahoma licensed distiller for
18 sale; ~~and~~

19 6. To sell spirits at public events such as trade shows or
20 festivals. Products offered for sale by the Oklahoma licensed
21 distiller will have been sold to and shipped to an Oklahoma licensed
22 wine and spirits wholesaler and then made available for purchase by
23 the Oklahoma licensed distiller; and

1 7. To host off-site events pursuant to Section 5 of this act;
2 provided, that products offered for sale by the Oklahoma licensed
3 distiller will have been sold to and shipped to an Oklahoma licensed
4 wine and spirits wholesaler and then made available for purchase by
5 the Oklahoma licensed distiller.

6 B. Spirits sold pursuant to paragraphs 5 and 6 of subsection A
7 of this section shall not exceed fifteen thousand (15,000) gallons
8 per calendar year in combination.

9 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-104, is
10 amended to read as follows:

11 Section 2-104. A winemaker license shall authorize the holder
12 thereof:

13 1. To manufacture (including such mixing, blending and cellar
14 treatment as authorized by federal law), bottle, package and store
15 on licensed premises wine containing not more than twenty-four
16 percent (24%) alcohol by volume; ~~7;~~ provided, the bottle or package
17 sizes authorized shall be limited to the capacities approved by the
18 United States Alcohol and Tobacco Tax and Trade Bureau;

19 2. To sell wine in this state to licensed wholesalers and
20 manufacturers;

21 3. To sell wine produced at the winery from grapes and other
22 fruits and berries grown in this state, if available, for either on-
23 premises or off-premises consumption to consumers on the premises of
24 the winery;

1 4. To serve free samples of wine produced at the winery to
2 visitors twenty-one (21) years of age and older. For purposes of
3 this section, no visitor may sample more than a total of six (6)
4 fluid ounces of wine per day. The winery shall restrict the
5 distribution and consumption of wine samples to an area within the
6 licensed premises designated by the winery. A current floor plan
7 that includes the designated sampling area shall be on file with the
8 ABLE Commission. No visitor under twenty-one (21) years of age
9 shall be permitted to enter the designated sampling area when
10 samples are being distributed and consumed. Samples of wine served
11 by a winery under this section shall not be considered a sale of
12 wine within the meaning of Article XXVIII-A of the Oklahoma
13 Constitution or Section 1-103 of this title; provided, such samples
14 of wine shall be considered removed or withdrawn from the winery for
15 use or consumption within the meaning of Section 5-110 of this title
16 for excise tax determination and reporting requirements;

17 5. To serve free samples of wine produced at the winery at
18 public events such as festivals and trade shows;

19 6. To sell wine produced at the winery, for either on-premises
20 or off-premises consumption at public events such as festivals and
21 trade shows;

22 7. To sell wine out of this state to qualified persons;

23 8. To purchase from licensed winemakers, distillers and
24 rectifiers in this state, and to import into this state wine, brandy
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1 and fruit spirits for use in manufacturing in accordance with
2 federal laws and regulations;

3 9. To sell and serve Oklahoma-manufactured wine, mulled wine,
4 or spiced wine, mixed with nonalcoholic beverages or food items such
5 as water, sugar, fruits and vegetables, at any temperature for
6 either on-premises or off-premises consumption;

7 10. To purchase beer in retail containers from the holder of a
8 wholesaler, beer distributor, small brewer self-distributor or
9 brewpub self-distributor license or as specifically provided by law;

10 11. To sell, offer for sale and possess beer for on-premises
11 consumption; ~~and~~

12 12. To establish satellite tasting rooms as defined and
13 authorized in this act where the winemaker's products may be tasted,
14 sampled, sold and served for on-premises consumption and the
15 winemaker is permitted to sell its products in sealed containers;
16 provided, the small farm winery license or winemaker license is
17 active and in good standing. The wine sold at a satellite tasting
18 room must have been produced/manufactured by the holder of a small
19 farm winery license or winemaker license and must have all
20 manufacturing taxes paid; and

21 13. To host off-site events pursuant to Section 5 of this act.

22 SECTION 4. AMENDATORY 37A O.S. 2021, Section 2-131, is
23 amended to read as follows:
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1 Section 2-131. A. A small farm winery license shall authorize
2 the holder thereof:

3 1. To manufacture and bottle wines produced by that small farm
4 winery;

5 2. To bottle and sell wines produced by another small farm
6 winery. In order for a small farm winery to bottle and sell another
7 small farm winery's products, both the selling winery and the buying
8 winery shall be small farm winery permit holders;

9 3. To establish satellite tasting rooms as defined and
10 authorized in this act where the winemaker's products may be tasted,
11 sampled, sold and served for on-premises consumption and the
12 winemaker is permitted to sell its products in sealed containers;
13 provided, the small farm winery license is active and in good
14 standing. The wine sold at a satellite tasting room must have been
15 produced/manufactured by the holder of a small farm winery license
16 and must have all manufacturing taxes paid; ~~and~~

17 4. To host off-site events pursuant to Section 5 of this act;
18 and

19 5. The small farm winery licensee shall have the same authority
20 as the winemaker licensee.

21 B. A small farm wine may display the trademarked "Oklahoma
22 Grown" sticker available from the Oklahoma Grape Industry Council.
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1 SECTION 5. NEW LAW

2 A new section of law to be codified
3 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there
4 is created a duplication in numbering, reads as follows:

5 A. A brewer, small brewer, winemaker, distiller, or small farm
6 winery licensee shall be authorized to host an off-site event
7 following the submission and approval of an application to the ABLE
8 Commission. The licensee shall only be authorized to sell for
9 consumption at the off-site event alcoholic beverages authorized for
10 sale under the licensee's respective license. The licensee shall be
11 limited to hosting four (4) off-site events per year.

12 B. The application shall include, but not be limited to, the
13 location of the off-site event with a designated area within the
14 location designed to provide an exclusive space which may be limited
15 to the public and a designated point of access for a patron or
16 patrons specifically granted access to ensure that persons present
17 in the designated area are above twenty-one (21) years of age. The
18 Commission may prescribe a filing fee for each off-site event
19 application not to exceed Twenty-five Dollars (\$25.00).

20 C. The ABLE Commission shall promulgate rules necessary for the
21 implementation of this section.

22 SECTION 6. REPEALER

23 37A O.S. 2021, Section 2-102, as
24 amended by Section 1, Chapter 226, O.S.L. 2019, is hereby repealed.

25 SECTION 7.

 It being immediately necessary for the preservation
of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
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