

An Act

ENROLLED SENATE
BILL NO. 385

By: Coleman and Bergstrom of
the Senate

and

Strom of the House

An Act relating to alcoholic beverages; amending Section 21, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 81, O.S.L. 2020, Section 143, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 237, O.S.L. 2019 and Section 148, Chapter 366, O.S.L. 2016, as last amended by Section 22, Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020, Sections 2-109, 6-103 and 6-108), which relate to retail licenses and prohibited acts for retail licensees; authorizing certain tastings of beer, wine and spirits in retail spirit licensee premises; stating authority and procedure for offering certain samples; directing licensed person pour alcoholic beverages; providing for purchases and payment of taxes; restricting tastings to certain aged persons; prohibiting removal of alcoholic beverages used for tastings from licensed premises; limiting size of sample served; limiting number of unsealed bottles; directing remaining alcoholic beverage be poured out at end of day; prohibiting unsealed containers at end of day; and providing an effective date.

SUBJECT: Samples of alcoholic beverages

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

SECTION 1. AMENDATORY Section 21, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 81, O.S.L. 2020 (37A O.S. Supp. 2020, Section 2-109), is amended to read as follows:

Section 2-109. A. A retail spirits license shall authorize the holder thereof:

1. To purchase wine or spirits from a wine and spirits wholesaler;

2. To purchase beer from a beer distributor or from the holder of a small brewer self-distribution license; ~~and~~

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, spirits, wine and beer may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses; and

4. To host alcoholic beverage tastings consistent with subsections D and E of this section.

B. A retail wine license shall authorize the holder thereof:

1. To purchase wine from a wine and spirits wholesaler;

2. To purchase wine from a small farm winemaker who is permitted and has elected to self-distribute as provided in Article XXVIII-A of the Oklahoma Constitution; ~~and~~

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, wine may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses; and

4. To host an alcoholic beverage tasting, consistent with subsections D and E of this section.

Provided, no holder of a retail wine license may sell wine with alcohol beverage volume in excess of fifteen percent (15%).

C. A retail beer license shall authorize the holder thereof:

1. To purchase beer from a beer distributor;

2. To purchase beer from the holder of a small brewer self-distribution license; ~~and~~

3. To sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, beer may be sold to charitable organizations that are holders of charitable alcoholic beverage auction or charitable alcoholic beverage event licenses; and

4. To host alcoholic beverage tastings consistent with subsections D and E of this section.

Provided, no holder of a retail beer license may sell a malt beverage with alcohol beverage volume in excess of fifteen percent (15%).

D. All tastings conducted under this section shall:

1. Be conducted under the direct supervision of the licensee authorized to host the tasting;

2. Be poured by any ABLE Commission licensee lawfully permitted to serve alcoholic beverages, provided no wine or spirits wholesaler, beer distributor or employee of a wine or spirits wholesaler or beer distributor shall be allowed to pour samples for tastings;

3. Use alcoholic beverages purchased by the licensee authorized to host the tastings from a licensed wine and spirits wholesaler, beer distributor, self-distributor, small brewer or self-distributing winery authorized to sell the same, and the licensee shall pay the applicable taxes on the alcoholic beverages purchased; provided, the licensee may only provide samples of alcoholic beverages that its license is authorized to sell;

4. Be restricted to persons twenty-one (21) years of age or older;

5. Be limited to no more than one (1) fluid ounce of spirits, two (2) fluid ounces of wine or three (3) fluid ounces of beer per consumer per day; and

6. Be consumed on the licensed premises of the licensee authorized to host the tastings or at a location other than the licensed premises, provided no samples served on the licensed premises shall be permitted to be removed from the licensed premises.

E. All licensees authorized to serve samples pursuant to subsection D of this section shall ensure that:

1. All samples are poured only from original sealed packaging;

2. Any alcoholic beverages remaining in unsealed packaging used to provide samples, excluding spirits, are poured out by the end of the day;

3. No more than six (6) bottles of alcoholic beverages are unsealed at any given time; and

4. No person shall remove any samples from the licensed premises or location where the tasting has occurred.

SECTION 2. AMENDATORY Section 143, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 237, O.S.L. 2019 (37A O.S. Supp. 2020, Section 6-103), is amended to read as follows:

Section 6-103. A. No retail spirits licensee shall:

1. Purchase or receive any alcoholic beverage other than from a wine and spirits wholesaler, beer distributor, winery or small brewer self-distribution licensee who elects to self-distribute;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed on the licensed premises, ~~unless~~ except when serving samples as authorized by Section 2-109 of this title or otherwise permitted by law; provided, the licensee shall not permit any alcoholic beverage content or retail container unsealed in connection with sampling authorized by Section 2-109 of

this title to remain on the licensed premises at the close of business on that day, excluding spirits;

3. Sell any alcoholic beverages at any hour other than between the hours of 8:00 a.m. and midnight Monday through Saturday, and shall not be permitted to be open on Thanksgiving Day or Christmas Day; provided, a county may, pursuant to the provisions of subsections B and C of Section 3-124 of this title, elect to allow such sales between the hours of noon and midnight on Sunday. Retail spirits licensees shall be permitted to sell alcoholic beverages on the day of any General, Primary, Runoff Primary or Special Election whether on a national, state, county or city election, provided that the election day does not occur on any day on which such sales are otherwise prohibited by law;

4. Sell spirits in a city or town, unless such city or town has a population in excess of two hundred (200) according to the latest Federal Decennial Census;

5. Sell any alcoholic beverage on credit; provided, that acceptance by a licensee of a cash or debit card or a nationally recognized credit card in lieu of actual cash payment does not constitute the extension of credit; provided, further, as used in this section:

- a. "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility, and
- b. "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred retail locations;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic

beverages, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages shall not be included in this prohibition, but no wholesaler or retailer shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold; or

7. Pay for alcoholic beverages by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

B. No retail spirits licensee shall permit any person under twenty-one (21) years of age to enter into or remain within or about the licensed premises unless accompanied by the person's parent or legal guardian.

SECTION 3. AMENDATORY Section 148, Chapter 366, O.S.L. 2016, as last amended by Section 22, Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020, Section 6-108), is amended to read as follows:

Section 6-108. No holder of a Retail Wine License or a Retail Beer License shall:

1. Purchase or receive any alcoholic beverage other than from a wine and spirits wholesaler, beer distributor, winery or small brewer self-distribution licensee;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed on the licensed premises, ~~unless~~ except when serving samples as authorized by Section 2-109 of this title or as otherwise permitted by law; provided, the licensee shall not permit any alcoholic beverages content or retail container unsealed in connection with sampling authorized by Section 2-109 of this title to remain on the licensed premises at the close of the business on that day;

3. Sell any beer or wine at any hour other than between the hours of 6:00 a.m. and 2:00 a.m. the following day, Monday through Sunday. Retail wine and retail beer licensees shall be permitted to

sell beer and wine on the day of any General, Primary, Runoff Primary or Special Election whether on a national, state, county or city election;

4. Sell any beer and wine on credit; except as follows:

a. the acceptance by a grocery store, convenience store or drug store of a cash or debit card, or a nationally recognized credit card, in lieu of actual cash payment does not constitute the extension of credit; provided, further, as used in this section:

(1) "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility, and

(2) "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred retail locations, and

b. when the holder of a Retail Wine License, Retail Beer License or Mixed Beverage License is a private membership club, marina, golf course or country club that normally charges food, drinks and other purchases to the member's monthly dues account in the regular course of business, in lieu of actual cash payment at the time of purchase, such practice does not constitute the extension of credit;

5. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of beer or wine, except that goods or merchandise included by the manufacturer in packaging with beer or wine or for packaging with beer or wine shall not be included in this prohibition, nor shall a retail wine

or retail beer license holder selling wine or beer at a multiunit discount be included in this prohibition; but no retail wine or retail beer licensee shall sell any beer or wine prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold; or

6. Pay for beer or wine by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

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

Passed the Senate the 3rd day of May, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2021.

Presiding Officer of the House
of Representatives

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: _____