

1 **SENATE FLOOR VERSION**

2 April 8, 2024

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 2090

6 By: Echols, Pae, Lawson, and  
7 Bennett of the House

8 and

9 Paxton of the Senate

10 [ alcoholic beverages - delivery service license -  
11 delivery of alcoholic beverages - delivery fee -  
12 direct shipment of alcohol, liquor, wine, or beer -  
13 ABLE Commission - direct hand-to-hand sale -  
14 employees or independent contractors of retail beer  
15 or wine licensees or delivery service licensees -  
16 codification ]

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

18 SECTION 1. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. Any individual, limited liability company, corporation, or  
22 partnership that is registered to do business in this state,  
23 regardless of the residency of the ownership of the entity, may  
24 apply for and be issued a delivery service license that authorizes  
the licensee to deliver alcoholic beverages from a store holding a  
retail beer or retail wine license, licensed by the Alcoholic  
Beverage Law Enforcement (ABLE) Commission to sell alcoholic  
beverage products, to any person in this state who is at least

1 twenty-one (21) years of age for the individual's personal use and  
2 not for resale.

3 B. To receive a delivery service license, an applicant shall do  
4 all of the following:

5 1. File an application with the Alcoholic Beverage Law  
6 Enforcement (ABLE) Commission;

7 2. Provide to the ABLE Commission a sample contract that the  
8 applicant intends to enter into with a retail beer or retail wine  
9 licensee for the delivery of alcoholic beverage products, unless the  
10 applicant is the holder of a retail beer or retail wine license or  
11 operates under the same parent company as the retail beer or retail  
12 wine license holder;

13 3. Submit to the ABLE Commission an outline of internal or  
14 external training for delivery service personnel that addresses  
15 topics such as identifying underage persons, intoxicated persons,  
16 and fake or altered identification;

17 4. Provide an attestation that the applicant is at least  
18 twenty-one (21) years of age and has not been convicted of a felony  
19 in any state or federal court;

20 5. Provide proof of a general liability insurance policy in an  
21 amount not less than One Million Dollars (\$1,000,000.00) per  
22 occurrence; and

23 6. Be properly registered to conduct business in Oklahoma.

24 C. A delivery service licensee:

1 1. May contract with any retail beer or retail wine licensee,  
2 licensed to sell alcoholic beverage products for off-premises  
3 consumption, for the purpose of delivering alcoholic beverage  
4 products;

5 2. May use its own employees or independent contractors who are  
6 at least twenty-one (21) years of age to deliver such alcoholic  
7 beverage products, provided such delivery service personnel shall  
8 not have been convicted of any criminal offense relating to  
9 alcoholic beverages. The delivery service licensee shall complete a  
10 criminal history records check on each delivery driver who delivers  
11 alcoholic beverages for a licensee;

12 3. May facilitate orders by telephone, Internet, or by other  
13 electronic means for the sale and delivery of alcoholic beverages.  
14 If payment is not received at the time of order, the delivery  
15 service licensee may act as an agent of the retail licensee in the  
16 collection of payments from the sale of alcoholic beverages, but the  
17 full amount of each order must be handled in a manner that gives the  
18 retail licensee control over the ultimate receipt of the payment  
19 from the consumer with the retail licensee operating as the merchant  
20 of record. The retail beer or retail wine licensee shall remain  
21 responsible for the proper remittance of all applicable taxes on the  
22 sale of the product;

23 4. Shall deliver only sealed containers of alcoholic beverage  
24 products;

1           5. Shall obtain from the consumer a confirmation that he or she  
2 is at least twenty-one (21) years of age at the time the order is  
3 placed;

4           6. Shall require the recipient, at the time of delivery, to  
5 provide valid photo identification verifying he or she is at least  
6 twenty-one (21) years of age and sign for the delivery;

7           7. Shall possess identification scanning software technology or  
8 a state-of-the-art alternative at the point of delivery to  
9 authenticate that the recipient is at least twenty-one (21) years of  
10 age, and collect the recipient's name and date of birth;

11           8. Shall return all alcoholic beverages to the retail beer or  
12 retail wine licensee if the recipient is under twenty-one (21) years  
13 of age, appears intoxicated, fails to provide proof of  
14 identification, fails or refuses to sign for delivery, fails to  
15 complete the identification verification process, declines to accept  
16 the delivery of alcoholic beverages or beer, or if any circumstances  
17 in the delivery environment indicate illegal conduct,  
18 overconsumption, or an otherwise unsafe environment for the  
19 consumption of alcohol. Such return shall occur on the same  
20 business day;

21           9. May not deliver any alcoholic beverage to any person located  
22 within a dry jurisdiction in Oklahoma;

23           10. Shall pick up alcoholic beverages for delivery only during  
24 lawful sales hours in that jurisdiction for the retail beer or

1 retail wine licensee holder; provided, that orders may be delivered  
2 and completed on the same day within a reasonable time thereafter;

3 11. Shall permit the ABLE Commission to perform an audit of the  
4 licensee's records upon request and with sufficient notification;

5 12. Shall be deemed to have consented to the jurisdiction of  
6 the ABLE Commission and the Oklahoma courts concerning enforcement  
7 of this section and any related laws or rules; and

8 13. Shall be responsible for delivery of alcoholic beverage  
9 products as provided in this act and by rule.

10 D. A delivery service licensee may renew its license with the  
11 ABLE Commission by maintaining all qualifications, paying annually a  
12 renewal fee of Five Hundred Dollars (\$500.00), and providing the  
13 Commission with a true copy of its current license. The annual fee  
14 for delivery service licensees shall be collected by the ABLE  
15 Commission for deposit and credit to the General Revenue Fund of  
16 this state.

17 E. A delivery service licensee shall be authorized to charge  
18 the consumer a delivery fee but shall not charge, add on, or collect  
19 any portion of the amount of the retail sales price for the  
20 alcoholic beverages.

21 F. A retail spirits licensee shall be prohibited from using  
22 delivery service licensees for the purpose of completing alcoholic  
23 beverage product deliveries to consumers.

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1 G. Nothing in this act shall be construed to require a  
2 technology services company to obtain a delivery service license if  
3 the company does not employ or contract with delivery agents, but  
4 merely provides software or a digital network application that  
5 connects consumers and retail beer or retail wine licensee for the  
6 delivery of alcoholic beverages from the retail beer or retail wine  
7 licensee. However, the act of connecting consumers to retail beer  
8 or retail wine licensee shall serve to grant jurisdiction to the  
9 State of Oklahoma.

10 H. The ABLE Commission may enforce the requirements of this  
11 section by the same administrative proceedings that apply to all  
12 other alcoholic beverage licensees.

13 I. The ABLE Commission may enforce the requirements of this  
14 section against any employee or independent contractor of a retail  
15 beer or retail wine licensee or delivery service licensee,  
16 irrespective of the status of any delivery service personnel as an  
17 independent contractor or employee. Delivery to a minor shall be  
18 treated as furnishing alcohol to a minor and shall result in any  
19 applicable disciplinary action; provided, that the retail beer or  
20 retail wine licensee shall not be held liable for violations that  
21 occur after transferring possession of the alcohol beverage product  
22 to the delivery service licensee.

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1 J. Nothing in this act shall be construed to authorize the  
2 direct shipment of alcohol, liquor, wine, or beer from any  
3 manufacturer.

4 K. No person shall use a license or exercise any privileges  
5 granted by the license except as provided by the Oklahoma Alcoholic  
6 Beverage Control Act.

7 L. No package containing alcoholic beverages may be delivered  
8 to or left unattended at a residence or business address except for  
9 the delivery of such package in person to the purchaser confirmed to  
10 be twenty-one (21) years of age or older.

11 M. The ABLE Commission is authorized to promulgate rules,  
12 regulations, forms, and procedures necessary to implement and  
13 enforce the provisions of this section.

14 N. For purposes of this section, each delivery authorized by a  
15 licensee to be made to a consumer shall be deemed a direct hand-to-  
16 hand sale as though the consumer was physically present on the  
17 licensed premises and authorized by law by such licensee.

18 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-101, as  
19 amended by Section 3, Chapter 338, O.S.L. 2023 (37A O.S. Supp. 2023,  
20 Section 2-101), is amended to read as follows:

21 Section 2-101. A. Except as otherwise provided in this  
22 section, the licenses issued by the ABLE Commission, and the annual  
23 fees therefor, shall be as follows:

- 24 1. Brewer License..... \$1,250.00

1	2.	Small Brewer License.....	\$125.00
2	3.	Distiller License.....	\$3,125.00
3	4.	Winemaker License.....	\$625.00
4	5.	Small Farm Winery License.....	\$75.00
5	6.	Rectifier License.....	\$3,125.00
6	7.	Wine and Spirits Wholesaler License.....	\$3,000.00
7	8.	Beer Distributor License.....	\$750.00
8	9.	The following retail spirits license fees	
9		shall be determined by the latest Federal	
10		Decennial Census:	
11	a.	Retail Spirits License for cities and	
12		towns from 200 to 2,500 population.....	\$305.00
13	b.	Retail Spirits License for cities and	
14		towns from 2,501 to 5,000 population.....	\$605.00
15	c.	Retail Spirits License for cities and	
16		towns over 5,000 population.....	\$905.00
17	10.	Retail Wine License.....	\$1,000.00
18	11.	Retail Beer License.....	\$500.00
19	12.	Mixed Beverage License.....	\$1,005.00
20			(initial license)
21			\$905.00
22			(renewal)
23	13.	Mixed Beverage/Caterer Combination License.....	\$1,250.00
24	14.	On-Premises Beer and Wine License.....	\$500.00



1		(initial license)	
2			\$450.00
3		(renewal)	
4	15.	Bottle Club License.....	\$1,000.00
5		(initial license)	
6			\$900.00
7		(renewal)	
8	16.	Caterer License.....	\$1,005.00
9		(initial license)	
10			\$905.00
11		(renewal)	
12	17.	Annual Special Event License.....	\$55.00
13	18.	Quarterly Special Event License.....	\$55.00
14	19.	Hotel Beverage License.....	\$1,005.00
15		(initial license)	
16			\$905.00
17		(renewal)	
18	20.	Airline/Railroad/Commercial Passenger Vessel Beverage	
19		License.....	\$1,005.00
20		(initial license)	
21			\$905.00
22		(renewal)	
23	21.	Agent License.....	\$55.00
24	22.	Employee License.....	\$30.00

1	23.	Industrial License.....	\$23.00
2	24.	Carrier License.....	\$23.00
3	25.	Private Carrier License.....	\$23.00
4	26.	Bonded Warehouse License.....	\$190.00
5	27.	Storage License.....	\$23.00
6	28.	Nonresident Seller License .....	\$750.00
7	29.	Manufacturer License:	
8	a.	50 cases or less sold in Oklahoma in	
9		last calendar year.....	\$50.00
10	b.	51 to 500 cases sold in Oklahoma in	
11		last calendar year.....	\$75.00
12	c.	501 cases or more sold in Oklahoma in	
13		last calendar year.....	\$150.00
14	30.	Manufacturer's Agent License.....	\$55.00
15	31.	Sacramental Wine Supplier License.....	\$100.00
16	32.	Charitable Auction License.....	\$1.00
17	33.	Charitable Alcoholic Beverage License.....	\$55.00
18	34.	Winemaker Self-Distribution License:	
19	a.	produced ten thousand (10,000) gallons or less in last	
20		calendar year.....	\$350.00
21	b.	produced more than ten thousand (10,000) gallons but	
22		no more than fifteen thousand (15,000) gallons in last	
23		calendar year.....	\$750.00
24	35.	Annual Public Event License.....	\$1,005.00

- 1        36. One-Time Public Event License..... \$255.00
- 2        37. Small Brewer Self-Distribution License:
- 3            a. produced fifteen thousand (15,000) barrels or less in
- 4            last calendar year..... \$350.00
- 5            b. produced more than fifteen thousand (15,000) barrels
- 6            in last calendar year..... \$750.00
- 7        38. Brewpub License..... \$1,005.00
- 8        39. Brewpub Self-Distribution License..... \$750.00
- 9        40. Complimentary Beverage License..... \$75.00
- 10       41. Satellite Tasting Room License..... \$100.00
- 11       42. Delivery Service License..... \$500.00

12       B. 1. There shall be added to the initial or renewal fees for  
13 a mixed beverage license an administrative fee, which shall not be  
14 deemed to be a license fee, in the amount of Five Hundred Dollars  
15 (\$500.00), which shall be paid at the same time and in the same  
16 manner as the license fees prescribed by paragraph 12 of subsection  
17 A of this section; provided, this fee shall not be assessed against  
18 service organizations or fraternal beneficiary societies which are  
19 exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue  
20 Code.

21       2. There shall be added to the fee for a mixed beverage/caterer  
22 combination license an administrative fee, which shall not be deemed  
23 to be a license fee, in the amount of Two Hundred Fifty Dollars  
24 (\$250.00), which shall be paid at the same time and in the same

1 manner as the license fee prescribed by paragraph 13 of subsection A  
2 of this section.

3 C. Notwithstanding the provisions of subsection A of this  
4 section:

5 1. The license fee for a mixed beverage or bottle club license  
6 for those service organizations or fraternal beneficiary societies  
7 which are exempt under Section 501(c)(19), (8) or (10) of the  
8 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per  
9 year; and

10 2. The renewal fee for an airline/railroad/commercial passenger  
11 vessel beverage license held by a railroad described in 49 U.S.C.,  
12 Section 24301, shall be One Hundred Dollars (\$100.00).

13 D. An applicant may apply for and receive both an on-premises  
14 beer and wine license and a caterer license.

15 E. All licenses, except as otherwise provided, shall be valid  
16 for one (1) year from date of issuance unless revoked or  
17 surrendered. Provided, all employee licenses shall be valid for two  
18 (2) years.

19 F. The holder of a license, issued by the ABLE Commission, for  
20 a bottle club located in a county of this state where the sale of  
21 alcoholic beverages by the individual drink for on-premises  
22 consumption has been authorized, may exchange the bottle club  
23 license for a mixed beverage license or an on-premises beer and wine  
24 license and operate the licensed premises as a mixed beverage

1 establishment or an on-premises beer and wine establishment subject  
2 to the provisions of the Oklahoma Alcoholic Beverage Control Act.  
3 There shall be no additional fee for such exchange and the mixed  
4 beverage license or on-premises beer and wine license issued shall  
5 expire one (1) year from the date of issuance of the original bottle  
6 club license.

7 G. In addition to the applicable licensing fee, the following  
8 surcharge shall be assessed annually on the following licenses:

- 9 1. Nonresident Seller License..... \$2,500.00
- 10 2. Manufacturer License:
  - 11 a. 50 cases or less sold in Oklahoma in
  - 12 last calendar year..... \$100.00
  - 13 b. 51 to 500 cases sold in Oklahoma in
  - 14 last calendar year..... \$225.00
  - 15 c. 501 cases or more sold in Oklahoma in
  - 16 last calendar year..... \$450.00
- 17 3. Wine and Spirits Wholesaler License..... \$2,500.00
- 18 4. Beer Distributor..... \$1,000.00
- 19 5. Retail Spirits License for cities and towns
- 20 over 5,000 population..... \$250.00
- 21 6. Retail Spirits License for cities and towns
- 22 from 2,501 to 5,000 population..... \$200.00
- 23 7. Retail Spirits License for cities and towns
- 24 from 200 to 2,500 population..... \$150.00

- 1 8. Retail Wine License..... \$250.00
- 2 9. Retail Beer License..... \$250.00
- 3 10. Mixed Beverage License..... \$25.00
- 4 11. Mixed Beverage/Caterer Combination License..... \$25.00
- 5 12. Caterer License..... \$25.00
- 6 13. On-Premises Beer and Wine License..... \$25.00
- 7 14. Annual Public Event License..... \$25.00
- 8 15. Small Farm Winery License..... \$25.00
- 9 16. Small Brewer License..... \$35.00
- 10 17. Complimentary Beverage License..... \$25.00

11 The surcharge shall be paid concurrent with the licensee's  
12 annual licensing fee and, in addition to Five Dollars (\$5.00) of the  
13 employee license fee, shall be deposited in the Alcoholic Beverage  
14 Governance Revolving Fund established pursuant to Section 5-128 of  
15 this title.

16 H. Any license issued by the ABLE Commission under this title  
17 may be relied upon by other licensees as a valid license, and no  
18 other licensee shall have any obligation to independently determine  
19 the validity of such license or be held liable solely as a  
20 consequence of another licensee's failure to maintain a valid  
21 license.

22 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-161, is  
23 amended to read as follows:

24

1 Section 2-161. A. Retail spirit licensees may sell curbside  
2 and deliver alcoholic beverages including beer, wine, and spirits in  
3 sealed original containers to consumers aged twenty-one (21) years  
4 and older as follows:

5 1. Only employees of the retail spirit licensee shall be  
6 permitted to make alcoholic beverage product deliveries to  
7 consumers;

8 2. Payment for alcoholic beverage product delivery by the  
9 retail spirit licensee may be made by cash, check, transportable  
10 credit/debit card processors or advance ~~on-line~~ online payment  
11 methods; and

12 3. The retail spirit licensee shall be responsible for his or  
13 her delivery employees as provided in Section 2-133 of ~~Title 37A of~~  
14 ~~the Oklahoma Statutes~~ this title.

15 B. Small brewers and small farm wineries licensed by the  
16 Oklahoma ABLE Commission may sell curbside only alcoholic beverages  
17 produced by such licensee in sealed original containers to consumers  
18 aged twenty-one (21) years and older as follows:

19 1. Only employees of the licensed small brewer or small farm  
20 winery shall be permitted to make alcoholic beverage product  
21 deliveries to consumers;

22 2. Payment for alcoholic beverage product delivery by licensed  
23 small brewers or small farm wineries may be made by cash, check,  
24

1 transportable credit/debit card processors, or advance ~~on-line~~  
2 online payment methods; and

3 3. Small brewers and small farm wineries shall be responsible  
4 for their delivery employees as provided in Section 2-133 of ~~Title~~  
5 ~~37A of the Oklahoma Statutes~~ this title.

6 C. Restaurants, bars and clubs holding mixed beverage, beer and  
7 wine, or caterer/mixed beverage licenses issued by the Oklahoma ABLE  
8 Commission may sell curbside and deliver only closed packages of  
9 beer and wine to consumers aged twenty-one (21) years and older as  
10 follows:

11 1. Only employees of such restaurant, bar or club licensee  
12 shall be permitted to make alcoholic beverage package deliveries to  
13 consumers;

14 2. Payment for alcoholic beverage package delivery by licensed  
15 restaurants, bars and clubs may be made by cash, check,  
16 transportable credit/debit card processors, or advance ~~on-line~~  
17 online payment methods; and

18 3. Restaurants, bars and clubs licensed by the Oklahoma ABLE  
19 Commission shall be responsible for their delivery employees as  
20 provided in Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~ this  
21 title.

22 D. Grocery and convenience stores holding a retail beer and/or  
23 retail wine license issued by the Oklahoma ABLE Commission may sell  
24 curbside and deliver original sealed containers of beer and/or wine



1 only according to the license held to consumers aged twenty-one (21)  
2 years and older as follows:

3 1. Only employees of such licensed grocery or convenience store  
4 shall be permitted to make alcoholic beverage product deliveries to  
5 consumers;

6 2. Payment for alcoholic beverage product delivery by a  
7 licensed grocery or convenience store may be made by cash, check,  
8 transportable credit/debit card processors or advance ~~on-line~~ online  
9 payment methods; and

10 3. Grocery and convenience store licensees shall be responsible  
11 for their delivery employees as provided in Section 2-133 of ~~Title~~  
12 ~~37A of the Oklahoma Statutes~~ this title.

13 E. Licensees authorized by this section to make alcoholic  
14 beverage product deliveries to consumers are prohibited from  
15 utilizing third-party vendors or delivery services for purposes of  
16 completing such product deliveries to consumers.

17 F. Licensees authorized by this section to make alcoholic  
18 beverage product deliveries to consumers shall comply with the laws,  
19 rules, procedures and executive orders incumbent on such licensee.

20 G. The Oklahoma ABLE Commission is authorized to promulgate  
21 rules, regulations, forms and procedures necessary to implement and  
22 enforce the provisions of this section.

23 H. For purposes of this section each delivery authorized by a  
24 licensee to be made by his or her employee shall be deemed a direct

1 hand-to-hand sale as though the consumer was physically present on  
2 the licensed premises and authorized by law by such licensee.

3 I. Notwithstanding any law or rule to the contrary, a delivery  
4 service licensee, or an employee or independent contractor of a  
5 delivery service licensee, in accordance with Section 1 of this act,  
6 may transport and deliver alcoholic beverage products, including  
7 curbside, from a retail beer or retail wine licensees to consumers  
8 aged twenty-one (21) years and older for the consumer's personal use  
9 and not for resale.

10 J. Employees or independent contractors of licensed grocery  
11 stores or convenience stores or delivery service licensees shall be  
12 permitted to make alcoholic beverage product deliveries to consumers  
13 aged twenty-one (21) years and older for the consumer's personal use  
14 and not for resale.

15 K. A delivery service licensee who is authorized by law and by  
16 contractual agreement with a grocery or convenience store licensee  
17 to deliver alcoholic beverage products to a consumer shall be held  
18 responsible for violations of alcoholic beverage laws or  
19 administrative rules of the ABLE Commission affecting his or her  
20 license privilege to deliver alcoholic beverage products to  
21 consumers.

22 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE  
23 April 8, 2024 - DO PASS AS AMENDED  
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