

1 ENGROSSED SENATE AMENDMENT  
TO  
2 ENGROSSED HOUSE  
BILL NO. 2363

By: Kannady of the House  
and  
Pugh of the Senate

7 An Act relating to alcoholic beverages; amending  
8 Section 3, Chapter 366, O.S.L. 2016, as last amended  
9 by Section 13, Chapter 304, O.S.L. 2018 (37A O.S.  
10 Supp. 2018, Section 1-103), which relates to  
11 definitions; \*\*\* sales of alcoholic beverages;  
12 prohibiting certain sales of alcoholic beverages  
13 packaged with goods or merchandise; allowing  
14 supervised children under \*\*\* and providing an  
15 effective date.

13 AMENDMENT NO. 1. Page 1, strike the title to read

14 "[ alcoholic beverages - licenses - repealer -  
15 effective date ]"

16 Passed the Senate the 25th day of April, 2019.

18 \_\_\_\_\_  
19 Presiding Officer of the Senate

20 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
21 2019.

23 \_\_\_\_\_  
24 Presiding Officer of the House  
of Representatives

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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  
last amended by Section 3, Chapter 113, O.S.L. 2018

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

24

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  
24

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;

24

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;

24

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;

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  
24

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  
24

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.

24

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

24

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, 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).

23  
24

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, 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.

8 Passed the House of Representatives the 13th day of March, 2019.

9

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\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

11

12

Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2019.

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Presiding Officer of the Senate

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