

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 60th Legislature (2025)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1032

By: Howard of the Senate

and

Hays of the House

7
8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to alcoholic beverages; defining
12 terms; making certain actions by an employee not
13 attributable to licensed establishments; providing an
14 affirmative defense under certain circumstances;
15 requiring licensed establishments to present certain
16 information when asserting the affirmative defense;
17 attributing certain actions by an employee to the
18 licensed establishment; creating a rebuttable
19 presumption that a licensed establishment has
20 indirectly encouraged violations of the law by
21 employees; authorizing the ABLE Commission to present
22 evidence to establish a rebuttable presumption;
23 stating which party has the burden of persuasion;
24 providing construing provision; providing for
 codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6-130 of Title 37A, unless there
is created a duplication in numbering, reads as follows:

As used in this section:

1. "Employee" means any person paid by an establishment licensed by the Alcoholic Beverage Laws Enforcement (ABLE) Commission to sell, serve, dispense, or deliver alcoholic beverages or to immediately manage, direct, supervise, or control the sale or service of alcoholic beverages; and

2. "Seller-server training certificate" means a certificate granted for completing an Oklahoma seller-server certification course recognized by the ABLE Commission.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-130.1 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Certain actions of an employee are not attributable to an establishment licensed by the Alcoholic Beverage Laws Enforcement (ABLE) Commission and shall be an affirmative defense to such liability when such licensed establishment receives a notice of violation for certain actions of an employee.

B. The following actions of an employee of a licensed establishment are not attributable to the licensed establishment:

1. The selling, furnishing, or giving of an alcoholic beverage to:

- a. a person who is insane or mentally deficient,
- b. a minor, or
- c. an intoxicated person; or

1 2. Allowing the consumption of an alcoholic beverage by:

2 a. a person who is insane or mentally deficient,

3 b. a minor, or

4 c. an intoxicated person.

5 C. A licensed establishment may assert the affirmative defense
6 if the licensed establishment:

7 1. Required all employees to maintain a currently valid
8 employee license from the ABLE Commission;

9 2. Required each employee to present a seller-server training
10 certificate within fourteen (14) days of his or her initial
11 employment date, unless the employee is deemed exempt by an existing
12 statute and required each employee to attend a seller-server
13 training course every two (2) years upon renewal of the employee
14 license and attend a seller-server training course every two (2)
15 years after the initial employment date, unless an employee is
16 exempt pursuant to Section 2-121 of Title 37A of the Oklahoma
17 Statutes;

18 3. Adopted written policies and procedures which prohibit:

19 a. the sale, service, dispensation, or delivery of an
20 alcoholic beverage to:

21 (1) a person who is insane or mentally deficient,

22 (2) a minor, or

23 (3) an intoxicated person, or
24

b. the employee from allowing consumption of an alcoholic beverage by:

- (1) a person who is insane or mentally deficient,
- (2) a minor, or
- (3) an intoxicated person; and

4. Ensured that all employees have read and understood the required policies as provided in paragraph 3 of this subsection by having an acknowledgment of understanding by the employee in writing. Such acknowledgment shall be kept for record by the licensed establishment for at least one (1) year after the date the employee was terminated.

D. A licensed establishment asserting the affirmative defense under this act shall provide to the ABLE Commission, not later than ten (10) days after receipt of an administrative notice of violation, an affidavit indicating that the licensed establishment was in compliance with the requirements of this act at the time of the violation for which the administrative notice was issued, which shall include a copy of the valid employee license held by the employee who committed the alleged violation, a copy of the current training certificate held by that employee, and a signed copy of acknowledgment of receipt of policies by the employee. At a hearing in which the licensed establishment asserts the affirmative defense created by this act, the licensed establishment may be required to present additional evidence to support such defense.

1 E. When an employee does not possess a currently valid employee
2 license from the ABLE Commission, the action of the employee shall
3 be attributable to the licensed establishment.

4 F. Proof by the ABLE Commission that an employee performed an
5 action described in this act on three or more occasions within a
6 twelve-month period shall create a rebuttable presumption that a
7 licensed establishment has indirectly encouraged a violation of the
8 law pursuant to this act. The rebuttable presumption is created
9 regardless of whether the employee performing the action described
10 in this subsection on a second or subsequent occasion is the same
11 employee who performed the initial action. Proof of violation shall
12 be demonstrated by:

13 1. Producing final orders issued by the ABLE Commission or a
14 court of competent jurisdiction finding that the licensed
15 establishment violated this act on two previous occasions; and

16 2. Establishing a prima facie case that an employee of the
17 licensed establishment violated this act on a third or subsequent
18 occasion.

19 G. Proof of violation of this act shall be for the same type of
20 offense and shall have occurred within a twelve-month period, as
21 calculated from the dates the incidents occurred.

22 H. At a hearing in which the licensed establishment asserts the
23 affirmative defense established in this act, the ABLE Commission may
24 present evidence to establish a rebuttable presumption under this

1 act. If the evidence is sufficient to establish a prima facie case,
2 the burden of persuasion in the proceeding shifts to the licensed
3 establishment to show that it has not indirectly encouraged a
4 violation of the law within the meaning of this act.

5 I. Nothing in this act shall be construed to establish
6 exclusive means by which the ABLE Commission may establish that a
7 licensed establishment has indirectly encouraged a violation of this
8 act.

9 SECTION 3. This act shall become effective November 1, 2025.

10

11 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
12 OVERSIGHT, dated 04/23/2025 - DO PASS, As Amended.

13

14

15

16

17

18

19

20

21

22

23

24

25