

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3076

By: Hays

COMMITTEE SUBSTITUTE

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 1-103, as amended by Section 2, Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2023, Section 1-103), which relates to definitions; defining term; amending 37A O.S. 2021, Section 2-109, which relates to retail spirits license; permitting an employee to sample alcoholic beverages under certain circumstances; specifying amount to be used in tastings; providing for procedure of tastings that shall occur; allowing for certain resealing and storing; exempting samples from certain excise tax provisions; amending 37A O.S. 2021, Section 5-132, as amended by Section 4, Chapter 94, O.S.L. 2023 (37A O.S. Supp. 2023, Section 5-132), which relates to brand labels; providing brand label fee for small batch spirits; amending 37A O.S. 2021, Section 6-105, as amended by Section 2, Chapter 82, O.S.L. 2022 (37A O.S. Supp. 2023, Section 6-105), which relates to prohibited acts of mixed beverage, public event, special event, or on-premises beer and wine licensees; providing exception; amending 37A O.S. 2021, Section 6-109, which relates to prohibited acts; permitting an employee to sample alcoholic beverages under certain circumstances; specifying amount to be used in tastings; providing for procedure of tastings that shall occur; allowing for certain resealing and storing; exempting samples from certain excise tax provisions; updating statutory language; updating statutory reference; and declaring an emergency.

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

2 SECTION 1. AMENDATORY 37A O.S. 2021, Section 1-103, as
3 amended by Section 2, Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2023,
4 Section 1-103), is amended to read as follows:

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

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

9 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
10 alcohol, ethanol or spirits of wine, from whatever source or by
11 whatever process produced. It does not include wood alcohol or
12 alcohol which has been denatured or produced as denatured in
13 accordance with Acts of Congress and regulations promulgated
14 thereunder;

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

19 4. "Applicant" means any individual, legal or commercial
20 business entity, or any individual involved in any legal or
21 commercial business entity allowed to hold any license issued in
22 accordance with the Oklahoma Alcoholic Beverage Control Act;

23 5. "Beer" means any beverage containing more than one-half of
24 one percent (0.50%) of alcohol by volume and obtained by the

1 alcoholic fermentation of an infusion or decoction of barley, or
2 other grain, sugar, malt or similar products. For the purposes of
3 taxation, distribution, sales, and regulation, seltzer shall mean
4 the same as beer as provided in this section. Beer may or may not
5 contain hops or other vegetable products. Beer includes, among
6 other things, beer, ale, stout, lager beer, porter, seltzer, and
7 other malt or brewed liquors, but does not include sake, known as
8 Japanese rice wine;

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

11 7. "Beer distributor" means and includes any person licensed to
12 distribute beer for retail sale in ~~the~~ this state, but does not
13 include a holder of a small brewer self-distribution license or
14 brewpub self-distribution license. The term distributor, as used in
15 the Oklahoma Alcoholic Beverage Control Act, shall be construed to
16 refer to a beer distributor;

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

22 9. "Bottle service" means the sale and provision of spirits in
23 their original packages by a mixed beverage licensee to be consumed
24 in that mixed beverage licensee's club suite;

1 10. "Brand" means any word, name, group of letters, symbol or
2 combination thereof, that is adopted and used by a licensed brewer
3 to identify a specific beer, wine or spirit and to distinguish that
4 product from another beer, wine or spirit;

5 11. "Brand extension" means:

6 a. after October 1, 2018, any brand of beer or cider
7 introduced by a manufacturer in this state which
8 either:

9 (1) incorporates all or a substantial part of the
10 unique features of a preexisting brand of the
11 same licensed brewer, or

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

14 b. any brand of beer that a brewer, the majority of whose
15 total volume of all brands of beer distributed in this
16 state by such brewer on January 1, 2016, was
17 distributed as low-point beer, desires to sell,
18 introduces, begins selling or theretofore has sold and
19 desires to continue selling a strong beer in this
20 state which either:

21 (1) incorporates or incorporated all or a substantial
22 part of the unique features of a preexisting low-
23 point beer brand of the same licensed brewer, or
24

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

4 12. "Brewer" means and includes any person who manufactures for
5 human consumption by the use of raw materials or other ingredients
6 any beer or cider upon which a license fee and a tax are imposed by
7 any law of this state;

8 13. "Brewpub" means a licensed establishment operated on the
9 premises of, or on premises located contiguous to, a small brewer,
10 that prepares and serves food and beverages, including alcoholic
11 beverages, for on-premises consumption;

12 14. "Cider" means any alcoholic beverage obtained by the
13 alcoholic fermentation of fruit juice, including but not limited to
14 flavored, sparkling or carbonated cider. For the purposes of the
15 manufacture of this product, cider may be manufactured by either
16 manufacturers or brewers. For the purposes of the distribution of
17 this product, cider may be distributed by either wine and spirits
18 wholesalers or beer distributors;

19 15. "Club suite" means a designated area within the premises of
20 a mixed beverage licensee designed to provide an exclusive space
21 which is limited to a patron or patrons specifically granted access
22 by a mixed beverage licensee and is not accessible to other patrons
23 of the mixed beverage licensee or the public. A club suite must
24 have a clearly designated point of access for a patron or patrons

1 specifically granted access by the mixed beverage licensee to ensure
2 that persons present in the suite are limited to patrons
3 specifically granted access by the mixed beverage licensee and
4 employees providing services to the club suite;

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

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

14 18. "Designated products" means the brands of wine or spirits
15 offered for sale by a manufacturer that the manufacturer has
16 assigned to a designated wholesaler for exclusive distribution;

17 19. "Designated wholesaler" means a wine and spirits wholesaler
18 who has been selected by a manufacturer as a wholesaler appointed to
19 distribute designated products;

20 20. "Director" means the Director of the ABLE Commission;

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

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

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

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

10 24. "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
15 October 1, 2018, and

16 b. as strong beer pursuant to the Alcoholic Beverage
17 Control Act in effect immediately prior to October 1,
18 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 25. "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 26. "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 brewer, or
- 8 b. failure by the distributor to comply with the duty of
9 good faith;

10 27. "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 28. "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 29. "Hotel" or "motel" means an establishment which is licensed
19 to sell alcoholic beverages by the individual drink and which
20 contains ~~guestroom~~ guest room accommodations with respect to which
21 the predominant relationship existing between the occupants thereof
22 and the owner or operator of the establishment is that of innkeeper
23 and guest. For purposes of this section, the existence of other
24

1 legal relationships as between some occupants and the owner or
2 operator thereof shall be immaterial;

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

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

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

17 33. "Manufacturer" means a distiller, winemaker, rectifier or
18 bottler of any alcoholic beverage (other than beer) and its
19 subsidiaries, affiliates and parent companies;

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

23 35. "Meals" means foods commonly ordered at lunch or dinner and
24 at least part of which is cooked on the licensed premises and

1 requires the use of dining implements for consumption. Provided,
2 that the service of only food such as appetizers, sandwiches, salads
3 or desserts shall not be considered meals;

4 36. "Mini-bar" means a closed container, either refrigerated in
5 whole or in part, or ~~nonrefrigerated~~ unrefrigerated, and access to
6 the interior of which is:

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

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

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

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

5 40. "Nondesignated products" means the brands of wine or
6 spirits offered for sale by a manufacturer that have not been
7 assigned to a designated wholesaler;

8 41. "Nonresident seller" means any person licensed pursuant to
9 Section 2-135 of this title;

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

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

18 44. "Original package" means any container of alcoholic
19 beverage filled and stamped or sealed by the manufacturer or brewer;

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

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

3 47. "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 48. "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 49. "Private event" means a social gathering or event attended
24 by invited guests who share a common cause, membership, business or

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

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

7 51. "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 52. "Regulation" or "rule" means a formal rule of general
19 application promulgated by the ABLE Commission as herein required;

20 53. "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 54. "Retail container for spirits and wines" means an original
2 package of any capacity approved by the United States Bureau of
3 Alcohol, Tobacco, Firearms and Explosives;

4 55. "Retailer" means a package store, grocery store,
5 convenience store or drug store licensed to sell alcoholic beverages
6 for off-premises consumption pursuant to a ~~Retail Spirits License~~
7 retail spirits license, ~~Retail Wine License~~ retail wine license or
8 ~~Retail Beer License~~ retail beer license;

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

17 57. "Seltzer" means any beverage containing more than one-half
18 of one percent (0.50%) of alcohol by volume and obtained by the
19 alcoholic fermentation of malt, rice, grain of any kind, bran,
20 glucose, sugar, or molasses and combined with carbonated water and
21 other flavoring and labeled as "beer" by the Internal Revenue Code;
22 provided, that seltzer shall not include carbonated beverages mixed
23 with wine or spirits;

1 58. "Short-order food" means food other than full meals
2 including but not limited to sandwiches, soups and salads. Provided
3 that popcorn, chips and other similar snack food shall not be
4 considered short-order food;

5 59. "Small brewer" means a brewer who manufactures less than
6 sixty-five thousand (65,000) barrels of beer annually pursuant to a
7 validly issued ~~Small Brewer License~~ small brewer license hereunder;

8 60. "Small farm wine" means a wine that is produced by a small
9 farm winery with seventy-five percent (75%) or more Oklahoma-grown
10 grapes, berries, other fruits, honey or vegetables;

11 61. "Small farm winery" means a wine-making establishment that
12 does not annually produce for sale more than fifteen thousand
13 (15,000) gallons of wine as reported on the United States Department
14 of the Treasury Alcohol and Tobacco Tax and Trade Bureau, Report of
15 Wine Premises Operations (TTB Form 5120.17);

16 62. "Sparkling wine" means champagne or any artificially
17 carbonated wine;

18 63. "Special event" means an entertainment, recreation or
19 marketing event that occurs at a single location on an irregular
20 basis and at which alcoholic beverages are sold;

21 64. "Spirits" means any beverage other than wine or beer, which
22 contains more than one-half of one percent (1/2 of 1%) alcohol
23 measured by volume, and obtained by distillation, whether or not
24 mixed with other substances in solution and includes those products

1 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
2 fortified wines and similar compounds, but shall not include any
3 alcohol liquid completely denatured in accordance with the Acts of
4 Congress and regulations pursuant thereto;

5 65. "Strong beer" means beer which, prior to October 1, 2018,
6 was distributed pursuant to the Oklahoma Alcoholic Beverage Control
7 Act, Section 1-101 et seq. of this title;

8 66. "Successor brewer" means a primary source of supply, a
9 brewer, a cider manufacturer or an importer that acquires rights to
10 a beer or cider brand from a predecessor brewer;

11 67. "Tax Commission" means the Oklahoma Tax Commission;

12 68. "Territory" means a geographic region with a specified
13 boundary;

14 69. "Wine and spirits wholesaler" or "wine and spirits
15 distributor" means and includes any sole proprietorship or
16 partnership licensed to distribute wine and spirits in ~~the~~ this
17 state. The term "wholesaler", as used in the Oklahoma Alcoholic
18 Beverage Control Act, shall be construed to refer to a wine and
19 spirits wholesaler;

20 70. "Wine" means and includes any beverage containing more than
21 one-half of one percent (1/2 of 1%) alcohol by volume and not more
22 than twenty-four percent (24%) alcohol by volume at sixty (60)
23 degrees Fahrenheit obtained by the fermentation of the natural
24 contents of fruits, vegetables, honey, milk or other products

1 containing sugar, whether or not other ingredients are added, and
2 includes vermouth and sake, known as Japanese rice wine;

3 71. "Winemaker" means and includes any person or establishment
4 who manufactures for human consumption any wine upon which a license
5 fee and a tax are imposed by any law of this state; ~~and~~

6 72. "Satellite tasting room" means a licensed establishment
7 operated off the licensed premises of the holder of a small farm
8 winery or winemaker license, which serves wine for on-premises or
9 off-premises consumption; and

10 73. "Straw testing" means the consumption of a de minimis
11 amount of an alcoholic beverage by sanitary means by the holder of
12 an employee license, twenty-one (21) years of age or older, to
13 determine the quality or desired flavor profile of such alcoholic
14 beverage that has been serviced, or is to be served, to a patron.

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 37A O.S. 2021, Section 2-109, is
19 amended to read as follows:

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

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

24

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

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; and

8 4. To host alcoholic beverage tastings consistent with
9 subsections D and E of this section.

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

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

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

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

20 4. To host an alcoholic beverage tasting, consistent with
21 subsections D and E of this section.

22 Provided, no holder of a retail wine license may sell wine with
23 alcohol beverage volume in excess of fifteen percent (15%).

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

1 1. To purchase beer from a beer distributor;

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

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

9 4. To host alcoholic beverage tastings consistent with
10 subsections D and E of this section.

11 Provided, no holder of a retail beer license may sell a malt
12 beverage with alcohol beverage volume in excess of fifteen percent
13 (15%).

14 D. All tastings conducted under this section shall:

15 1. Be conducted under the direct supervision of the licensee
16 authorized to host the tasting;

17 2. Be poured by any ABLE Commission licensee lawfully permitted
18 to serve alcoholic beverages, provided no wine or spirits
19 wholesaler, beer distributor or employee of a wine or spirits
20 wholesaler or beer distributor shall be allowed to pour samples for
21 tastings;

22 3. Use alcoholic beverages purchased by the licensee authorized
23 to host the tastings from a licensed wine and spirits wholesaler,
24 beer distributor, self-distributor, small brewer or self-

1 distributing winery authorized to sell the same, and the licensee
2 shall pay the applicable taxes on the alcoholic beverages purchased;
3 provided, the licensee may only provide samples of alcoholic
4 beverages that its license is authorized to sell;

5 4. Be restricted to persons twenty-one (21) years of age or
6 older;

7 5. Be limited to no more than one (1) fluid ounce of spirits,
8 two (2) fluid ounces of wine or three (3) fluid ounces of beer per
9 consumer per day; and

10 6. Be consumed on the licensed premises of the licensee
11 authorized to host the tastings or at a location other than the
12 licensed premises, provided no samples served on the licensed
13 premises shall be permitted to be removed from the licensed
14 premises.

15 E. All licensees authorized to serve samples pursuant to
16 subsection D of this section shall ensure that:

17 1. All samples are poured only from original sealed packaging;

18 2. Any alcoholic beverages remaining in unsealed packaging used
19 to provide samples, excluding spirits, are poured out by the end of
20 the day;

21 3. No more than six (6) bottles of alcoholic beverages are
22 unsealed at any given time; and

23 4. No person shall remove any samples from the licensed
24 premises or location where the tasting has occurred.

1 F. 1. Retail spirits, retail wine, and retail beer licensees
2 shall be authorized to host educational alcoholic beverage training,
3 which includes tastings, for employees who are licensed to sell such
4 beverages on the licensed premises in such containers to consumers
5 for off-premises consumption only. Alcoholic beverages for training
6 purposes may be provided by wine and spirits wholesaler licensees
7 and beer distributor licensees.

8 2. All such tastings shall be consumed on licensed premises of
9 the licensee authorized to host the tastings or at a location other
10 than the licensed premises, and under the direct supervision of the
11 licensee. Samples shall be poured by a licensee who is lawfully
12 permitted to serve alcoholic beverages on the licensed premises in
13 such containers to consumers for off-premises consumption only in
14 this state. Tastings shall be restricted to employees who are
15 twenty-one (21) years of age or older. Participation in tastings
16 for educational purposes may be required by an employer; however,
17 the choice to taste or consume alcoholic beverages shall always be
18 voluntary. No employee may be required to taste or consume alcohol
19 at tastings as a condition of employment.

20 3. An educational tasting of beer may consist of not more than
21 six separate individual beers of not more than two (2) ounces each,
22 served together at one time. No employee may sample more than a
23 total of twelve (12) fluid ounces of beer per day. An educational
24 tasting of wine may consist of not more than six separate individual

1 wines of not more than one (1) ounce each, served together at one
2 time. No employee may sample more than a total of six (6) fluid
3 ounces of wine per day. An educational tasting of spirits shall
4 consist of not more than three separate individual spirits of not
5 more than one-half (0.5) ounce each, served together at one time.
6 No employee may sample more than a total of one and one-half (1.5)
7 fluid ounces of spirits per day. No employee may sample more than a
8 total of twelve (12) ounces of beer, six (6) ounces of wine, or one
9 and one-half (1.5) ounces of spirits per day. Only one type of
10 alcoholic beverage of beer, wine, or spirits shall be allowed at any
11 education training tasting. No combination tasting shall be
12 allowed. Employees who choose to taste an alcoholic beverage but do
13 not wish to consume the alcoholic beverage shall be allowed to spit
14 the beverage into a cup for disposal. Employees may participate in
15 educational tastings before, during, or after regular business hours
16 unless otherwise prohibited by law. All licensees serving samples
17 of beer shall ensure that all samples are poured only from original
18 sealed packaging and any alcoholic beverages remaining in unsealed
19 packaging used to provide samples, excluding spirits and wine, are
20 poured out by the end of the day. No more than six bottles of
21 alcoholic beverages may be unsealed at any given time during a
22 tasting. All packaging containing samples of wine and spirits shall
23 be clearly marked as a sample and any unused portions of the sample
24 of wine or spirits shall be resealed and retained by the wine and

1 spirits wholesaler for use at the next tasting authorized in this
2 paragraph. Wine and spirits wholesaler employees may transport any
3 resealed samples of wine and spirits in their vehicles. Beer, wine
4 and spirits samples shall not be considered withdrawn from the
5 inventory of the beer distributor or wine and spirits wholesaler for
6 purposes of the collection of the excise tax on beer, wine and
7 spirits. Tastings offered to licensees by wine and spirits
8 wholesalers and beer distributors shall not be deemed discrimination
9 or an inducement under Section 3-123 of this title.

10 SECTION 3. AMENDATORY 37A O.S. 2021, Section 5-132, as
11 amended by Section 4, Chapter 94, O.S.L. 2023 (37A O.S. Supp. 2023,
12 Section 5-132), is amended to read as follows:

13 Section 5-132. A. Except as provided in subsection D of this
14 section, no alcoholic beverage shall be labeled, offered or
15 advertised for sale in this state unless in accordance with rules
16 promulgated pursuant to the provisions of Section 5-130 of this
17 title and unless the brand label shall have been registered with and
18 approved by the ABLE Commission and the appropriate fee paid as
19 provided for in this section.

20 B. An application for registration of a brand label shall be
21 filed by and fees paid by the manufacturer or brewer, winemaker,
22 distiller or nonresident seller of the brand. Licensees, other than
23 the foregoing applicants, shall not be required to verify
24 registration to the ABLE Commission and shall not be penalized for

1 any applicant's failure to register its brand label in accordance
2 with this section. Cordials and wines which differ only as to age
3 or vintage year, as defined by such rules, shall be considered the
4 same brand, and those that differ as to type or class may be
5 considered the same brand by the ABLE Commission where consistent
6 with the purposes of this section.

7 C. The application for registration of a brand label shall be
8 filed on a form prescribed by the ABLE Commission, and shall contain
9 such information as the ABLE Commission shall require. Such
10 application shall be accompanied by a certified check, bank
11 officers' check or draft or money order in the amount of the annual
12 registration fee, or the properly prorated portion thereof
13 prescribed by this section.

14 D. 1. The annual fee for registration of any brand label for
15 spirits shall be Three Hundred Seventy-five Dollars (\$375.00),
16 unless the total amount of spirits made available for sale in a
17 single year is no greater than fifty-three (53) gallons, in which
18 case the annual fee for registration of any brand label shall be
19 Seventy-five Dollars (\$75.00). The annual fee for registration of
20 any brand label for beer shall be Two Hundred Dollars (\$200.00).
21 The annual fee for registration of any brand label for wine made in
22 the United States, or for registration of any category of imported
23 wine as defined by the Tax Commission, shall be Two Hundred Dollars

24

1 (\$200.00). Beer manufactured in this state shall be exempt from
2 brand label registration fees.

3 2. Each brand label registered and approved pursuant to this
4 section shall be valid for a term of up to one (1) year, expiring on
5 the June 30 next following registration, and may be renewed for
6 subsequent terms of one (1) year beginning on the July 1 following
7 the initial registration. Brand registration fees for labels
8 registered after July 1 may be prorated through the following June
9 30 on a quarterly basis. The brand registration fee shall not be
10 transferable, unless otherwise allowed by law. A nonresident seller
11 who registered brands prior to May 7, 2019, may transfer brand
12 registrations to the brewer or manufacturer that produces those
13 brands, provided the brewer or manufacturer has obtained a license,
14 at no expense to the nonresident seller, brewer or manufacturer.

15 E. If the ABLE Commission shall deny the application for
16 registration of a brand label, it shall return the registration fee
17 to the applicant, less twenty-five percent (25%) of such fee.

18 F. The ABLE Commission may at any time exempt any discontinued
19 brand from fee provisions of this section where a manufacturer,
20 brewer, beer distributor or wholesaler has an inventory of one
21 hundred cases or less of liquor or wine and five hundred cases or
22 less of beer, and certifies to the ABLE Commission in writing that
23 such brand is being discontinued.

24

1 G. No private labels or control labels shall be approved for
2 sale in this state, except for charity collaboration beer as
3 authorized in Section 2-102.1 of this title.

4 SECTION 4. AMENDATORY 37A O.S. 2021, Section 6-105, as
5 amended by Section 2, Chapter 82, O.S.L. 2022 (37A O.S. Supp. 2023,
6 Section 6-105), is amended to read as follows:

7 Section 6-105. No mixed beverage, public event, special event
8 or on-premises beer and wine licensee shall:

9 1. Purchase or receive any alcoholic beverage other than from a
10 person holding a wine and ~~spirit~~ spirits wholesaler or beer
11 distributor license issued pursuant to the Oklahoma Alcoholic
12 Beverage Control Act; provided, a mixed beverage or on-premises beer
13 and wine licensee whose premises are a restaurant may purchase wine
14 produced at wineries in this state directly from a winemaker as
15 provided in Section 2 of Article ~~XXVIII~~ XXVIII-A of the Oklahoma
16 Constitution;

17 2. Transport alcoholic beverages from the place of purchase to
18 the licensed premises unless the licensee also holds a private
19 carrier license issued by the ABLE Commission;

20 3. Use or allow the use of any mark or label on a container of
21 alcoholic beverage which is kept for sale which does not clearly and
22 precisely indicate the nature of the contents or which might deceive
23 or conceal the nature, composition, quantity, age or quality of such
24 beverage;

1 4. Keep or knowingly permit any alcoholic beverage to be kept,
2 brought or consumed on the licensed premises which is not allowed to
3 be sold or served upon such premises; provided, that the alcoholic
4 beverage may be provided by a wine and spirits wholesaler, beer
5 distributor, brewer, small brewer, distiller, winemaker, small farm
6 winery, rectifier, manufacturer, or nonresident seller licensee and
7 kept, brought, or consumed on the licensed premises for educational
8 training tasting purposes pursuant to Section 4 of this act; or

9 5. Allow any person under twenty-one (21) years of age to enter
10 into, remain within or loiter about the designated bar area of the
11 licensed premises, except for persons who incidentally pass through
12 the designated area.

13 The prohibition in this subsection against persons under twenty-
14 one (21) years of age entering or remaining within the designated
15 bar area of the licensed premises shall not apply:

- 16 a. if the licensed premises are closed to the public
17 during a time the premises are legally permitted to be
18 open for business and the premises are used for a
19 private party at which alcoholic beverages may be
20 served to persons twenty-one (21) years of age or
21 older. Any alcoholic beverages served at a private
22 party on the licensed premises may be purchased from
23 the licensee at a negotiated price or purchased
24 privately and served at the private party on the

1 licensed premises. Any licensee who desires to
2 conduct such a private party shall notify the ABLE
3 Commission, in writing, at least ten (10) calendar
4 days prior to the private party. The notification
5 shall include the date, time and purpose of the
6 private party and any other information the ABLE
7 Commission may deem necessary,

8 b. to a designated bar area which is a concession stand
9 serving beer and wine, in addition to food and non-
10 alcoholic beverages, which concession stand is located
11 at, in, or on the premises of a sports, music or
12 entertainment venue, convention center, fairgrounds or
13 similar facility, or

14 c. to an employee of a beer distributor or wine and
15 spirits wholesaler who is at least eighteen (18) years
16 of age and enters for the purpose of merchandising or
17 delivering product to the licensee in the normal
18 course of business.

19 SECTION 5. AMENDATORY 37A O.S. 2021, Section 6-109, is
20 amended to read as follows:

21 Section 6-109. No mixed beverage, beer and wine, bottle club,
22 caterer, charitable event, public event or special event licensee or
23 any employee, manager, operator or agent thereof shall:
24

1 1. Consume or be under the influence of alcoholic beverages
2 during the hours he or she is on duty. For the purposes of this
3 section, licensees will be deemed to be on duty from the time the
4 licensee first comes on duty until the time the licensee goes off
5 duty at the end of the shift including any break periods permitted
6 by management. This paragraph shall not apply for purposes of
7 employee education training; provided, that:

8 a. all tastings are conducted on a licensed premises and
9 under the direct supervision of the licensee,

10 b. all samples shall be poured by a licensee who is
11 lawfully permitted to serve alcoholic beverages in
12 this state,

13 c. all tastings shall be restricted to employees who are
14 twenty-one (21) years of age or older,

15 d. all participation in tastings for educational purposes
16 may be required by an employer; however, the choice to
17 taste or consume alcoholic beverages shall always be
18 voluntary, and

19 e. no employee may be required to taste or consume
20 alcohol at tastings as a condition of employment.

21 An educational tasting of beer may consist of not more than six
22 separate individual beers of not more than two (2) ounces each,
23 served together at one time. No employee may sample more than a
24 total of twelve (12) fluid ounces of beer per day. An educational

1 tasting of wine may consist of not more than six separate individual
2 wines of not more than one (1) ounce each, served together at one
3 time. No employee may sample more than a total of six (6) fluid
4 ounces of wine per day. An educational tasting of spirits shall
5 consist of not more than three separate individual spirits of not
6 more than one-half (0.5) ounce each, served together at one time.
7 No employee may sample more than a total of one and one-half (1.5)
8 fluid ounces of spirits per day. An education tasting of a mixed
9 beverage shall consist of not more than one individual mixed
10 beverage consisting of not more than twelve (12) ounces of beer, six
11 (6) ounces of wine, or one and one-half (1.5) ounces of spirits,
12 combined with an unlimited amount of ingredients that are non-
13 alcoholic in nature, served at one time. No employee may sample
14 more than a total of twelve (12) ounces of beer, six (6) ounces of
15 wine, or one and one-half (1.5) ounces of spirits in a mixed
16 beverage per day. Only one type of alcoholic beverage, beer, wine,
17 spirits, or mixed beverage shall be allowed at any educational
18 training tasting. No combination tasting shall be allowed.
19 Employees who choose to taste an alcoholic beverage but do not wish
20 to consume the alcoholic beverage shall be allowed to spit the
21 beverage into a cup for disposal. Employees may participate in
22 educational tastings before, during, or after regular business hours
23 unless otherwise prohibited by law. All licensees serving samples
24 of beer shall ensure that all samples are poured only from original

1 sealed packaging and any alcoholic beverages remaining in unsealed
2 packaging used to provide samples, excluding spirits and wine, are
3 poured out by the end of the day. No more than six bottles of
4 alcoholic beverages may be unsealed at any given time during a
5 tasting. All packaging containing samples of wine and spirits shall
6 be clearly marked as a sample and any unused portions of the sample
7 of wine or spirits shall be resealed and retained by the wine and
8 spirits wholesaler for use at the next tasting authorized in this
9 paragraph. Wine and spirits wholesaler employees may transport any
10 resealed samples of wine and spirits in their vehicles. Beer, wine
11 and spirits samples shall not be considered withdrawn from the
12 inventory of the beer distributor or wine and spirits wholesaler for
13 purposes of the collection of the excise tax on beer, wine and
14 spirits. Straw testing during operating hours shall be permitted.
15 Tastings offered to licensees by wine and spirits wholesalers and
16 beer distributors shall not be deemed discrimination or an
17 inducement under Section 3-123 of this title. This paragraph shall
18 not apply to any person who works on the premises as an entertainer
19 only;

20 2. Permit or tolerate any conduct or language which is intended
21 to threaten another with physical harm or any fighting or offensive
22 physical contact, in or upon the licensed premises or areas just
23 outside the licensed premises which are controlled by the licensee;

24

1 3. Permit empty or discarded alcoholic beverage containers to
2 be in public view outside the licensed premises. All empty or
3 discarded containers shall be disposed of in accordance with ABLE
4 Commission rules and regulations;

5 4. Permit any illegal gambling activity, violations of the
6 state narcotic and dangerous drug laws, prostitution activity or any
7 other criminal conduct to occur on the licensed premises;

8 5. Refuse or fail to promptly open a door to the licensed
9 premises upon request of an employee of the ABLE Commission or any
10 other peace officer to enter the premises when the licensee or
11 employee knows or should know that such request is made by an
12 employee of the ABLE Commission or a peace officer. This provision
13 shall not be construed to deny employees of the ABLE Commission or
14 peace officers access at any time to any licensed premises;

15 6. Permit a sealed or unsealed container of alcoholic beverage
16 to be removed from the licensed premises. Provided, that
17 restaurants, hotels and motels may permit the removal of closed
18 original wine containers the contents of which have been partially
19 consumed and bottle clubs may permit the removal by a club member of
20 closed original containers of alcoholic beverages belonging to
21 members. The provisions of this paragraph shall not be construed to
22 prohibit or restrict:

- 23 a. hotels or motels who are holders of mixed beverage or
24 on-premises beer and wine licenses from allowing

1 alcoholic beverages to be served away from the bar
2 area anywhere on the licensed premises,

3 b. licensees, who are lawfully operating in a facility or
4 on property owned or operated by any agency, political
5 subdivision or public trust of this state, from
6 allowing persons to transport alcoholic beverages from
7 one licensed premises to another within the same
8 building or property, provided that the building or
9 property or a part thereof is defined as a common
10 drinking area for consumption of alcohol by resolution
11 of the governing body of the agency, political
12 subdivision or public trust of this state, ~~or~~

13 c. licensees, who are licensed to operate in a facility
14 or on property owned or operated by any agency,
15 political subdivision or public trust of this state,
16 from allowing other licensees to operate on their
17 licensed premises for events that are temporary in
18 nature. In the event that multiple licensees are
19 operating in a facility or on property owned or
20 operated by any agency, political subdivision or
21 public trust of this state, each licensee shall be
22 responsible for violations occurring in their area
23 designated to be their temporary licensed premises⁷,_L

24 or

1 d. licensees, who are lawfully operating in a facility or
2 property intended for multiple licensed premises
3 within the facility and which also contains a common
4 use area, from allowing persons to transport alcoholic
5 beverages within the entire premises, which shall be
6 designated by the ABLE Commission as a common drinking
7 area for the consumption of alcoholic beverages.
8 Provided, further, the property owner and all
9 licensees licensed within the facility or property
10 desiring the entire premises be designated a common
11 drinking area shall notify the ABLE Commission in
12 writing of their consent prior to such area being
13 designated a common drinking area; or

14 7. Destroy, damage, alter, remove or conceal potential
15 evidence, or attempt to do so, or refuse to surrender evidence when
16 lawfully requested to do so by an inspector, agent or any other
17 peace officer or incite another person to do any of the above.

18 SECTION 6. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

22
23 59-2-10600 JL 02/28/24
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24