

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 950

6 By: Rosino and Murdock

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to alcoholic beverages; amending 37A
10 O.S. 2021, Sections 3-118 and 3-123, as amended by
11 Section 3, Chapter 94, O.S.L. 2023 (37A O.S. Supp.
12 2024, Section 3-123), which relates to retail sales
13 of alcoholic beverages and the sale of alcoholic
14 beverages to wholesalers, beer distributors, or
15 retailers; prohibiting alcoholic beverages from being
16 sold for less than a certain amount; updating
17 statutory language; and providing an effective date.

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

19 SECTION 1. AMENDATORY 37A O.S. 2021, Section 3-118, is
20 amended to read as follows:

21 Section 3-118. No alcoholic beverages intended for ~~off-premise~~
22 off-premises or ~~on-premise~~ on-premises consumption shall be sold at
23 retail for less than a six percent (6%) markup, unless the sale
24 meets one or more of the following conditions:

1 1. Where seasonable merchandise is sold in bona fide clearance
2 sales, if advertised, marked and sold as such;

3 2. Where merchandise is imperfect or damaged or is being
4 discontinued and is advertised, marked and sold as such;

5 3. Where merchandise is sold upon the final liquidation of any
6 business;

7 4. Where merchandise is sold for charitable purposes or to
8 relief agencies;

9 5. Where merchandise is sold on contract to departments of the
10 government or governmental institutions;

11 6. Where merchandise is sold by any officer acting under the
12 order or direction of any court; or

13 7. Where merchandise is sold at any bona fide auction sale.

14 SECTION 2. AMENDATORY 37A O.S. 2021, Section 3-123, as
15 amended by Section 3, Chapter 94, O.S.L. 2023 (37A O.S. Supp. 2024,
16 Section 3-123), is amended to read as follows:

17 Section 3-123. A. It shall be unlawful for any person
18 privileged to sell alcoholic beverages to wholesalers, beer
19 distributors or retailers:

20 1. To discriminate, directly or indirectly, in price between
21 one wine and spirits wholesaler and another wine and spirits
22 wholesaler, when that manufacturer has not designated a single wine
23 and spirits wholesaler, or between one retailer and another retailer

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1 purchasing alcoholic beverages bearing the same brand or trade name
2 and of like age and quality, unless otherwise provided by law; or

3 2. To grant, directly or indirectly, any discount, rebate, free
4 goods, allowance or other inducement.

5 B. The ~~ABLE~~ Alcoholic Beverage Laws Enforcement (ABLE)

6 Commission is hereby authorized to promulgate rules which are
7 necessary to carry out the purpose of this section and to prevent
8 its circumvention by the offering or giving of any rebate,
9 allowance, free goods, discount or any other thing or service of
10 value; provided, the posting or invoicing of charges per order for
11 processing minimum orders or per case for the handling or repacking
12 of goods by wine and spirits wholesalers and beer distributors for
13 sales in less than full case lots shall not constitute a violation
14 of this section.

15 C. For the violation of any provision of this section or of any
16 rule duly promulgated under this section, the ABLE Commission may
17 issue a written warning, issue a fine, or suspend or revoke a
18 license as follows:

19 1. For a first offense, a written warning which may be
20 accompanied by a fine not to exceed Five Thousand Dollars
21 (\$5,000.00);

22 2. For a second offense, not exceeding ten (10) days'
23 suspension of license; and
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1 3. For a third offense, the ABLE Commission shall revoke the
2 license.

3 Provided, however, prior to suspending or revoking a license,
4 the ABLE Commission shall first provide written notice to a licensee
5 of the violation and a period of ninety (90) days following such
6 notice to cure or remedy such violation. For purposes of this
7 section, a "second offense" and "third offense" shall mean
8 violations that are related to or arising out of and occurring
9 within twelve (12) months of the ~~"first offense"~~ first offense.

10 D. For purposes of this section, and except as otherwise
11 provided in subsection E of this section, "inducement" means
12 directly or indirectly offering, selling, trading, giving or
13 furnishing any discount, free goods, electronic or nonelectronic
14 refrigerated equipment, barrels, tubs, fixtures, dispensing
15 equipment, outdoor electric or nonelectric advertising structure
16 displaying the retailer's name, permanent shelving, supplies, gifts,
17 prizes, instantly redeemable coupons, premiums, retailer rebates,
18 services of any employee including, but not limited to, affixing
19 price labels or tags, routinely stocking product on shelves other
20 than the stocking of cold boxes, paying a third party for entering
21 product and price information into a retailer's computer system,
22 portal, website, spreadsheet or third-party system, handling product
23 that was not sold to the retailer by the licensee, paying a slotting
24 fee, selling on consignment, operating a retailer's cash register,

1 conducting janitorial services, providing decorations, samples of
2 alcoholic beverages, personal property or other inducement or thing
3 of value to any retail spirit, retail beer, retail wine, beer and
4 wine, mixed beverage, caterer, bottle club or special event
5 licensee, wine and spirits wholesaler or beer distributor, their
6 agents or employees.

7 E. It shall not be deemed an inducement for a brewer, beer
8 distributor, small brewer self-distributor or brewpub self-
9 distributor to voluntarily take the following merchandising actions
10 with the permission of the retail licensee:

11 1. Furnish ~~point-of-sale~~ point of sale advertising materials
12 and consumer advertising specialties, as those terms are defined in
13 27 C.F.R., Section 6.84 and in compliance with the other limits and
14 restrictions provided in 27 C.F.R., Section 6.84;

15 2. Give or sell product displays, including, but not limited
16 to, barrels and tubs, provided that the value of such displays does
17 not exceed the limits and restrictions provided in 27 C.F.R.,
18 Section 6.83;

19 3. Build product displays, accessible to the customer for the
20 product being delivered by the beer distributor;

21 4. Affix pricing to the shelf strip or product display for the
22 product being delivered by the beer distributor, small brewer self-
23 distributor or brewpub self-distributor, or brewed by the brewer;

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1 5. Routinely stock and restock shelves and cold boxes and
2 rotate product that has been sold to the retail licensee by the beer
3 distributor, small brewer self-distributor or brewpub self-
4 distributor, or brewed by the brewer;

5 6. Periodically perform product resets, with permission of the
6 retail licensee, pursuant to a provided shelf plan or shelf
7 schematic;

8 7. Furnish things of value to a temporary retailer, as defined
9 in 27 C.F.R., Section 6.85;

10 8. Sell equipment or supplies to a retail licensee, provided
11 the equipment or supplies are sold at a price not less than the cost
12 to the industry member and payment is collected within thirty (30)
13 days of the sale;

14 9. Install dispensing accessories at the retail location, as
15 long as the retailer bears the cost of installation including
16 equipment; or furnish, give or sell coil cleaning services to a
17 retailer;

18 10. Withdraw quantities of beer or cider in undamaged, original
19 packaging from the retail licensee's stock, provided the beer
20 distributor, small brewer self-distributor, brewpub self-distributor
21 or brewer sold such beer, directly or indirectly, to the retail
22 licensee and such removal is otherwise permitted under Section 3-115
23 of this title; provided, however, replacing with beer or cider of
24 equivalent value shall not be considered a consignment sale;

1 11. Provide mail-in rebates for beer, cider and nonalcoholic
2 beverage merchandise items, funded by the brewer and redeemed by the
3 brewer, either by itself or through a third-party fulfillment
4 company, for a discount or rebate on the beer, cider or nonalcoholic
5 item;

6 12. Provide a recommended shelf plan or shelf schematic to a
7 retail licensee for all or any portion of the inventory sold by the
8 retail licensee;

9 13. Furnish or give a sample of beer or cider to a retailer who
10 has not purchased the brand from that brewer, beer distributor,
11 small brewer self-distributor or brewpub self-distributor within the
12 last twelve (12) months, provided that the brewer, beer distributor,
13 small brewer self-distributor or brewpub self-distributor may not
14 give more than thirty-six (36) ounces of any brand of beer or cider
15 to a specific retailer;

16 14. Furnish or give newspaper cuts, mats or engraved blocks for
17 use in retailers' advertisements;

18 15. Package and distribute beer or cider in combination with
19 other nonalcoholic items for sale to consumers;

20 16. Give or sponsor educational seminars for employees of
21 retailers either at the brewer, beer distributor, small brewer self-
22 distributor or brewpub self-distributor's premises or at the
23 retailer's establishment, including seminars dealing with use of a
24 retailer's equipment, training seminars for employees of retailers

1 or tours of the brewer, beer distributor, small brewer self-
2 distributor, or brewpub self-distributor's plant premises, provided
3 that the brewer, beer distributor, small brewer self-distributor or
4 brewpub self-distributor shall not pay the retailer for the
5 employees' travel, lodging or other expenses in conjunction with an
6 educational seminar but may provide nominal hospitality during the
7 event;

8 17. Conduct tasting or sampling activities at a retail
9 establishment and purchase the products to be used from the retailer
10 so long as the purchase price paid does not exceed the ordinary
11 retail price; provided, a beer distributor shall not be required to
12 provide labor for such sampling activities;

13 18. Offer contest prizes, premium offers, refunds and like
14 items directly to consumers so long as officers, employees and
15 representatives of brewers, beer distributors, small brewer self-
16 distributors, brewpub self-distributors and licensed retailers are
17 excluded from participation;

18 19. List the names and addresses of two or more unaffiliated
19 retailers selling the products of a brewer, beer distributor, small
20 brewer, small brewer self-distributor or brewpub self-distributor in
21 an advertisement of such brewer, beer distributor, small brewer,
22 small brewer self-distributor or brewpub self-distributor so long as
23 the requirements of 27 C.F.R., Section 6.98 are satisfied,
24 considering applicable guidance issued by the United States

1 Department of the Treasury Alcohol and Tobacco Tax and Trade Bureau;
2 provided, nothing in the Oklahoma Alcoholic Beverage Control Act
3 shall prohibit a retail, mixed beverage, on-premises beer and wine,
4 public event, special event, charitable auction, charitable
5 alcoholic beverage event, or complimentary beverage licensee from
6 communicating with a brewer, beer distributor, small brewer, small
7 brewer self-distributor or brewpub self-distributor on social media
8 or sharing media on the social media page or site of a brewer, beer
9 distributor, small brewer, small brewer self-distributor or brewpub
10 self-distributor. A retail, mixed beverage, on-premises beer and
11 wine, public event, special event, charitable auction, charitable
12 alcoholic beverage event, or complimentary beverage licensee may
13 request free social media advertising from a brewer, beer
14 distributor, small brewer, small brewer self-distributor or brewpub
15 self-distributor; provided, nothing in this section shall prohibit a
16 brewer, beer distributor, small brewer, small brewer self-
17 distributor or brewpub self-distributor from sharing, reposting or
18 forwarding a social media post by a retail, mixed beverage, on-
19 premises beer and wine, public event, special event, charitable
20 auction, charitable alcoholic beverage event, or complimentary
21 beverage licensee, as long as the sharing, reposting or forwarding
22 of the social media post does not contain the retail price of any
23 alcoholic beverage. No brewer, beer distributor, small brewer,
24 small brewer self-distributor or brewpub self-distributor shall pay

1 or reimburse a retail, mixed beverage, on-premises beer and wine,
2 public event, special event, charitable auction, charitable
3 alcoholic beverage event, or complimentary beverage licensee,
4 directly or indirectly, for any social media advertising services.
5 No retail, mixed beverage, on-premises beer and wine, public event,
6 special event, charitable auction, charitable alcoholic beverage
7 event, or complimentary beverage licensee shall accept any payment
8 or reimbursement, directly or indirectly, for any social media
9 advertising service offered by a brewer, beer distributor, small
10 brewer, small brewer self-distributor or brewpub self-distributor.
11 For purposes of this paragraph, "social media" means a service,
12 platform or site where users communicate with one another and share
13 media, such as pictures, videos, music and blogs, with other users
14 free of charge; or

15 20. Entering product and price information into a retailer's
16 portal, website, spreadsheet or third-party system. A brewer may
17 pay for a third-party system that provides data and pricing services
18 to the brewer or a beer distributor.

19 F. It shall not be deemed an inducement for a brewer, beer
20 distributor, small brewer self-distributor or brewpub self-
21 distributor to engage in the following marketing activities,
22 provided that the brewer, beer distributor, small brewer self-
23 distributor or brewpub self-distributor shall not pay the retailer's
24 travel costs other than those for local transportation or lodging:

1 1. Provide tickets to a retailer for a sporting or
2 entertainment event so long as a representative of the brewer, beer
3 distributor, small brewer self-distributor or brewpub self-
4 distributor attends the event with the retailer;

5 2. Provide food and beverage to a retailer for immediate
6 consumption:

- 7 a. at a meeting at which the primary purpose is the
8 discussion of business,
- 9 b. at a convention when the food and beverages are
10 offered to all participants, or
- 11 c. at a sports or entertainment event that the
12 representatives of a brewer, beer distributor, small
13 brewer self-distributor or brewpub self-distributor
14 attend with the retailer;

15 3. Participate in retailer association activities by engaging
16 in the following actions:

- 17 a. displaying products at a convention or trade show,
- 18 b. renting display booth space if the rental fee is the
19 same as paid by all exhibitors at the event,
- 20 c. providing its own hospitality which is independent
21 from association-sponsored activities,
- 22 d. purchasing tickets to functions and paying
23 registration fees if the payments or fees are the same
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1 as paid by all attendees, participants or exhibitors
2 at the event, or

- 3 e. making payments for advertisements in programs or
4 brochures issued by retailer associations at a
5 convention or trade show; or

6 4. Giving or selling outdoor signs to a retailer so long as the
7 following requirements of 27 C.F.R., Section 6.102 are satisfied:

- 8 a. the sign bears conspicuous and substantial advertising
9 matter about the product or the brewer, beer
10 distributor, small brewer self-distributor or brewpub
11 self-distributor which is permanently inscribed or
12 securely affixed,
13 b. the retailer is not compensated, directly or
14 indirectly, such as through a sign company, for
15 displaying the signs, and
16 c. a permanent outdoor sign does not contain the
17 retailer's name.

18 G. It shall not be deemed an inducement or a discriminatory
19 action for a brewer, beer distributor, small brewer self-
20 distributor, brewpub self-distributor, or a wine and spirits
21 wholesaler to establish individualized servicing and delivery
22 schedules, including minimum order guidelines, for its retailers
23 based on each retailer's actual needs, including, without
24 limitation, on the basis of the retailer's sales volume.

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

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