

1 ENGROSSED SENATE
2 BILL NO. 1057

By: Rosino of the Senate

and

Echols of the House

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4
5
6 An Act relating to alcoholic beverages; creating the
7 Marissa Murrow Act; providing short title; amending
8 37A O.S. 2021, Sections 1-103, 2-101, 2-112, and 2-
9 113, which relate to definitions, license fees and
10 surcharges, caterer license, rules, and restrictions
11 of caterer license; prohibiting caterers from certain
12 actions; defining term, providing fee and surcharge
13 for certain license; expanding authorization;
14 prohibiting caterers from certain actions; providing
15 necessary criteria for event venues; defining terms;
16 requiring certain enforcement; providing for the
17 promulgation of rules; updating statutory reference;
18 providing for noncodification; providing for
19 codification; and providing an effective date.

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

21 SECTION 1. NEW LAW A new section of law not to be
22 codified in the Oklahoma Statutes reads as follows:

23 This act shall be known and may be cited as the "Marissa Murrow
24 Act".

SECTION 2. AMENDATORY 37A O.S. 2021, Section 1-103, is
amended to read as follows:

Section 1-103. As used in the Oklahoma Alcoholic Beverage
Control Act:

1 1. "ABLE Commission" or "Commission" means the Alcoholic
2 Beverage Laws Enforcement Commission;

3 2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl
4 alcohol, ethanol or spirits of wine, from whatever source or by
5 whatever process produced. It does not include wood alcohol or
6 alcohol which has been denatured or produced as denatured in
7 accordance with Acts of Congress and regulations promulgated
8 thereunder;

9 3. "Alcoholic beverage" means alcohol, spirits, beer and wine
10 as those terms are defined herein and also includes every liquid or
11 solid, patented or not, containing alcohol, spirits, wine or beer
12 and capable of being consumed as a beverage by human beings;

13 4. "Applicant" means any individual, legal or commercial
14 business entity, or any individual involved in any legal or
15 commercial business entity allowed to hold any license issued in
16 accordance with the Oklahoma Alcoholic Beverage Control Act;

17 5. "Beer" means any beverage of alcohol by volume and obtained
18 by the alcoholic fermentation of an infusion or decoction of barley,
19 or other grain, malt or similar products. ~~"Beer"~~ Beer may or may
20 not contain hops or other vegetable products. ~~"Beer"~~ Beer includes,
21 among other things, beer, ale, stout, lager beer, porter and other
22 malt or brewed liquors, but does not include sake, known as Japanese
23 rice wine;

24

1 6. "Beer keg" means any brewer-sealed, single container that
2 contains not less than four (4) gallons of beer;

3 7. "Beer distributor" means and includes any person licensed to
4 distribute beer for retail sale in the state, but does not include a
5 holder of a small brewer self-distribution license or brewpub self-
6 distribution license. The term "distributor", as used in the
7 Oklahoma Alcoholic Beverage Control Act, shall be construed to refer
8 to a beer distributor;

9 8. "Bottle club" means any establishment in a county which has
10 not authorized the retail sale of alcoholic beverages by the
11 individual drink, which is required to be licensed to keep, mix and
12 serve alcoholic beverages belonging to club members on club
13 premises;

14 9. "Bottle service" means the sale and provision of spirits in
15 their original packages by a mixed beverage licensee to be consumed
16 in that mixed beverage licensee's club suite;

17 10. "Brand" means any word, name, group of letters, symbol or
18 combination thereof, that is adopted and used by a licensed brewer
19 to identify a specific beer, wine or spirit and to distinguish that
20 product from another beer, wine or spirit;

21 11. "Brand extension" means:

22 a. after October 1, 2018, any brand of beer or cider
23 introduced by a manufacturer in this state which
24 either:

1 (1) incorporates all or a substantial part of the
2 unique features of a preexisting brand of the
3 same licensed brewer, or

4 (2) relies to a significant extent on the goodwill
5 associated with the preexisting brand, or

6 b. any brand of beer that a brewer, the majority of whose
7 total volume of all brands of beer distributed in this
8 state by such brewer on January 1, 2016, was
9 distributed as low-point beer, desires to sell,
10 introduces, begins selling or theretofore has sold and
11 desires to continue selling a strong beer in this
12 state which either:

13 (1) incorporates or incorporated all or a substantial
14 part of the unique features of a preexisting low-
15 point beer brand of the same licensed brewer, or

16 (2) relies or relied to a significant extent on the
17 goodwill associated with a preexisting low-point
18 beer brand;

19 12. "Brewer" means and includes any person who manufactures for
20 human consumption by the use of raw materials or other ingredients
21 any beer or cider upon which a license fee and a tax are imposed by
22 any law of this state;

23 13. "Brewpub" means a licensed establishment operated on the
24 premises of, or on premises located contiguous to, a small brewer,

1 that prepares and serves food and beverages, including alcoholic
2 beverages, for on-premises consumption;

3 14. "Cider" means any alcoholic beverage obtained by the
4 alcoholic fermentation of fruit juice, including but not limited to
5 flavored, sparkling or carbonated cider. For the purposes of the
6 manufacture of this product, cider may be manufactured by either
7 manufacturers or brewers. For the purposes of the distribution of
8 this product, cider may be distributed by either wine and spirits
9 wholesalers or beer distributors;

10 15. "Club suite" means a designated area within the premises of
11 a mixed beverage licensee designed to provide an exclusive space
12 which is limited to a patron or patrons specifically granted access
13 by a mixed beverage licensee and is not accessible to other patrons
14 of the mixed beverage licensee or the public. A club suite must
15 have a clearly designated point of access for a patron or patrons
16 specifically granted access by the mixed beverage licensee to ensure
17 that persons present in the suite are limited to patrons
18 specifically granted access by the mixed beverage licensee and
19 employees providing services to the club suite;

20 16. "Convenience store" means any person primarily engaged in
21 retailing a limited range of general household items and groceries,
22 with extended hours of operation, whether or not engaged in retail
23 sales of automotive fuels in combination with such sales;

24

1 17. "Convicted" and "conviction" mean and include a finding of
2 guilt resulting from a plea of guilty or nolo contendere, the
3 decision of a court or magistrate or the verdict of a jury,
4 irrespective of the pronouncement of judgment or the suspension
5 thereof;

6 18. "Designated products" means the brands of wine or spirits
7 offered for sale by a manufacturer that the manufacturer has
8 assigned to a designated wholesaler for exclusive distribution;

9 19. "Designated wholesaler" means a wine and spirits wholesaler
10 who has been selected by a manufacturer as a wholesaler appointed to
11 distribute designated products;

12 20. "Director" means the Director of the ABLE Commission;

13 21. "Distiller" means any person who produces spirits from any
14 source or substance, or any person who brews or makes mash, wort or
15 wash, fit for distillation or for the production of spirits (except
16 a person making or using such material in the authorized production
17 of wine or beer, or the production of vinegar by fermentation), or
18 any person who by any process separates alcoholic spirits from any
19 fermented substance, or any person who, making or keeping mash, wort
20 or wash, has also in his or her possession or use a still;

21 22. "Distributor agreement" means the written agreement between
22 the distributor and brewer as set forth in Section 3-108 of this
23 title;

24

1 23. "Drug store" means a person primarily engaged in retailing
2 prescription and nonprescription drugs and medicines;

3 24. "Dual-strength beer" means a brand of beer that,
4 immediately prior to April 15, 2017, was being sold and distributed
5 in this state:

6 a. as a low-point beer pursuant to the Low-Point Beer
7 Distribution Act in effect immediately prior to
8 October 1, 2018, and

9 b. as strong beer pursuant to the Oklahoma Alcoholic
10 Beverage Control Act in effect immediately prior to
11 October 1, 2018,

12 and continues to be sold and distributed as such on October 1, 2018.
13 Dual-strength beer does not include a brand of beer that arose as a
14 result of a brand extension as defined in this section;

15 25. "Event venue" means a location, property, space, premises,
16 grounds, building or buildings, or other site that offers to the
17 general public for rent, lease, reservation, or other contractual
18 use, for the hosting of a function, occasion, or event, special,
19 private, or public, of a temporary nature as a primary source of
20 income. The location, property, space, premises, grounds, or
21 building or buildings defined in this paragraph shall not include
22 locations where the primary purpose is a permanent personal
23 residence including, but not limited to, a residential home, duplex,
24 condo, apartment building, or other place of residence or

1 organizations exempt from taxation pursuant to the provisions of the
2 Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

3 26. "Fair market value" means the value in the subject
4 territory covered by the written agreement with the distributor or
5 wholesaler that would be determined in an arm's length transaction
6 entered into without duress or threat of termination of the
7 distributor's or wholesaler's rights and shall include all elements
8 of value, including goodwill and going-concern value;

9 ~~26.~~ 27. "Good cause" means:

- 10 a. failure by the distributor to comply with the material
11 and reasonable provisions of a written agreement or
12 understanding with the brewer, or
13 b. failure by the distributor to comply with the duty of
14 good faith;

15 ~~27.~~ 28. "Good faith" means the duty of each party to any
16 distributor agreement and all officers, employees or agents thereof
17 to act with honesty in fact and within reasonable standards of fair
18 dealing in the trade;

19 ~~28.~~ 29. "Grocery store" means a person primarily engaged in
20 retailing a general line of food, such as canned or frozen foods,
21 fresh fruits and vegetables, and fresh and prepared meats, fish and
22 poultry;

23 ~~29.~~ 30. "Hotel" or "motel" means an establishment which is
24 licensed to sell alcoholic beverages by the individual drink and

1 which contains guestroom accommodations with respect to which the
2 predominant relationship existing between the occupants thereof and
3 the owner or operator of the establishment is that of innkeeper and
4 guest. For purposes of this section, the existence of other legal
5 relationships as between some occupants and the owner or operator
6 thereof shall be immaterial;

7 ~~30.~~ 31. "Legal newspaper" means a newspaper meeting the
8 requisites of a newspaper for publication of legal notices as
9 prescribed in Sections 101 through 114 of Title 25 of the Oklahoma
10 Statutes;

11 ~~31.~~ 32. "Licensee" means any person holding a license under the
12 Oklahoma Alcoholic Beverage Control Act, and any agent, servant or
13 employee of such licensee while in the performance of any act or
14 duty in connection with the licensed business or on the licensed
15 premises;

16 ~~32.~~ 33. "Low-point beer" shall mean any beverages containing
17 more than one-half of one percent (1/2 of 1%) alcohol by volume, and
18 not more than three and two-tenths percent (3.2%) alcohol by weight,
19 including but not limited to, beer or cereal malt beverages obtained
20 by the alcoholic fermentation of an infusion by barley or other
21 grain, malt or similar products;

22 ~~33.~~ 34. "Manufacturer" means a distiller, winemaker, rectifier
23 or bottler of any alcoholic beverage (other than beer) and its
24 subsidiaries, affiliates and parent companies;

1 ~~34.~~ 35. "Manufacturer's agent" means a salaried or commissioned
2 salesperson who is the agent authorized to act on behalf of the
3 manufacturer or nonresident seller in the state;

4 ~~35.~~ 36. "Meals" means foods commonly ordered at lunch or dinner
5 and at least part of which is cooked on the licensed premises and
6 requires the use of dining implements for consumption. Provided,
7 that the service of only food such as appetizers, sandwiches, salads
8 or desserts shall not be considered ~~"meals"~~ meals;

9 ~~36.~~ 37. "Mini-bar" means a closed container, either
10 refrigerated in whole or in part, or nonrefrigerated, and access to
11 the interior of which is:

- 12 a. restricted by means of a locking device which requires
- 13 the use of a key, magnetic card or similar device, or
- 14 b. controlled at all times by the licensee;

15 ~~37.~~ 38. "Mixed beverage cooler" means any beverage, by whatever
16 name designated, consisting of an alcoholic beverage and fruit or
17 vegetable juice, fruit or vegetable flavorings, dairy products or
18 carbonated water containing more than one-half of one percent (1/2
19 of 1%) of alcohol measured by volume but not more than seven percent
20 (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is
21 packaged in a container not larger than three hundred seventy-five
22 (375) milliliters. Such term shall include but not be limited to
23 the beverage popularly known as a "wine cooler";

1 ~~38.~~ 39. "Mixed beverages" means one or more servings of a
2 beverage composed in whole or part of an alcoholic beverage in a
3 sealed or unsealed container of any legal size for consumption on
4 the premises where served or sold by the holder of a mixed beverage,
5 beer and wine, caterer, public event, charitable event or special
6 event license;

7 ~~39.~~ 40. "Motion picture theater" means an establishment which
8 is licensed by Section 2-110 of this title to sell alcoholic
9 beverages by the individual drink and where motion pictures are
10 exhibited, and to which the general public is admitted;

11 ~~40.~~ 41. "Nondesignated products" means the brands of wine or
12 spirits offered for sale by a manufacturer that have not been
13 assigned to a designated wholesaler;

14 ~~41.~~ 42. "Nonresident seller" means any person licensed pursuant
15 to Section 2-135 of this title;

16 ~~42.~~ 43. "Retail salesperson" means a salesperson soliciting
17 orders from and calling upon retail alcoholic beverage stores with
18 regard to his or her product;

19 ~~43.~~ 44. "Occupation" as used in connection with "occupation
20 tax" means the sites occupied as the places of business of the
21 manufacturers, brewers, wholesalers, beer distributors, retailers,
22 mixed beverage licensees, on-premises beer and wine licensees,
23 bottle clubs, caterers, public event and special event licensees;

1 ~~44.~~ 45. "Original package" means any container of alcoholic
2 beverage filled and stamped or sealed by the manufacturer or brewer;

3 ~~45.~~ 46. "Package store" means any sole proprietor or
4 partnership that qualifies to sell wine, beer and/or spirits for
5 off-premises consumption and that is not a grocery store,
6 convenience store or drug store, or other retail outlet that is not
7 permitted to sell wine or beer for off-premises consumption;

8 ~~46.~~ 47. "Patron" means any person, customer or visitor who is
9 not employed by a licensee or who is not a licensee;

10 ~~47.~~ 48. "Person" means an individual, any type of partnership,
11 corporation, association, limited liability company or any
12 individual involved in the legal structure of any such business
13 entity;

14 ~~48.~~ 49. "Premises" means the grounds and all buildings and
15 appurtenances pertaining to the grounds including any adjacent
16 premises if under the direct or indirect control of the licensee and
17 the rooms and equipment under the control of the licensee and used
18 in connection with or in furtherance of the business covered by a
19 license. ~~Provided that the~~ The ABLE Commission shall have the
20 authority to designate areas to be excluded from the licensed
21 premises solely for the purpose of:

- 22 a. allowing the presence and consumption of alcoholic
23 beverages by private parties which are closed to the
24 general public, or

1 b. allowing the services of a caterer serving alcoholic
2 beverages provided by a private party.

3 ~~This exception~~ These exceptions shall in no way limit the licensee's
4 concurrent responsibility for any violations of the Oklahoma
5 Alcoholic Beverage Control Act occurring on the licensed premises;

6 ~~49.~~ 50. "Private event" means a social gathering or event
7 attended by invited guests who share a common cause, membership,
8 business or task and have a prior established relationship. For
9 purposes of this definition, advertisement for general public
10 attendance or sales of tickets to the general public shall not
11 constitute a private event;

12 ~~50.~~ 51. "Public event" means any event that can be attended by
13 the general public;

14 ~~51.~~ 52. "Rectifier" means any person who rectifies, purifies or
15 refines spirits or wines by any process (other than by original and
16 continuous distillation, or original and continuous processing, from
17 mash, wort, wash or other substance, through continuous closed
18 vessels and pipes, until the production thereof is complete), and
19 any person who, without rectifying, purifying or refining spirits,
20 shall by mixing (except for immediate consumption on the premises
21 where mixed) such spirits, wine or other liquor with any material,
22 manufactures any spurious, imitation or compound liquors for sale,
23 under the name of whiskey, brandy, rum, gin, wine, spirits, cordials
24 or any other name;

1 ~~52.~~ 53. "Regulation" or "rule" means a formal rule of general
2 application promulgated by the ABLE Commission as herein required;

3 ~~53.~~ 54. "Restaurant" means an establishment that is licensed to
4 sell alcoholic beverages by the individual drink for on-premises
5 consumption and where food is prepared and sold for immediate
6 consumption on the premises;

7 ~~54.~~ 55. "Retail container for spirits and wines" means an
8 original package of any capacity approved by the United States
9 Bureau of Alcohol, Tobacco ~~and~~, Firearms and Explosives;

10 ~~55.~~ 56. "Retailer" means a package store, grocery store,
11 convenience store or drug store licensed to sell alcoholic beverages
12 for off-premises consumption pursuant to a ~~Retail Spirits License~~
13 retail spirits license, ~~Retail Wine License~~ retail wine license or
14 ~~Retail Beer License~~ retail beer license;

15 ~~56.~~ 57. "Sale" means any transfer, exchange or barter in any
16 manner or by any means whatsoever, and includes and means all sales
17 made by any person, whether as principal, proprietor or as an agent,
18 servant or employee. The term ~~"sale"~~ sale is also declared to be
19 and include the use or consumption in this state of any alcoholic
20 beverage obtained within or imported from without this state, upon
21 which the excise tax levied by the Oklahoma Alcoholic Beverage
22 Control Act has not been paid or exempted;

23 ~~57.~~ 58. "Short-order food" means food other than full meals
24 including but not limited to sandwiches, soups and salads. Provided

1 that popcorn, chips and other similar snack food shall not be
2 considered ~~"short-order food"~~ short-order food;

3 ~~58.~~ 59. "Small brewer" means a brewer who manufactures less
4 than sixty-five thousand barrels of beer annually pursuant to a
5 validly issued ~~Small Brewer License~~ small brewer license hereunder;

6 ~~59.~~ 60. "Small farm wine" means a wine that is produced by a
7 small farm winery with seventy-five percent (75%) or more Oklahoma-
8 grown grapes, berries, other fruits, honey or vegetables;

9 ~~60.~~ 61. "Small farm winery" means a wine-making establishment
10 that does not annually produce for sale more than fifteen thousand
11 (15,000) gallons of wine as reported on the United States Department
12 of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of
13 Wine Premises Operations (TTB Form 5120.17);

14 ~~61.~~ 62. "Sparkling wine" means champagne or any artificially
15 carbonated wine;

16 ~~62.~~ 63. "Special event" means an entertainment, recreation or
17 marketing event that occurs at a single location on an irregular
18 basis and at which alcoholic beverages are sold;

19 ~~63.~~ 64. "Spirits" means any beverage other than wine or beer,
20 which contains more than one-half of one percent (1/2 of 1%) alcohol
21 measured by volume, and obtained by distillation, whether or not
22 mixed with other substances in solution and includes those products
23 known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and
24 fortified wines and similar compounds, but shall not include any

1 alcohol liquid completely denatured in accordance with the Acts of
2 Congress and regulations pursuant thereto;

3 ~~64.~~ 65. "Strong beer" means beer which, prior to October 1,
4 2018, was distributed pursuant to the Oklahoma Alcoholic Beverage
5 Control Act, Section ~~501~~ 1-101 et seq. of Title ~~37~~ 37A of the
6 Oklahoma Statutes;

7 ~~65.~~ 66. "Successor brewer" means a primary source of supply, a
8 brewer, a cider manufacturer or an importer that acquires rights to
9 a beer or cider brand from a predecessor brewer;

10 ~~66.~~ 67. "Tax Commission" means the Oklahoma Tax Commission;

11 ~~67.~~ 68. "Territory" means a geographic region with a specified
12 boundary;

13 ~~68.~~ 69. "Wine and spirits wholesaler" or "wine and spirits
14 distributor" means and includes any sole proprietorship or
15 partnership licensed to distribute wine and spirits in the state.
16 The term "wholesaler", as used in the Oklahoma Alcoholic Beverage
17 Control Act, shall be construed to refer to a wine and spirits
18 wholesaler;

19 ~~69.~~ 70. "Wine" means and includes any beverage containing more
20 than one-half of one percent (1/2 of 1%) alcohol by volume and not
21 more than twenty-four percent (24%) alcohol by volume at sixty (60)
22 degrees Fahrenheit obtained by the fermentation of the natural
23 contents of fruits, vegetables, honey, milk or other products
24

1 containing sugar, whether or not other ingredients are added, and
2 includes vermouth and sake, known as Japanese rice wine;

3 ~~70.~~ 71. "Winemaker" means and includes any person or
4 establishment who manufactures for human consumption any wine upon
5 which a license fee and a tax are imposed by any law of this state;
6 and

7 ~~71.~~ 72. "Satellite tasting room" means a licensed establishment
8 operated off the licensed premises of the holder of a small farm
9 winery or winemaker license, which serves wine for on-premises or
10 off-premises consumption.

11 Words in the plural include the singular, and vice versa, and
12 words imparting the masculine gender include the feminine, as well
13 as persons and licensees as defined in this section.

14 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-101, is
15 amended to read as follows:

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

- 19 1. Brewer License..... \$1,250.00
- 20 2. Small Brewer License..... \$125.00
- 21 3. Distiller License..... \$3,125.00
- 22 4. Winemaker License..... \$625.00
- 23 5. Small Farm Winery License..... \$75.00
- 24 6. Rectifier License..... \$3,125.00

1	7.	Wine and Spirits Wholesaler License.....	\$3,000.00
2	8.	Beer Distributor License.....	\$750.00
3	9.	The following retail spirits license fees	
4		shall be determined by the latest Federal	
5		Decennial Census:	
6	a.	Retail Spirits License for cities and	
7		towns from 200 to 2,500 population.....	\$305.00
8	b.	Retail Spirits License for cities and	
9		towns from 2,501 to 5,000 population.....	\$605.00
10	c.	Retail Spirits License for cities and	
11		towns over 5,000 population.....	\$905.00
12	10.	Retail Wine License.....	\$1,000.00
13	11.	Retail Beer License.....	\$500.00
14	12.	Mixed Beverage License.....	\$1,005.00
15			(initial license)
16			\$905.00
17			(renewal)
18	13.	Mixed Beverage/Caterer Combination License.....	\$1,250.00
19	14.	On-Premises Beer and Wine License.....	\$500.00
20			(initial license)
21			\$450.00
22			(renewal)
23	15.	Bottle Club License.....	\$1,000.00
24			(initial license)

1		\$900.00
2		(renewal)
3	16. Caterer License.....	\$1,005.00
4		(initial license)
5		\$905.00
6		(renewal)
7	17. Annual Special Event License.....	\$55.00
8	18. Quarterly Special Event License.....	\$55.00
9	19. Hotel Beverage License.....	\$1,005.00
10		(initial license)
11		\$905.00
12		(renewal)
13	20. Airline/Railroad/Commercial Passenger Vessel Beverage	
14	License.....	\$1,005.00
15		(initial license)
16		\$905.00
17		(renewal)
18	21. Agent License.....	\$55.00
19	22. Employee License.....	\$30.00
20	23. Industrial License.....	\$23.00
21	24. Carrier License.....	\$23.00
22	25. Private Carrier License.....	\$23.00
23	26. Bonded Warehouse License.....	\$190.00
24	27. Storage License.....	\$23.00

1	28.	Nonresident Seller License	\$750.00
2	29.	Manufacturer License:	
3	a.	50 cases or less sold in Oklahoma in	
4		last calendar year.....	\$50.00
5	b.	51 to 500 cases sold in Oklahoma in	
6		last calendar year.....	\$75.00
7	c.	501 cases or more sold in Oklahoma in	
8		last calendar year.....	\$150.00
9	30.	Manufacturer's Agent License.....	\$55.00
10	31.	Sacramental Wine Supplier License.....	\$100.00
11	32.	Charitable Auction License.....	\$1.00
12	33.	Charitable Alcoholic Beverage License.....	\$55.00
13	34.	Winemaker Self-Distribution License.....	\$750.00
14	35.	Annual Public Event License.....	\$1,005.00
15	36.	One-Time Public Event License.....	\$255.00
16	37.	Small Brewer Self-Distribution License.....	\$750.00
17	38.	Brewpub License.....	\$1,005.00
18	39.	Brewpub Self-Distribution License.....	\$750.00
19	40.	Complimentary Beverage License.....	\$75.00
20	41.	Satellite Tasting Room License.....	\$100.00
21	42.	<u>Event Venue License.....</u>	<u>\$500.00</u>

22 B. 1. There shall be added to the initial or renewal fees for
23 a ~~Mixed Beverage License~~ mixed beverage license an administrative
24 fee, which shall not be deemed to be a license fee, in the amount of

1 Five Hundred Dollars (\$500.00), which shall be paid at the same time
2 and in the same manner as the license fees prescribed by paragraph
3 12 of subsection A of this section; provided, this fee shall not be
4 assessed against service organizations or fraternal beneficiary
5 societies which are exempt under Section 501(c)(19), (8) or (10) of
6 the Internal Revenue Code.

7 2. There shall be added to the fee for a ~~Mixed Beverage/Caterer~~
8 ~~Combination License~~ mixed beverage/caterer combination license an
9 administrative fee, which shall not be deemed to be a license fee,
10 in the amount of Two Hundred Fifty Dollars (\$250.00), which shall be
11 paid at the same time and in the same manner as the license fee
12 prescribed by paragraph 13 of subsection A of this section.

13 C. Notwithstanding the provisions of subsection A of this
14 section:

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

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

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

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

5 F. The holder of a license, issued by the ABLE Commission, for
6 a bottle club located in a county of this state where the sale of
7 alcoholic beverages by the individual drink for on-premises
8 consumption has been authorized, may exchange the bottle club
9 license for a mixed beverage license or an on-premises beer and wine
10 license and operate the licensed premises as a mixed beverage
11 establishment or an on-premises beer and wine establishment subject
12 to the provisions of the Oklahoma Alcoholic Beverage Control Act.
13 There shall be no additional fee for such exchange and the mixed
14 beverage license or on-premises beer and wine license issued shall
15 expire one (1) year from the date of issuance of the original bottle
16 club license.

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

- 19 1. Nonresident Seller License..... \$2,500.00
- 20 2. Manufacturer License:
 - 21 a. 50 cases or less sold in Oklahoma in
 - 22 last calendar year..... \$100.00
 - 23 b. 51 to 500 cases sold in Oklahoma in
 - 24 last calendar year..... \$225.00

1	c.	501 cases or more sold in Oklahoma in	
2		last calendar year.....	\$450.00
3	3.	Wine and Spirits Wholesaler License.....	\$2,500.00
4	4.	Beer Distributor.....	\$1,000.00
5	5.	Retail Spirits License for cities and towns	
6		over 5,000 population.....	\$250.00
7	6.	Retail Spirits License for cities and towns	
8		from 2,501 to 5,000 population.....	\$200.00
9	7.	Retail Spirits License for cities and towns	
10		from 200 to 2,500 population.....	\$150.00
11	8.	Retail Wine License.....	\$250.00
12	9.	Retail Beer License.....	\$250.00
13	10.	Mixed Beverage License.....	\$25.00
14	11.	Mixed Beverage/Caterer Combination License.....	\$25.00
15	12.	Caterer License.....	\$25.00
16	13.	On-Premises Beer and Wine License.....	\$25.00
17	14.	Annual Public Event License.....	\$25.00
18	15.	Small Farm Winery License.....	\$25.00
19	16.	Small Brewer License.....	\$35.00
20	17.	Complimentary Beverage License.....	\$25.00
21	18.	<u>Event Venue License.....</u>	<u>\$500.00</u>

22 The surcharge shall be paid concurrent with the licensee's
23 annual licensing fee and, in addition to Five Dollars (\$5.00) of the
24 employee license fee, shall be deposited in the Alcoholic Beverage

1 Governance Revolving Fund established pursuant to Section 5-128 of
2 this title.

3 H. Any license issued by the ABLE Commission under this title
4 may be relied upon by other licensees as a valid license, and no
5 other licensee shall have any obligation to independently determine
6 the validity of such license or be held liable solely as a
7 consequence of another licensee's failure to maintain a valid
8 license.

9 SECTION 4. AMENDATORY 37A O.S. 2021, Section 2-112, is
10 amended to read as follows:

11 Section 2-112. A caterer license shall authorize the holder
12 thereof to sell mixed beverages for on-premises consumption
13 incidental to the sale or distribution of food at particular
14 functions, occasions or events which are temporary in nature or at
15 event venues. A caterer license shall not be issued in lieu of a
16 mixed beverage license. A caterer license shall only be issued in
17 counties of this state where the sale of alcoholic beverages by the
18 individual drink for on-premises consumption has been authorized. A
19 separate license shall be required for each place of business.

20 SECTION 5. AMENDATORY 37A O.S. 2021, Section 2-113, is
21 amended to read as follows:

22 Section 2-113. A. 1. A caterer license may be issued to any
23 person for the purpose of sale, delivery, or distribution of
24 alcoholic beverages incidental to the sale or distribution of food

1 on a premises not licensed by the ABLE Commission or at event
2 venues. For purposes of this section, "incidental to the sale or
3 distribution of food" means food sales constituting at least thirty-
4 five percent (35%) of the caterer's total combined annual sales. A
5 caterer license shall not be issued to a person whose main purpose
6 is the sale of alcoholic beverages.

7 2. A caterer license may only be issued to those persons that
8 prepare, sell, and distribute food for consumption either on
9 licensed or unlicensed premises. In order to renew a caterer
10 license, annual food sales must constitute at least thirty-five
11 percent (35%) of the caterer's total combined sales based on the
12 most recent calendar year. A caterer shall not be required to
13 prepare, sell, and distribute food at every catered event as long as
14 the caterer satisfies the requirement set forth in this section.

15 3. Each caterer shall submit an annual sales report containing
16 revenue attributable to alcoholic beverages, food, and all other
17 revenues attributable to the catering service. The annual sales
18 report must be submitted thirty (30) days prior to expiration of the
19 caterer license on forms prescribed by the ABLE Commission. The
20 caterer license may not be renewed if the caterer fails to provide
21 complete or sufficient financial data.

22 4. Each caterer shall submit a monthly event report containing
23 information on all events scheduled for the subsequent month. If an
24 event is scheduled after the first day of the month for an event to

1 occur in the same month, then the caterer shall report that event
2 within twenty-four (24) hours of scheduling the event or within
3 twenty-four (24) hours prior to the event, whichever occurs first.
4 The monthly event report shall be submitted on the first day of each
5 month.

6 5. All reports shall be submitted electronically on forms
7 prescribed by the ABLE Commission. Provided, if the caterer does
8 not have access to the Internet, then monthly reports must be
9 submitted by facsimile to the ABLE Commission's office in Oklahoma
10 City, in which case the caterer must retain a copy of the facsimile
11 confirmation sheet for at least twelve (12) months.

12 6. Any caterer who fails to submit a monthly report shall have
13 the caterer license automatically suspended until such time that the
14 caterer has fully complied with all reporting requirements. Any
15 caterer whose annual food sales do not exceed thirty-five percent
16 (35%) of his or her total annual combined sales shall not have the
17 caterer's license renewed.

18 B. The ABLE Commission shall promulgate rules governing the
19 application for and the issuance of caterer licenses.

20 C. The restrictions and rules which apply to the sale of mixed
21 beverages on the premises of a mixed beverage licensee also apply to
22 the sale under the authority of a caterer license. Any act which if
23 done on the premises of a mixed beverage licensee would be a ground
24

1 for revocation or suspension of the mixed beverage license is a
2 ground for revocation or suspension of a caterer license.

3 D. If the premises where the event being catered is held are
4 already operating pursuant to another type of license issued by the
5 ABLE Commission, the caterer and the other licensee shall both be
6 responsible for the actions of the caterer and shall both be subject
7 to penalties for violations by the caterer of the Oklahoma Alcoholic
8 Beverage Control Act and any rules promulgated thereto.

9 E. A caterer licensee may not store alcoholic beverages unless
10 the licensee has a storage license issued by the ABLE Commission. A
11 caterer licensee selling beer and cider to consumers shall only
12 purchase such beer and cider from the distributor or wholesaler
13 within the county in which the licensee will be selling the beer and
14 cider to consumers.

15 F. A caterer may provide alcoholic beverage sales on the
16 premises of a person currently applying for a mixed beverage
17 license, provided the following terms have been satisfied:

18 1. The caterer shall take reasonable steps to ensure that the
19 mixed beverage applicant uses only licensed employees to perform
20 licensable activities while using the caterer's license. The
21 caterer shall use his or her best efforts to attempt to have a
22 licensed employee on-site supervising the sale of such caterer's
23 alcoholic beverages at all times, but the caterer shall not be
24 disciplined for failing to have a licensed employee on-site. The

1 caterer expressly acknowledges that he or she is liable for all
2 violations of the Oklahoma Alcoholic Beverage Control Act and rules
3 of the ABLE Commission that are committed by the mixed beverage
4 applicant and its employees during this period;

5 2. The caterer and mixed beverage applicant must submit to the
6 ABLE Commission a written agreement setting forth all the terms of
7 the catering agreement at least twenty-four (24) hours prior to the
8 commencement of the catered event; and

9 3. The caterer may not provide alcoholic beverage sales on the
10 unlicensed premises of the mixed beverage applicant for more than
11 sixty (60) days, or after the applicant's license has been denied,
12 whichever occurs first.

13 G. A caterer shall not sell or distribute alcoholic beverages
14 on the premises of an event venue as defined in Section 1-103 of
15 this title unless the event venue holds an event venue license
16 pursuant to Section 6 of this act.

17 A caterer may provide alcoholic beverage services for temporary
18 public events which have been licensed and approved by the ABLE
19 Commission.

20 H. A caterer may provide alcoholic beverage services for a
21 mixed beverage licensee which holds a live performing arts
22 presentation and is open to the public not more than one hundred
23 twenty (120) days per year.

24

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. An event venue license shall authorize the holder to operate
5 a space as defined in Section 1-103 of Title 37A of the Oklahoma
6 Statutes and provide alcoholic beverage services during events
7 hosted on the licensed premises.

8 B. An event venue approved by the ABLE Commission shall have
9 designated alcohol service areas, alcohol storage areas, and alcohol
10 consumption areas within the premises of the event venue. An event
11 venue during the duration of any event hosted on the licensed
12 premises shall be required to employ, hire, or contract with
13 independent security services or personnel or a local city, town, or
14 municipal law enforcement for the enforcement of the provisions of
15 this section.

16 C. Nothing in this section shall exempt any employee or
17 personnel administering alcoholic beverages on site from the
18 training in alcohol handling, laws and regulations, or licensure
19 requirements as prescribed by the ABLE Commission.

20 D. For purposes of this section:

21 1. "Alcohol consumption area" or "alcohol consumption areas"
22 means areas within the event venue provided for the consumption of
23 alcoholic beverages by patrons and shall not include, and not be
24 limited to, an area designated for parking, adjacent property not

1 monitored by the event venue, any public street, or where patron
2 parking occurs during the duration of the event;

3 2. "Alcohol service area" means an area actively monitored by
4 the licensed caterer, or employee thereof, serving, opening,
5 pouring, or otherwise providing alcoholic beverages to patrons and
6 that provides limited access to patrons under twenty-one (21) years
7 of age; and

8 3. "Alcohol storage area" means an area limited to all patrons
9 and accessible only to the licensed caterer, or employee thereof,
10 for the purpose of storage of alcoholic beverages prior to
11 preparation or use for the service of providing alcoholic beverages
12 to patrons.

13 E. The ABLE Commission shall promulgate rules necessary for the
14 implementation of this section.

15 SECTION 7. This act shall become effective November 1, 2023.

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1 Passed the Senate the 21st day of March, 2023.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2023.

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8 _____
9 Presiding Officer of the House
10 of Representatives