

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 841 By: Thompson of the Senate  
3 and  
4 Echols of the House  
5  
6

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 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill  
23 and replace with:

24 "An Act relating to alcoholic beverages; amending  
Section 89, Chapter 366, O.S.L. 2016, as last  
amended by Section 1, Chapter 431, O.S.L. 2019,  
Section 90, Chapter 366, O.S.L. 2016, as amended by  
Section 23, Chapter 322, O.S.L. 2019, and Section  
91, Chapter 366, O.S.L. 2016, as amended by Section  
24, Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2020,  
Sections 3-119, 3-120 and 3-121), which relate to  
business interests and acts prohibited for  
manufacturers; modifying language; limiting  
prohibition to Oklahoma licensed manufacturers;

1 providing certain exception to ownership interests;  
2 prohibiting selling certain products with common  
3 ownership interests; and providing an effective  
4 date.

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

6 SECTION 1. AMENDATORY Section 89, Chapter 366, O.S.L.  
7 2016, as last amended by Section 1, Chapter 431, O.S.L. 2019 (37A  
8 O.S. Supp. 2020, Section 3-119), is amended to read as follows:

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

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

23 2. Lend any money or other thing of value, or to make any gift  
24 or offer any gratuity, to any package store, retail wine, retail

1 beer, mixed beverage, beer and wine, public event or bottle club  
2 licensee or caterer;

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

6 4. Require any wine and spirits wholesaler, beer distributor,  
7 retailer, mixed beverage, on-premises beer and wine licensee, public  
8 event or caterer to purchase and dispose of any quota of alcoholic  
9 beverages, or to require any retailer to purchase any kind, type,  
10 size, container or brand of alcoholic beverages in order to obtain  
11 any other kind, type, size, container or brand of alcoholic  
12 beverages;

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

18 a. delivery in good faith, through mistake, inadvertence  
19 or oversight, of an alcoholic beverage that was not  
20 ordered by a retailer, mixed beverage licensee, on-  
21 premises beer and wine licensee, caterer, public event  
22 or special event licensee to such licensee,  
23  
24

1           b. replacement of product breakage that occurred while  
2           the alcoholic beverages were in transit from the  
3           wholesaler to the licensee, or

4           c. replacement of cork-tainted wine that makes the  
5           product unsaleable as long as the licensee notifies  
6           the wine and spirits wholesaler of the defect in  
7           writing within ninety (90) days after delivery of the  
8           product; or

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

19          B. Notwithstanding any statutory provision to the contrary, the  
20          holder of an Oklahoma Retail Beer or Retail Wine License who was  
21          licensed and permitted to sell low-point beer for off-premises  
22          consumption until the passage of State Question 792 on November 8,  
23          2016, shall not be prohibited from holding an ownership interest in  
24

1 a manufacturer whose products are made outside of this state,  
2 provided:

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

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

10 SECTION 2. AMENDATORY Section 90, Chapter 366, O.S.L.  
11 2016, as amended by Section 23, Chapter 322, O.S.L. 2019 (37A O.S.  
12 Supp. 2020, Section 3-120), is amended to read as follows:

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

1 which holds a license issued by the ABLE Commission from having a  
2 right, title, lien, claim or interest in the premises, equipment,  
3 business or merchandise of a package store.

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

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

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

18 SECTION 3. AMENDATORY Section 91, Chapter 366, O.S.L.  
19 2016, as amended by Section 24, Chapter 322, O.S.L. 2019 (37A O.S.  
20 Supp. 2020, Section 3-121), is amended to read as follows:

21 Section 3-121. A. No Oklahoma licensed manufacturer, or  
22 brewer, or any wine and spirits wholesaler, beer distributor,  
23 partner in any type of partnership, manager or member of a limited  
24 liability company, or officer, director or stockholder of any

1 nonresident seller, brewer, or manufacturer licensee, owning more  
2 than fifteen percent (15%) of the stock shall have any right, title,  
3 claim or interest, financial or otherwise in, upon or to the  
4 premises, equipment, business or merchandise of any mixed beverage,  
5 beer and wine, caterer, public event or bottle club licensee.

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

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

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

20 SECTION 4. This act shall become effective November 1, 2021."  
21  
22  
23  
24

1 Passed the House of Representatives the 21st day of April, 2021.

2  
3  
4 Presiding Officer of the House of  
5 Representatives

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2021.

7  
8  
9 Presiding Officer of the Senate



1 ENGROSSED SENATE  
2 BILL NO. 841

By: Thompson of the Senate

and

Echols of the House

3  
4  
5  
6 An Act relating to alcoholic beverages; amending  
7 Sections 89, Chapter 366, O.S.L. 2016, as last  
8 amended by Section 1, Chapter 431, O.S.L. 2019,  
9 Section 90, Chapter 366, O.S.L. 2016, as amended by  
10 Section 23, Chapter 322, O.S.L. 2019, and Section 91,  
11 Chapter 366, O.S.L. 2016, as amended by Section 24,  
12 Chapter 322, O.S.L. 2019 (37A O.S. Supp. 2020,  
13 Sections 3-119, 3-120 and 3-121), which relate to  
14 business interests and acts prohibited for  
15 manufacturers or brewers; modifying language;  
16 limiting prohibition to Oklahoma licensed  
17 manufacturers or brewers; providing certain exception  
18 to ownership interests; prohibiting selling certain  
19 products with common ownership interests; and  
20 providing an effective date.

21  
22  
23  
24  
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 5. 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  
wholesaler, beer distributor or person authorized to sell alcoholic  
beverages to a wholesaler, or any employee, officer, director,  
stockholder owning fifteen percent (15%) or more of the stock, any

1 type of partner, manager, member or agent thereof, to directly or  
2 indirectly:

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

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

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

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

24

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 6. 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 7. 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.

