

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1315

By: McEntire

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; amending
9 Section 89, Chapter 366, O.S.L. 2016 (37A O.S. Supp.
10 2018, Section 3-119), which relates to prohibited
11 acts of certain licensees; modifying circumstances in
12 which certain products may be replaced; expanding the
13 period in which certain wine or spirits may be
14 replaced; amending Section 129, Chapter 366, O.S.L.
15 2016 (37A O.S. Supp. 2018, Section 5-126), which
16 relates to record keeping; reducing records retention
17 period; authorizing certain audit period upon certain
18 audit findings; and providing an effective date.

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

26 SECTION 1. AMENDATORY Section 89, Chapter 366, O.S.L.
27 2016 (37A O.S. Supp. 2018, Section 3-119), is amended to read as
28 follows:

29 Section 3-119. It shall be unlawful for any manufacturer, wine
30 and spirits wholesaler, beer distributor or person authorized to
31 sell alcoholic beverages to a wholesaler, or any employee, officer,
32 director, stockholder owning fifteen percent (15%) or more of the
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1 stock, any type of partner, manager, member or agent thereof, to
2 directly or indirectly:

3 1. Have any financial interest in any premises upon which any
4 alcoholic beverage is sold at retail or in any business connected
5 with the retailing of alcoholic beverages; provided, nothing in this
6 act shall prohibit the operation of a mixed beverage licensee, beer
7 and wine licensee or caterer licensee by an entity which has common
8 owners with the holder of a small brewer license or a brewpub
9 license;

10 2. Lend any money or other thing of value, or to make any gift
11 or offer any gratuity, to any package store, retail wine, retail
12 beer, mixed beverage, beer and wine, public event or bottle club
13 licensee or caterer;

14 3. Guarantee any loan or the repayment of any financial
15 obligation of any retailer, mixed beverage, beer and wine, public
16 event or bottle club licensee or caterer;

17 4. Require any wine and spirits wholesaler, beer distributor,
18 retailer, mixed beverage, on premises beer and wine licensee, public
19 event or caterer to purchase and dispose of any quota of alcoholic
20 beverages, or to require any retailer to purchase any kind, type,
21 size, container or brand of alcoholic beverages in order to obtain
22 any other kind, type, size, container or brand of alcoholic
23 beverages;

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1 5. Sell to any retailer, mixed beverage, on-premises beer and
2 wine licensee, public event or caterer any alcoholic beverage on
3 consignment, or upon condition, or with the privilege of return, or
4 on any condition other than a bona fide sale; provided, the
5 following shall not be considered a violation of this paragraph:

6 a. ~~the~~ delivery in good faith, through mistake,
7 inadvertence or oversight, of an alcoholic beverage
8 that was not ordered by a retailer, mixed beverage
9 licensee, on-premises beer and wine licensee, caterer,
10 public event or special event licensee to such
11 licensee ~~shall not be considered a violation of this~~
12 ~~paragraph, nor shall,~~

13 b. replacement of product because of breakage that
14 occurred while the alcoholic beverages were in transit
15 from the wholesaler to the licensee, as long as the
16 licensee notifies the wine and spirits wholesaler or
17 the beer distributor of the breakage in writing within
18 five (5) business days after the delivery of the
19 product,

20 c. replacement of beer with torn or defective labels,
21 short-filled cases or other defects that make the
22 product unsaleable, as long as the licensee notifies
23 the beer distributor of the error or defect in writing
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1 within five (5) business days after delivery of the
2 product, or

3 d. replacement of ~~product~~ wine or spirits with torn or
4 defective labels, short-filled cases or other defects
5 that make the product unsaleable, as long as the
6 licensee notifies the wine and spirits wholesaler ~~or~~
7 ~~the beer distributor~~ of the error, ~~breakage~~ or defect
8 in writing within ~~five (5) business days~~ twelve (12)
9 months after delivery of the product; or

10 6. Extend credit to any retailer, other than holders of Federal
11 Liquor Stamps on United States government reservations and
12 installations, mixed beverage, public event or on-premises beer and
13 wine licensee or caterer, other than a state lodge located in a
14 county which has approved the retail sale of alcoholic beverages by
15 the individual drink for on-premises consumption. The acceptance of
16 a postdated check or draft or the failure to deposit for collection
17 a current check or draft by the second banking day after receipt
18 shall be deemed an extension of credit. Violation of this section
19 shall be grounds for suspension of the license.

20 SECTION 2. AMENDATORY Section 129, Chapter 366, O.S.L.
21 2016 (37A O.S. Supp. 2018, Section 5-126), is amended to read as
22 follows:

23 Section 5-126. A. Every manufacturer, wine and spirits
24 wholesaler, beer distributor, nonresident seller, retailer, mixed

1 beverage, caterer, public event and special event licensee shall
2 keep a record of all alcoholic beverages imported, purchased,
3 received, manufactured, produced, sold, delivered or otherwise
4 disposed of, and the amount of all alcoholic beverages on hand, as
5 herein provided. Such records must be kept for a period of at least
6 ~~three (3) years~~ one (1) year, except as provided in subsection B of
7 this section, and shall include:

8 1. The date;

9 2. The number of the invoice, manifest, bill of lading or
10 similar type document; and

11 3. The total amount of alcoholic beverages purchased, imported,
12 received, manufactured, produced, sold, delivered or otherwise
13 disposed of, by such licensee in each transaction.

14 Each such licensee shall keep and maintain such other records in
15 details as the Oklahoma Tax Commission may require.

16 B. Every manufacturer, wine and spirits wholesaler, beer
17 distributor, nonresident seller, retailer, mixed beverage, caterer,
18 public event and special event licensee that has been audited by the
19 Tax Commission in the previous three-year period prior to the
20 effective date of this act with an audit finding that the licensee
21 had incorrectly reported or had failed to keep sufficient records
22 for audit purposes or upon an audit by the Tax Commission on or
23 after November 1, 2019, with a finding that the licensee had
24 incorrectly reported or had failed to keep sufficient records for

1 audit purposes shall be required to maintain and keep the records
2 specified in subsection A of this section for at least three (3)
3 years following the date of audit.

4 SECTION 3. This act shall become effective November 1, 2019.

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