

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 8

6 By: Garvin of the Senate

7 and

8 Marti of the House

9
10 COMMITTEE SUBSTITUTE

11 An Act relating to alcoholic beverages; amending 37A
12 O.S. 2021, Sections 2-102, as amended by Section 1,
13 Chapter 396, O.S.L. 2021, 2-103, 2-104, and 2-131,
14 which relate to brewer, winemaker, distillery, and
15 small farm winery licenses; defining term;
16 authorizing the ABLE Commission to permit certain
17 license holders to host off-site events following
18 application; requiring licensees to sell only the
19 products covered by licenses; providing details of
20 application; allowing Commission to assess fee;
21 updating statutory language and reference; repealing
22 37A O.S. 2021, Section 2-102, as amended by Section
23 1, Chapter 226, O.S.L. 2019, which relates to brewer
24 license; providing for codification; and declaring an
emergency.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-102, as
amended by Section 1, Chapter 396, O.S.L. 2021, is amended to read
as follows:

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

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

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

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

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

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

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

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

19 5. To sell beer and cider at ~~public~~ events such as attended by
20 the public including, but not limited to, trade shows ~~or~~, festivals,
21 farmers markets, boat shows, RV shows, home and garden shows, fairs,
22 car shows, swap meets, city events, county events, or state events
23 for either on-premises or off-premises consumption, regardless of
24 whether such events are held at premises covered by a license to

1 sell, serve, or store alcoholic beverages. A small brewer license
2 holder shall not be required to secure or control the premises of an
3 event attended by the public where the small brewer license holder
4 sells beer or cider;

5 6. To purchase wine in retail containers from the holder of a
6 wholesaler license or as specifically provided by law; ~~and~~

7 7. To sell, offer for sale and possess wine for on-premises
8 consumption;

9 8. To host off-site events pursuant to Section 5 of this act;
10 and

11 9. To purchase from licensed brewers, small brewers, and
12 brewpubs in this state, and to import beer into this state for use
13 in manufacturing in accordance with federal laws and regulations.

14 C. The holder of multiple small brewer licenses may sell beer
15 and cider produced at up to three breweries for which the licensee
16 has a license, at any other of such three licensed breweries or on
17 premises located contiguous thereto.

18 D. Nothing in the Oklahoma Alcoholic Beverage Control Act shall
19 prohibit the holder of a small brewer license from also holding or
20 owning an interest in the holder of a brewpub license.

21 E. For purposes of this section, no visitor may sample more
22 than a total of twelve (12) fluid ounces of beer and cider per day.
23 The brewer must restrict the distribution ~~and consumption~~ of beer
24 and cider samples to an area within the licensed premises ~~designated~~

1 ~~by the brewer~~ as defined in this subsection. A current floor plan
2 that includes the designated ~~sampling~~ serving area must be on file
3 with the ABLE Commission. No visitor under twenty-one (21) years of
4 age shall be permitted to enter this designated ~~sampling~~ serving
5 area ~~when samples are being distributed or consumed.~~ Accompanied
6 visitors under twenty-one (21) years of age shall be allowed
7 anywhere on the premises except for a serving area. Samples of beer
8 and cider served by a brewery under this section shall not be
9 considered a sale of beer and cider within the meaning of Article
10 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
11 title; however, such samples of beer and cider shall be considered
12 beer and cider removed or withdrawn from the brewery for use or
13 consumption within the meaning of Section 5-110 of this title for
14 excise tax determination and reporting requirements. Sales and
15 sampling may only occur between the hours of 10:00 a.m. and 2:00
16 a.m. For purposes of this subsection, "serving area" means the area
17 of the bar where drinks are sold, prepared, and served to paying
18 customers and shall not include other areas of the brewery where
19 customers consume purchased products.

20 F. A small brewer self-distribution license shall authorize
21 holders of a small brewer license to distribute beer and cider
22 produced only by such licensee to a holder of a retail beer license,
23 retail spirits license, mixed beverage license, beer and wine
24 license, caterer's license, special event license, public event

1 license, winemaker license, charitable auction license or brewpub
2 license. A small brewer shall elect whether it will distribute
3 through a distributor or self-distribute in a subject territory;
4 however, a small brewer may not elect to do both simultaneously in a
5 subject territory. The election shall be made through notice to the
6 ABLE Commission. Any changes to the election shall require
7 immediate notification to the ABLE Commission before the change in
8 election will take effect. A small brewer that elects to self-
9 distribute in multiple territories shall only be required to have
10 one small brewer self-distribution license.

11 G. All manufacturer's licenses held by brewers during the first
12 calendar year beginning October 1, 2018, shall automatically convert
13 to brewer licenses and be deemed effective as of the date of the
14 first issuance of the manufacturer's license. Upon the first
15 renewal of the license, the brewer will need to obtain the
16 appropriate brewer's license. If a brewer elects to market wine and
17 spirits, the brewer will also be required to obtain a manufacturer's
18 license and comply with the rules and regulations for both licenses.

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

21 Section 2-103. A. A distiller license shall authorize the
22 holder thereof:

23 1. To manufacture, bottle, package and store spirits on
24 licensed premises;

1 2. To sell spirits in this state to licensed wholesalers and
2 manufacturers only;

3 3. To sell spirits out of this state to qualified persons; to
4 purchase from licensed distillers and rectifiers in this state, and
5 import spirits from without this state for manufacturing purposes in
6 accordance with federal laws and regulations;

7 4. To serve free samples of spirits produced only by the
8 licensee to visitors twenty-one (21) years of age and older. For
9 purposes of this section, no visitor may sample more than a total of
10 three (3) fluid ounces of spirits per day. The distiller shall
11 restrict the distribution and consumption of spirits samples to an
12 area within the licensed premises designated by the distiller. A
13 current floor plan that includes the designated sampling area shall
14 be on file with the ABLE Commission. No visitor under twenty-one
15 (21) years of age shall be permitted to enter the designated
16 sampling area when samples are being distributed and consumed.
17 Samples of spirits served by a distiller under this section shall
18 not be considered a sale of spirits within the meaning of Article
19 XXVIII-A of the Oklahoma Constitution or Section 1-103 of this
20 title; provided, such samples of spirits shall be considered removed
21 or withdrawn from the distillery for use or consumption within the
22 meaning of Section 5-110 of this title for excise tax determination
23 and reporting requirements;

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1 5. To sell spirits produced by the licensee for either on-
2 premises or off-premises consumption to consumers on the licensed
3 distillery premises or in an area controlled by the licensee located
4 contiguous to the licensed distillery premises. Product offered for
5 sale by the Oklahoma licensed distiller will have been sold to and
6 shipped to an Oklahoma licensed wine and spirits wholesaler and then
7 made available for purchase by the Oklahoma licensed distiller for
8 sale; ~~and~~

9 6. To sell spirits at public events such as trade shows or
10 festivals. Products offered for sale by the Oklahoma licensed
11 distiller will have been sold to and shipped to an Oklahoma licensed
12 wine and spirits wholesaler and then made available for purchase by
13 the Oklahoma licensed distiller; and

14 7. To host off-site events pursuant to Section 5 of this act;
15 provided, that products offered for sale by the Oklahoma licensed
16 distiller will have been sold to and shipped to an Oklahoma licensed
17 wine and spirits wholesaler and then made available for purchase by
18 the Oklahoma licensed distiller.

19 B. Spirits sold pursuant to paragraphs 5 and 6 of subsection A
20 of this section shall not exceed fifteen thousand (15,000) gallons
21 per calendar year in combination.

22 SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-104, is
23 amended to read as follows:

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1 Section 2-104. A winemaker license shall authorize the holder
2 thereof:

3 1. To manufacture (including such mixing, blending and cellar
4 treatment as authorized by federal law), bottle, package and store
5 on licensed premises wine containing not more than twenty-four
6 percent (24%) alcohol by volume; provided, the bottle or package
7 sizes authorized shall be limited to the capacities approved by the
8 United States Alcohol and Tobacco Tax and Trade Bureau;

9 2. To sell wine in this state to licensed wholesalers and
10 manufacturers;

11 3. To sell wine produced at the winery from grapes and other
12 fruits and berries grown in this state, if available, for either on-
13 premises or off-premises consumption to consumers on the premises of
14 the winery;

15 4. To serve free samples of wine produced at the winery to
16 visitors twenty-one (21) years of age and older. For purposes of
17 this section, no visitor may sample more than a total of six (6)
18 fluid ounces of wine per day. The winery shall restrict the
19 distribution and consumption of wine samples to an area within the
20 licensed premises designated by the winery. A current floor plan
21 that includes the designated sampling area shall be on file with the
22 ABLE Commission. No visitor under twenty-one (21) years of age
23 shall be permitted to enter the designated sampling area when
24 samples are being distributed and consumed. Samples of wine served

1 by a winery under this section shall not be considered a sale of
2 wine within the meaning of Article XXVIII-A of the Oklahoma
3 Constitution or Section 1-103 of this title; provided, such samples
4 of wine shall be considered removed or withdrawn from the winery for
5 use or consumption within the meaning of Section 5-110 of this title
6 for excise tax determination and reporting requirements;

7 5. To serve free samples of wine produced at the winery at
8 public events such as festivals and trade shows;

9 6. To sell wine produced at the winery, for either on-premises
10 or off-premises consumption at public events such as festivals and
11 trade shows;

12 7. To sell wine out of this state to qualified persons;

13 8. To purchase from licensed winemakers, distillers and
14 rectifiers in this state, and to import into this state wine, brandy
15 and fruit spirits for use in manufacturing in accordance with
16 federal laws and regulations;

17 9. To sell and serve Oklahoma-manufactured wine, mulled wine,
18 or spiced wine, mixed with nonalcoholic beverages or food items such
19 as water, sugar, fruits and vegetables, at any temperature for
20 either on-premises or off-premises consumption;

21 10. To purchase beer in retail containers from the holder of a
22 wholesaler, beer distributor, small brewer self-distributor or
23 brewpub self-distributor license or as specifically provided by law;

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1 11. To sell, offer for sale and possess beer for on-premises
2 consumption; ~~and~~

3 12. To establish satellite tasting rooms as defined and
4 authorized in ~~this act~~ the Oklahoma Alcoholic Beverage Control Act
5 where the winemaker's products may be tasted, sampled, sold and
6 served for on-premises consumption and the winemaker is permitted to
7 sell its products in sealed containers; provided, the small farm
8 winery license or winemaker license is active and in good standing.
9 The wine sold at a satellite tasting room must have been
10 produced/manufactured by the holder of a small farm winery license
11 or winemaker license and must have all manufacturing taxes paid; and

12 13. To host off-site events pursuant to Section 5 of this act.

13 SECTION 4. AMENDATORY 37A O.S. 2021, Section 2-131, is
14 amended to read as follows:

15 Section 2-131. A. A small farm winery license shall authorize
16 the holder thereof:

17 1. To manufacture and bottle wines produced by that small farm
18 winery;

19 2. To bottle and sell wines produced by another small farm
20 winery. In order for a small farm winery to bottle and sell another
21 small farm winery's products, both the selling winery and the buying
22 winery shall be small farm winery permit holders;

23 3. To establish satellite tasting rooms as defined and
24 authorized in ~~this act~~ the Oklahoma Alcoholic Beverage Control Act

1 where the winemaker's products may be tasted, sampled, sold and
2 served for on-premises consumption and the winemaker is permitted to
3 sell its products in sealed containers; provided, the small farm
4 winery license is active and in good standing. The wine sold at a
5 satellite tasting room must have been produced/manufactured by the
6 holder of a small farm winery license and must have all
7 manufacturing taxes paid; ~~and~~

8 4. To host off-site events pursuant to Section 5 of this act;
9 and

10 5. The small farm winery licensee shall have the same authority
11 as the winemaker licensee.

12 B. A small farm wine may display the trademarked "Oklahoma
13 Grown" sticker available from the Oklahoma Grape Industry Council.

14 SECTION 5. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A small brewer, winemaker, distiller, or small farm winery
18 licensee shall be authorized to host an off-site event following the
19 submission and approval of an application to the ABLE Commission.
20 The licensee shall only be authorized to sell for consumption at the
21 off-site event alcoholic beverages authorized for sale under the
22 licensee's respective license. The licensee shall be limited to
23 hosting four (4) off-site events per year.

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1 B. The application shall include, but not be limited to, the
2 location of the off-site event with a designated area within the
3 location designed to provide an exclusive space which may be limited
4 to the public and a designated point of access for a patron or
5 patrons specifically granted access to ensure that persons present
6 in the designated area are above twenty-one (21) years of age. The
7 Commission may prescribe a filing fee for each off-site event
8 application not to exceed Twenty-five Dollars (\$25.00).

9 C. The ABLE Commission shall promulgate rules necessary for the
10 implementation of this section.

11 SECTION 6. REPEALER 37A O.S. 2021, Section 2-102, as
12 amended by Section 1, Chapter 226, O.S.L. 2019, is hereby repealed.

13 SECTION 7. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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