

1 **SENATE FLOOR VERSION**

2 April 11, 2019

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL NO. 1315

By: McEntire of the House

and

Leewright of the Senate

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9 COMMITTEE SUBSTITUTE

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

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

23 SECTION 1. AMENDATORY Section 89, Chapter 366, O.S.L.  
24 2016 (37A O.S. Supp. 2018, Section 3-119), is amended to read as  
follows:

Section 3-119. It shall be unlawful for any manufacturer, wine  
and spirits wholesaler, beer distributor or person authorized to

1 sell alcoholic beverages to a wholesaler, or any employee, officer,  
2 director, stockholder owning fifteen percent (15%) or more of the  
3 stock, any type of partner, manager, member or agent thereof, to  
4 directly or indirectly:

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

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

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

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

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

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

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

22 c. replacement of beer, wine, or spirits with torn or  
23 defective labels, short-filled cases or other defects  
24 that make the product unsaleable, as long as the

1           licensee notifies the beer distributor or wine and  
2           spirits wholesaler of the error or defect in writing  
3           within five (5) business days after delivery of the  
4           product, or

5           d. replacement of ~~product with torn or defective labels,~~  
6           ~~short-filled cases or other defects that make the~~  
7           ~~product unsaleable,~~ cork-tainted wine as long as the  
8           licensee notifies the wine and spirits wholesaler ~~or~~  
9           ~~the beer distributor of the error, breakage or defect~~  
10           in writing within ~~five (5) business~~ sixty (60) days  
11           after delivery of the product; provided, the wine and  
12           spirits wholesaler may require the licensee to return  
13           the cork-tainted bottle of wine, so that it can be  
14           sent to the manufacturer for testing in order to  
15           qualify for replacement; or

16           6. Extend credit to any retailer, other than holders of Federal  
17           Liquor Stamps on United States government reservations and  
18           installations, mixed beverage, public event or on-premises beer and  
19           wine licensee or caterer, other than a state lodge located in a  
20           county which has approved the retail sale of alcoholic beverages by  
21           the individual drink for on-premises consumption. The acceptance of  
22           a postdated check or draft or the failure to deposit for collection  
23           a current check or draft by the second banking day after receipt

1 shall be deemed an extension of credit. Violation of this section  
2 shall be grounds for suspension of the license.

3 SECTION 2. AMENDATORY Section 129, Chapter 366, O.S.L.  
4 2016 (37A O.S. Supp. 2018, Section 5-126), is amended to read as  
5 follows:

6 Section 5-126. A. Every manufacturer, wine and spirits  
7 wholesaler, beer distributor, nonresident seller, retailer, mixed  
8 beverage, caterer, public event and special event licensee shall  
9 keep a record of all alcoholic beverages imported, purchased,  
10 received, manufactured, produced, sold, delivered or otherwise  
11 disposed of, and the amount of all alcoholic beverages on hand, as  
12 herein provided. Such records must be kept for a period of at least  
13 three (3) years as required in Title 27, Code of Federal  
14 Regulations, Chapter 1, and shall include:

- 15 1. The date;
- 16 2. The number of the invoice, manifest, bill of lading or  
17 similar type document; and
- 18 3. The total amount of alcoholic beverages purchased, imported,  
19 received, manufactured, produced, sold, delivered or otherwise  
20 disposed of, by such licensee in each transaction.

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

23 B. If a manufacturer, wine and spirits wholesaler, beer  
24 distributor, nonresident seller, retailer, mixed beverage, caterer,

1 public event or special event licensee has been previously audited  
2 by the Tax Commission with an audit finding that the licensee  
3 correctly reported and kept sufficient records for audit purposes,  
4 the next subsequent audit shall be limited to records kept for one  
5 (1) year prior to the date of such audit; provided, however, if an  
6 audit finding determines that the licensee incorrectly reported or  
7 failed to keep sufficient records for audit purposes, then the audit  
8 shall not be limited by the provisions of this subsection. If any  
9 audit limited by the provisions in this subsection determines that  
10 the licensee has incorrectly reported or failed to keep sufficient  
11 records for audit purposes, then the licensee shall no longer be  
12 eligible for limited audits.

13 SECTION 3. This act shall become effective November 1, 2019.  
14 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
15 April 11, 2019 - DO PASS AS AMENDED

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