

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 336

By: Bice of the Senate

and

Roberts (Sean) of the House

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10 COMMITTEE SUBSTITUTE

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

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

1 SECTION 1. AMENDATORY Section 3, Chapter 366, O.S.L.
2 2016, as last amended by Section 13, Chapter 304, O.S.L. 2018 (37A
3 O.S. Supp. 2018, Section 1-103), is amended to read as follows:

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

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

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

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

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

22 5. "Beer" means any beverage of alcohol by volume and obtained
23 by the alcoholic fermentation of an infusion or decoction of barley,
24 or other grain, malt or similar products. "Beer" may or may not

1 contain hops or other vegetable products. "Beer" includes, among
2 other things, beer, ale, stout, lager beer, porter and other malt or
3 brewed liquors, but does not include sake, known as Japanese rice
4 wine;

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

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

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

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

21 10. "Brand extension" means:

22 a. after the effective date of this act, any brand of
23 beer or cider introduced by a manufacturer in this
24 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. "Brewer" means and includes any person who manufactures for
21 human consumption by the use of raw materials or other ingredients
22 any beer upon which a license fee and a tax are imposed by any law
23 of this state;

24

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

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

14 15. "Convicted" and "conviction" mean and include a finding of
15 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. "Director" means the Director of the ABLE Commission;

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

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

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

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

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

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

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

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

21 21. "Fair market value" means the value in the subject
22 territory covered by the written agreement with the distributor or
23 wholesaler that would be determined in an arm's length transaction
24 entered into without duress or threat of termination of the

1 distributor's or wholesaler's rights and shall include all elements
2 of value, including goodwill and going-concern value;

3 22. "Good cause" means:

4 a. failure by the distributor to comply with the material
5 and reasonable provisions of a written agreement or
6 understanding with the manufacturer, or

7 b. failure by the distributor to comply with the duty of
8 good faith;

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

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

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

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

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

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

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

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

21 31. "Meals" means foods commonly ordered at lunch or dinner and
22 at least part of which is cooked on the licensed premises and
23 requires the use of dining implements for consumption. Provided,
24

1 that the service of only food such as appetizers, sandwiches, salads
2 or desserts shall not be considered "meals";

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

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

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

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

24

1 35. "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 36. "Nonresident seller" means any person licensed pursuant to
6 Section 2-135 of this title;

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

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

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

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

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

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

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

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

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

21 44. "Private event" means a social gathering or event attended
22 by invited guests who share a common cause, membership, business or
23 task and have a prior established relationship. For purposes of
24 this definition, advertisement for general public attendance or

1 sales of tickets to the general public shall not constitute a
2 private event;

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

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

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

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

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

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

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

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

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

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

23 55. "Small farm winery" means a wine-making establishment that
24 does not annually produce for sale more than fifteen thousand

1 (15,000) gallons of wine as reported on the United States Department
2 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
3 Wine Premises Operations (TTB Form 5120.17);

4 56. "Sparkling wine" means champagne or any artificially
5 carbonated wine;

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

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

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

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

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

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

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

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

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

18 66. "Satellite tasting room" means a licensed establishment
19 operated off the licensed premises of the holder of a small farm
20 winery or winemaker license, which serves wine for on-premises or
21 off-premises consumption.

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

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

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

- 7 1. Brewer License..... \$1,250.00
- 8 2. Small Brewer License..... \$125.00
- 9 3. Distiller License..... \$3,125.00
- 10 4. Winemaker License..... \$625.00
- 11 5. Small Farm Winery License..... \$75.00
- 12 6. Rectifier License..... \$3,125.00
- 13 7. Wine and Spirits Wholesaler License..... \$3,000.00
- 14 8. Beer Distributor License..... \$750.00

15 9. The following retail spirits license fees shall be
16 determined by the latest Federal Decennial Census:

- 17 a. Retail Spirits License for cities and
18 towns from 200 to 2,500 population..... \$305.00
- 19 b. Retail Spirits License for cities and
20 towns from 2,501 to 5,000 population..... \$605.00
- 21 c. Retail Spirits License for cities and
22 towns over 5,000 population..... \$905.00
- 23 10. Retail Wine License..... \$1,000.00
- 24 11. Retail Beer License..... \$500.00

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

1		(initial license)
2		\$905.00
3		(renewal)
4	21.	Agent License..... \$55.00
5	22.	Employee License..... \$30.00
6	23.	Industrial License..... \$23.00
7	24.	Carrier License..... \$23.00
8	25.	Private Carrier License..... \$23.00
9	26.	Bonded Warehouse License..... \$190.00
10	27.	Storage License..... \$23.00
11	28.	Nonresident Seller License or Manufacturer's
12		License..... \$750.00
13	29.	Manufacturer's Agent License..... \$55.00
14	30.	Sacramental Wine Supplier License..... \$100.00
15	31.	Charitable Auction License..... \$1.00
16	32.	Charitable Alcoholic Beverage License..... \$55.00
17	33.	Winemaker Self-Distribution License..... \$750.00
18	34.	Annual Public Event License..... \$1,005.00
19	35.	One-Time Public Event License..... \$255.00
20	36.	Small Brewer Self-Distribution License..... \$750.00
21	37.	Brewpub License..... \$1,005.00
22	38.	Brewpub Self-Distribution License..... \$750.00
23	39.	<u>Satellite Tasting Room License..... \$100.00</u>
24		

1 B. 1. There shall be added to the initial or renewal fees for
2 a Mixed Beverage License an administrative fee, which shall not be
3 deemed to be a license fee, in the amount of Five Hundred Dollars
4 (\$500.00), which shall be paid at the same time and in the same
5 manner as the license fees prescribed by paragraph 10 of subsection
6 A of this section; provided, this fee shall not be assessed against
7 service organizations or fraternal beneficiary societies which are
8 exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue
9 Code.

10 2. There shall be added to the fee for a Mixed Beverage/Caterer
11 Combination License an administrative fee, which shall not be deemed
12 to be a license fee, in the amount of Two Hundred Fifty Dollars
13 (\$250.00), which shall be paid at the same time and in the same
14 manner as the license fee prescribed by paragraph 11 of subsection A
15 of this section.

16 C. Notwithstanding the provisions of subsection A of this
17 section:

18 1. The license fee for a mixed beverage or bottle club license
19 for those service organizations or fraternal beneficiary societies
20 which are exempt under Section 501(c)(19), (8) or (10) of the
21 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per
22 year; and
23
24

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

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

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

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

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

24 1. Nonresident Seller or Manufacturer License..... \$2,500.00

- 1 2. Wine and Spirits Wholesaler License..... \$2,500.00
- 2 3. Beer Distributor..... \$1,000.00
- 3 4. Retail Spirits License for cities and towns
- 4 over 5,000 population..... \$250.00
- 5 5. Retail Spirits License for cities and towns
- 6 from 2,501 to 5,000 population..... \$200.00
- 7 6. Retail Spirits License for cities and towns
- 8 from 200 to 2,500 population..... \$150.00
- 9 7. Retail Wine License..... \$250.00
- 10 8. Retail Beer License..... \$250.00
- 11 9. Mixed Beverage License..... \$25.00
- 12 10. Mixed Beverage/Caterer Combination License..... \$25.00
- 13 11. Caterer License..... \$25.00
- 14 12. On-Premises Beer and Wine License..... \$25.00
- 15 13. Annual Public Event License..... \$25.00
- 16 14. Small Farm Winery License..... \$25.00
- 17 15. Small Brewer License..... \$35.00

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

23 H. Any license issued by the ABLE Commission under this title
 24 may be relied upon by other licensees as a valid license, and no

1 other licensee shall have any obligation to independently determine
2 the validity of such license or be held liable solely as a
3 consequence of another licensee's failure to maintain a valid
4 license.

5 SECTION 3. AMENDATORY Section 16, Chapter 366, O.S.L.
6 2016, as last amended by Section 2, Chapter 315, O.S.L. 2018 (37A
7 O.S. Supp. 2018, Section 2-104), is amended to read as follows:

8 Section 2-104. A winemaker license shall authorize the holder
9 thereof:

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

16 2. To sell wine in this state to licensed wholesalers and
17 manufacturers;

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

22 4. To serve free samples of wine produced at the winery to
23 visitors twenty-one (21) years of age and older. For purposes of
24 this section, no visitor may sample more than a total of six (6)

1 fluid ounces of wine per day. The winery shall restrict the
2 distribution and consumption of wine samples to an area within the
3 licensed premises designated by the winery. A current floor plan
4 that includes the designated sampling area shall be on file with the
5 ABLE Commission. No visitor under twenty-one (21) years of age
6 shall be permitted to enter the designated sampling area when
7 samples are being distributed and consumed. Samples of wine served
8 by a winery under this section shall not be considered a sale of
9 wine within the meaning of Article XXVIII A of the Oklahoma
10 Constitution or Section 1-103 of this title; provided, such samples
11 of wine shall be considered removed or withdrawn from the winery for
12 use or consumption within the meaning of Section 5-110 of this title
13 for excise tax determination and reporting requirements;

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

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

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

20 8. To purchase from licensed winemakers, distillers and
21 rectifiers in this state, and to import into this state wine, brandy
22 and fruit spirits for use in manufacturing in accordance with
23 federal laws and regulations;

24

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

5 10. To purchase beer in retail containers from the holder of a
6 wholesaler, beer distributor, small brewer self-distributor or
7 brewpub self-distributor license or as specifically provided by law;
8 and

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

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

20 SECTION 4. AMENDATORY Section 43, Chapter 366, O.S.L.
21 2016 (37A O.S. Supp. 2018, Section 2-131), is amended to read as
22 follows:

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

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

3 2. To bottle and sell wines produced by another small farm
4 winery. In order for a small farm winery to bottle and sell another
5 small farm winery's products, both the selling winery and the buying
6 winery shall be small farm winery permit holders;

7 3. 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 is active and in good
12 standing. The wine sold at a satellite tasting room must have been
13 produced/manufactured by the holder of a small farm winery license
14 and must have all manufacturing taxes paid; and

15 4. The small farm winery licensee shall have the same authority
16 as the winemaker licensee.

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

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

22 A satellite tasting room license shall authorize the holder of a
23 small farm winery license or winemaker license to operate no more
24 than two satellite locations in addition to their licensed premises

1 for the purpose of providing tastings, samples and retail sales for
2 on-premises or off-premises consumption to consumers over twenty-one
3 (21) years of age; provided the wine tasted, sampled or sold shall
4 have been produced/manufactured by the holder of a small farm winery
5 or winemaker license and shall have all manufacturing taxes paid.

6 The holder of a small farm winery license or winemaker license
7 must obtain approval for each satellite location from the city, town
8 or municipality before submitting the application to the ABLE
9 Commission. The fee for licensing each satellite location will be
10 One Hundred Dollars (\$100.00) annually.

11 The small farm winery licensee or winemaker licensee operating a
12 satellite tasting room must keep such license in good standing and
13 is liable for any violation committed on the premises of its
14 satellite tasting rooms. Employees and managers of the satellite
15 tasting room must be trained in alcohol handling, laws and
16 regulations and hold a current alcohol servers license and must be
17 over twenty-one (21) years of age.

18 For purposes of this section, the term "tasting or tastings"
19 means the serving of free samples of the winemaker's products not to
20 exceed more than a total of six (6) fluid ounces of wine per person
21 aged twenty-one (21) years or older per day, or the serving of the
22 winemaker's products by individual drink purchased by the consumer
23 for on-premises consumption, or the retail sale of the winemaker's
24

1 products in sealed containers to an on-premises customer for off-
2 premises consumption, or any combination thereof.

3 SECTION 6. This act shall become effective November 1, 2019.
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5 COMMITTEE REPORT BY: COMMITTEE ON TOURISM, dated 03/28/2019 - DO
6 PASS, As Amended.
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