

1 **SENATE FLOOR VERSION**

2 February 7, 2019

3 SENATE BILL NO. 336

By: Bice

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5
6 An Act relating to winemakers; amending Section 3,
7 Chapter 366, O.S.L. 2016, as last amended by Section
8 13, Chapter 304, O.S.L. 2018, Section 13, Chapter
9 366, O.S.L. 2016, as last amended by Section 2,
10 Chapter 312, O.S.L. 2018, Section 16, Chapter 366,
11 O.S.L. 2016, as last amended by Section 2, Chapter
12 315, O.S.L. 2018, and Section 43, Chapter 366, O.S.L.
13 2016 (37A O.S. Supp. 2018, Sections 1-103, 2-101, 2-
14 104 and 2-131), which relate to definitions,
15 licenses; winemakers and small farm winery; adding
16 definition; creating satellite tasting room license;
17 setting annual license fee; authorizing certain
18 licensees to operate a satellite tasting room;
19 stating purpose of satellite tasting room; modifying
20 language; defining certain term for certain purpose;
21 updating statutory language; providing for
22 codification; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

15 10. "Brand extension" means:

16 a. after the effective date of this act, any brand of
17 beer or cider introduced by a manufacturer in this
18 state which either:

19 (1) incorporates all or a substantial part of the
20 unique features of a preexisting brand of the
21 same licensed manufacturer, or

22 (2) relies to a significant extent on the goodwill
23 associated with the preexisting brand, or
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1 b. any brand of beer that a manufacturer, the majority of
2 whose total volume of all brands of beer distributed
3 in this state by such manufacturer on January 1, 2016,
4 was distributed as low-point beer, desires to sell,
5 introduces, begins selling or theretofore has sold and
6 desires to continue selling a strong beer in this
7 state which either:

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

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

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

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

23 13. "Cider" means any alcoholic beverage obtained by the
24 alcoholic fermentation of fruit juice, including but not limited to

1 flavored, sparkling or carbonated cider. For the purposes of the
2 distribution of this product, cider may be distributed by either
3 wine and spirits wholesalers or beer distributors;

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

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

13 16. "Director" means the Director of the ABLE Commission;

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

22 18. "Distributor agreement" means the written agreement between
23 the distributor and manufacturer as set forth in Section 3-108 of
24 this title;

1 19. "Drug store" means a person primarily engaged in retailing
2 prescription and nonprescription drugs and medicines;

3 20. "Dual-strength beer" means a brand of beer that,
4 immediately prior to April 15, 2017, was being sold and distributed
5 in this state:

6 a. as a low-point beer pursuant to the Low-Point Beer
7 Distribution Act in effect immediately prior to the
8 effective date of this act, and

9 b. as strong beer pursuant to the Alcoholic Beverage
10 Control Act in effect immediately prior to the
11 effective date of this act,

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

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

21 22. "Good cause" means:

22 a. failure by the distributor to comply with the material
23 and reasonable provisions of a written agreement or
24 understanding with the manufacturer, or

1 b. failure by the distributor to comply with the duty of
2 good faith;

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

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

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

19 26. "Legal newspaper" means a newspaper meeting the requisites
20 of a newspaper for publication of legal notices as prescribed in
21 Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

22 27. "Licensee" means any person holding a license under the
23 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or
24 employee of such licensee while in the performance of any act or

1 duty in connection with the licensed business or on the licensed
2 premises;

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

9 29. "Manufacturer" means a brewer, distiller, winemaker,
10 rectifier or bottler of any alcoholic beverage and its subsidiaries,
11 affiliates and parent companies;

12 30. "Manufacturer's agent" means a salaried or commissioned
13 salesperson who is the agent authorized to act on behalf of the
14 manufacturer or nonresident seller in the state;

15 31. "Meals" means foods commonly ordered at lunch or dinner and
16 at least part of which is cooked on the licensed premises and
17 requires the use of dining implements for consumption. Provided,
18 that the service of only food such as appetizers, sandwiches, salads
19 or desserts shall not be considered "meals";

20 32. "Mini-bar" means a closed container, either refrigerated in
21 whole or in part, or nonrefrigerated, and access to the interior of
22 which is:

23 a. restricted by means of a locking device which requires
24 the use of a key, magnetic card or similar device, or

1 b. controlled at all times by the licensee;

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

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

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

21 36. "Nonresident seller" means any person licensed pursuant to
22 Section 2-135 of this title;

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1 37. "Retail salesperson" means a salesperson soliciting orders
2 from and calling upon retail alcoholic beverage stores with regard
3 to his or her product;

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

9 39. "Original package" means any container of alcoholic
10 beverage filled and stamped or sealed by the manufacturer;

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

17 41. "Patron" means any person, customer or visitor who is not
18 employed by a licensee or who is not a licensee;

19 42. "Person" means an individual, any type of partnership,
20 corporation, association, limited liability company or any
21 individual involved in the legal structure of any such business
22 entity;

23 43. "Premises" means the grounds and all buildings and
24 appurtenances pertaining to the grounds including any adjacent

1 premises if under the direct or indirect control of the licensee and
2 the rooms and equipment under the control of the licensee and used
3 in connection with or in furtherance of the business covered by a
4 license. Provided that the ABLE Commission shall have the authority
5 to designate areas to be excluded from the licensed premises solely
6 for the purpose of:

7 a. allowing the presence and consumption of alcoholic
8 beverages by private parties which are closed to the
9 general public, or

10 b. allowing the services of a caterer serving alcoholic
11 beverages provided by a private party.

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

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

21 45. "Public event" means any event that can be attended by the
22 general public;

23 46. "Rectifier" means any person who rectifies, purifies or
24 refines spirits or wines by any process (other than by original and

1 continuous distillation, or original and continuous processing, from
2 mash, wort, wash or other substance, through continuous closed
3 vessels and pipes, until the production thereof is complete), and
4 any person who, without rectifying, purifying or refining spirits,
5 shall by mixing (except for immediate consumption on the premises
6 where mixed) such spirits, wine or other liquor with any material,
7 manufactures any spurious, imitation or compound liquors for sale,
8 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
9 or any other name;

10 47. "Regulation" or "rule" means a formal rule of general
11 application promulgated by the ABLE Commission as herein required;

12 48. "Restaurant" means an establishment that is licensed to
13 sell alcoholic beverages by the individual drink for on-premises
14 consumption and where food is prepared and sold for immediate
15 consumption on the premises;

16 49. "Retail container for spirits and wines" means an original
17 package of any capacity approved by the United States Bureau of
18 Alcohol, Tobacco and Firearms;

19 50. "Retailer" means a package store, grocery store,
20 convenience store or drug store licensed to sell alcoholic beverages
21 for ~~off-premise~~ off-premises consumption pursuant to a Retail
22 Spirits License, Retail Wine License or Retail Beer License;

23 51. "Sale" means any transfer, exchange or barter in any manner
24 or by any means whatsoever, and includes and means all sales made by

1 any person, whether as principal, proprietor or as an agent, servant
2 or employee. The term "sale" is also declared to be and include the
3 use or consumption in this state of any alcoholic beverage obtained
4 within or imported from without this state, upon which the excise
5 tax levied by the Oklahoma Alcoholic Beverage Control Act has not
6 been paid or exempted;

7 52. "Short-order food" means food other than full meals
8 including but not limited to sandwiches, soups and salads. Provided
9 that popcorn, chips and other similar snack food shall not be
10 considered "short-order food";

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

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

17 55. "Small farm winery" means a wine-making establishment that
18 does not annually produce for sale more than fifteen thousand
19 (15,000) gallons of wine as reported on the United States Department
20 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
21 Wine Premises Operations (TTB Form 5120.17);

22 56. "Sparkling wine" means champagne or any artificially
23 carbonated wine;

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1 57. "Special event" means an entertainment, recreation or
2 marketing event that occurs at a single location on an irregular
3 basis and at which alcoholic beverages are sold;

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

12 59. "Strong beer" means beer which, prior to the effective date
13 of this act, was distributed pursuant to the Oklahoma Alcoholic
14 Beverage Control Act, Section 501 et seq. of Title 37 of the
15 Oklahoma Statutes;

16 60. "Successor manufacturer" means a primary source of supply,
17 a brewer, a cider manufacturer or an importer that acquires rights
18 to a beer or cider brand from a predecessor manufacturer;

19 61. "Tax Commission" means the Oklahoma Tax Commission;

20 62. "Territory" means a geographic region with a specified
21 boundary;

22 63. "Wine and spirits wholesaler" or "wine and spirits
23 distributor" means and includes any sole proprietorship or
24 partnership licensed to distribute wine and spirits in the state.

1 The term "wholesaler", as used in this act, shall be construed to
2 refer to a wine and spirits wholesaler; ~~and~~

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

10 65. "Winemaker" means and includes any person or establishment
11 who manufactures for human consumption any wine upon which a license
12 fee and a tax are imposed by any law of this state; and

13 66. "Satellite tasting room" means a licensed establishment
14 operated off the licensed premises of the holder of a small farm
15 winery or winemaker license, which serves wine for on-premises or
16 off-premises consumption.

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

20 SECTION 2. AMENDATORY Section 13, Chapter 366, O.S.L.
21 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A
22 O.S. Supp. 2018, Section 2-101), is amended to read as follows:

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1 Section 2-101. A. Except as otherwise provided in this
2 section, the licenses issued by the ABLE Commission, and the annual
3 fees therefor, shall be as follows:

- 4 1. Brewer License..... \$1,250.00
- 5 2. Small Brewer License..... \$125.00
- 6 3. Distiller License..... \$3,125.00
- 7 4. Winemaker License..... \$625.00
- 8 5. Small Farm Winery License..... \$75.00
- 9 6. Rectifier License..... \$3,125.00
- 10 7. Wine and Spirits Wholesaler License..... \$3,000.00
- 11 8. Beer Distributor License..... \$750.00
- 12 9. The following retail spirits license fees shall be

13 determined by the latest Federal Decennial Census:

- 14 a. Retail Spirits License for cities and
15 towns from 200 to 2,500 population..... \$305.00
- 16 b. Retail Spirits License for cities and
17 towns from 2,501 to 5,000 population..... \$605.00
- 18 c. Retail Spirits License for cities and
19 towns over 5,000 population..... \$905.00
- 20 10. Retail Wine License..... \$1,000.00
- 21 11. Retail Beer License..... \$500.00
- 22 12. Mixed Beverage License..... \$1,005.00
- 23 (initial license)
- 24 \$905.00

1		(renewal)	
2	13.	Mixed Beverage/Caterer Combination License.....	\$1,250.00
3	14.	On-Premises Beer and Wine License.....	\$500.00
4		(initial license)	
5			\$450.00
6		(renewal)	
7	15.	Bottle Club License.....	\$1,000.00
8		(initial license)	
9			\$900.00
10		(renewal)	
11	16.	Caterer License.....	\$1,005.00
12		(initial license)	
13			\$905.00
14		(renewal)	
15	17.	Annual Special Event License.....	\$55.00
16	18.	Quarterly Special Event License.....	\$55.00
17	19.	Hotel Beverage License.....	\$1,005.00
18		(initial license)	
19			\$905.00
20		(renewal)	
21	20.	Airline/Railroad Beverage License.....	\$1,005.00
22		(initial license)	
23			\$905.00
24		(renewal)	

1	21.	Agent License.....	\$55.00
2	22.	Employee License.....	\$30.00
3	23.	Industrial License.....	\$23.00
4	24.	Carrier License.....	\$23.00
5	25.	Private Carrier License.....	\$23.00
6	26.	Bonded Warehouse License.....	\$190.00
7	27.	Storage License.....	\$23.00
8	28.	Nonresident Seller License or Manufacturer's	
9		License.....	\$750.00
10	29.	Manufacturer's Agent License.....	\$55.00
11	30.	Sacramental Wine Supplier License.....	\$100.00
12	31.	Charitable Auction License.....	\$1.00
13	32.	Charitable Alcoholic Beverage License.....	\$55.00
14	33.	Winemaker Self-Distribution License.....	\$750.00
15	34.	Annual Public Event License.....	\$1,005.00
16	35.	One-Time Public Event License.....	\$255.00
17	36.	Small Brewer Self-Distribution License.....	\$750.00
18	37.	Brewpub License.....	\$1,005.00
19	38.	Brewpub Self-Distribution License.....	\$750.00
20	39.	<u>Satellite Tasting Room License.....</u>	<u>\$100.00</u>

21 B. 1. There shall be added to the initial or renewal fees for
22 a Mixed Beverage License an administrative fee, which shall not be
23 deemed to be a license fee, in the amount of Five Hundred Dollars
24 (\$500.00), which shall be paid at the same time and in the same

1 manner as the license fees prescribed by paragraph 10 of subsection
2 A of this section; provided, this fee shall not be assessed against
3 service organizations or fraternal beneficiary societies which are
4 exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue
5 Code.

6 2. There shall be added to the fee for a Mixed Beverage/Caterer
7 Combination License an administrative fee, which shall not be deemed
8 to be a license fee, in the amount of Two Hundred Fifty Dollars
9 (\$250.00), which shall be paid at the same time and in the same
10 manner as the license fee prescribed by paragraph 11 of subsection A
11 of this section.

12 C. Notwithstanding the provisions of subsection A of this
13 section:

14 1. The license fee for a mixed beverage or bottle club license
15 for those service organizations or fraternal beneficiary societies
16 which are exempt under Section 501(c)(19), (8) or (10) of the
17 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
18 year; and

19 2. The renewal fee for an airline/railroad beverage license
20 held by a railroad described in 49 U.S.C., Section 24301, shall be
21 One Hundred Dollars (\$100.00).

22 D. An applicant may apply for and receive both an on-premises
23 beer and wine license and a caterer license.

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1 E. All licenses, except as otherwise provided, shall be valid
2 for one (1) year from date of issuance unless revoked or
3 surrendered. Provided, all employee licenses shall be valid for two
4 (2) years.

5 F. The holder of a license, issued by the ABLE Commission, for
6 a bottle club located in a county of this state where the sale of
7 alcoholic beverages by the individual drink for on-premises
8 consumption has been authorized, may exchange the bottle club
9 license for a mixed beverage license or an on-premises beer and wine
10 license and operate the licensed premises as a mixed beverage
11 establishment or an on-premises beer and wine establishment subject
12 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
13 There shall be no additional fee for such exchange and the mixed
14 beverage license or on-premises beer and wine license issued shall
15 expire one (1) year from the date of issuance of the original bottle
16 club license.

17 G. In addition to the applicable licensing fee, the following
18 surcharge shall be assessed annually on the following licenses:

- 19 1. Nonresident Seller or Manufacturer License..... \$2,500.00
- 20 2. Wine and Spirits Wholesaler License..... \$2,500.00
- 21 3. Beer Distributor..... \$1,000.00
- 22 4. Retail Spirits License for cities and towns
- 23 over 5,000 population..... \$250.00

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- 1 5. Retail Spirits License for cities and towns
- 2 from 2,501 to 5,000 population..... \$200.00
- 3 6. Retail Spirits License for cities and towns
- 4 from 200 to 2,500 population..... \$150.00
- 5 7. Retail Wine License..... \$250.00
- 6 8. Retail Beer License..... \$250.00
- 7 9. Mixed Beverage License..... \$25.00
- 8 10. Mixed Beverage/Caterer Combination License..... \$25.00
- 9 11. Caterer License..... \$25.00
- 10 12. On-Premises Beer and Wine License..... \$25.00
- 11 13. Annual Public Event License..... \$25.00
- 12 14. Small Farm Winery License..... \$25.00
- 13 15. Small Brewer License..... \$35.00

14 The surcharge shall be paid concurrent with the licensee's
15 annual licensing fee and, in addition to Five Dollars (\$5.00) of the
16 employee license fee, shall be deposited in the Alcoholic Beverage
17 Governance Revolving Fund established pursuant to Section 5-128 of
18 this title.

19 H. Any license issued by the ABLE Commission under this title
20 may be relied upon by other licensees as a valid license, and no
21 other licensee shall have any obligation to independently determine
22 the validity of such license or be held liable solely as a
23 consequence of another licensee's failure to maintain a valid
24 license.

1 SECTION 3. AMENDATORY Section 16, Chapter 366, O.S.L.
2 2016, as last amended by Section 2, Chapter 315, O.S.L. 2018 (37A
3 O.S. Supp. 2018, Section 2-104), is amended to read as follows:

4 Section 2-104. A winemaker license shall authorize the holder
5 thereof:

6 1. To manufacture (including such mixing, blending and cellar
7 treatment as authorized by federal law), bottle, package and store
8 on licensed premises wine containing not more than twenty-four
9 percent (24%) alcohol by volume, provided the bottle or package
10 sizes authorized shall be limited to the capacities approved by the
11 United States Alcohol and Tobacco Tax and Trade Bureau;

12 2. To sell wine in this state to licensed wholesalers and
13 manufacturers;

14 3. To sell wine produced at the winery from grapes and other
15 fruits and berries grown in this state, if available, for either on-
16 premises or off-premises consumption to consumers on the premises of
17 the winery;

18 4. To serve free samples of wine produced at the winery to
19 visitors twenty-one (21) years of age and older. For purposes of
20 this section, no visitor may sample more than a total of six (6)
21 fluid ounces of wine per day. The winery shall restrict the
22 distribution and consumption of wine samples to an area within the
23 licensed premises designated by the winery. A current floor plan
24 that includes the designated sampling area shall be on file with the

1 ABLE Commission. No visitor under twenty-one (21) years of age
2 shall be permitted to enter the designated sampling area when
3 samples are being distributed and consumed. Samples of wine served
4 by a winery under this section shall not be considered a sale of
5 wine within the meaning of Article XXVIII A of the Oklahoma
6 Constitution or Section 1-103 of this title; provided, such samples
7 of wine shall be considered removed or withdrawn from the winery for
8 use or consumption within the meaning of Section 5-110 of this title
9 for excise tax determination and reporting requirements;

10 5. To serve free samples of wine produced at the winery at
11 public events such as festivals and trade shows;

12 6. To sell wine produced at the winery, for either on-premises
13 or off-premises consumption at public events such as festivals and
14 trade shows;

15 7. To sell wine out of this state to qualified persons;

16 8. To purchase from licensed winemakers, distillers and
17 rectifiers in this state, and to import into this state wine, brandy
18 and fruit spirits for use in manufacturing in accordance with
19 federal laws and regulations;

20 9. To sell and serve Oklahoma-manufactured wine, mulled wine,
21 or spiced wine, mixed with nonalcoholic beverages or food items such
22 as water, sugar, fruits and vegetables, at any temperature for
23 either on-premises or off-premises consumption;

24

1 10. To purchase beer in retail containers from the holder of a
2 wholesaler, beer distributor, small brewer self-distributor or
3 brewpub self-distributor license or as specifically provided by law;
4 and

5 11. To sell, offer for sale and possess beer for on-premises
6 consumption; and

7 12. To establish satellite tasting rooms as defined and
8 authorized in this act where the winemaker's products may be tasted,
9 sampled, sold and served for on-premises consumption and the
10 winemaker is permitted to sell its products in sealed containers;
11 provided, the small farm winery license or winemaker license is
12 active and in good standing. The wine sold at a satellite tasting
13 room must have been produced/manufactured by the holder of a small
14 farm winery license or winemaker license and must have all
15 manufacturing taxes paid.

16 SECTION 4. AMENDATORY Section 43, Chapter 366, O.S.L.
17 2016 (37A O.S. Supp. 2018, Section 2-131), is amended to read as
18 follows:

19 Section 2-131. A. A small farm winery license shall authorize
20 the holder thereof:

21 1. To manufacture and bottle wines produced by that small farm
22 winery; ~~and~~

23 2. To bottle and sell wines produced by another small farm
24 winery. In order for a small farm winery to bottle and sell another

1 small farm winery's products, both the selling winery and the buying
2 winery shall be small farm winery permit holders; and

3 3. To establish satellite tasting rooms as defined and
4 authorized in this act where the winemaker's products may be tasted,
5 sampled, sold and served for on-premises consumption and the
6 winemaker is permitted to sell its products in sealed containers;
7 provided, the small farm winery license is active and in good
8 standing. The wine sold at a satellite tasting room must have been
9 produced/manufactured by the holder of a small farm winery license
10 and must have all manufacturing taxes paid.

11 B. A small farm wine may display the trademarked "Oklahoma
12 Grown" sticker available from the Oklahoma Grape Industry Council.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-159 of Title 37A, unless there
15 is created a duplication in numbering, reads as follows:

16 A satellite tasting room license shall authorize the holder of a
17 small farm winery license or winemaker license to operate no more
18 than two satellite locations in addition to their licensed premises
19 for the purpose of providing tastings, samples and retail sales for
20 on-premises or off-premises consumption to consumers over twenty-one
21 (21) years of age.

22 The holder of a small farm winery license or winemaker license
23 must obtain approval for each satellite location from the city, town
24 or municipality before submitting the application to the ABLE

1 Commission. The fee for licensing each satellite location will be
2 One Hundred Dollars (\$100.00) annually.

3 The small farm winery licensee or winemaker licensee operating a
4 satellite tasting room must keep such license in good standing and
5 is liable for any violation committed on the premises of its
6 satellite tasting rooms. Employees and managers of the satellite
7 tasting room must be trained in alcohol handling, laws and
8 regulations and hold a current alcohol servers license and must be
9 over twenty-one (21) years of age.

10 For purposes of this section, the term "tasting or tastings"
11 means the serving of free samples of the winemaker's products not to
12 exceed more than a total of six (6) fluid ounces of wine per person
13 aged twenty-one (21) years or older per day, or the serving of the
14 winemaker's products by individual drink purchased by the consumer
15 for on-premises consumption, or the retail sale of the winemaker's
16 products in sealed containers to an on-premises customer for off-
17 premises consumption, or any combination thereof.

18 SECTION 6. This act shall become effective November 1, 2019.

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
20 February 7, 2019 - DO PASS

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