

1 **SENATE FLOOR VERSION**

2 February 25, 2021

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 841

6 By: Thompson

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

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

23 SECTION 1. AMENDATORY Section 89, Chapter 366, O.S.L.  
24 2016, as last amended by Section 1, Chapter 431, O.S.L. 2019 (37A  
25 O.S. Supp. 2020, Section 3-119), is amended to read as follows:

26 Section 3-119. A. It shall be unlawful for any Oklahoma  
27 licensed manufacturer, or brewer, or any wine and spirits  
28 wholesaler, beer distributor or person authorized to sell alcoholic  
29 beverages to a wholesaler, or any employee, officer, director,

1 stockholder owning fifteen percent (15%) or more of the stock, any  
2 type of partner, manager, member or agent thereof, to directly or  
3 indirectly:

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

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

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

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

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

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

19           6. Extend credit to any retailer, other than holders of Federal  
20 Liquor Stamps on United States government reservations and  
21 installations, mixed beverage, public event or on-premises beer and  
22 wine licensee or caterer, other than a state lodge located in a  
23 county which has approved the retail sale of alcoholic beverages by  
24 the individual drink for on-premises consumption. The acceptance of

1 a postdated check or draft or the failure to deposit for collection  
2 a current check or draft by the second banking day after receipt  
3 shall be deemed an extension of credit. Violation of this section  
4 shall be grounds for suspension of the license.

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

12 SECTION 2. AMENDATORY Section 90, Chapter 366, O.S.L.  
13 2016, as amended by Section 23, Chapter 322, O.S.L. 2019 (37A O.S.  
14 Supp. 2020, Section 3-120), is amended to read as follows:

15 Section 3-120. A. No mixed beverage, beer and wine, caterer,  
16 public event or bottle club licensee, partner in any type of  
17 partnership, manager or member of a limited liability company,  
18 officer, director or stockholder of any corporate licensee owning  
19 more than fifteen percent (15%) of the stock shall have any right,  
20 title, lien, claim or interest, financial or otherwise in, upon or  
21 to the premises, equipment, business or merchandise of any package  
22 store, beer distributor, wholesaler, brewer, or Oklahoma licensed  
23 manufacturer or wholesaler. The provisions of this section shall  
24 not prohibit a person who is an officer or director of a fraternal

1 or veteran's organization which is a tax exempt organization under  
2 Section 501(c)(8), (10) or (19) of the Internal Revenue Code and  
3 which holds a license issued by the ABLE Commission from having a  
4 right, title, lien, claim or interest in the premises, equipment,  
5 business or merchandise of a package store.

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

13 SECTION 3. AMENDATORY Section 91, Chapter 366, O.S.L.  
14 2016, as amended by Section 24, Chapter 322, O.S.L. 2019 (37A O.S.  
15 Supp. 2020, Section 3-121), is amended to read as follows:

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

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

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

9        COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
10        February 25, 2021 - DO PASS AS AMENDED

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