

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 1030

By: Burns of the House
and
Hall of the Senate

7 An Act relating to alcoholic beverages; making
8 certain felons eligible for certain license under
9 certain conditions after certain period; prohibiting
10 certain licensing of felons with convictions of
11 certain crimes; providing for codification; and
12 providing an effective date.

13 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
14 entire bill and insert

"An Act relating to alcoholic beverages; amending
15 Section 60, Chapter 366, O.S.L. 2016, as amended by
16 Section 1, Chapter 213, O.S.L. 2018 (37A O.S. Supp.
17 2018, Section 2-148), which relates to grounds to
18 revoke or suspend a license; removing certain time
19 limitation on issuing employee license; and providing
an effective date.

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

21 SECTION 1. AMENDATORY Section 60, Chapter 366, O.S.L.
22 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S.
23 Supp. 2018, Section 2-148), is amended to read as follows:
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1 Section 2-148. A. Any license issued pursuant to the
2 provisions of the Oklahoma Alcoholic Beverage Control Act by the
3 ABLE Commission, after due notice and hearing, may be revoked or
4 suspended if the ABLE Commission finds or has grounds to believe
5 that the licensee has:

6 1. Violated any rule promulgated by the ABLE Commission;

7 2. Procured a license through fraud, or misrepresentation, or
8 concealment of a material fact;

9 3. Made any false representation or statement to the ABLE
10 Commission or the Oklahoma Tax Commission in order to prevent or
11 induce action by the ABLE Commission or the Tax Commission;

12 4. Maintained an unsanitary establishment or has supplied
13 impure or otherwise deleterious beverages or food;

14 5. Stored, possessed, mixed or served on the premises of a
15 bottle club any alcoholic beverage upon which the tax levied by
16 Section 5-101 of this title has not been paid as provided for in the
17 Oklahoma Alcoholic Beverage Control Act, in a county of this state
18 where the sale of alcoholic beverages by the individual drink for
19 on-premises consumption has not been authorized;

20 6. Misrepresented to a customer or the public any alcoholic
21 beverage sold by the licensee;

22 7. Had any permit or license issued by the Tax Commission and
23 required by the Oklahoma Alcoholic Beverage Control Act, suspended
24 or revoked by the Tax Commission; or

1 8. Is not in compliance with the tax laws of this state as
2 required in Article XXVIII A of the Oklahoma Constitution.

3 B. The ABLE Commission may revoke or suspend the license of any
4 mixed beverage, caterer or bottle club licensee if the ABLE
5 Commission finds or has grounds to believe that such licensee:

6 1. Has acted as an agent of a manufacturer or wholesaler of
7 alcoholic beverages;

8 2. Is a manufacturer or wholesaler of alcoholic beverages;

9 3. Has borrowed money or property or accepted gratuities or
10 rebates from a manufacturer or wholesaler of alcoholic beverages;

11 4. Has obtained the use of equipment from any manufacturer or
12 wholesaler of alcoholic beverages or any agent thereof;

13 5. Has violated any of the provisions of the Oklahoma Alcoholic
14 Beverage Control Act for which mandatory revocation or suspension is
15 not required;

16 6. Has been convicted within the past twenty-five (25) years,
17 of a violation of any state or federal law relating to alcoholic
18 beverage for which mandatory revocation or suspension is not
19 required; or

20 7. Is not in compliance with the tax laws of this state as
21 required in Article XXVIII A of the Oklahoma Constitution.

22 C. The ABLE Commission may revoke or suspend the license of any
23 retail, mixed beverage, caterer or bottle club licensee if the ABLE
24 Commission finds or has grounds to believe that such licensee has

1 borrowed money or property or accepted gratuities, discounts,
2 rebates, free goods, allowances or other inducements from a wine and
3 spirits wholesaler or beer distributor.

4 D. The ABLE Commission shall have the authority to revoke the
5 license of any licensee if the ABLE Commission finds:

6 1. That the licensee knowingly sold alcoholic beverages or
7 allowed such beverages to be sold, delivered or furnished to any
8 person under the age of twenty-one (21) years or to any person
9 visibly intoxicated or adjudged insane or mentally deficient;

10 2. That the licensee, any general or limited partner of the
11 licensee, or in the case of a corporation, an officer or director of
12 the corporation, has been convicted of a felony or is not in
13 compliance with the tax laws of this state as required in Article
14 XXVIII A of the Oklahoma Constitution. Provided, an employee license
15 may be issued and held by a person who has been convicted of a
16 felony if such conviction was not for ~~an~~ a violent offense specified
17 in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes
18 or an offense under the provisions of this title, ~~and if such~~
19 ~~conviction was more than five (5) years prior to the issuance of the~~
20 ~~license;~~

21 3. That, in the case of a wine and spirits wholesaler, beer
22 distributor, retail spirits, retail wine or retail beer licensee,
23 the holder of the license or any member of a general or limited
24 partnership which is the holder of such a license, has been

1 convicted of a prohibitory law relating to the sale, manufacture or
2 transportation of alcoholic beverages which constitutes a felony.

3 E. If the ABLE Commission shall find by a preponderance of the
4 evidence as in civil cases that a licensee has knowingly sold any
5 alcoholic beverage to any person under the age of twenty-one (21)
6 years, after a public hearing, the ABLE Commission shall revoke such
7 license and no discretion as to the revocation shall be exercised by
8 the ABLE Commission.

9 F. The ABLE Commission shall have the authority to promulgate
10 rules to establish a penalty schedule for violations of any
11 provision of the Oklahoma Alcoholic Beverage Control Act or any rule
12 of the ABLE Commission. The schedule shall provide for suspension
13 or revocation of any license for major and minor violations as
14 determined by the ABLE Commission. Penalties shall be increasingly
15 severe with each violation by a licensee.

16 Provided, that for a fourth major violation by a licensee within
17 a twenty-four-month period, the penalty shall be mandatory
18 revocation of license. The twenty-four-month period shall be
19 calculated from the date of the most recent violation as set forth
20 in an order signed by the Director or the designee of the Director.

21 G. The ABLE Commission or the Tax Commission may impose a
22 monetary penalty in lieu of or in addition to suspension of a
23 license. The amount of the fine for a major violation shall be
24 computed by multiplying the proposed number of days of the

1 suspension period by One Hundred Dollars (\$100.00). The amount of
2 the fine for a minor violation shall be computed by multiplying the
3 number of days of the proposed suspension period by Fifty Dollars
4 (\$50.00).

5 H. The failure of any licensee to pay a fine or serve a
6 suspension imposed by the ABLE Commission or the Tax Commission
7 shall result in the revocation of the license of the licensee.

8 I. If the ABLE Commission or the Tax Commission finds that
9 public health, safety or welfare require emergency action, and
10 incorporates a finding to that effect in its order, summary
11 suspension of a license may be ordered pending proceeding for
12 revocation or other action, pursuant to the provisions of Section
13 314 of Title 75 of the Oklahoma Statutes.

14 SECTION 2. This act shall become effective November 1, 2019."

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

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Presiding Officer of the Senate

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19 Passed the House of Representatives the ____ day of _____,

20 2019.

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Presiding Officer of the House
of Representatives

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1 ENGROSSED HOUSE
2 BILL NO. 1030

By: Burns of the House

3 and

4 Hall of the Senate

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8 An Act relating to alcoholic beverages; making
9 certain felons eligible for certain license under
10 certain conditions after certain period; prohibiting
11 certain licensing of felons with convictions of
12 certain crimes; providing for codification; and
13 providing an effective date.

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

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2-145A of Title 37A, unless
17 there is created a duplication in numbering, reads as follows:

18 A. Except as provided in subsection B of this section, a prior
19 felony conviction shall not disqualify an individual from applying
20 for, receiving and renewing an employee license authorized by
21 Section 2-121 of Title 37A of the Oklahoma Statutes if:

22 1. The person meets all other qualifications and requirements
23 for obtaining and maintaining the license; and

24 2. The person has not been convicted of any felony within three
(3) years of the application date.

1 B. The Alcoholic Beverage Laws Enforcement Commission shall
2 refuse to issue an employee license authorized by Section 2-121 of
3 Title 37A of the Oklahoma Statutes, either on an original
4 application or a renewal application, if it has reasonable grounds
5 to believe and finds the applicant has a prior conviction for any of
6 the following felony offenses:

- 7 1. An alcohol-related offense;
- 8 2. A violent crime as defined in Section 142A-1 of Title 21 of
9 the Oklahoma Statutes; or
- 10 3. A crime which would subject a person to registration
11 pursuant to the Sex Offenders Registration Act.

12 SECTION 4. This act shall become effective November 1, 2019.

13 Passed the House of Representatives the 5th day of March, 2019.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ___ day of _____, 2019.

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Presiding Officer of the Senate

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