

1 **SENATE FLOOR VERSION**

February 8, 2017

2 **AS AMENDED**

3 SENATE BILL NO. 58

By: Bice

4
5 **[alcoholic beverages - taxes on alcoholic beverages**
6 **- effective date]**

7
8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

9 SECTION 1. AMENDATORY Section 108, Chapter 366, O.S.L.
10 2016 (37A O.S. Supp. 2016, Section 5-105), is amended to read as
11 follows:

12 Section 5-105. A. A tax at the rate of ~~thirteen and one-half~~
13 ~~percent (13.5%)~~ ten percent (10%) is hereby levied and imposed on
14 the total gross receipts of a holder of an on-premises beer and
15 wine, mixed beverage, caterer, public event or special event license
16 issued by the ABLE Commission, from:

- 17 1. The sale, preparation or service of mixed beverages;
- 18 2. The total retail value of complimentary or discounted mixed
19 beverages;
- 20 3. Ice or nonalcoholic beverages that are sold, prepared or
21 served for the purpose of being mixed with alcoholic beverages and
22 consumed on the premises where the sale, preparation or service
23 occurs; and
- 24

1 4. Any charges for the privilege of admission to a mixed
2 beverage establishment which entitle a person to complimentary mixed
3 beverages or discounted prices for mixed beverages.

4 B. For purposes of this section:

5 1. "Mixed beverages" means mixed beverages as defined by
6 ~~Section 3 of this act~~ 1-103 of this title;

7 2. "Total gross receipts" means the total amount of
8 consideration received as charges for admission to a mixed beverage
9 establishment, as provided in paragraph 4 of subsection A of this
10 section, and the total retail sale price received for the sale,
11 preparation or service of mixed beverages, ice and nonalcoholic
12 beverages to be mixed with alcoholic beverages. The advertised
13 price of a mixed beverage may be the sum of the total retail sale
14 price and the gross receipts tax levied thereon; and

15 3. "Total retail value" means the total amount of consideration
16 that would be required for the sale, preparation or service of mixed
17 beverages.

18 C. The gross receipts tax levied by this section shall be in
19 addition to the excise tax levied in ~~Section 104 of this act~~ 5-101
20 of this title, the sales tax levied in the Oklahoma Sales Tax Code
21 and to any municipal or county sales taxes.

22 D. The gross receipts tax levied by this section is hereby
23 declared to be a direct tax upon the receipt of consideration for
24 any charges for admission to a mixed beverage establishment, as

1 provided in paragraph 4 of subsection A of this section, for the
2 sale, preparation or service of mixed beverages, ice and
3 nonalcoholic beverages to be mixed with alcoholic beverages, and the
4 total retail value of complimentary or discounted mixed beverages.

5 E. The total of the retail sale price received for the sale,
6 preparation or service of mixed beverages, ice and nonalcoholic
7 beverages to be mixed with alcoholic beverages shall be the total
8 gross receipts for purposes of calculating the sales tax levied in
9 the Oklahoma Sales Tax Code.

10 SECTION 2. AMENDATORY Section 138, Chapter 366, O.S.L.
11 2016 (37A O.S. Supp. 2016, Section 5-135), is amended to read as
12 follows:

13 Section 5-135. A. Every mixed beverage tax permit holder, or
14 any person transacting business subject to the gross receipts tax
15 levied by Section ~~108 of this act~~ 5-105 of this title, shall file
16 with the Oklahoma Tax Commission a monthly report for each place or
17 location of business, on or before the twentieth day of the month
18 immediately following the month of receipt. The reports shall be
19 made under oath, on forms prescribed by the Tax Commission, which
20 shall include the following information:

- 21 1. Name of mixed beverage tax permit holder;
- 22 2. Mixed beverage tax permit number;
- 23 3. Sales tax permit number;

24

1 4. Mixed beverage, caterer, public event or special event
2 license number;

3 5. Gross receipts for the month for the sale, preparation or
4 service of mixed beverages, ice and nonalcoholic beverages mixed
5 with alcoholic beverages;

6 6. Gross receipts for the month from charges for the privilege
7 of admission to a mixed beverage establishment which entitles a
8 person to complimentary mixed beverages or discounted prices for
9 mixed beverages;

10 7. Total retail value of complimentary or discounted alcoholic
11 beverages served for the month; and

12 8. Such other information as may be required by the Tax
13 Commission to enable it to collect taxes imposed as provided by law.

14 B. The gross receipts tax levied by Section ~~108 of this act~~ 5-
15 105 of this title shall be calculated by multiplying the tax rate,
16 ~~thirteen and one-half percent (13.5%)~~ ten percent (10%), and the
17 total gross receipts for each month from the sale, preparation or
18 service of mixed beverages, ice and nonalcoholic beverages mixed
19 with alcoholic beverages, the total gross receipts of charges
20 received for admission to mixed beverage establishments, as provided
21 in paragraph 6 of subsection A of this section, and the total retail
22 value of complimentary or discounted mixed beverages. Gross
23 receipts from the sale of food prepared with alcoholic beverages
24 shall not be included in the calculation of the monthly tax

1 liability. The tax due for the preceding month shall accompany the
2 report required in subsection A of this section. All taxes,
3 penalties and interest imposed by the Oklahoma Alcoholic Beverage
4 Control Act may be paid in the form of electronic funds transfer or
5 by a personal or company check, cashier's check, certified check or
6 postal money order payable to the Tax Commission.

7 C. If the gross receipts tax levied pursuant to the provisions
8 of Section ~~108 of this act~~ 5-105 of this title is not paid on or
9 before the twentieth day of each month, the tax shall be delinquent,
10 and interest and penalty shall accrue on and from the twenty-first
11 day of each month, pursuant to the provisions of the Uniform Tax
12 Procedure Code.

13 D. Every licensed wholesaler of alcoholic beverages in this
14 state shall file with the Tax Commission a monthly report, under
15 oath, on forms prescribed by the Tax Commission, which shall include
16 the name, location and mixed beverage tax permit number of each
17 mixed beverage, caterer, public event or special event licensee to
18 whom the licensed wholesaler sold alcoholic beverages during the
19 report month.

20 E. If the report required by subsection A of this section is
21 not filed with the Tax Commission on or before the twentieth day of
22 the month, the Tax Commission may assess an additional penalty of
23 Five Dollars (\$5.00) for each day thereafter that the report is not
24 filed pursuant to the provisions of this section. The Tax

1 Commission may waive the penalty assessed pursuant to the provisions
2 of the Uniform Tax Procedure Code; provided, however, the additional
3 penalty, if assessed, shall not exceed an amount equal to twice the
4 amount of tax due for the period for which such report was required
5 to be filed, or the sum of Three Hundred Dollars (\$300.00),
6 whichever is greater.

7 F. Taxes paid as provided by law represented by accounts
8 receivable which are found to be worthless or uncollectible may be
9 credited upon subsequent reports and remittances of such tax, in
10 accordance with rules promulgated by the Tax Commission. If such
11 accounts are thereafter collected, the same shall be reported and
12 the tax shall be paid upon the amount so collected.

13 G. In addition to any other authority granted by law, the Tax
14 Commission is hereby authorized to audit any mixed beverage, beer
15 and wine, caterer, public event or special event licensee to
16 determine if the correct amount of tax payable under Section ~~108~~ of
17 ~~this act~~ 5-105 of this title has been collected; provided, if such
18 an audit reveals that the amount collected is within the following
19 percentages of the amount of tax payable, the taxpayer shall be
20 deemed to be in compliance:

21 1. For spirits, eighty-four percent (84%) to one hundred
22 sixteen percent (116%);

23 2. For wine, ninety percent (90%) to one hundred ten percent
24 (110%);

1 3. For beer sold at draft and not in original packages, eighty-
2 six percent (86%) to one hundred fourteen percent (114%); and

3 4. For beer sold in original packages, ninety-five percent
4 (95%) to one hundred five percent (105%).

5 SECTION 3. This act shall become effective October 1, 2018.

6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
7 February 8, 2017 - DO PASS AS AMENDED
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