

# An Act

ENROLLED HOUSE  
BILL NO. 1341

By: McEntire of the House

and

Coleman of the Senate

An Act relating to alcoholic beverages; amending Section 22, Chapter 366, O.S.L. 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-110), which relates to the mixed beverage license; authorizing holders of a mixed beverage license to hold certain other licenses; authorizing certain licensees to make certain sales; amending Section 58, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-146), as last amended by Section 9 of Enrolled Senate Bill No. 906 of the 1st Session of the 57th Oklahoma Legislature, which relates to denial of licenses; eliminating certain requirement for certain applicants; amending Section 68, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 76, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-156), which relates to restrictions on licenses in package stores; providing certain exception to certain package-store-sale requirement; and providing an effective date.

SUBJECT: Alcoholic beverages

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

SECTION 1. AMENDATORY Section 22, Chapter 366, O.S.L. 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-110), is amended to read as follows:

Section 2-110. A. A mixed beverage license shall authorize the holder thereof:

1. To purchase alcohol, spirits, beer and/or wine in retail containers from the holder of a wine and spirits wholesaler and beer distributor license as specifically provided by law; and

2. To sell, offer for sale and possess mixed beverages for on-premises consumption only~~+~~, provided~~+~~:

a. the holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine directly from a winemaker and beer directly from a small brewer who is permitted and has elected to self-distribute as provided in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution, and

b. the holder of a mixed beverage license that is also a holder of a retail wine license or retail beer license or both a retail wine license and retail beer license shall not be prohibited from the on-premises sale of wine or beer, according to the license held, for off-premises consumption, subject to the limitations of the retail wine license or retail beer license.

B. Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of the licensee unless the holder of the mixed beverage license also obtains a caterer license or a mixed beverage/caterer combination license. A mixed beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

C.  Holders of a mixed beverage license shall not be prohibited from obtaining and holding a retail beer license or retail wine license or both a retail beer license and retail wine license; provided, that each holder qualifies and maintains the qualifications for each license held as set forth in this title and the rules promulgated by the ABLE Commission.

D. Upon application, a mixed beverage license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 1-103 of this title. Provided, that upon proof of legal age to consume alcohol, every patron being served alcoholic beverages shall be required to wear a wrist bracelet or receive a hand stamp identifying the patron as being of legal age to

consume alcohol. This requirement shall only apply inside a motion picture theater auditorium where individuals under the legal age to consume alcohol are allowed.

SECTION 2. AMENDATORY Section 58, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-146), as last amended by Section 9 of Enrolled Senate Bill No. 906 of the 1st Session of the 57th Oklahoma Legislature, is amended to read as follows:

Section 2-146. A. The ABLE Commission shall refuse to issue a wine and spirits wholesaler, beer distributor, retail spirits, retail wine or retail beer license, either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

1. Except in the case of a beer distributor, that the applicant is not a citizen of the United States or is not a qualified elector in this state, or has not been a continuous resident of this state for the five (5) years next preceding the application for the license;

2. That the applicant is under twenty-one (21) years of age;

3. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a felony;

4. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a violation of any state or federal law relating to alcoholic beverages, has forfeited a bond while any charge of such violation was pending, nor may any license be granted for any purpose under the Oklahoma Alcoholic Beverage Control Act to an Oklahoma resident, who has held or whose spouse has held a Federal Liquor Stamp in Oklahoma before the adoption of Article XXVIII-A of the Oklahoma Constitution unless the Liquor Stamp was granted for supplying alcoholic beverages to a federal military installation, or was granted under the Oklahoma Alcoholic Beverage Control Act;

5. That the applicant or any partner has, within twelve (12) months next preceding the date of the application, violated any provision of the Oklahoma Alcoholic Beverage Control Act or rule of the ABLE Commission promulgated pursuant hereto. Provided, however, that if the ABLE Commission has, during such twelve-month period, suspended any license sought to be renewed, such renewal application may be approved if the term of the suspension has been completed and

the applicant has complied with any special conditions imposed in connection with the suspension;

6. That the applicant is not of good moral character, or that the applicant is in the habit of using alcoholic beverages to excess, or is mentally incapacitated. Provided, that the record in any municipal court showing a conviction of violation of any municipal ordinances or state statutes involving moral character or public nuisance obtained after passage and approval of the Oklahoma Alcoholic Beverage Control Act shall be received in evidence by the ABLE Commission;

7. That the applicant does not own or have a written lease for the premises for which a license is sought;

8. That the applicant, within twelve (12) months next preceding the date of application, has been the holder of a license revoked for cause;

9. That the applicant is not the real party in interest, or intends to carry on the business authorized by the license as the agent of another;

10. That the applicant, in the case of an application for renewal of any license, would not be eligible for such license on a first application;

11. That the applicant is a person who appoints or is a law enforcement official or is an employee of the ABLE Commission;

12. That the proposed location of the licensed premises would violate a valid municipal nondiscriminatory zoning ordinance;

13. That, in the case of an application for a wine and spirits wholesaler license or beer distributor license, any brewer or manufacturer, including an officer, director or principal stockholder thereof or any partner, has any financial interest in the business to be conducted under the license, unless otherwise permitted by law;

14. That the issuance of the license applied for would result in a violation of any provision of the Oklahoma Alcoholic Beverage Control Act;

15. That, in the case of an application for a wine and spirits wholesaler or beer distributor license, the applicant or any partner, or spouse of the applicant or any partner, is the holder or partner of the holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than an agent or employee license for employment by the applicant, or a storage license, bonded warehouse license, carrier license or private carrier license; provided, nothing shall prohibit a wine and spirits wholesaler, who is otherwise qualified, from maintaining beer distributor licenses in the state, nor a beer distributor, who is otherwise qualified, from maintaining a wine and spirits wholesaler license in the state;

16. That, in the case of an application for a retail spirits, retail wine or retail beer license, the applicant or any partner is the holder or partner of the holder, or employee of such holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than a storage license or an employee license for the proposed licensed premises of the applicant, provided, nothing in this title shall prohibit an applicant for a retail wine and/or retail beer license from maintaining a separate mixed beverage, caterer, mixed beverage/caterer combination license, and/or an on-premise beer and wine license, ~~if the retail wine and/or retail beer license is not situated within or adjacent to the same physical space wherein the on-premises license is maintained;~~ or

17. That the applicant or any partner, spouse, employee or other person affiliated with the applicant is not in compliance with the tax laws of this state as required in Article XXVIII-A of the Oklahoma Constitution.

B. The provisions of this section shall not operate to prohibit the issuance of a beer distributor license to a corporation or partnership or limited liability company.

SECTION 3. AMENDATORY Section 68, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 76, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-156), is amended to read as follows:

Section 2-156. A. No retail spirits license shall be issued to a corporation, limited liability company or similar business entity. No person may own any interest in more than two package stores; provided, a spouse of a retail spirits license holder may hold a separate interest in up to two (2) package stores. For the purpose

only of establishing whether or not a person owns an interest in more than one package store, any person having a beneficial interest in any package store shall be deemed to be a partner in the package store except that the spouse of any retail spirits license holder or partner shall not be deemed to be a partner or have a beneficial interest in a package store unless his or her name appears on the license. A beneficial interest shall be any interest that benefits from any sales or profits of the package store.

B. For purposes of this section, any spouse of a retail spirits license holder shall not hold another license provided for pursuant to the Oklahoma Alcoholic Beverage Control Act, except a retail wine license, retail beer license, on-premises beer and wine license, mixed beverage license, a caterer's license or a retail spirits license.

C. Package stores licensed under the Oklahoma Alcoholic Beverage Control Act may sell only alcoholic beverages in retail containers as defined in Section 1-103 of this title, in the original package for consumption off the premises; provided, that package stores licensed under the Oklahoma Alcoholic Beverage Control Act that are also mixed beverage licensees shall not be prohibited from the exercise of the authorities granted them by Section 2-110 of this title. All retail sales shall be made on the licensed premises and all deliveries off the premises, at retail, of intoxicating liquor or beer are hereby prohibited. Provided, a holder of a Retail Spirits License shall be permitted to sell at retail any item that may be purchased at a grocery store or convenience store, as defined by law, except for motor fuel, so long as the sale of items other than alcoholic beverages do not comprise more than twenty percent (20%) of the holder's monthly sales.

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

Passed the House of Representatives the 15th day of May, 2019.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 16th day of May, 2019.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
By: \_\_\_\_\_