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April 17, 2025

ENGROSSED HOUSE
BILL NO. 1367

By: Hays of the House

and

Howard of the Senate

An Act relating to alcoholic beverages; defining terms; making certain actions by an employee not attributable to licensed establishments; providing an affirmative defense under certain circumstances; requiring licensed establishments to present certain information when asserting the affirmative defense; attributing certain actions by an employee to the licensed establishment; creating a rebuttable presumption that a licensed establishment has indirectly encouraged violations of the law by employees; authorizing the ABLE Commission to present evidence to establish a rebuttable presumption; stating which party has the burden of persuasion; 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)

1 Commission to sell, serve, dispense, or deliver alcoholic beverages
2 or to immediately manage, direct, supervise, or control the sale or
3 service of alcoholic beverages; and

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

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

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

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

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

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

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

- 23 a. a person who is insane or mentally deficient,
- 24 b. a minor, or

1 c. an intoxicated person.

2 C. A licensed establishment may assert the affirmative defense
3 if the license establishment:

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

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

14 3. Adopted written policies and procedures which prohibit:

15 a. the sale, service, dispensation, or delivery of an
16 alcoholic beverage to:

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

18 (2) a minor, or

19 (3) an intoxicated person, or

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

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

23 (2) a minor, or

24 (3) an intoxicated person; and

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

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

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

23 F. Proof by the ABLE Commission that an employee performed an
24 action described in this act on three or more occasions within a

1 twelve-month period shall create a rebuttable presumption that a
2 licensed establishment has indirectly encouraged a violation of the
3 law pursuant to this act. The rebuttable presumption is created
4 regardless of whether the employee performing the action described
5 in this subsection on a second or subsequent occasion is the same
6 employee who performed the initial action. Proof of violation shall
7 be demonstrated by:

8 1. Producing final orders issued by the ABLE Commission or a
9 court of competent jurisdiction finding that the licensed
10 establishment violated this act on two past occasions; and

11 2. Establishing a prima facie case that an employee of the
12 licensed establishment violated this act on a third or subsequent
13 occasion.

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

17 H. At a hearing in which the licensed establishment asserts the
18 affirmative defense established in this act, the ABLE Commission may
19 present evidence to establish a rebuttable presumption under this
20 act. If the evidence is sufficient to establish a prima facie case,
21 the burden of persuasion in the proceeding shifts to the licensed
22 establishment to show that it has not indirectly encouraged a
23 violation of the law within the meaning of this act.

1 I. Nothing in this act shall be construed to establish
2 exclusive means by which the ABLE Commission may establish that a
3 licensed establishment has indirectly encouraged a violation of this
4 act.

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

6 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND INSURANCE
7 April 17, 2025 - DO PASS
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