

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2363

6 By: Kannady

7 COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; amending
9 Section 3, Chapter 366, O.S.L. 2016, as last amended
10 by Section 13, Chapter 304, O.S.L. 2018 (37A O.S.
11 Supp. 2018, Section 1-103), which relates to
12 definitions; defining certain terms; amending Section
13 21, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018,
14 Section 2-109), which relates to certain alcohol-
15 related licenses; expanding authorities of certain
16 licensee; adding requirements for the service of
17 samples; authorizing off-premises consumption of
18 samples; requiring disposal of certain alcoholic
19 beverages in certain circumstances; amending Section
20 22, Chapter 366, O.S.L. 2016, as amended by Section
21 6, Chapter 381, O.S.L. 2017 (37A O.S. Supp. 2018,
22 Section 2-110), which relates to mixed beverage
23 licenses; granting additional authorities to mixed
24 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;
eliminating spousal cross-licensing restriction;
amending Section 76, Chapter 366, O.S.L. 2016, as

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

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

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

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

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

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

24

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

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

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

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

18 ~~10.~~ 11. "Brand extension" means:

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

22 (1) incorporates all or a substantial part of the
23 unique features of a preexisting brand of the
24 same licensed manufacturer, or

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

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

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

14 (2) relies or relied to a significant extent on the
15 goodwill associated with a preexisting low-point
16 beer brand;

17 ~~11.~~ 12. "Brewer" means and includes any person who manufactures
18 for human consumption by the use of raw materials or other
19 ingredients any beer upon which a license fee and a tax are imposed
20 by any law of this state;

21 ~~12.~~ 13. "Brewpub" means a licensed establishment operated on
22 the premises of, or on premises located contiguous to, a small
23 brewer, that prepares and serves food and beverages, including
24 alcoholic beverages, for on-premises consumption;

1 ~~13.~~ 14. "Cider" means any alcoholic beverage obtained by the
2 alcoholic fermentation of fruit juice, including but not limited to
3 flavored, sparkling or carbonated cider. For the purposes of the
4 distribution of this product, cider may be distributed by either
5 wine and spirits wholesalers or beer distributors;

6 ~~14.~~ 15. "Convenience store" means any person primarily engaged
7 in retailing a limited range of general household items and
8 groceries, with extended hours of operation, whether or not engaged
9 in retail sales of automotive fuels in combination with such sales;

10 ~~15.~~ 16. "Convicted" and "conviction" mean and include a finding
11 of guilt resulting from a plea of guilty or nolo contendere, the
12 decision of a court or magistrate or the verdict of a jury,
13 irrespective of the pronouncement of judgment or the suspension
14 thereof;

15 ~~16.~~ 17. "Director" means the Director of the ABLE Commission;

16 ~~17.~~ 18. "Distiller" means any person who produces spirits from
17 any source or substance, or any person who brews or makes mash, wort
18 or wash, fit for distillation or for the production of spirits
19 (except a person making or using such material in the authorized
20 production of wine or beer, or the production of vinegar by
21 fermentation), or any person who by any process separates alcoholic
22 spirits from any fermented substance, or any person who, making or
23 keeping mash, wort or wash, has also in his or her possession or use
24 a still;

1 ~~18.~~ 19. "Distributor agreement" means the written agreement
2 between the distributor and manufacturer as set forth in Section 3-
3 108 of this title;

4 ~~19.~~ 20. "Drug store" means a person primarily engaged in
5 retailing prescription and nonprescription drugs and medicines;

6 ~~20.~~ 21. "Dual-strength beer" means a brand of beer that,
7 immediately prior to April 15, 2017, was being sold and distributed
8 in this state:

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

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

15 and continues to be sold and distributed as such on October 1, 2018.
16 Dual-strength beer does not include a brand of beer that arose as a
17 result of a brand extension as defined in this section;

18 ~~21.~~ 22. "Fair market value" means the value in the subject
19 territory covered by the written agreement with the distributor or
20 wholesaler that would be determined in an arm's length transaction
21 entered into without duress or threat of termination of the
22 distributor's or wholesaler's rights and shall include all elements
23 of value, including goodwill and going-concern value;

24 ~~22.~~ 23. "Good cause" means:

1 a. failure by the distributor to comply with the material
2 and reasonable provisions of a written agreement or
3 understanding with the manufacturer, or

4 b. failure by the distributor to comply with the duty of
5 good faith;

6 ~~23.~~ 24. "Good faith" means the duty of each party to any
7 distributor agreement and all officers, employees or agents thereof
8 to act with honesty in fact and within reasonable standards of fair
9 dealing in the trade;

10 ~~24.~~ 25. "Grocery store" means a person primarily engaged in
11 retailing a general line of food, such as canned or frozen foods,
12 fresh fruits and vegetables, and fresh and prepared meats, fish and
13 poultry;

14 ~~25.~~ 26. "Hotel" or "motel" means an establishment which is
15 licensed to sell alcoholic beverages by the individual drink and
16 which contains guestroom accommodations with respect to which the
17 predominant relationship existing between the occupants thereof and
18 the owner or operator of the establishment is that of innkeeper and
19 guest. For purposes of this section, the existence of other legal
20 relationships as between some occupants and the owner or operator
21 thereof shall be immaterial;

22 ~~26.~~ 27. "Legal newspaper" means a newspaper meeting the
23 requisites of a newspaper for publication of legal notices as
24

1 prescribed in Sections 101 through 114 of Title 25 of the Oklahoma
2 Statutes;

3 ~~27.~~ 28. "Licensee" means any person holding a license under the
4 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or
5 employee of such licensee while in the performance of any act or
6 duty in connection with the licensed business or on the licensed
7 premises;

8 ~~28.~~ 29. "Low-point beer" shall mean any beverages containing
9 more than one-half of one percent (1/2 of 1%) alcohol by volume, and
10 not more than three and two-tenths percent (3.2%) alcohol by weight,
11 including but not limited to, beer or cereal malt beverages obtained
12 by the alcoholic fermentation of an infusion by barley or other
13 grain, malt or similar products;

14 ~~29.~~ 30. "Manufacturer" means a brewer, distiller, winemaker,
15 rectifier or bottler of any alcoholic beverage and its subsidiaries,
16 affiliates and parent companies;

17 ~~30.~~ 31. "Manufacturer's agent" means a salaried or commissioned
18 salesperson who is the agent authorized to act on behalf of the
19 manufacturer or nonresident seller in the state;

20 ~~31.~~ 32. "Meals" means foods commonly ordered at lunch or dinner
21 and at least part of which is cooked on the licensed premises and
22 requires the use of dining implements for consumption. Provided,
23 that the service of only food such as appetizers, sandwiches, salads
24 or desserts shall not be considered "meals";

1 ~~32.~~ 33. "Mini-bar" means a closed container, either
2 refrigerated in whole or in part, or nonrefrigerated, and access to
3 the interior of which is:

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

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

16 ~~34.~~ 35. "Mixed beverages" means one or more servings of a
17 beverage composed in whole or part of an alcoholic beverage in a
18 sealed or unsealed container of any legal size for consumption on
19 the premises where served or sold by the holder of a mixed beverage,
20 beer and wine, caterer, public event, charitable event or special
21 event license;

22 ~~35.~~ 36. "Motion picture theater" means an establishment which
23 is licensed by Section 2-110 of this title to sell alcoholic
24

1 beverages by the individual drink and where motion pictures are
2 exhibited, and to which the general public is admitted;

3 ~~36.~~ 37. "Nonresident seller" means any person licensed pursuant
4 to Section 2-135 of this title;

5 ~~37.~~ 38. "Retail salesperson" means a salesperson soliciting
6 orders from and calling upon retail alcoholic beverage stores with
7 regard to his or her product;

8 ~~38.~~ 39. "Occupation" as used in connection with "occupation
9 tax" means the sites occupied as the places of business of the
10 manufacturers, wholesalers, beer distributors, retailers, mixed
11 beverage licensees, on-premises beer and wine licensees, bottle
12 clubs, caterers, public event and special event licensees;

13 ~~39.~~ 40. "Original package" means any container of alcoholic
14 beverage filled and stamped or sealed by the manufacturer;

15 ~~40.~~ 41. "Package store" means any sole proprietor or
16 partnership that qualifies to sell wine, beer and/or spirits for
17 ~~off-premise~~ off-premises consumption and that is not a grocery
18 store, convenience store or drug store, or other retail outlet that
19 is not permitted to sell wine or beer for ~~off-premise~~ off-premises
20 consumption;

21 ~~41.~~ 42. "Patron" means any person, customer or visitor who is
22 not employed by a licensee or who is not a licensee;

23 ~~42.~~ 43. "Person" means an individual, any type of partnership,
24 corporation, association, limited liability company or any

1 individual involved in the legal structure of any such business
2 entity;

3 ~~43.~~ 44. "Premises" means the grounds and all buildings and
4 appurtenances pertaining to the grounds including any adjacent
5 premises if under the direct or indirect control of the licensee and
6 the rooms and equipment under the control of the licensee and used
7 in connection with or in furtherance of the business covered by a
8 license. Provided that the ABLE Commission shall have the authority
9 to designate areas to be excluded from the licensed premises solely
10 for the purpose of:

- 11 a. allowing the presence and consumption of alcoholic
12 beverages by private parties which are closed to the
13 general public, or
- 14 b. allowing the services of a caterer serving alcoholic
15 beverages provided by a private party.

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

19 ~~44.~~ 45. "Private event" means a social gathering or event
20 attended by invited guests who share a common cause, membership,
21 business or task and have a prior established relationship. For
22 purposes of this definition, advertisement for general public
23 attendance or sales of tickets to the general public shall not
24 constitute a private event;

1 ~~45.~~ 46. "Public event" means any event that can be attended by
2 the general public;

3 ~~46.~~ 47. "Rectifier" means any person who rectifies, purifies or
4 refines spirits or wines by any process (other than by original and
5 continuous distillation, or original and continuous processing, from
6 mash, wort, wash or other substance, through continuous closed
7 vessels and pipes, until the production thereof is complete), and
8 any person who, without rectifying, purifying or refining spirits,
9 shall by mixing (except for immediate consumption on the premises
10 where mixed) such spirits, wine or other liquor with any material,
11 manufactures any spurious, imitation or compound liquors for sale,
12 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
13 or any other name;

14 ~~47.~~ 48. "Regulation" or "rule" means a formal rule of general
15 application promulgated by the ABLE Commission as herein required;

16 ~~48.~~ 49. "Restaurant" means an establishment that is licensed to
17 sell alcoholic beverages by the individual drink for on-premises
18 consumption and where food is prepared and sold for immediate
19 consumption on the premises;

20 ~~49.~~ 50. "Retail container for spirits and wines" means an
21 original package of any capacity approved by the United States
22 Bureau of Alcohol, Tobacco and Firearms;

23 ~~50.~~ 51. "Retailer" means a package store, grocery store,
24 convenience store or drug store licensed to sell alcoholic beverages

1 for ~~off-premise~~ off-premises consumption pursuant to a Retail
2 Spirits License, Retail Wine License or Retail Beer License;

3 ~~51.~~ 52. "Sale" means any transfer, exchange or barter in any
4 manner or by any means whatsoever, and includes and means all sales
5 made by any person, whether as principal, proprietor or as an agent,
6 servant or employee. The term "sale" is also declared to be and
7 include the use or consumption in this state of any alcoholic
8 beverage obtained within or imported from without this state, upon
9 which the excise tax levied by the Oklahoma Alcoholic Beverage
10 Control Act has not been paid or exempted;

11 ~~52.~~ 53. "Short-order food" means food other than full meals
12 including but not limited to sandwiches, soups and salads. Provided
13 that popcorn, chips and other similar snack food shall not be
14 considered "short-order food";

15 ~~53.~~ 54. "Small brewer" means a brewer who manufactures less
16 than twenty-five thousand (25,000) barrels of beer annually pursuant
17 to a validly issued Small Brewer License hereunder;

18 ~~54.~~ 55. "Small farm wine" means a wine that is produced by a
19 small farm winery with seventy-five percent (75%) or more Oklahoma-
20 grown grapes, berries, other fruits, honey or vegetables;

21 ~~55.~~ 56. "Small farm winery" means a wine-making establishment
22 that does not annually produce for sale more than fifteen thousand
23 (15,000) gallons of wine as reported on the United States Department
24

1 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
2 Wine Premises Operations (TTB Form 5120.17);

3 ~~56.~~ 57. "Sparkling wine" means champagne or any artificially
4 carbonated wine;

5 ~~57.~~ 58. "Special event" means an entertainment, recreation or
6 marketing event that occurs at a single location on an irregular
7 basis and at which alcoholic beverages are sold;

8 ~~58.~~ 59. "Spirits" means any beverage other than wine or beer,
9 which contains more than one-half of one percent (1/2 of 1%) alcohol
10 measured by volume, and obtained by distillation, whether or not
11 mixed with other substances in solution and includes those products
12 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
13 fortified wines and similar compounds, but shall not include any
14 alcohol liquid completely denatured in accordance with the Acts of
15 Congress and regulations pursuant thereto;

16 ~~59.~~ 60. "Strong beer" means beer which, prior to ~~the effective~~
17 ~~date of this act~~ October 1, 2018, was distributed pursuant to the
18 Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of
19 Title 37 of the Oklahoma Statutes;

20 ~~60.~~ 61. "Successor manufacturer" means a primary source of
21 supply, a brewer, a cider manufacturer or an importer that acquires
22 rights to a beer or cider brand from a predecessor manufacturer;

23 ~~61.~~ 62. "Tax Commission" means the Oklahoma Tax Commission;
24

1 ~~62.~~ 63. "Territory" means a geographic region with a specified
2 boundary;

3 ~~63.~~ 64. "Wine and spirits wholesaler" or "wine and spirits
4 distributor" means and includes any sole proprietorship or
5 partnership licensed to distribute wine and spirits in the state.
6 The term "wholesaler", as used in this act, shall be construed to
7 refer to a wine and spirits wholesaler; and

8 ~~64.~~ 65. "Wine" means and includes any beverage containing more
9 than one-half of one percent (1/2 of 1%) alcohol by volume and not
10 more than twenty-four percent (24%) alcohol by volume at sixty (60)
11 degrees Fahrenheit obtained by the fermentation of the natural
12 contents of fruits, vegetables, honey, milk or other products
13 containing sugar, whether or not other ingredients are added, and
14 includes vermouth and sake, known as Japanese rice wine.

15 Words in the plural include the singular, and vice versa, and
16 words imparting the masculine gender include the feminine, as well
17 as persons and licensees as defined in this section.

18 SECTION 2. AMENDATORY Section 21, Chapter 366, O.S.L.
19 2016 (37A O.S. Supp. 2018, Section 2-109), is amended to read as
20 follows:

21 Section 2-109. A. A retail spirits license shall authorize the
22 holder thereof:

23 1. To purchase wine or spirits from a wine and spirits
24 wholesaler;

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

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

8 4. To serve free samples of spirits, wine and beer to
9 individuals twenty-one (21) years of age and older. The retail
10 spirits licensee shall restrict the distribution and consumption of
11 samples to an area within the licensed premises designated by the
12 licensee. Samples served by a licensee under this paragraph shall
13 not be considered sales of spirits, wine or beer within the meaning
14 of Article XXVIII-A of the Oklahoma Constitution; provided, such
15 samples shall be considered removed or withdrawn from the licensee's
16 or licensee's supplier's inventory for use or consumption within the
17 meaning of Section 5-110 of this title for excise tax determination
18 and reporting requirements;

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

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

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

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

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

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

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

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

14 1. To purchase beer from a beer distributor;

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

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

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

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

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

8 2. Poured from its original container;

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

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

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

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

20 SECTION 3. AMENDATORY Section 22, Chapter 366, O.S.L.
21 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S.
22 Supp. 2018, Section 2-110), is amended to read as follows:

23 Section 2-110. A. A mixed beverage license shall authorize the
24 holder thereof:

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

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

10 3. To sell spirits in their original packages for consumption
11 on the premises of the mixed beverage licensee under the following
12 conditions:

13 a. spirits in their original packages shall remain and be
14 consumed on the premises of a mixed beverage licensee
15 and shall not be removed from the premises if not
16 consumed in their entirety,

17 b. spirits in their original packages to be consumed on
18 the premises of the mixed beverage licensee are
19 provided exclusively by the mixed beverage licensee,
20 and

21 c. each individual, original package of spirits shall
22 contain no greater than seven hundred fifty (750)
23 milliliters and no more than nineteen percent (19%)
24 alcohol by volume;

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

5 5. To serve free samples of spirits, wine and beer to
6 individuals twenty-one (21) years of age and older. The retail
7 spirits licensee shall restrict the distribution and consumption of
8 samples to an area within the licensed premises designated by the
9 licensee. Samples served by the licensee under this paragraph shall
10 not be considered sales of spirits, wine or beer within the meaning
11 of Article XXVIII-A of the Oklahoma Constitution; provided, such
12 samples shall be considered removed or withdrawn from the licensee's
13 or licensee's supplier's inventory for use or consumption within the
14 meaning of Section 5-110 of this title for excise tax determination
15 and reporting requirements.

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

19 1. Served by the retail spirits licensee, an employee of the
20 retail spirits licensee or a designee of the retail spirits licensee
21 who holds a license to sell, represent or offer alcohol in the State
22 of Oklahoma;

23 2. Poured from its original container;
24

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

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

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

8 C. Sales and service of mixed beverages by holders of mixed
9 beverage licenses shall be limited to the licensed premises of the
10 licensee unless the holder of the mixed beverage license also
11 obtains a caterer license or a mixed beverage/caterer combination
12 license. A mixed beverage license shall only be issued in counties
13 of this state where the sale of alcoholic beverages by the
14 individual drink for on-premises consumption has been authorized. A
15 separate license shall be required for each place of business.

16 D. Upon application, a mixed beverage license shall be issued
17 for any place of business functioning as a motion picture theater,
18 as defined by Section 1-103 of this title. Provided, that upon
19 proof of legal age to consume alcohol, every patron being served
20 alcoholic beverages shall be required to wear a wrist bracelet or
21 receive a hand stamp identifying the patron as being of legal age to
22 consume alcohol. This requirement shall only apply inside a motion
23 picture theater auditorium where individuals under the legal age to
24 consume alcohol are allowed.

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

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

- 9 1. Violated any rule promulgated by the ABLE Commission;
- 10 2. Procured a license through fraud, or misrepresentation, or
11 concealment of a material fact;
- 12 3. Made any false representation or statement to the ABLE
13 Commission or the Oklahoma Tax Commission in order to prevent or
14 induce action by the ABLE Commission or the Tax Commission;
- 15 4. Maintained an unsanitary establishment or has supplied
16 impure or otherwise deleterious beverages or food;
- 17 5. Stored, possessed, mixed or served on the premises of a
18 bottle club any alcoholic beverage upon which the tax levied by
19 Section 5-101 of this title has not been paid as provided for in the
20 Oklahoma Alcoholic Beverage Control Act, in a county of this state
21 where the sale of alcoholic beverages by the individual drink for
22 on-premises consumption has not been authorized;
- 23 6. Misrepresented to a customer or the public any alcoholic
24 beverage sold by the licensee;

1 7. Had any permit or license issued by the Tax Commission and
2 required by the Oklahoma Alcoholic Beverage Control Act, suspended
3 or revoked by the Tax Commission; or

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

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

9 1. Has acted as an agent of a manufacturer or wholesaler of
10 alcoholic beverages;

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

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

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

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

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

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

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

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

9 1. That the licensee knowingly sold alcoholic beverages or
10 allowed such beverages to be sold, delivered or furnished to any
11 person under the age of twenty-one (21) years or to any person
12 visibly intoxicated or adjudged insane or mentally deficient;

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

24

1 3. That, in the case of a wine and spirits wholesaler, beer
2 distributor, retail spirits, retail wine or retail beer licensee,
3 the holder of the license or any member of a general or limited
4 partnership which is the holder of such a license, has been
5 convicted of a prohibitory law relating to the sale, manufacture or
6 transportation of alcoholic beverages which constitutes a felony.

7 E. If the ABLE Commission shall find by a preponderance of the
8 evidence as in civil cases that a licensee has knowingly sold any
9 alcoholic beverage to any person under the age of twenty-one (21)
10 years, after a public hearing, the ABLE Commission ~~shall~~ may revoke
11 such license ~~and no discretion as to the revocation shall be~~
12 ~~exercised by the ABLE Commission.~~

13 F. The ABLE Commission shall have the authority to promulgate
14 rules to establish a penalty schedule for violations of any
15 provision of the Oklahoma Alcoholic Beverage Control Act or any rule
16 of the ABLE Commission. The schedule shall provide for suspension
17 or revocation of any license for major and minor violations as
18 determined by the ABLE Commission. Penalties shall be increasingly
19 severe with each violation by a licensee.

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

1 G. The ABLE Commission or the Tax Commission may impose a
2 monetary penalty in lieu of or in addition to suspension of a
3 license. The amount of the fine for a major violation shall be
4 computed by multiplying the proposed number of days of the
5 suspension period by One Hundred Dollars (\$100.00). The amount of
6 the fine for a minor violation shall be computed by multiplying the
7 number of days of the proposed suspension period by Fifty Dollars
8 (\$50.00).

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

12 I. If the ABLE Commission or the Tax Commission finds that
13 public health, safety or welfare require emergency action, and
14 incorporates a finding to that effect in its order, summary
15 suspension of a license may be ordered pending proceeding for
16 revocation or other action, pursuant to the provisions of Section
17 314 of Title 75 of the Oklahoma Statutes.

18 SECTION 5. AMENDATORY Section 66, Chapter 366, O.S.L.
19 2016 (37A O.S. Supp. 2018, Section 2-154), is amended to read as
20 follows:

21 Section 2-154. All licenses issued pursuant to the provisions
22 of the Oklahoma Alcoholic Beverage Control Act shall be ~~displayed in~~
23 ~~a conspicuous place~~ easily accessible and available upon demand at
24 all times on the licensed premises. No licensee may consent to or

1 allow the use or display of the license by a person other than the
2 person to whom the license was issued. No person may use a license
3 or exercise any privileges granted by the license except at the
4 place, address, premises or location for which the license is
5 issued, except as otherwise provided by the Oklahoma Alcoholic
6 Beverage Control Act.

7 If the mixed beverage, caterer, public event or bottle club
8 license for a licensed premises is suspended or revoked by the ABLE
9 Commission, all other licenses issued by the ABLE Commission for
10 such premises shall cease to be valid. If a mixed beverage,
11 caterer, public event or bottle club license is suspended or revoked
12 for any licensed premises, this shall not invalidate licenses held
13 by the licensee for other licensed premises.

14 SECTION 6. AMENDATORY Section 68, Chapter 366, O.S.L.
15 2016, as amended by Section 1, Chapter 76, O.S.L. 2017 (37A O.S.
16 Supp. 2018, Section 2-156), is amended to read as follows:

17 Section 2-156. A. No retail spirits license shall be issued to
18 a corporation, limited liability company or similar business entity.
19 No person may own any interest in more than two package stores;
20 provided, a spouse of a retail spirits license holder may hold a
21 separate interest in up to two (2) package stores. For the purpose
22 only of establishing whether or not a person owns an interest in
23 more than one package store, any person having a beneficial interest
24 in any package store shall be deemed to be a partner in the package

1 store except that the spouse of any retail spirits license holder or
2 partner shall not be deemed to be a partner or have a beneficial
3 interest in a package store unless his or her name appears on the
4 license. A beneficial interest shall be any interest that benefits
5 from any sales or profits of the package store.

6 ~~B. For purposes of this section, any spouse of a retail spirits~~
7 ~~license holder shall not hold another license provided for pursuant~~
8 ~~to the Oklahoma Alcoholic Beverage Control Act, except a retail wine~~
9 ~~license, retail beer license, on premises beer and wine license,~~
10 ~~mixed beverage license, a caterer's license or a retail spirits~~
11 ~~license.~~

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

24

1 SECTION 7. AMENDATORY Section 76, Chapter 366, O.S.L.
2 2016, as last amended by Section 3, Chapter 113, O.S.L. 2018 (37A
3 O.S. Supp. 2018, Section 3-106), is amended to read as follows:

4 Section 3-106. A. A Direct Wine Shipper's Permit may be issued
5 by the Oklahoma ABLE Commission to a winery licensed in this or any
6 other state within the United States as a wine producer. A Direct
7 Wine Shipper's Permit allows a winery to ship up to six nine-liter
8 cases of wine annually directly to an Oklahoma resident who is
9 twenty-one (21) years of age or older for such resident's personal
10 use and not for resale. No resident shall be permitted to purchase
11 more than thirty nine-liter cases of wine per year under the
12 provisions of this section.

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

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

18 2. Payment of a registration fee of Three Hundred Dollars
19 (\$300.00) for original permits and One Hundred Fifty Dollars
20 (\$150.00) for renewal permits; and

21 3. Any other documentation that the ABLE Commission believes is
22 reasonably necessary to verify the identity and physical location of
23 the winery.

24

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

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

5 2. Shall not ship wine intended for resale;

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

11 4. Shall require the transporter or common carrier that
12 delivers the wine to obtain the signature of a person twenty-one
13 (21) years of age or older at the delivery address at the time of
14 delivery. At the expense of the Direct Wine Shipper, the Direct
15 Wine Shipper shall receive a delivery confirmation from the express
16 company, common carrier or contract carrier indicating the location
17 of delivery and the name and signature of the individual who
18 accepted the delivery. The ABLE Commission shall design and create
19 a label or approve a label that must be affixed to the shipping
20 container by the licensee;

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

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

8 7. Shall be deemed to have consented to the jurisdiction of any
9 agency or court of the State of Oklahoma tasked with the enforcement
10 of or adjudication of controversies related to this section and any
11 related laws or rules; and

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

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

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

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

24

- 1 3. The name and business address of the consignor shipping the
- 2 wine;
- 3 4. The weight of the packages shipped;
- 4 5. The unique tracking number of the delivery; and
- 5 6. The date of delivery.

6 E. The provisions of this section do not apply to a motor
7 carrier or freight forwarder as defined in Section 13102 of Title 49
8 of the United States Code or to an air carrier as defined in Section
9 40102 of Title 49 of the United States Code.

10 F. The holder of a Direct Wine Shipper's Permit may ship wine,
11 as authorized by this section, from any of its licensed premises in
12 its state of residence or from a fulfillment warehouse with which it
13 has contracted. For the purposes of this section, a "fulfillment
14 warehouse" means a business operating a warehouse and providing
15 storage, packaging and shipping services to wineries. The holder of
16 a Direct Wine Shipper's Permit shall list on its application the
17 addresses of each of its licensed premises or fulfillment houses in
18 the state of its licensure.

19 SECTION 8. AMENDATORY Section 141, Chapter 366, O.S.L.
20 2016, as amended by Section 5, Chapter 113, O.S.L. 2018 (37A O.S.
21 Supp. 2018, Section 6-101), is amended to read as follows:

22 Section 6-101. A. No person shall:
23 1. Knowingly sell, deliver or furnish alcoholic beverages to
24 any person under twenty-one (21) years of age;

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

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

7 4. Import into this state, except as provided for in the
8 Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages;
9 provided, that nothing herein shall prohibit the importation or
10 possession for personal use of not more than one (1) liter of
11 alcoholic beverages upon which the Oklahoma excise tax is
12 delinquent;

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

15 6. Knowingly transport into, within or through this state more
16 than one (1) liter of alcoholic beverages upon which the Oklahoma
17 excise tax has not been paid unless the person accompanying or in
18 charge of the vehicle transporting same shall possess a true copy of
19 a bill of lading, invoice, manifest or other document particularly
20 identifying that alcoholic beverages are being transported and
21 showing the name and address of the consignor and consignee;
22 provided, this prohibition shall not apply to the first one hundred
23 eighty (180) liters of alcoholic beverages classified as household
24 goods by military personnel, age twenty-one (21) or older, when

1 entering Oklahoma from temporary active assignment outside the
2 contiguous United States;

3 7. Knowingly transport in any vehicle upon a public highway,
4 street or alley any alcoholic beverage except in the original
5 container which shall not have been opened and the seal upon which
6 shall not have been broken and from which the original cap or cork
7 shall not have been removed, unless the opened container be in the
8 rear trunk or rear compartment, which shall include the spare tire
9 compartment in a vehicle commonly known as a station wagon and panel
10 truck, or any outside compartment which is not accessible to the
11 driver or any other person in the vehicle while it is in motion;

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

17 9. Forcibly resist lawful arrest, or by physical contact
18 interfere with an investigation of any infringement of the Oklahoma
19 Alcoholic Beverage Control Act or with any lawful search or seizure
20 being made by a law enforcement officer or an employee of the ABLE
21 Commission, when such person knows or should know that such acts are
22 being performed by a state, county or municipal officer or employee
23 of the ABLE Commission;

24

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

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

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

11 13. Knowingly and willfully permit any individual under twenty-
12 one (21) years of age who is an invitee to the person's residence,
13 any building, structure or room owned, occupied, leased or otherwise
14 procured by the person or on any land owned, occupied, leased or
15 otherwise procured by the person, to possess or consume any
16 alcoholic beverage as defined by Section 1-103 of this title, any
17 controlled dangerous substance as defined in the Uniform Controlled
18 Dangerous Substances Act, or any combination thereof, in such place.

19 B. Except as provided for in subsection C of this section,
20 punishment for violation of paragraph 13 of subsection A of this
21 section shall be as follows:

22 1. Any person who is convicted of a violation of the provisions
23 of paragraph 13 of subsection A of this section shall be deemed
24

1 guilty of a misdemeanor for the first offense and be punished by a
2 fine of not more than Five Hundred Dollars (\$500.00);

3 2. Any person who, within ten (10) years after previous
4 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,

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

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

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

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

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

1 d. or any combination of two or more thereof,
2 shall be guilty of a felony and shall be punished by a fine of not
3 more than Two Thousand Five Hundred Dollars (\$2,500.00), or by
4 imprisonment in the custody of the Department of Corrections for not
5 more than five (5) years, or by both such fine and imprisonment.

6 C. Any person who violates paragraph 13 of subsection A of this
7 section, and such actions cause great bodily injury or the death of
8 a person, shall, in addition to any other penalty provided by law,
9 be guilty of a felony, punishable by imprisonment in the custody of
10 the Department of Corrections for not more than five (5) years, a
11 fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00)
12 nor more than Five Thousand Dollars (\$5,000.00), or both such fine
13 and imprisonment.

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

17 1. In any public place, or in or upon any passenger coach,
18 streetcar, or in or upon any other vehicle commonly used for the
19 transportation of passengers, or in or about any depot, platform,
20 waiting station or room, drink or otherwise consume any intoxicating
21 liquor unless authorized by the Oklahoma Alcoholic Beverage Control
22 Act, intoxicating substance or intoxicating compound of any kind, or
23 inhale glue, paint or other intoxicating substance;

1 2. Be drunk or intoxicated in any public or private road, or in
2 any passenger coach, streetcar or any public place or building, or
3 at any public gathering, from drinking or consuming such
4 intoxicating liquor, intoxicating substance or intoxicating compound
5 or from inhalation of glue, paint or other intoxicating substance;
6 or

7 3. Be drunk or intoxicated from any cause,
8 shall be guilty of a misdemeanor, and upon conviction thereof shall
9 be punished by a fine of not less than Ten Dollars (\$10.00), nor
10 more than One Hundred Dollars (\$100.00) or by imprisonment for not
11 less than five (5) days nor more than thirty (30) days or by both
12 such fine and imprisonment.

13 SECTION 9. AMENDATORY Section 142, Chapter 366, O.S.L.
14 2016 (37A O.S. Supp. 2018, Section 6-102), is amended to read as
15 follows:

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

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

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

23 a. a mixed beverage, beer and wine, caterer, public
24 event, special event, bottle club, retail wine or

1 retail beer licensee may employ servers or sales
2 clerks who are at least eighteen (18) years of age,
3 except persons under twenty-one (21) years of age may
4 not serve in designated bar or lounge areas, and

5 b. a mixed beverage, beer and wine, caterer, public
6 event, special event or bottle club licensee may
7 employ or hire musical bands who have musicians who
8 are under eighteen (18) years of age if each such
9 musician is either accompanied by a parent or legal
10 guardian or has on their person, to be made available
11 for inspection upon demand by any employee of the ABLE
12 Commission or law enforcement officer, a written,
13 notarized affidavit from the parent or legal guardian
14 giving the underage musician permission to perform in
15 designated bar or lounge areas;

16 3. Give any alcoholic beverage as a prize, premium or
17 consideration for any lottery, game of chance or skill or any type
18 of competition;

19 4. Use any of the following means or inducements to stimulate
20 the consumption of alcoholic beverages, including but not limited
21 to:

22 a. ~~deliver more than two drinks to one person at one~~
23 ~~time,~~

1 ~~b.~~ sell or offer to sell to any person or group of
2 persons any drinks at a price that is less than six
3 percent (6%) below the markup of the cost to the mixed
4 beverage licensee; provided, a mixed beverage licensee
5 shall be permitted to offer these drink specials on
6 any particular hour of any particular day and shall
7 not be required to offer these drink specials for an
8 entire calendar week or from open to close,

9 ~~e.~~ b. sell or offer to sell to any person an unlimited
10 number of drinks during any set period of time for a
11 fixed price, except at private functions not open to
12 the public,

13 ~~d.~~ ~~sell or offer to sell drinks to any person or group of~~
14 ~~persons on any one day or portion thereof at prices~~
15 ~~less than those charged the general public on that~~
16 ~~day, except at private functions not open to the~~
17 ~~public,~~

18 ~~e.~~ c. increase the volume of alcoholic beverages contained
19 in a drink without increasing proportionately the
20 price regularly charged for such drink during the same
21 calendar week, or

22 ~~f.~~ d. encourage or permit, on the licensed premises, any
23 game or contest which involves drinking or the
24 awarding of drinks as prizes.

1 Provided, that the provisions of this paragraph shall not
2 prohibit the advertising ~~or~~, offering of food or entertainment or
3 bottle service in licensed establishments; further provided that the
4 provisions of this paragraph shall not prohibit the offer of food
5 and an alcoholic beverage as a single item, regardless of whether
6 the sum of the prices of the individual items, if separately
7 offered, is more than the single-item offering of food and alcoholic
8 beverage;

9 5. Permit or allow any patron or person to exit the licensed
10 premises with an open container of any alcoholic beverage.
11 Provided, this prohibition shall not be applicable to closed
12 original containers of alcoholic beverages which are carried from
13 the licensed premises of a bottle club by a patron, closed original
14 wine containers removed from the premises of restaurants, hotels and
15 motels, or to closed original containers of alcoholic beverages
16 transported to and from the place of business of a licensed caterer
17 by the caterer or an employee of the caterer;

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

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

22 SECTION 10. AMENDATORY Section 143, Chapter 366, O.S.L.
23 2016, as last amended by Section 2, Chapter 340, O.S.L. 2017 (37A
24 O.S. Supp. 2018, Section 6-103), is amended to read as follows:

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

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

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

8 3. Sell any alcoholic beverages at any hour other than between
9 the hours of 8:00 a.m. and midnight Monday through Saturday, and
10 shall not be permitted to be open on Thanksgiving Day or Christmas
11 Day; provided, a county may, pursuant to the provisions of
12 subsections B and C of Section 3-124 of this title, elect to allow
13 such sales between the hours of noon and midnight on Sunday. Retail
14 spirits licensees shall be permitted to sell alcoholic beverages on
15 the day of any General, Primary, Runoff Primary or Special Election
16 whether on a national, state, county or city election, provided that
17 the election day does not occur on any day on which such sales are
18 otherwise prohibited by law;

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

22 5. Sell any alcoholic beverage on credit; provided, that
23 acceptance by a licensee of a cash or debit card or a nationally
24 recognized credit card in lieu of actual cash payment does not

1 constitute the extension of credit; provided, further, as used in
2 this section:

3 a. "cash or debit card" means any instrument or device
4 whether known as a debit card or by any other name,
5 issued with or without fee by an issuer for the use of
6 the cardholder in depositing, obtaining or
7 transferring funds from a consumer banking electronic
8 facility, and

9 b. "nationally recognized credit card" means any
10 instrument or device, whether known as a credit card,
11 credit plate, charge plate or by any other name,
12 issued with or without fee by an issuer for the use of
13 the cardholder in obtaining money, goods, services or
14 anything else of value on credit which is accepted by
15 over one hundred retail locations;

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

19 a. goods or merchandise included by the manufacturer in
20 packaging with alcoholic beverages or for packaging
21 with alcoholic beverages shall not be included in this
22 prohibition, ~~but~~; however, no wholesaler or retailer
23 shall sell any alcoholic beverage prepackaged with
24 other goods or merchandise at a price which is greater

1 than the price at which the alcoholic beverage alone
2 is sold; ~~or,~~ and

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

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

11 B. No retail spirits licensee shall permit any person under
12 twenty-one (21) years of age to enter into or remain within or about
13 the licensed premises unless the person is under twelve (12) years
14 of age and is accompanied by an adult who holds direct supervisory
15 responsibility over said minor.

16 SECTION 11. REPEALER Section 144, Chapter 366, O.S.L.
17 2016, as amended by Section 24, Chapter 364, O.S.L. 2017 (37A O.S.
18 Supp. 2018, Section 6-104), is hereby repealed.

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

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