

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2363

By: Kannady

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to alcoholic beverages; amending
10 Section 3, Chapter 366, O.S.L. 2016, as last amended
11 by Section 13, Chapter 304, O.S.L. 2018 (37A O.S.
12 Supp. 2018, Section 1-103), which relates to
13 definitions; defining certain terms; amending Section
14 21, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018,
15 Section 2-109), which relates to certain alcohol-
16 related licenses; expanding authorities of certain
17 licensee; adding requirements for the service of
18 samples; authorizing off-premises consumption of
19 samples; requiring disposal of certain alcoholic
20 beverages in certain circumstances; amending Section
21 22, Chapter 366, O.S.L. 2016, as amended by Section
22 6, Chapter 381, O.S.L. 2017 (37A O.S. Supp. 2018,
23 Section 2-110), which relates to mixed beverage
24 licenses; granting additional authorities to mixed
 beverage licensees; adding requirements for the
 service of samples; authorizing off-premises
 consumption of samples; amending Section 60, Chapter
 366, O.S.L. 2016, as amended by Section 1, Chapter
 213, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-
 148), which relates to revocation and suspension of
 licenses; allowing discretion in license revocation;
 amending Section 66, Chapter 366, O.S.L. 2016 (37A
 O.S. Supp. 2018, Section 2-154), which relates to
 license display; eliminating requirement to display
 license; providing for license availability upon
 demand; amending Section 68, Chapter 366, O.S.L.
 2016, as amended by Section 1, Chapter 76, O.S.L.
 2017 (37A O.S. Supp. 2018, Section 2-156), which
 relates to restrictions on retail spirit licenses;

1 eliminating spousal cross-licensing restriction;
2 amending Section 76, Chapter 366, O.S.L. 2016, as
3 last amended by Section 3, Chapter 113, O.S.L. 2018
4 (37A O.S. Supp. 2018, Section 3-106), which relates
5 to the Direct Wine Shipper's Permit; providing for
6 shipment from fulfillment warehouses; defining term;
7 requiring certain additional information in permit
8 application; amending Section 141, Chapter 366,
9 O.S.L. 2016, as amended by Section 5, Chapter 113,
10 O.S.L. 2018 (37A O.S. Supp. 2018, Section 6-101),
11 which relates to prohibited acts; modifying
12 prohibited act; amending Section 142, Chapter 366,
13 O.S.L. 2016 (37A O.S. Supp. 2018, Section 6-102),
14 which relates to prohibited acts of licensees;
15 modifying prohibited acts; providing certain
16 exception to prohibited acts; providing for bottle
17 service; amending Section 143, Chapter 366, O.S.L.
18 2016, as last amended by Section 2, Chapter 340,
19 O.S.L. 2017 (37A O.S. Supp. 2018, Section 6-103),
20 which relates to prohibited acts of retail spirits
21 licensees; excluding from inducements certain sales
22 of alcoholic beverages; prohibiting certain sales of
23 alcoholic beverages packaged with goods or
24 merchandise; allowing supervised children under
twelve years of age to enter into licensed premises;
repealing Section 144, Chapter 366, O.S.L. 2016, as
amended by Section 24, Chapter 364, O.S.L. 2017 (37A
O.S. Supp. 2018, Section 6-104), which relates to
prohibited acts of wholesaler and retail licensees;
and providing an effective date.

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

SECTION 1. AMENDATORY Section 3, Chapter 366, O.S.L.
2016, as last amended by Section 13, Chapter 304, O.S.L. 2018 (37A
O.S. Supp. 2018, Section 1-103), is amended to read as follows:

Section 1-103. As used in the Oklahoma Alcoholic Beverage
Control Act:

1 1. "ABLE Commission" or "Commission" means the Alcoholic
2 Beverage Laws Enforcement Commission;

3 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
4 alcohol, ethanol or spirits of wine, from whatever source or by
5 whatever process produced. It does not include wood alcohol or
6 alcohol which has been denatured or produced as denatured in
7 accordance with Acts of Congress and regulations promulgated
8 thereunder;

9 3. "Alcoholic beverage" means alcohol, spirits, beer and wine
10 as those terms are defined herein and also includes every liquid or
11 solid, patented or not, containing alcohol, spirits, wine or beer
12 and capable of being consumed as a beverage by human beings;

13 4. "Applicant" means any individual, legal or commercial
14 business entity, or any individual involved in any legal or
15 commercial business entity allowed to hold any license issued in
16 accordance with the Oklahoma Alcoholic Beverage Control Act;

17 5. "Beer" means any beverage of alcohol by volume and obtained
18 by the alcoholic fermentation of an infusion or decoction of barley,
19 or other grain, malt or similar products. "Beer" may or may not
20 contain hops or other vegetable products. "Beer" includes, among
21 other things, beer, ale, stout, lager beer, porter and other malt or
22 brewed liquors, but does not include sake, known as Japanese rice
23 wine;

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1 6. "Beer keg" means any manufacturer-sealed, single container
2 that contains not less than four (4) gallons of beer;

3 7. "Beer distributor" means and includes any person licensed to
4 distribute beer for retail sale in the state, but does not include a
5 holder of a small brewer self-distribution license or brewpub self-
6 distribution license. The term "distributor", as used in this act,
7 shall be construed to refer to a beer distributor;

8 8. "Bottle club" means any establishment in a county which has
9 not authorized the retail sale of alcoholic beverages by the
10 individual drink, which is required to be licensed to keep, mix and
11 serve alcoholic beverages belonging to club members on club
12 premises;

13 9. "Bottle service" means the sale and provision of spirits in
14 their original packages by a mixed beverage licensee to be consumed
15 in that mixed beverage licensee's premises;

16 10. "Brand" means any word, name, group of letters, symbol or
17 combination thereof, that is adopted and used by a licensed
18 manufacturer to identify a specific beer and to distinguish that
19 product from another beer;

20 ~~10.~~ 11. "Brand extension" means:

- 21 a. after the effective date of this act, any brand of
22 beer or cider introduced by a manufacturer in this
23 state which either:

1 (1) incorporates all or a substantial part of the
2 unique features of a preexisting brand of the
3 same licensed manufacturer, or

4 (2) relies to a significant extent on the goodwill
5 associated with the preexisting brand, or

6 b. any brand of beer that a manufacturer, the majority of
7 whose total volume of all brands of beer distributed
8 in this state by such manufacturer on January 1, 2016,
9 was distributed as low-point beer, desires to sell,
10 introduces, begins selling or theretofore has sold and
11 desires to continue selling a strong beer in this
12 state which either:

13 (1) incorporates or incorporated all or a substantial
14 part of the unique features of a preexisting low-
15 point beer brand of the same licensed
16 manufacturer, or

17 (2) relies or relied to a significant extent on the
18 goodwill associated with a preexisting low-point
19 beer brand;

20 ~~11.~~ 12. "Brewer" means and includes any person who manufactures
21 for human consumption by the use of raw materials or other
22 ingredients any beer upon which a license fee and a tax are imposed
23 by any law of this state;

1 ~~12.~~ 13. "Brewpub" means a licensed establishment operated on
2 the premises of, or on premises located contiguous to, a small
3 brewer, that prepares and serves food and beverages, including
4 alcoholic beverages, for on-premises consumption;

5 ~~13.~~ 14. "Cider" means any alcoholic beverage obtained by the
6 alcoholic fermentation of fruit juice, including but not limited to
7 flavored, sparkling or carbonated cider. For the purposes of the
8 distribution of this product, cider may be distributed by either
9 wine and spirits wholesalers or beer distributors;

10 ~~14.~~ 15. "Convenience store" means any person primarily engaged
11 in retailing a limited range of general household items and
12 groceries, with extended hours of operation, whether or not engaged
13 in retail sales of automotive fuels in combination with such sales;

14 ~~15.~~ 16. "Convicted" and "conviction" mean and include a finding
15 of guilt resulting from a plea of guilty or nolo contendere, the
16 decision of a court or magistrate or the verdict of a jury,
17 irrespective of the pronouncement of judgment or the suspension
18 thereof;

19 ~~16.~~ 17. "Director" means the Director of the ABLE Commission;

20 ~~17.~~ 18. "Distiller" means any person who produces spirits from
21 any source or substance, or any person who brews or makes mash, wort
22 or wash, fit for distillation or for the production of spirits
23 (except a person making or using such material in the authorized
24 production of wine or beer, or the production of vinegar by

1 fermentation), or any person who by any process separates alcoholic
2 spirits from any fermented substance, or any person who, making or
3 keeping mash, wort or wash, has also in his or her possession or use
4 a still;

5 ~~18.~~ 19. "Distributor agreement" means the written agreement
6 between the distributor and manufacturer as set forth in Section 3-
7 108 of this title;

8 ~~19.~~ 20. "Drug store" means a person primarily engaged in
9 retailing prescription and nonprescription drugs and medicines;

10 ~~20.~~ 21. "Dual-strength beer" means a brand of beer that,
11 immediately prior to April 15, 2017, was being sold and distributed
12 in this state:

13 a. as a low-point beer pursuant to the Low-Point Beer
14 Distribution Act in effect immediately prior to ~~the~~
15 ~~effective date of this act~~ October 1, 2018, and

16 b. as strong beer pursuant to the Alcoholic Beverage
17 Control Act in effect immediately prior to ~~the~~
18 ~~effective date of this act~~ October 1, 2018,

19 and continues to be sold and distributed as such on October 1, 2018.

20 Dual-strength beer does not include a brand of beer that arose as a
21 result of a brand extension as defined in this section;

22 ~~21.~~ 22. "Fair market value" means the value in the subject
23 territory covered by the written agreement with the distributor or
24 wholesaler that would be determined in an arm's length transaction

1 entered into without duress or threat of termination of the
2 distributor's or wholesaler's rights and shall include all elements
3 of value, including goodwill and going-concern value;

4 ~~22.~~ 23. "Good cause" means:

- 5 a. failure by the distributor to comply with the material
6 and reasonable provisions of a written agreement or
7 understanding with the manufacturer, or
- 8 b. failure by the distributor to comply with the duty of
9 good faith;

10 ~~23.~~ 24. "Good faith" means the duty of each party to any
11 distributor agreement and all officers, employees or agents thereof
12 to act with honesty in fact and within reasonable standards of fair
13 dealing in the trade;

14 ~~24.~~ 25. "Grocery store" means a person primarily engaged in
15 retailing a general line of food, such as canned or frozen foods,
16 fresh fruits and vegetables, and fresh and prepared meats, fish and
17 poultry;

18 ~~25.~~ 26. "Hotel" or "motel" means an establishment which is
19 licensed to sell alcoholic beverages by the individual drink and
20 which contains guestroom accommodations with respect to which the
21 predominant relationship existing between the occupants thereof and
22 the owner or operator of the establishment is that of innkeeper and
23 guest. For purposes of this section, the existence of other legal
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1 relationships as between some occupants and the owner or operator
2 thereof shall be immaterial;

3 ~~26.~~ 27. "Legal newspaper" means a newspaper meeting the
4 requisites of a newspaper for publication of legal notices as
5 prescribed in Sections 101 through 114 of Title 25 of the Oklahoma
6 Statutes;

7 ~~27.~~ 28. "Licensee" means any person holding a license under the
8 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or
9 employee of such licensee while in the performance of any act or
10 duty in connection with the licensed business or on the licensed
11 premises;

12 ~~28.~~ 29. "Low-point beer" shall mean any beverages containing
13 more than one-half of one percent (1/2 of 1%) alcohol by volume, and
14 not more than three and two-tenths percent (3.2%) alcohol by weight,
15 including but not limited to, beer or cereal malt beverages obtained
16 by the alcoholic fermentation of an infusion by barley or other
17 grain, malt or similar products;

18 ~~29.~~ 30. "Manufacturer" means a brewer, distiller, winemaker,
19 rectifier or bottler of any alcoholic beverage and its subsidiaries,
20 affiliates and parent companies;

21 ~~30.~~ 31. "Manufacturer's agent" means a salaried or commissioned
22 salesperson who is the agent authorized to act on behalf of the
23 manufacturer or nonresident seller in the state;

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1 ~~31.~~ 32. "Meals" means foods commonly ordered at lunch or dinner
2 and at least part of which is cooked on the licensed premises and
3 requires the use of dining implements for consumption. Provided,
4 that the service of only food such as appetizers, sandwiches, salads
5 or desserts shall not be considered "meals";

6 ~~32.~~ 33. "Mini-bar" means a closed container, either
7 refrigerated in whole or in part, or nonrefrigerated, and access to
8 the interior of which is:

- 9 a. restricted by means of a locking device which requires
- 10 the use of a key, magnetic card or similar device, or
- 11 b. controlled at all times by the licensee;

12 ~~33.~~ 34. "Mixed beverage cooler" means any beverage, by whatever
13 name designated, consisting of an alcoholic beverage and fruit or
14 vegetable juice, fruit or vegetable flavorings, dairy products or
15 carbonated water containing more than one-half of one percent (1/2
16 of 1%) of alcohol measured by volume but not more than seven percent
17 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
18 packaged in a container not larger than three hundred seventy-five
19 (375) milliliters. Such term shall include but not be limited to
20 the beverage popularly known as a "wine cooler";

21 ~~34.~~ 35. "Mixed beverages" means one or more servings of a
22 beverage composed in whole or part of an alcoholic beverage in a
23 sealed or unsealed container of any legal size for consumption on
24 the premises where served or sold by the holder of a mixed beverage,

1 beer and wine, caterer, public event, charitable event or special
2 event license;

3 ~~35.~~ 36. "Motion picture theater" means an establishment which
4 is licensed by Section 2-110 of this title to sell alcoholic
5 beverages by the individual drink and where motion pictures are
6 exhibited, and to which the general public is admitted;

7 ~~36.~~ 37. "Nonresident seller" means any person licensed pursuant
8 to Section 2-135 of this title;

9 ~~37.~~ 38. "Retail salesperson" means a salesperson soliciting
10 orders from and calling upon retail alcoholic beverage stores with
11 regard to his or her product;

12 ~~38.~~ 39. "Occupation" as used in connection with "occupation
13 tax" means the sites occupied as the places of business of the
14 manufacturers, wholesalers, beer distributors, retailers, mixed
15 beverage licensees, on-premises beer and wine licensees, bottle
16 clubs, caterers, public event and special event licensees;

17 ~~39.~~ 40. "Original package" means any container of alcoholic
18 beverage filled and stamped or sealed by the manufacturer;

19 ~~40.~~ 41. "Package store" means any sole proprietor or
20 partnership that qualifies to sell wine, beer and/or spirits for
21 ~~off-premise~~ off-premises consumption and that is not a grocery
22 store, convenience store or drug store, or other retail outlet that
23 is not permitted to sell wine or beer for ~~off-premise~~ off-premises
24 consumption;

1 ~~41.~~ 42. "Patron" means any person, customer or visitor who is
2 not employed by a licensee or who is not a licensee;

3 ~~42.~~ 43. "Person" means an individual, any type of partnership,
4 corporation, association, limited liability company or any
5 individual involved in the legal structure of any such business
6 entity;

7 ~~43.~~ 44. "Premises" means the grounds and all buildings and
8 appurtenances pertaining to the grounds including any adjacent
9 premises if under the direct or indirect control of the licensee and
10 the rooms and equipment under the control of the licensee and used
11 in connection with or in furtherance of the business covered by a
12 license. Provided that the ABLE Commission shall have the authority
13 to designate areas to be excluded from the licensed premises solely
14 for the purpose of:

- 15 a. allowing the presence and consumption of alcoholic
16 beverages by private parties which are closed to the
17 general public, or
18 b. allowing the services of a caterer serving alcoholic
19 beverages provided by a private party.

20 This exception shall in no way limit the licensee's concurrent
21 responsibility for any violations of the Oklahoma Alcoholic Beverage
22 Control Act occurring on the licensed premises;

23 ~~44.~~ 45. "Private event" means a social gathering or event
24 attended by invited guests who share a common cause, membership,

1 business or task and have a prior established relationship. For
2 purposes of this definition, advertisement for general public
3 attendance or sales of tickets to the general public shall not
4 constitute a private event;

5 ~~45.~~ 46. "Public event" means any event that can be attended by
6 the general public;

7 ~~46.~~ 47. "Rectifier" means any person who rectifies, purifies or
8 refines spirits or wines by any process (other than by original and
9 continuous distillation, or original and continuous processing, from
10 mash, wort, wash or other substance, through continuous closed
11 vessels and pipes, until the production thereof is complete), and
12 any person who, without rectifying, purifying or refining spirits,
13 shall by mixing (except for immediate consumption on the premises
14 where mixed) such spirits, wine or other liquor with any material,
15 manufactures any spurious, imitation or compound liquors for sale,
16 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
17 or any other name;

18 ~~47.~~ 48. "Regulation" or "rule" means a formal rule of general
19 application promulgated by the ABLE Commission as herein required;

20 ~~48.~~ 49. "Restaurant" means an establishment that is licensed to
21 sell alcoholic beverages by the individual drink for on-premises
22 consumption and where food is prepared and sold for immediate
23 consumption on the premises;

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1 ~~49.~~ 50. "Retail container for spirits and wines" means an
2 original package of any capacity approved by the United States
3 Bureau of Alcohol, Tobacco and Firearms;

4 ~~50.~~ 51. "Retailer" means a package store, grocery store,
5 convenience store or drug store licensed to sell alcoholic beverages
6 for ~~off-premise~~ off-premises consumption pursuant to a Retail
7 Spirits License, Retail Wine License or Retail Beer License;

8 ~~51.~~ 52. "Sale" means any transfer, exchange or barter in any
9 manner or by any means whatsoever, and includes and means all sales
10 made by any person, whether as principal, proprietor or as an agent,
11 servant or employee. The term "sale" is also declared to be and
12 include the use or consumption in this state of any alcoholic
13 beverage obtained within or imported from without this state, upon
14 which the excise tax levied by the Oklahoma Alcoholic Beverage
15 Control Act has not been paid or exempted;

16 ~~52.~~ 53. "Short-order food" means food other than full meals
17 including but not limited to sandwiches, soups and salads. Provided
18 that popcorn, chips and other similar snack food shall not be
19 considered "short-order food";

20 ~~53.~~ 54. "Small brewer" means a brewer who manufactures less
21 than twenty-five thousand (25,000) barrels of beer annually pursuant
22 to a validly issued Small Brewer License hereunder;

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1 ~~54.~~ 55. "Small farm wine" means a wine that is produced by a
2 small farm winery with seventy-five percent (75%) or more Oklahoma-
3 grown grapes, berries, other fruits, honey or vegetables;

4 ~~55.~~ 56. "Small farm winery" means a wine-making establishment
5 that does not annually produce for sale more than fifteen thousand
6 (15,000) gallons of wine as reported on the United States Department
7 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
8 Wine Premises Operations (TTB Form 5120.17);

9 ~~56.~~ 57. "Sparkling wine" means champagne or any artificially
10 carbonated wine;

11 ~~57.~~ 58. "Special event" means an entertainment, recreation or
12 marketing event that occurs at a single location on an irregular
13 basis and at which alcoholic beverages are sold;

14 ~~58.~~ 59. "Spirits" means any beverage other than wine or beer,
15 which contains more than one-half of one percent (1/2 of 1%) alcohol
16 measured by volume, and obtained by distillation, whether or not
17 mixed with other substances in solution and includes those products
18 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
19 fortified wines and similar compounds, but shall not include any
20 alcohol liquid completely denatured in accordance with the Acts of
21 Congress and regulations pursuant thereto;

22 ~~59.~~ 60. "Strong beer" means beer which, prior to ~~the effective~~
23 ~~date of this act~~ October 1, 2018, was distributed pursuant to the
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1 Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of
2 Title 37 of the Oklahoma Statutes;

3 ~~60.~~ 61. "Successor manufacturer" means a primary source of
4 supply, a brewer, a cider manufacturer or an importer that acquires
5 rights to a beer or cider brand from a predecessor manufacturer;

6 ~~61.~~ 62. "Tax Commission" means the Oklahoma Tax Commission;

7 ~~62.~~ 63. "Territory" means a geographic region with a specified
8 boundary;

9 ~~63.~~ 64. "Wine and spirits wholesaler" or "wine and spirits
10 distributor" means and includes any sole proprietorship or
11 partnership licensed to distribute wine and spirits in the state.
12 The term "wholesaler", as used in this act, shall be construed to
13 refer to a wine and spirits wholesaler; and

14 ~~64.~~ 65. "Wine" means and includes any beverage containing more
15 than one-half of one percent (1/2 of 1%) alcohol by volume and not
16 more than twenty-four percent (24%) alcohol by volume at sixty (60)
17 degrees Fahrenheit obtained by the fermentation of the natural
18 contents of fruits, vegetables, honey, milk or other products
19 containing sugar, whether or not other ingredients are added, and
20 includes vermouth and sake, known as Japanese rice wine.

21 Words in the plural include the singular, and vice versa, and
22 words imparting the masculine gender include the feminine, as well
23 as persons and licensees as defined in this section.

24

1 SECTION 2. AMENDATORY Section 21, Chapter 366, O.S.L.
2 2016 (37A O.S. Supp. 2018, Section 2-109), is amended to read as
3 follows:

4 Section 2-109. A. A retail spirits license shall authorize the
5 holder thereof:

6 1. To purchase wine or spirits from a wine and spirits
7 wholesaler;

8 2. To purchase beer from a beer distributor or from the holder
9 of a small brewer self-distribution license; ~~and~~

10 3. To sell same on the licensed premises in such containers to
11 consumers for off-premises consumption only and not for resale;
12 provided, spirits, wine and beer may be sold to charitable
13 organizations that are holders of charitable alcoholic beverage
14 auction or charitable alcoholic beverage event licenses;

15 4. To serve free samples of spirits, wine and beer to
16 individuals twenty-one (21) years of age and older. The retail
17 spirits licensee shall restrict the distribution and consumption of
18 samples to an area within the licensed premises designated by the
19 licensee. Samples served by a licensee under this paragraph shall
20 not be considered sales of spirits, wine or beer within the meaning
21 of Article XXVIII-A of the Oklahoma Constitution; provided, such
22 samples shall be considered removed or withdrawn from the licensee's
23 or licensee's supplier's inventory for use or consumption within the

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1 meaning of Section 5-110 of this title for excise tax determination
2 and reporting requirements;

3 5. To serve samples of spirits, wine and beer at public events
4 such as festivals and trade shows; and

5 6. To hold events for the purposes of promotion, education or
6 entertainment on or off the licensed premises for which admission
7 may be charged and at which spirits, wine or beer may be sold and
8 consumed.

9 B. A retail wine license shall authorize the holder thereof:

10 1. To purchase wine from a wine and spirits wholesaler;

11 2. To purchase wine from a small farm winemaker who is
12 permitted and has elected to self-distribute as provided in Article
13 ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution; and

14 3. To sell same on the licensed premises in such containers to
15 consumers for off-premises consumption only and not for resale;
16 provided, wine may be sold to charitable organizations that are
17 holders of charitable alcoholic beverage auction or charitable
18 alcoholic beverage event licenses.

19 Provided, no holder of a Retail Wine License may sell wine with
20 alcohol beverage volume in excess of fifteen percent (15%).

21 C. A retail beer license shall authorize the holder thereof:

22 1. To purchase beer from a beer distributor;

23 2. To purchase beer from the holder of a small brewer self-
24 distribution license; and

1 3. To sell same on the licensed premises in such containers to
2 consumers for off-premises consumption only and not for resale;
3 provided, beer may be sold to charitable organizations that are
4 holders of charitable alcoholic beverage auction or charitable
5 alcoholic beverage event licenses.

6 Provided, no holder of a Retail Beer License may sell a malt
7 beverage with alcohol beverage volume in excess of eight and ninety-
8 nine/one hundredths percent (8.99%).

9 D. Each spirit, wine or beer sample offered by a retail spirits
10 licensee authorized to serve samples of spirits, wine and beer to
11 consumers under this section shall be:

12 1. Served by the retail spirits licensee, an employee of the
13 retail spirits licensee or a designee of the retail spirits licensee
14 who holds a license to sell, represent or offer alcohol in the State
15 of Oklahoma;

16 2. Poured from its original container;

17 3. Offered only to consumers at least twenty-one (21) years of
18 age;

19 4. Limited to no more than two (2) fluid ounces of spirits, six
20 (6) fluid ounces of wine or twelve (12) fluid ounces of beer per
21 consumer per day; and

22 5. Authorized for consumption either on or off the licensed
23 premises of the retail spirits licensee.

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1 E. Any retail spirits licensee that serves samples pursuant to
2 subsection D of this section shall dispose of any alcoholic beverage
3 remaining in an unsealed bottle used for sampling at the end of the
4 business day that bottle was opened.

5 SECTION 3. AMENDATORY Section 22, Chapter 366, O.S.L.
6 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S.
7 Supp. 2018, Section 2-110), is amended to read as follows:

8 Section 2-110. A. A mixed beverage license shall authorize the
9 holder thereof:

10 1. To purchase alcohol, spirits, beer and/or wine in retail
11 containers from the holder of a wine and spirits wholesaler and beer
12 distributor license as specifically provided by law; ~~and~~

13 2. To sell, offer for sale and possess mixed beverages for on-
14 premises consumption only; provided, the holder of a mixed beverage
15 license issued for an establishment which is also a restaurant may
16 purchase wine directly from a winemaker and beer directly from a
17 small brewer who is permitted and has elected to self-distribute as
18 provided in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution; ~~;~~

19 3. To sell spirits in their original packages for consumption
20 on the premises of the mixed beverage licensee under the following
21 conditions:

22 a. spirits in their original packages shall remain and be
23 consumed on the premises of a mixed beverage licensee

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1 and shall not be removed from the premises if not
2 consumed in their entirety,

3 b. spirits in their original packages to be consumed on
4 the premises of the mixed beverage licensee are
5 provided exclusively by the mixed beverage licensee,
6 and

7 c. each individual, original package of spirits shall
8 contain no greater than seven hundred fifty (750)
9 milliliters and no more than nineteen percent (19%)
10 alcohol by volume;

11 4. To sell wine and beer in their original packages, provided
12 each bottle or can shall contain no more than seven hundred fifty
13 (750) milliliters of wine or beer and no more than nineteen percent
14 (19%) alcohol by volume; and

15 5. To serve free samples of spirits, wine and beer to
16 individuals twenty-one (21) years of age and older. The retail
17 spirits licensee shall restrict the distribution and consumption of
18 samples to an area within the licensed premises designated by the
19 licensee. Samples served by the licensee under this paragraph shall
20 not be considered sales of spirits, wine or beer within the meaning
21 of Article XXVIII-A of the Oklahoma Constitution; provided, such
22 samples shall be considered removed or withdrawn from the licensee's
23 or licensee's supplier's inventory for use or consumption within the
24

1 meaning of Section 5-110 of this title for excise tax determination
2 and reporting requirements.

3 B. Each spirit, wine or beer sample offered by a retail spirits
4 licensee authorized to serve samples of spirits, wine and beer to
5 consumers under this section shall be:

6 1. Served by the retail spirits licensee, an employee of the
7 retail spirits licensee or a designee of the retail spirits licensee
8 who holds a license to sell, represent or offer alcohol in the State
9 of Oklahoma;

10 2. Poured from its original container;

11 3. Offered only to consumers at least twenty-one (21) years of
12 age;

13 4. Limited to no more than two (2) fluid ounces of spirits, six
14 (6) fluid ounces of wine or twelve (12) fluid ounces of beer per
15 consumer per day; and

16 5. Authorized for consumption either on or off the licensed
17 premises of the mixed beverage licensee.

18 C. Sales and service of mixed beverages by holders of mixed
19 beverage licenses shall be limited to the licensed premises of the
20 licensee unless the holder of the mixed beverage license also
21 obtains a caterer license or a mixed beverage/caterer combination
22 license. A mixed beverage license shall only be issued in counties
23 of this state where the sale of alcoholic beverages by the
24

1 individual drink for on-premises consumption has been authorized. A
2 separate license shall be required for each place of business.

3 D. Upon application, a mixed beverage license shall be issued
4 for any place of business functioning as a motion picture theater,
5 as defined by Section 1-103 of this title. Provided, that upon
6 proof of legal age to consume alcohol, every patron being served
7 alcoholic beverages shall be required to wear a wrist bracelet or
8 receive a hand stamp identifying the patron as being of legal age to
9 consume alcohol. This requirement shall only apply inside a motion
10 picture theater auditorium where individuals under the legal age to
11 consume alcohol are allowed.

12 SECTION 4. AMENDATORY Section 60, Chapter 366, O.S.L.
13 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S.
14 Supp. 2018, Section 2-148), is amended to read as follows:

15 Section 2-148. A. Any license issued pursuant to the
16 provisions of the Oklahoma Alcoholic Beverage Control Act by the
17 ABLE Commission, after due notice and hearing, may be revoked or
18 suspended if the ABLE Commission finds or has grounds to believe
19 that the licensee has:

- 20 1. Violated any rule promulgated by the ABLE Commission;
- 21 2. Procured a license through fraud, or misrepresentation, or
22 concealment of a material fact;

23
24

1 3. Made any false representation or statement to the ABLE
2 Commission or the Oklahoma Tax Commission in order to prevent or
3 induce action by the ABLE Commission or the Tax Commission;

4 4. Maintained an unsanitary establishment or has supplied
5 impure or otherwise deleterious beverages or food;

6 5. Stored, possessed, mixed or served on the premises of a
7 bottle club any alcoholic beverage upon which the tax levied by
8 Section 5-101 of this title has not been paid as provided for in the
9 Oklahoma Alcoholic Beverage Control Act, in a county of this state
10 where the sale of alcoholic beverages by the individual drink for
11 on-premises consumption has not been authorized;

12 6. Misrepresented to a customer or the public any alcoholic
13 beverage sold by the licensee;

14 7. Had any permit or license issued by the Tax Commission and
15 required by the Oklahoma Alcoholic Beverage Control Act, ~~7~~ suspended
16 or revoked by the Tax Commission; or

17 8. Is not in compliance with the tax laws of this state as
18 required in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution.

19 B. The ABLE Commission may revoke or suspend the license of any
20 mixed beverage, caterer or bottle club licensee if the ABLE
21 Commission finds or has grounds to believe that such licensee:

22 1. Has acted as an agent of a manufacturer or wholesaler of
23 alcoholic beverages;

24 2. Is a manufacturer or wholesaler of alcoholic beverages;

1 3. Has borrowed money or property or accepted gratuities or
2 rebates from a manufacturer or wholesaler of alcoholic beverages;

3 4. Has obtained the use of equipment from any manufacturer or
4 wholesaler of alcoholic beverages or any agent thereof;

5 5. Has violated any of the provisions of the Oklahoma Alcoholic
6 Beverage Control Act for which mandatory revocation or suspension is
7 not required;

8 6. Has been convicted within the past twenty-five (25) years,
9 of a violation of any state or federal law relating to alcoholic
10 beverage for which mandatory revocation or suspension is not
11 required; or

12 7. Is not in compliance with the tax laws of this state as
13 required in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution.

14 C. The ABLE Commission may revoke or suspend the license of any
15 retail, mixed beverage, caterer or bottle club licensee if the ABLE
16 Commission finds or has grounds to believe that such licensee has
17 borrowed money or property or accepted gratuities, discounts,
18 rebates, free goods, allowances or other inducements from a wine and
19 spirits wholesaler or beer distributor.

20 D. The ABLE Commission shall have the authority to revoke the
21 license of any licensee if the ABLE Commission finds:

22 1. That the licensee knowingly sold alcoholic beverages or
23 allowed such beverages to be sold, delivered or furnished to any
24

1 person under the age of twenty-one (21) years or to any person
2 visibly intoxicated or adjudged insane or mentally deficient;

3 2. That the licensee, any general or limited partner of the
4 licensee, or in the case of a corporation, an officer or director of
5 the corporation, has been convicted of a felony or is not in
6 compliance with the tax laws of this state as required in Article
7 ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution. Provided, an
8 employee license may be issued and held by a person who has been
9 convicted of a felony if such conviction was not for an offense
10 specified in paragraph 2 of Section 571 of Title 57 of the Oklahoma
11 Statutes or an offense under the provisions of this title, and if
12 such conviction was more than five (5) years prior to the issuance
13 of the license;

14 3. That, in the case of a wine and spirits wholesaler, beer
15 distributor, retail spirits, retail wine or retail beer licensee,
16 the holder of the license or any member of a general or limited
17 partnership which is the holder of such a license, has been
18 convicted of a prohibitory law relating to the sale, manufacture or
19 transportation of alcoholic beverages which constitutes a felony.

20 E. If the ABLE Commission shall find by a preponderance of the
21 evidence as in civil cases that a licensee has knowingly sold any
22 alcoholic beverage to any person under the age of twenty-one (21)
23 years, after a public hearing, the ABLE Commission ~~shall~~ may revoke
24

1 ~~such license and no discretion as to the revocation shall be~~
2 ~~exercised by the ABLE Commission.~~

3 F. The ABLE Commission shall have the authority to promulgate
4 rules to establish a penalty schedule for violations of any
5 provision of the Oklahoma Alcoholic Beverage Control Act or any rule
6 of the ABLE Commission. The schedule shall provide for suspension
7 or revocation of any license for major and minor violations as
8 determined by the ABLE Commission. Penalties shall be increasingly
9 severe with each violation by a licensee.

10 Provided, that for a fourth major violation by a licensee within
11 a twenty-four-month period, the penalty shall be mandatory
12 revocation of license. The twenty-four-month period shall be
13 calculated from the date of the most recent violation as set forth
14 in an order signed by the Director or the designee of the Director.

15 G. The ABLE Commission or the Tax Commission may impose a
16 monetary penalty in lieu of or in addition to suspension of a
17 license. The amount of the fine for a major violation shall be
18 computed by multiplying the proposed number of days of the
19 suspension period by One Hundred Dollars (\$100.00). The amount of
20 the fine for a minor violation shall be computed by multiplying the
21 number of days of the proposed suspension period by Fifty Dollars
22 (\$50.00).

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1 H. The failure of any licensee to pay a fine or serve a
2 suspension imposed by the ABLE Commission or the Tax Commission
3 shall result in the revocation of the license of the licensee.

4 I. If the ABLE Commission or the Tax Commission finds that
5 public health, safety or welfare require emergency action, and
6 incorporates a finding to that effect in its order, summary
7 suspension of a license may be ordered pending proceeding for
8 revocation or other action, pursuant to the provisions of Section
9 314 of Title 75 of the Oklahoma Statutes.

10 SECTION 5. AMENDATORY Section 66, Chapter 366, O.S.L.
11 2016 (37A O.S. Supp. 2018, Section 2-154), is amended to read as
12 follows:

13 Section 2-154. All licenses issued pursuant to the provisions
14 of the Oklahoma Alcoholic Beverage Control Act shall be ~~displayed in~~
15 ~~a conspicuous place~~ easily accessible and available upon demand at
16 all times on the licensed premises. No licensee may consent to or
17 allow the use or display of the license by a person other than the
18 person to whom the license was issued. No person may use a license
19 or exercise any privileges granted by the license except at the
20 place, address, premises or location for which the license is
21 issued, except as otherwise provided by the Oklahoma Alcoholic
22 Beverage Control Act.

23 If the mixed beverage, caterer, public event or bottle club
24 license for a licensed premises is suspended or revoked by the ABLE

1 Commission, all other licenses issued by the ABLE Commission for
2 such premises shall cease to be valid. If a mixed beverage,
3 caterer, public event or bottle club license is suspended or revoked
4 for any licensed premises, this shall not invalidate licenses held
5 by the licensee for other licensed premises.

6 SECTION 6. AMENDATORY Section 68, Chapter 366, O.S.L.
7 2016, as amended by Section 1, Chapter 76, O.S.L. 2017 (37A O.S.
8 Supp. 2018, Section 2-156), is amended to read as follows:

9 Section 2-156. A. No retail spirits license shall be issued to
10 a corporation, limited liability company or similar business entity.
11 No person may own any interest in more than two package stores;
12 provided, a spouse of a retail spirits license holder may hold a
13 separate interest in up to two (2) package stores. For the purpose
14 only of establishing whether or not a person owns an interest in
15 more than one package store, any person having a beneficial interest
16 in any package store shall be deemed to be a partner in the package
17 store except that the spouse of any retail spirits license holder or
18 partner shall not be deemed to be a partner or have a beneficial
19 interest in a package store unless his or her name appears on the
20 license. A beneficial interest shall be any interest that benefits
21 from any sales or profits of the package store.

22 ~~B. For purposes of this section, any spouse of a retail spirits~~
23 ~~license holder shall not hold another license provided for pursuant~~
24 ~~to the Oklahoma Alcoholic Beverage Control Act, except a retail wine~~

1 ~~license, retail beer license, on-premises beer and wine license,~~
2 ~~mixed beverage license, a caterer's license or a retail spirits~~
3 ~~license.~~

4 C. Package stores licensed under the Oklahoma Alcoholic
5 Beverage Control Act may sell only alcoholic beverages in retail
6 containers as defined in Section 1-103 of this title, in the
7 original package for consumption off the premises. All retail sales
8 shall be made on the licensed premises and all deliveries off the
9 premises, at retail, of intoxicating liquor or beer are hereby
10 prohibited. Provided, a holder of a Retail Spirits License shall be
11 permitted to sell at retail any item that may be purchased at a
12 grocery store or convenience store, as defined by law, except for
13 motor fuel, so long as the sale of items other than alcoholic
14 beverages do not comprise more than twenty percent (20%) of the
15 holder's monthly sales.

16 SECTION 7. AMENDATORY Section 76, Chapter 366, O.S.L.
17 2016, as last amended by Section 3, Chapter 113, O.S.L. 2018 (37A
18 O.S. Supp. 2018, Section 3-106), is amended to read as follows:

19 Section 3-106. A. A Direct Wine Shipper's Permit may be issued
20 by the Oklahoma ABLE Commission to a winery licensed in this or any
21 other state within the United States as a wine producer. A Direct
22 Wine Shipper's Permit allows a winery to ship up to six nine-liter
23 cases of wine annually directly to an Oklahoma resident who is
24 twenty-one (21) years of age or older for such resident's personal

1 use and not for resale. No resident shall be permitted to purchase
2 more than thirty nine-liter cases of wine per year under the
3 provisions of this section.

4 B. The ABLE Commission shall promulgate rules governing the
5 application, issuance and renewal of Direct Wine Shipper's Permits,
6 which shall include but not be limited to:

7 1. Proof of current licensure in this or any other state as a
8 wine producer;

9 2. Payment of a registration fee of Three Hundred Dollars
10 (\$300.00) for original permits and One Hundred Fifty Dollars
11 (\$150.00) for renewal permits; and

12 3. Any other documentation that the ABLE Commission believes is
13 reasonably necessary to verify the identity and physical location of
14 the winery.

15 C. With regard to direct wine shipments permitted by this
16 section, Direct Wine Shipper permit holders:

17 1. Shall not ship more than six nine-liter cases of wine
18 annually to any person for his or her personal use;

19 2. Shall not ship wine intended for resale;

20 3. Shall ensure that all packages containing wine shipped
21 directly to a resident in this state are conspicuously labeled with
22 the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER
23 REQUIRED FOR DELIVERY" or are conspicuously labeled with alternative
24 wording preapproved by the ABLE Commission;

1 4. Shall require the transporter or common carrier that
2 delivers the wine to obtain the signature of a person twenty-one
3 (21) years of age or older at the delivery address at the time of
4 delivery. At the expense of the Direct Wine Shipper, the Direct
5 Wine Shipper shall receive a delivery confirmation from the express
6 company, common carrier or contract carrier indicating the location
7 of delivery and the name and signature of the individual who
8 accepted the delivery. The ABLE Commission shall design and create
9 a label or approve a label that must be affixed to the shipping
10 container by the licensee;

11 5. Shall report to the ABLE Commission annually, by a method
12 prescribed by the ABLE Commission, the total amount of wine shipped
13 into the state the preceding calendar year;

14 6. Shall annually pay to the Oklahoma Tax Commission all
15 applicable taxes due on sales authorized by this section to Oklahoma
16 residents in the preceding calendar year. The amount of such taxes
17 shall be calculated as if the sale were in Oklahoma at the location
18 where delivery is made. Upon request, permit holders shall permit
19 the Tax Commission to perform an audit of the permit holder's
20 records in order to assure compliance;

21 7. Shall be deemed to have consented to the jurisdiction of any
22 agency or court of the State of Oklahoma tasked with the enforcement
23 of or adjudication of controversies related to this section and any
24 related laws or rules; and

1 8. Shall require the consumer to verify, by electronic means or
2 otherwise, that the consumer is at least twenty-one (21) years of
3 age.

4 D. Every express company, common carrier, contract carrier and
5 every firm or corporation that shall bring, carry or transport wine
6 for delivery to any person in the state, except wine or spirit
7 wholesalers or beer distributors, shall prepare and file quarterly
8 with the ABLE Commission a report, which shall not be subject to the
9 Oklahoma Open Records Act, of known wine shipments containing:

10 1. The name of the company, carrier, person, firm or
11 corporation making the report;

12 2. The period of time covered by the report;

13 3. The name and business address of the consignor shipping the
14 wine;

15 4. The weight of the packages shipped;

16 5. The unique tracking number of the delivery; and

17 6. The date of delivery.

18 E. The provisions of this section do not apply to a motor
19 carrier or freight forwarder as defined in Section 13102 of Title 49
20 of the United States Code or to an air carrier as defined in Section
21 40102 of Title 49 of the United States Code.

22 F. The holder of a Direct Wine Shipper's Permit may ship wine,
23 as authorized by this section, from any of its licensed premises in
24 its state of residence or from a fulfillment warehouse with which it

1 has contracted. For the purposes of this section, a "fulfillment
2 warehouse" means a business operating a warehouse and providing
3 storage, packaging and shipping services to wineries. The holder of
4 a Direct Wine Shipper's Permit shall list on its application the
5 addresses of each of its licensed premises or fulfillment houses in
6 the state of its licensure.

7 SECTION 8. AMENDATORY Section 141, Chapter 366, O.S.L.
8 2016, as amended by Section 5, Chapter 113, O.S.L. 2018 (37A O.S.
9 Supp. 2018, Section 6-101), is amended to read as follows:

10 Section 6-101. A. No person shall:

11 1. Knowingly sell, deliver or furnish alcoholic beverages to
12 any person under twenty-one (21) years of age;

13 2. Sell, deliver or knowingly furnish alcoholic beverages to an
14 intoxicated person or to any person who has been adjudged insane or
15 mentally deficient;

16 3. Open a retail container or consume alcoholic beverages on
17 the premises of a package store, grocery store, convenience store or
18 drug store, unless otherwise permitted by law;

19 4. Import into this state, except as provided for in the
20 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;
21 provided, that nothing herein shall prohibit the importation or
22 possession for personal use of not more than one (1) liter of
23 alcoholic beverages upon which the Oklahoma excise tax is
24 delinquent;

1 5. Receive, possess or use any alcoholic beverage in violation
2 of the provisions of the Oklahoma Alcoholic Beverage Control Act;

3 6. Knowingly transport into, within or through this state more
4 than one (1) liter of alcoholic beverages upon which the Oklahoma
5 excise tax has not been paid unless the person accompanying or in
6 charge of the vehicle transporting same shall possess a true copy of
7 a bill of lading, invoice, manifest or other document particularly
8 identifying that alcoholic beverages are being transported and
9 showing the name and address of the consignor and consignee;
10 provided, this prohibition shall not apply to the first one hundred
11 eighty (180) liters of alcoholic beverages classified as household
12 goods by military personnel, age twenty-one (21) or older, when
13 entering Oklahoma from temporary active assignment outside the
14 contiguous United States;

15 7. Knowingly transport in any vehicle upon a public highway,
16 street or alley any alcoholic beverage except in the original
17 container which shall not have been opened and the seal upon which
18 shall not have been broken and from which the original cap or cork
19 shall not have been removed, unless the opened container be in the
20 rear trunk or rear compartment, which shall include the spare tire
21 compartment in a vehicle commonly known as a station wagon and panel
22 truck, or any outside compartment which is not accessible to the
23 driver or any other person in the vehicle while it is in motion;

24

1 8. ~~Consume spirits in public except on the premises of a~~
2 ~~licensee of the ABLE Commission who is authorized to sell or serve~~
3 ~~spirits by the individual drink, or be~~ Be intoxicated in a public
4 place. This provision shall be cumulative and in addition to
5 existing law;

6 9. Forcibly resist lawful arrest, or by physical contact
7 interfere with an investigation of any infringement of the Oklahoma
8 Alcoholic Beverage Control Act or with any lawful search or seizure
9 being made by a law enforcement officer or an employee of the ABLE
10 Commission, when such person knows or should know that such acts are
11 being performed by a state, county or municipal officer or employee
12 of the ABLE Commission;

13 10. Manufacture, duplicate, counterfeit or in any way imitate
14 any bottle club membership card required to be issued by the ABLE
15 Commission without the permission of the ABLE Commission;

16 11. Consume or possess alcoholic beverages on the licensed
17 premises of a bottle club unless such person possesses a valid
18 membership card for that club issued by the club;

19 12. Knowingly possess any bottle club membership card required
20 to be issued by the ABLE Commission which has been manufactured,
21 counterfeited, imitated or in any way duplicated without the
22 permission of the ABLE Commission; or

23 13. Knowingly and willfully permit any individual under twenty-
24 one (21) years of age who is an invitee to the person's residence,

1 any building, structure or room owned, occupied, leased or otherwise
2 procured by the person or on any land owned, occupied, leased or
3 otherwise procured by the person, to possess or consume any
4 alcoholic beverage as defined by Section 1-103 of this title, any
5 controlled dangerous substance as defined in the Uniform Controlled
6 Dangerous Substances Act, or any combination thereof, in such place.

7 B. Except as provided for in subsection C of this section,
8 punishment for violation of paragraph 13 of subsection A of this
9 section shall be as follows:

10 1. Any person who is convicted of a violation of the provisions
11 of paragraph 13 of subsection A of this section shall be deemed
12 guilty of a misdemeanor for the first offense and be punished by a
13 fine of not more than Five Hundred Dollars (\$500.00);

14 2. Any person who, within ten (10) years after previous
15 convictions of a violation:

16 a. of paragraph 13 of subsection A of this section,

17 b. of the provisions of any law of another state
18 prohibiting the offense provided for in paragraph 13
19 of subsection A of this section, or

20 c. in a municipal criminal court of record for the
21 violation of a municipal ordinance prohibiting the
22 offense provided for in paragraph 13 of subsection A
23 of this section,

24

1 shall be guilty of a misdemeanor and shall be punished by a fine of
2 not more than One Thousand Dollars (\$1,000.00);

3 3. Any person who, within ten (10) years after two or more
4 previous convictions of a violation:

5 a. of paragraph 13 of subsection A of this section,

6 b. of the provisions of any law of another state
7 prohibiting the offense provided for in paragraph 13
8 of subsection A of this section, or

9 c. in a municipal criminal court of record for the
10 violation of a municipal ordinance prohibiting the
11 offense provided for in paragraph 13 of subsection A
12 of this section, or

13 d. or any combination of two or more thereof,

14 shall be guilty of a felony and shall be punished by a fine of not
15 more than Two Thousand Five Hundred Dollars (\$2,500.00), or by
16 imprisonment in the custody of the Department of Corrections for not
17 more than five (5) years, or by both such fine and imprisonment.

18 C. Any person who violates paragraph 13 of subsection A of this
19 section, and such actions cause great bodily injury or the death of
20 a person, shall, in addition to any other penalty provided by law,
21 be guilty of a felony, punishable by imprisonment in the custody of
22 the Department of Corrections for not more than five (5) years, a
23 fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00)

24

1 nor more than Five Thousand Dollars (\$5,000.00), or both such fine
2 and imprisonment.

3 D. Except as provided in subsection C of Section 6-126 of this
4 title, any person who shall engage in any of the following and
5 disturb the peace of any person:

6 1. In any public place, or in or upon any passenger coach,
7 streetcar, or in or upon any other vehicle commonly used for the
8 transportation of passengers, or in or about any depot, platform,
9 waiting station or room, drink or otherwise consume any intoxicating
10 liquor unless authorized by the Oklahoma Alcoholic Beverage Control
11 Act, intoxicating substance or intoxicating compound of any kind, or
12 inhale glue, paint or other intoxicating substance;

13 2. Be drunk or intoxicated in any public or private road, or in
14 any passenger coach, streetcar or any public place or building, or
15 at any public gathering, from drinking or consuming such
16 intoxicating liquor, intoxicating substance or intoxicating compound
17 or from inhalation of glue, paint or other intoxicating substance;
18 or

19 3. Be drunk or intoxicated from any cause,
20 shall be guilty of a misdemeanor, and upon conviction thereof shall
21 be punished by a fine of not less than Ten Dollars (\$10.00), nor
22 more than One Hundred Dollars (\$100.00) or by imprisonment for not
23 less than five (5) days nor more than thirty (30) days or by both
24 such fine and imprisonment.

1 SECTION 9. AMENDATORY Section 142, Chapter 366, O.S.L.
2 2016 (37A O.S. Supp. 2018, Section 6-102), is amended to read as
3 follows:

4 Section 6-102. No licensee of the ABLE Commission shall:

5 1. Receive, possess or sell any alcoholic beverage except as
6 authorized by the Oklahoma Alcoholic Beverage Control Act and by the
7 license or permit which the licensee holds;

8 2. Employ any person under eighteen (18) years of age in the
9 selling of beer or wine or employ any person under twenty-one (21)
10 years of age in the selling of spirits. Provided:

11 a. a mixed beverage, beer and wine, caterer, public
12 event, special event, bottle club, retail wine or
13 retail beer licensee may employ servers or sales
14 clerks who are at least eighteen (18) years of age,
15 except persons under twenty-one (21) years of age may
16 not serve in designated bar or lounge areas, and

17 b. a mixed beverage, beer and wine, caterer, public
18 event, special event or bottle club licensee may
19 employ or hire musical bands who have musicians who
20 are under eighteen (18) years of age if each such
21 musician is either accompanied by a parent or legal
22 guardian or has on their person, to be made available
23 for inspection upon demand by any employee of the ABLE
24 Commission or law enforcement officer, a written,

1 notarized affidavit from the parent or legal guardian
2 giving the underage musician permission to perform in
3 designated bar or lounge areas;

4 3. Give any alcoholic beverage as a prize, premium or
5 consideration for any lottery, game of chance or skill or any type
6 of competition;

7 4. Use any of the following means or inducements to stimulate
8 the consumption of alcoholic beverages, including but not limited
9 to:

10 a. ~~deliver more than two drinks to one person at one~~
11 ~~time,~~

12 **b.** sell or offer to sell to any person or group of
13 persons any drinks at a price that is less than six
14 percent (6%) below the markup of the cost to the mixed
15 beverage licensee; provided, a mixed beverage licensee
16 shall be permitted to offer these drink specials on
17 any particular hour of any particular day and shall
18 not be required to offer these drink specials for an
19 entire calendar week or from open to close,

20 **e.** b. sell or offer to sell to any person an unlimited
21 number of drinks during any set period of time for a
22 fixed price, except at private functions not open to
23 the public,
24

1 ~~d.~~ ~~sell or offer to sell drinks to any person or group of~~
2 ~~persons on any one day or portion thereof at prices~~
3 ~~less than those charged the general public on that~~
4 ~~day, except at private functions not open to the~~
5 ~~public,~~

6 ~~e.~~ c. increase the volume of alcoholic beverages contained
7 in a drink without increasing proportionately the
8 price regularly charged for such drink during the same
9 calendar week, or

10 ~~f.~~ d. encourage or permit, on the licensed premises, any
11 game or contest which involves drinking or the
12 awarding of drinks as prizes.

13 Provided, that the provisions of this paragraph shall not
14 prohibit the advertising ~~or,~~ offering of food or entertainment or
15 bottle service in licensed establishments; further provided that the
16 provisions of this paragraph shall not prohibit the offer of food
17 and an alcoholic beverage as a single item, regardless of whether
18 the sum of the prices of the individual items, if separately
19 offered, is more than the single-item offering of food and alcoholic
20 beverage;

21 5. Permit or allow any patron or person to exit the licensed
22 premises with an open container of any alcoholic beverage.

23 Provided, this prohibition shall not be applicable to closed
24 original containers of alcoholic beverages which are carried from

1 the licensed premises of a bottle club by a patron, closed original
2 wine containers removed from the premises of restaurants, hotels and
3 motels, or to closed original containers of alcoholic beverages
4 transported to and from the place of business of a licensed caterer
5 by the caterer or an employee of the caterer;

6 6. Serve or sell alcoholic beverages with an expired license
7 issued by the ABLE Commission; or

8 7. Permit any person to be drunk or intoxicated on the
9 licensee's licensed premises.

10 SECTION 10. AMENDATORY Section 143, Chapter 366, O.S.L.
11 2016, as last amended by Section 2, Chapter 340, O.S.L. 2017 (37A
12 O.S. Supp. 2018, Section 6-103), is amended to read as follows:

13 Section 6-103. A. No retail spirits licensee shall:

14 1. Purchase or receive any alcoholic beverage other than from a
15 wine and spirits wholesaler, beer distributor, winery or small
16 brewer self-distribution licensee who elects to self-distribute;

17 2. Suffer or permit any retail container to be opened, or any
18 alcoholic beverage to be consumed on the licensed premises, unless
19 otherwise permitted by law;

20 3. Sell any alcoholic beverages at any hour other than between
21 the hours of 8:00 a.m. and midnight Monday through Saturday, and
22 shall not be permitted to be open on Thanksgiving Day or Christmas
23 Day; provided, a county may, pursuant to the provisions of
24 subsections B and C of Section 3-124 of this title, elect to allow

1 such sales between the hours of noon and midnight on Sunday. Retail
2 spirits licensees shall be permitted to sell alcoholic beverages on
3 the day of any General, Primary, Runoff Primary or Special Election
4 whether on a national, state, county or city election, provided that
5 the election day does not occur on any day on which such sales are
6 otherwise prohibited by law;

7 4. Sell spirits in a city or town, unless such city or town has
8 a population in excess of two hundred (200) according to the latest
9 Federal Decennial Census;

10 5. Sell any alcoholic beverage on credit; provided, that
11 acceptance by a licensee of a cash or debit card or a nationally
12 recognized credit card in lieu of actual cash payment does not
13 constitute the extension of credit; provided, further, as used in
14 this section:

15 a. "cash or debit card" means any instrument or device
16 whether known as a debit card or by any other name,
17 issued with or without fee by an issuer for the use of
18 the cardholder in depositing, obtaining or
19 transferring funds from a consumer banking electronic
20 facility, and

21 b. "nationally recognized credit card" means any
22 instrument or device, whether known as a credit card,
23 credit plate, charge plate or by any other name,
24 issued with or without fee by an issuer for the use of

1 the cardholder in obtaining money, goods, services or
2 anything else of value on credit which is accepted by
3 over one hundred retail locations;

4 6. Offer or furnish any prize, premium, gift or similar
5 inducement to a consumer in connection with the sale of alcoholic
6 beverages, ~~except~~; provided that:

7 a. goods or merchandise included by the manufacturer in
8 packaging with alcoholic beverages or for packaging
9 with alcoholic beverages shall not be included in this
10 prohibition, ~~but~~; however, no wholesaler or retailer
11 shall sell any alcoholic beverage prepackaged with
12 other goods or merchandise at a price which is greater
13 than the price at which the alcoholic beverage alone
14 is sold; ~~or~~, and

15 b. the offering of a discounted price for purchase of a
16 certain quantity of product shall not be considered an
17 inducement for purposes of this paragraph; or

18 7. Pay for alcoholic beverages by a check or draft which is
19 dishonored by the drawee when presented to such drawee for payment;
20 and the ABLE Commission may cancel or suspend the license of any
21 retailer who has given a check or draft, as maker or endorser, which
22 is so dishonored upon presentation.

23 B. No retail spirits licensee shall permit any person under
24 twenty-one (21) years of age to enter into or remain within or about

1 the licensed premises unless the person is under twelve (12) years
2 of age and is accompanied by an adult who holds direct supervisory
3 responsibility over said minor.

4 SECTION 11. REPEALER Section 144, Chapter 366, O.S.L.
5 2016, as amended by Section 24, Chapter 364, O.S.L. 2017 (37A O.S.
6 Supp. 2018, Section 6-104), is hereby repealed.

7 SECTION 12. This act shall become effective November 1, 2019.

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9 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
10 03/04/2019 - DO PASS, As Amended.

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