

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2135

6 By: McEntire

7 COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; amending
9 Section 89, Chapter 366, O.S.L. 2016, as last amended
10 by Section 1, Chapter 431, O.S.L. 2019 (37A O.S.
11 Supp. 2020, Section 3-119), which relates to business
12 interests and acts prohibited for manufacturers, wine
13 and spirits wholesalers, beer distributors, persons
14 authorized to sell alcoholic beverages to wholesalers
15 and others; modifying to apply to Oklahoma licensed
16 manufacturers or wholesalers; providing requirements
17 for manufacturers and brewers whose products are
18 made outside of the state to have an ownership
19 interest in an Oklahoma retailer; amending Section
20 90, Chapter 366, O.S.L. 2016, as amended by Section
21 23, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2020,
22 Section 3-120), which relates to business interests
23 prohibited for beverage, beer and wine, caterer,
24 public events or bottle club licensees; modifying to
apply to Oklahoma licensed manufacturers or
wholesalers; amending Section 91, Chapter 366, O.S.L.
2016, as amended by Section 24, Chapter 322, O.S.L.
2019 (37A O.S. Supp. 2020, Section 3-121), which
relates to limitations on ownership interest in mixed
beverage, beer and wine, caterers, public events or
bottle club licensees; modifying to apply to Oklahoma
licensed manufacturer, brewer, wine and spirits
wholesaler, beer distributor, partner in any type of
partnership, manager or member of a limited liability
company, or officer, director or stockholder of any
nonresident seller, brewer, or manufacturer licensee;
and providing an effective date.

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

2 SECTION 1. AMENDATORY Section 89, Chapter 366, O.S.L.
3 2016, as last amended by Section 1, Chapter 431, O.S.L. 2019 (37A
4 O.S. Supp. 2020, Section 3-119), is amended to read as follows:

5 Section 3-119. A. It shall be unlawful for any Oklahoma
6 Licensed manufacturer, brewer, wine and spirits wholesaler, beer
7 distributor or person authorized to sell alcoholic beverages to a
8 wholesaler, or any employee, officer, director, stockholder owning
9 fifteen percent (15%) or more of the stock, any type of partner,
10 manager, member or agent thereof, to directly or indirectly:

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

18 2. Lend any money or other thing of value, or to make any gift
19 or offer any gratuity, to any package store, retail wine, retail
20 beer, mixed beverage, beer and wine, public event or bottle club
21 licensee or caterer;

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

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

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

- 13 a. delivery in good faith, through mistake, inadvertence
14 or oversight, of an alcoholic beverage that was not
15 ordered by a retailer, mixed beverage licensee, on-
16 premises beer and wine licensee, caterer, public event
17 or special event licensee to such licensee,
- 18 b. replacement of product breakage that occurred while
19 the alcoholic beverages were in transit from the
20 wholesaler to the licensee, or
- 21 c. replacement of cork-tainted wine that makes the
22 product unsaleable as long as the licensee notifies
23 the wine and spirits wholesaler of the defect in
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1 writing within ninety (90) days after delivery of the
2 product; or

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

13 B. Notwithstanding anything to the contrary stated above or in
14 any other statutory provision in this title, no manufacturer or
15 brewer whose products are made outside of the State of Oklahoma
16 shall be prohibited from having any ownership interest in an
17 Oklahoma retailer, provided that the Oklahoma retailer that is
18 commonly owned by a manufacturer or brewer does not offer for sale
19 at its Oklahoma retail locations the beer, wine, or spirits that are
20 made by the manufacturer outside of the State.

21 SECTION 2. AMENDATORY Section 90, Chapter 366, O.S.L.
22 2016, as amended by Section 23, Chapter 322, O.S.L. 2019 (37A O.S.
23 Supp. 2020, Section 3-120), is amended to read as follows:
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1 Section 3-120. No mixed beverage, beer and wine, caterer,
2 public event or bottle club licensee, partner in any type of
3 partnership, manager or member of a limited liability company,
4 officer, director or stockholder of any corporate licensee owning
5 more than fifteen percent (15%) of the stock shall have any right,
6 title, lien, claim or interest, financial or otherwise in, upon or
7 to the premises, equipment, business or merchandise of any package
8 store, beer distributor, brewer, Oklahoma Licensed manufacturer or
9 wholesaler. The provisions of this section shall not prohibit a
10 person who is an officer or director of a fraternal or veteran's
11 organization which is a tax exempt organization under Section
12 501(c) (8), (10) or (19) of the Internal Revenue Code and which holds
13 a license issued by the ABLE Commission from having a right, title,
14 lien, claim or interest in the premises, equipment, business or
15 merchandise of a package store.

16 SECTION 3. AMENDATORY Section 91, Chapter 366, O.S.L.
17 2016, as amended by Section 24, Chapter 322, O.S.L. 2019 (37A O.S.
18 Supp. 2020, Section 3-121), is amended to read as follows:

19 Section 3-121. No Oklahoma licensed manufacturer, brewer, wine
20 and spirits wholesaler, beer distributor, partner in any type of
21 partnership, manager or member of a limited liability company, or
22 officer, director or stockholder of any nonresident seller, brewer,
23 or manufacturer licensee, owning more than fifteen percent (15%) of
24 the stock shall have any right, title, claim or interest, financial

1 or otherwise in, upon or to the premises, equipment, business or
2 merchandise of any mixed beverage, beer and wine, caterer, public
3 event or bottle club licensee.

4 SECTION 4. This act shall become effective November 1, 2021.

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