

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2740

By: Duel

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7 COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; amending 22
9 O.S. 2021, Section 1261, which relates to seized
10 alcoholic beverages; requiring the Alcoholic Beverage
11 Law Enforcement (ABLE) Commission to store seized
12 alcoholic beverages; amending 37A O.S. 2021, Section
1-107, which relates to the powers and duties of the
ABLE Commission; requiring the ABLE Commission to
store seized alcoholic beverages; and providing an
effective date.

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

16 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1261, is
17 amended to read as follows:

18 Section 1261. In all cases where wines, whiskey, beer or other
19 intoxicating liquors mentioned in the Constitution or laws of this
20 state or any personal property used for the purpose of violating any
21 of the prohibitory liquor laws or gambling laws of this state, shall
22 be seized by any officer or person with or without a search warrant,
23 such officer or person is hereby required within five (5) days to
24 make a written report under oath and file the same with the court

1 clerk of the proper or respective county where the same shall be so
2 seized, which report shall in detail state the name of the officer
3 or person making the seizure, the place where seized and an
4 inventory of the property, articles or intoxicating liquors so taken
5 into possession, and within said five (5) days said person is hereby
6 required to deliver the same to the ~~sheriff of the county~~ Alcoholic
7 Beverage Law Enforcement (ABLE) Commission and take ~~the sheriff's~~
8 ABLE's receipt therefor, in duplicate and ~~such sheriff~~ ABLE shall
9 retain the same and all thereof, until the same shall be destroyed
10 pursuant to the orders of the court. In computing the time, five
11 (5) days, Sundays and holidays shall be excluded and not counted. A
12 duplicate copy of said receipt shall immediately be filed with said
13 court clerk, who shall keep a record of same, provided ~~the sheriff~~
14 ~~and his deputies~~ ABLE shall be required to make the affidavit and
15 issue the receipt and otherwise comply with the provisions of this
16 act. Provided, that all liquors so seized shall be preserved for use
17 as evidence in the trial of any action growing out of such seizure
18 and all officers seizing any such liquors are hereby required to
19 mark the bottles or containers for identification by writing thereon
20 the date of the seizure and the name of the person from whom seized.
21 ~~The sheriff~~ ABLE shall be liable on ~~his~~ its bond for the safe
22 keeping of all such property so turned over to ~~him~~ it under the
23 provisions of this act.

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1 SECTION 2. AMENDATORY 37A O.S. 2021, Section 1-107, is
2 amended to read as follows:

3 Section 1-107. A. The ABLE Commission shall have the following
4 powers and duties:

5 1. To supervise, inspect and regulate every phase of the
6 business of manufacturing, importing, exporting, transporting,
7 storing, selling, distributing and possessing for the purpose of
8 sale, all alcoholic beverages which shall be necessary and proper to
9 carry out the purposes of the Oklahoma Alcoholic Beverage Control
10 Act;

11 2. To promulgate rules, in the manner herein provided, to carry
12 out the purposes of the Oklahoma Alcoholic Beverage Control Act;

13 3. To have the sole authority to issue any license provided for
14 in the Oklahoma Alcoholic Beverage Control Act and except as
15 provided in Sections ~~401~~ 4-104 and ~~402~~ 4-105 of this ~~act~~ title with
16 respect to cities, towns and counties, and except as may be provided
17 under Title 68 of the Oklahoma Statutes with respect to the Oklahoma
18 Tax Commission, no other agency, instrumentality or political
19 subdivision of this state shall be authorized to issue any license
20 or permit allowing any licensee to engage in any activity covered by
21 the Oklahoma Alcoholic Beverage Control Act anywhere within the
22 State of Oklahoma;

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1 4. To refuse to issue any license provided for in the Oklahoma
2 Alcoholic Beverage Control Act for cause provided for in the
3 Oklahoma Alcoholic Beverage Control Act;

4 5. To revoke or suspend, for cause after hearing, any license
5 issued under the authority of the Oklahoma Alcoholic Beverage
6 Control Act;

7 6. To prescribe the forms of all reports which it deems
8 necessary in administering the Oklahoma Alcoholic Beverage Control
9 Act;

10 7. To fix standards not in conflict with those prescribed by
11 any law of this state or of the United States, to secure the use of
12 proper ingredients and methods of manufacture and dispensing of
13 alcoholic beverages;

14 8. To make seizures of alcoholic beverages manufactured, sold,
15 possessed, imported or transported in violation of the Oklahoma
16 Alcoholic Beverage Control Act, and apply for the confiscation
17 thereof whenever required by the Oklahoma Alcoholic Beverage Control
18 Act, and cooperate in the prosecution of offenders before any court
19 of competent jurisdiction;

20 9. To submit to the Governor and members of the State
21 Legislature annual or semiannual reports upon request of the
22 Governor;

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1 10. To inspect or cause to be inspected any premises where
2 alcoholic beverages are manufactured, stored, distributed, sold,
3 dispensed or served;

4 11. In the conduct of any hearing authorized to be held by the
5 ABLE Commission:

- 6 a. to examine or cause to be examined, under oath, any
7 person,
- 8 b. to examine or cause to be examined books and records
9 of any licensee,
- 10 c. to hear testimony and take proof material for the ABLE
11 Commission's information and the discharge of its
12 duties hereunder,
- 13 d. to administer or cause to be administered oaths, and
- 14 e. to issue subpoenas for the attendance of witnesses and
15 the production of books or records which shall be
16 effective in any part of the state. Any district
17 court or any judge thereof, either in term or
18 vacation, may by order duly entered require the
19 attendance of witnesses and the production of relevant
20 books or records subpoenaed by the ABLE Commission,
21 and the court or judge may compel obedience to the
22 order by proceedings for contempt;

1 12. To prescribe the kind and size of retail containers of
2 alcoholic beverages which may be purchased, possessed and sold by a
3 licensee;

4 13. To prescribe by rule, in addition to those herein required,
5 the kinds of records to be kept and reports to be rendered by
6 licensees, and the information to be shown therein; provided, that
7 the period for which all such records and reports be retained shall
8 not be less than five (5) years;

9 14. To gather, compile and print such statistical data as may
10 in the opinion of the ABLE Commission be needed or useful, and
11 prescribe charges or fees to be collected from any person or company
12 to whom such data shall be provided. No reports shall contain sales
13 information by name or license number;

14 15. To educate persons employed by licensees to sell or serve
15 alcoholic beverages as to the provisions of Article XXVIII A of the
16 Oklahoma Constitution and the Oklahoma Alcoholic Beverage Control
17 Act, with emphasis on recognizing and preventing intoxication and
18 particular emphasis on those provisions prohibiting the selling or
19 serving of alcoholic beverages to minors. The ABLE Commission may
20 contract with one or more entities, including but not limited to the
21 Oklahoma Department of Mental Health and Substance Abuse Services,
22 to perform the duties specified in this paragraph;

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1 16. To purchase motor vehicles necessary for use in its
2 operations. Such motor vehicles shall not be required to have any
3 type of identifying marking thereon;

4 17. To purchase insurance on the motor vehicles owned and
5 operated by the ABLE Commission in accordance with statutory
6 provisions, subject to the approval of the Risk Management
7 Administrator as provided for in Section 85.58A of Title 74 of the
8 Oklahoma Statutes;

9 18. To approve or reject any official bond required to be filed
10 with the ABLE Commission; ~~and~~

11 19. To exercise all other powers and duties conferred by the
12 Oklahoma Alcoholic Beverage Control Act, and all powers incidental,
13 convenient or necessary to enable it to administer or carry out any
14 of the provisions of the Oklahoma Alcoholic Beverage Control Act;
15 and

16 20. To store seized alcoholic beverages pursuant to Section
17 1261 of Title 22 of the Oklahoma Statutes.

18 B. The ABLE Commission shall promulgate rules, pursuant to the
19 Administrative Procedures Act, to carry out the purposes of the
20 Oklahoma Alcoholic Beverage Control Act.

21 SECTION 3. This act shall become effective November 1, 2023.

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