

An Act

ENROLLED SENATE
BILL NO. 411

By: Bice of the Senate

and

Mulready of the House

An Act relating to alcoholic beverages; amending Sections 14, 143 and 148, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016, Sections 2-102, 6-103 and 6-108), which relate to sales of alcoholic beverages; modifying hours during which such beverages may be sold; updating statutory references; and providing an effective date.

SUBJECT: Sales of alcoholic beverages

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

SECTION 1. AMENDATORY Section 14, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016, Section 2-102), is amended to read as follows:

Section 2-102. A. A brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer on the licensed premises; and

2. To sell beer in this state to holders of beer distributor licenses and to sell beer out of this state to qualified persons.

B. A small brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer produced by the licensee on licensed premises;

2. To sell beer in this state to holders of beer distributor licenses and retail licenses or to sell beer out of this state to qualified persons;

3. To serve free samples of beer produced by the licensee to visitors twenty-one (21) years of age or older;

4. To sell beer produced by the licensee for either on-premises or off-premises consumption to consumers on the brewery premises, or on premises located contiguous thereto; and

5. To sell beer at public events such as trade shows or festivals.

C. Nothing in this act shall prohibit the holder of a small brewer license from also holding or owning an interest in the holder of a brewpub license.

D. For purposes of this section, no visitor may sample more than a total of twelve (12) fluid ounces of beer per day. The brewer must restrict the distribution and consumption of beer samples to an area within the licensed premises designated by the brewer. A current floor plan that includes the designated sampling area must be on file with the ABLE Commission. No visitor under twenty-one (21) years of age shall be permitted to enter this designated sampling area when samples are being distributed or consumed. Samples of beer served by a brewery under this section shall not be considered a sale of beer within the meaning of Article XXVIII A of the Oklahoma Constitution or Section ~~3~~ 1-103 of this ~~act~~ title; however, such samples of beer shall be considered beer removed or withdrawn from the brewery for use or consumption within the meaning of Section ~~413~~ 5-110 of this ~~act~~ title for excise tax determination and reporting requirements~~7~~. Sales and sampling may only occur between the hours of 10:00 a.m. and 2:00 a.m.

E. A small brewer self-distribution license shall authorize holders of a small brewer license to distribute beer produced only by such licensee to a holder of a retail beer license, retail spirits license, mixed beverage license, beer and wine license, caterer's license, special event license, public event license, charitable auction license or brewpub license. A small brewer shall elect whether it will distribute through a distributor or self-

distribute in a subject territory; however, a small brewer may not elect to do both simultaneously in a subject territory. The election shall be made through notice to the ABLE Commission. Any changes to the election shall require immediate notification to the ABLE Commission before the change in election will take effect. A small brewer that elects to self-distribute in multiple territories shall only be required to have one small brewer self-distribution license.

SECTION 2. AMENDATORY Section 143, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016, 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 otherwise permitted by law;
3. Sell any alcoholic beverages at any hour other than between the hours of ~~10:00~~ 8:00 a.m. and midnight Monday through Saturday, and shall not be permitted to be open on Thanksgiving Day or Christmas Day. 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.

SECTION 3. AMENDATORY Section 148, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2016, 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 otherwise permitted by law;

3. Sell any beer or wine at any hour other than between the hours of ~~7:00~~ 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; provided, that 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:

- 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;

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; 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 October 1, 2018.

Passed the Senate the 21st day of March, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2017.

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: _____