

1 **SENATE FLOOR VERSION**

2 February 8, 2023

3 SENATE BILL NO. 799

By: Thompson (Roger) of the
Senate

4 and

5 Wallace of the House

6
7
8 An Act relating to alcoholic beverages; amending 37A
9 O.S. 2021, Sections 3-119, 3-120, and 3-121, which
10 relate to business interests and acts prohibited for
11 manufacturers or brewers; modifying language;
12 limiting prohibition to Oklahoma licensed
13 manufacturers or brewers; providing certain exception
14 to ownership interests; prohibiting selling certain
15 products with common ownership interests; and
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 37A O.S. 2021, Section 3-119, is
19 amended to read as follows:

20 Section 3-119. A. It shall be unlawful for any Oklahoma
21 licensed manufacturer, or brewer, or any wine and spirits
22 wholesaler, beer distributor or person authorized to sell alcoholic
23 beverages to a wholesaler, or any employee, officer, director,
24 stockholder owning fifteen percent (15%) or more of the stock, any
type of partner, manager, member or agent thereof, to directly or
indirectly:

1 1. Have any financial interest in any premises upon which any
2 alcoholic beverage is sold at retail or in any business connected
3 with the retailing of alcoholic beverages; provided, nothing in ~~this~~
4 ~~act~~ the Oklahoma Alcoholic Beverage Control Act shall prohibit the
5 operation of a mixed beverage licensee, beer and wine licensee or
6 caterer licensee by an entity which has common owners with the
7 holder of a small brewer license or a brewpub license;

8 2. Lend any money or other thing of value, or to make any gift
9 or offer any gratuity, to any package store, retail wine, retail
10 beer, mixed beverage, beer and wine, public event or bottle club
11 licensee or caterer;

12 3. Guarantee any loan or the repayment of any financial
13 obligation of any retailer, mixed beverage, beer and wine, public
14 event or bottle club licensee or caterer;

15 4. Require any wine and spirits wholesaler, beer distributor,
16 retailer, mixed beverage, on-premises beer and wine licensee, public
17 event or caterer to purchase and dispose of any quota of alcoholic
18 beverages, or to require any retailer to purchase any kind, type,
19 size, container or brand of alcoholic beverages in order to obtain
20 any other kind, type, size, container or brand of alcoholic
21 beverages;

22 5. Sell to any retailer, mixed beverage, on-premises beer and
23 wine licensee, public event or caterer any alcoholic beverage on
24 consignment, or upon condition, or with the privilege of return, or

1 on any condition other than a bona fide sale; provided, the
2 following shall not be considered a violation of this paragraph:

- 3 a. delivery in good faith, through mistake, inadvertence
4 or oversight, of an alcoholic beverage that was not
5 ordered by a retailer, mixed beverage licensee, on-
6 premises beer and wine licensee, caterer, public event
7 or special event licensee to such licensee,
- 8 b. replacement of product breakage that occurred while
9 the alcoholic beverages were in transit from the
10 wholesaler to the licensee, or
- 11 c. replacement of cork-tainted wine that makes the
12 product unsaleable as long as the licensee notifies
13 the wine and spirits wholesaler of the defect in
14 writing within ninety (90) days after delivery of the
15 product; or

16 6. Extend credit to any retailer, other than holders of Federal
17 Liquor Stamps on United States government reservations and
18 installations, mixed beverage, public event or on-premises beer and
19 wine licensee or caterer, other than a state lodge located in a
20 county which has approved the retail sale of alcoholic beverages by
21 the individual drink for on-premises consumption. The acceptance of
22 a postdated check or draft or the failure to deposit for collection
23 a current check or draft by the second banking day after receipt
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1 shall be deemed an extension of credit. Violation of this section
2 shall be grounds for suspension of the license.

3 B. Notwithstanding any statutory provision to the contrary, a
4 manufacturer or brewer whose products are made outside this state
5 shall not be prohibited from having any ownership interest in an
6 Oklahoma licensed retailer; provided, the Oklahoma retailer that is
7 commonly owned by a manufacturer or brewer does not offer for sale
8 at its Oklahoma retail locations any beer, wine, or spirits that are
9 made by the manufacturer or brewer within or outside this state.

10 SECTION 2. AMENDATORY 37A O.S. 2021, Section 3-120, is
11 amended to read as follows:

12 Section 3-120. A. No mixed beverage, beer and wine, caterer,
13 public event or bottle club licensee, partner in any type of
14 partnership, manager or member of a limited liability company,
15 officer, director or stockholder of any corporate licensee owning
16 more than fifteen percent (15%) of the stock shall have any right,
17 title, lien, claim or interest, financial or otherwise in, upon or
18 to the premises, equipment, business or merchandise of any package
19 store, beer distributor, wholesaler, brewer, or Oklahoma licensed
20 manufacturer or wholesaler. The provisions of this section shall
21 not prohibit a person who is an officer or director of a fraternal
22 or veteran's organization which is a tax exempt organization under
23 Section 501(c) (8), (10) or (19) of the Internal Revenue Code and
24 which holds a license issued by the ABLE Commission from having a

1 right, title, lien, claim or interest in the premises, equipment,
2 business or merchandise of a package store.

3 B. Notwithstanding any statutory provision to the contrary, a
4 manufacturer or brewer whose products are made outside this state
5 shall not be prohibited from having any ownership interest in an
6 Oklahoma licensed retailer; provided, the Oklahoma retailer that is
7 commonly owned by a manufacturer or brewer does not offer for sale
8 at its Oklahoma retail locations any beer, wine, or spirits that are
9 made by the manufacturer or brewer within or outside this state.

10 SECTION 3. AMENDATORY 37A O.S. 2021, Section 3-121, is
11 amended to read as follows:

12 Section 3-121. A. No Oklahoma licensed manufacturer, or
13 brewer, or any wine and spirits wholesaler, beer distributor,
14 partner in any type of partnership, manager or member of a limited
15 liability company, or officer, director or stockholder of any
16 nonresident seller, brewer, or manufacturer licensee, owning more
17 than fifteen percent (15%) of the stock shall have any right, title,
18 claim or interest, financial or otherwise in, upon or to the
19 premises, equipment, business or merchandise of any mixed beverage,
20 beer and wine, caterer, public event or bottle club licensee.

21 B. Notwithstanding any statutory provision to the contrary, a
22 manufacturer or brewer whose products are made outside this state
23 shall not be prohibited from having any ownership interest in an
24 Oklahoma licensed retailer; provided, the Oklahoma retailer that is

1 commonly owned by a manufacturer or brewer does not offer for sale
2 at its Oklahoma retail locations any beer, wine, or spirits that are
3 made by the manufacturer or brewer within or outside this state.

4 SECTION 4. This act shall become effective November 1, 2023.

5 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
6 February 8, 2023 - DO PASS
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