

1 **SENATE FLOOR VERSION**

2 February 14, 2019

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 804

6 By: Bice

7 An Act relating to prohibited acts of alcoholic  
8 beverage licensees; amending Section 142, Chapter  
9 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 6-  
10 102), which relates to prohibited acts of licensees;  
11 providing exceptions to certain prohibited acts;  
12 providing an effective date; and declaring an  
13 emergency.

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

15 SECTION 1. AMENDATORY Section 142, Chapter 366, O.S.L.  
16 2016 (37A O.S. Supp. 2018, Section 6-102), is amended to read as  
17 follows:

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

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

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

1 a. a mixed beverage, beer and wine, caterer, public  
2 event, special event, bottle club, retail wine or  
3 retail beer licensee may employ servers or sales  
4 clerks who are at least eighteen (18) years of age,  
5 except persons under twenty-one (21) years of age may  
6 not serve in designated bar or lounge areas, and

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

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

21 4. Use any of the following means or inducements to stimulate  
22 the consumption of alcoholic beverages, including but not limited  
23 to:  
24

- 1 a. deliver more than two drinks to one person at one  
2 time,
- 3 b. sell or offer to sell to any person or group of  
4 persons any drinks at a price that is less than six  
5 percent (6%) below the markup of the cost to the mixed  
6 beverage licensee; provided, a mixed beverage licensee  
7 shall be permitted to offer these drink specials on  
8 any particular hour of any particular day and shall  
9 not be required to offer these drink specials for an  
10 entire calendar week or from open to close,
- 11 c. sell or offer to sell to any person an unlimited  
12 number of drinks during any set period of time for a  
13 fixed price, except at private functions not open to  
14 the public,
- 15 d. sell or offer to sell drinks to any person or group of  
16 persons on any one day or portion thereof at prices  
17 less than those charged the general public on that  
18 day, except at private functions not open to the  
19 public,
- 20 e. increase the volume of alcoholic beverages contained  
21 in a drink without increasing proportionately the  
22 price regularly charged for such drink during the same  
23 calendar week, or  
24

1 f. encourage or permit, on the licensed premises, any  
2 game or contest which involves drinking or the  
3 awarding of drinks as prizes.

4 Provided, that the provisions of this paragraph shall not  
5 prohibit the advertising or offering of food or entertainment in  
6 licensed establishments;

7 5. Permit or allow any patron or person to exit the licensed  
8 premises with an open container of any alcoholic beverage.

9 Provided, this prohibition shall not be applicable to closed  
10 original containers of alcoholic beverages which are carried from  
11 the licensed premises of a bottle club by a patron, closed original  
12 wine containers removed from the premises of restaurants, hotels and  
13 motels, or to closed original containers of alcoholic beverages  
14 transported to and from the place of business of a licensed caterer  
15 by the caterer or an employee of the caterer;

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

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

20 B. A mixed beverage or beer and wine licensee shall not be  
21 deemed to have violated the provisions of paragraph 5 of subsection  
22 A of this section if it allowed a patron to leave the premise with  
23 an open container of beer or wine only and:  
24

1        1. The otherwise prohibited act was committed during the hours  
2 of 8 a.m. to midnight on the day of a scheduled home football game  
3 of institutions within The Oklahoma State System of Higher  
4 Education, and the establishment is located within two thousand  
5 (2,000) feet of the institution; or

6        2. The licensee is participating by invitation in a municipally  
7 sanctioned art or music event within city limits when the  
8 municipality has provided written notice of the event and a list of  
9 invited licensees to the ABLE Commission at least five (5) days  
10 prior to the event.

11        SECTION 2. This act shall become effective July 1, 2019.

12        SECTION 3. It being immediately necessary for the preservation  
13 of the public peace, health or safety, an emergency is hereby  
14 declared to exist, by reason whereof this act shall take effect and  
15 be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
17 February 14, 2019 - DO PASS AS AMENDED  
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