

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 841

6 By: Thompson of the Senate

7 and

8 Echols of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to alcoholic beverages; amending
11 Section 89, Chapter 366, O.S.L. 2016, as last amended
12 by Section 1, Chapter 431, O.S.L. 2019, Section 90,
13 Chapter 366, O.S.L. 2016, as amended by Section 23,
14 Chapter 322, O.S.L. 2019, and Section 91, Chapter
15 366, O.S.L. 2016, as amended by Section 24, Chapter
16 322, O.S.L. 2019 (37A O.S. Supp. 2020, Sections 3-
17 119, 3-120 and 3-121), which relate to business
18 interests and acts prohibited for manufacturers;
19 modifying language; limiting prohibition to Oklahoma
20 licensed manufacturers; providing certain exception
21 to ownership interests; prohibiting selling certain
22 products with common ownership interests; and
23 providing an effective date.

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

SECTION 1. AMENDATORY Section 89, Chapter 366, O.S.L.
2016, as last amended by Section 1, Chapter 431, O.S.L. 2019 (37A
O.S. Supp. 2020, Section 3-119), is amended to read as follows:

Section 3-119. A. It shall be unlawful for any Oklahoma
licensed manufacturer, or brewer, or any wine and spirits

1 wholesaler, beer distributor or person authorized to sell alcoholic
2 beverages to a wholesaler, or any employee, officer, director,
3 stockholder owning fifteen percent (15%) or more of the stock, any
4 type of partner, manager, member or agent thereof, to directly or
5 indirectly:

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

13 2. Lend any money or other thing of value, or to make any gift
14 or offer any gratuity, to any package store, retail wine, retail
15 beer, mixed beverage, beer and wine, public event or bottle club
16 licensee or caterer;

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

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

1 any other kind, type, size, container or brand of alcoholic
2 beverages;

3 5. Sell to any retailer, mixed beverage, on-premises beer and
4 wine licensee, public event or caterer any alcoholic beverage on
5 consignment, or upon condition, or with the privilege of return, or
6 on any condition other than a bona fide sale; provided, the
7 following shall not be considered a violation of this paragraph:

8 a. delivery in good faith, through mistake, inadvertence
9 or oversight, of an alcoholic beverage that was not
10 ordered by a retailer, mixed beverage licensee, on-
11 premises beer and wine licensee, caterer, public event
12 or special event licensee to such licensee,

13 b. replacement of product breakage that occurred while
14 the alcoholic beverages were in transit from the
15 wholesaler to the licensee, or

16 c. replacement of cork-tainted wine that makes the
17 product unsaleable as long as the licensee notifies
18 the wine and spirits wholesaler of the defect in
19 writing within ninety (90) days after delivery of the
20 product; or

21 6. Extend credit to any retailer, other than holders of Federal
22 Liquor Stamps on United States government reservations and
23 installations, mixed beverage, public event or on-premises beer and
24 wine licensee or caterer, other than a state lodge located in a

1 county which has approved the retail sale of alcoholic beverages by
2 the individual drink for on-premises consumption. The acceptance of
3 a postdated check or draft or the failure to deposit for collection
4 a current check or draft by the second banking day after receipt
5 shall be deemed an extension of credit. Violation of this section
6 shall be grounds for suspension of the license.

7 B. Notwithstanding any statutory provision to the contrary, the
8 holder of an Oklahoma Retail Beer or Retail Wine License who was
9 licensed and permitted to sell low-point beer for off-premises
10 consumption until the passage of State Question 792 on November 8,
11 2016, shall not be prohibited from holding an ownership interest in
12 a manufacturer whose products are made outside of this state,
13 provided:

14 1. This right shall only apply to the ownership interests in
15 the manufacturer that were held by the Oklahoma licensed retailer,
16 or its successor in interest, as of November 8, 2016; and

17 2. The Oklahoma licensed retailer that is commonly owned by a
18 manufacturer does not offer for sale at its Oklahoma retail
19 locations any wine or spirits that are made by the commonly owned
20 manufacturer.

21 SECTION 2. AMENDATORY Section 90, Chapter 366, O.S.L.
22 2016, as amended by Section 23, Chapter 322, O.S.L. 2019 (37A O.S.
23 Supp. 2020, Section 3-120), is amended to read as follows:

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

16 B. Notwithstanding any statutory provision to the contrary, the
17 holder of an Oklahoma Retail Beer or Retail Wine License who was
18 licensed and permitted to sell low-point beer for off-premises
19 consumption until the passage of State Question 792 on November 8,
20 2016, shall not be prohibited from holding an ownership interest in
21 a manufacturer whose products are made outside this state, provided:

22 1. This right shall only apply to the ownership interests in
23 the manufacturer that were held by the Oklahoma licensed retailer,
24 or its successor in interest, as of November 8, 2016; and

1 2. The Oklahoma licensed retailer that is commonly owned by a
2 manufacturer does not offer for sale at its Oklahoma retail
3 locations any wine or spirits that are made by the commonly owned
4 manufacturer.

5 SECTION 3. AMENDATORY Section 91, Chapter 366, O.S.L.
6 2016, as amended by Section 24, Chapter 322, O.S.L. 2019 (37A O.S.
7 Supp. 2020, Section 3-121), is amended to read as follows:

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

17 B. Notwithstanding any statutory provision to the contrary, the
18 holder of an Oklahoma Retail Beer or Retail Wine License who was
19 licensed and permitted to sell low-point beer for off-premises
20 consumption until the passage of State Question 792 on November 8,
21 2016, shall not be prohibited from holding an ownership interest in
22 a manufacturer whose products are made outside this state, provided:
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1 1. This right shall only apply to the ownership interests in
2 the manufacturer that were held by the Oklahoma licensed retailer,
3 or its successor in interest, as of November 8, 2016; and

4 2. The Oklahoma licensed retailer that is commonly owned by a
5 manufacturer does not offer for sale at its Oklahoma retail
6 locations any wine or spirits that are made by the commonly owned
7 manufacturer.

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

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