

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

COMMITTEE AMENDMENT

\_\_\_\_\_

(Date)

Mr./Madame President:

I move to amend House Bill No. 1315, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Leewright

Leewright-NP-FS-Req#2234  
4/17/2019 1:43 PM

(Floor Amendments Only) Date and Time Filed: \_\_\_\_\_

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 FLOOR SUBSTITUTE  
4 FOR ENGROSSED

5 HOUSE BILL NO. 1315

By: McEntire of the House

and

Leewright of the Senate

7  
8  
9 FLOOR SUBSTITUTE

10 An Act relating to alcoholic beverages; amending  
11 Section 89, Chapter 366, O.S.L. 2016 (37A O.S. Supp.  
12 2018, Section 3-119), which relates to prohibited  
13 acts of certain licensees; modifying circumstances in  
14 which certain products may be replaced; expanding the  
15 period in which certain wine or spirits may be  
16 replaced; amending Section 129, Chapter 366, O.S.L.  
2016 (37A O.S. Supp. 2018, Section 5-126), which  
17 relates to record keeping; authorizing certain audit  
18 period upon certain audit findings; providing certain  
19 exception to audit period upon certain audit  
20 findings; prohibiting limited audit upon certain  
21 audit findings; and 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 (37A O.S. Supp. 2018, Section 3-119), is amended to read as  
follows:

Section 3-119. It shall be unlawful for any manufacturer, wine  
and spirits wholesaler, beer distributor or person authorized to

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

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

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

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

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

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 ~~shall not~~  
13 ~~be considered a violation of this paragraph, nor~~  
14 ~~shall,~~

15 b. replacement of product because of breakage that  
16 occurred while the alcoholic beverages were in transit  
17 from the wholesaler to the licensee, as long as the  
18 licensee notifies the wine and spirits wholesaler or  
19 the beer distributor of the breakage in writing within  
20 five (5) business days after the delivery of the  
21 product,

22 c. replacement of beer, wine, or spirits with torn or  
23 defective labels, short-filled cases or other defects  
24 that make the product unsaleable, as long as the

1           licensee notifies the beer distributor or wine and  
2           spirits wholesaler of the error or defect in writing  
3           within five (5) business days after delivery of the  
4           product, or

5           d. replacement of ~~product~~ wine or spirits with torn or  
6           defective labels, short-filled cases ~~or,~~ other defects  
7           or cork-tainted wine that make the product unsaleable,  
8           as long as the licensee notifies the wine and spirits  
9           wholesaler ~~or the beer distributor~~ of the error,  
10          ~~breakage or defect in writing within five (5) business~~  
11          ~~days~~ after delivery of the product; or

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

22          SECTION 2.           AMENDATORY           Section 129, Chapter 366, O.S.L.  
23          2016 (37A O.S. Supp. 2018, Section 5-126), is amended to read as  
24          follows:

1 Section 5-126. A. Every manufacturer, wine and spirits  
2 wholesaler, beer distributor, nonresident seller, retailer, mixed  
3 beverage, caterer, public event and special event licensee shall  
4 keep a record of all alcoholic beverages imported, purchased,  
5 received, manufactured, produced, sold, delivered or otherwise  
6 disposed of, and the amount of all alcoholic beverages on hand, as  
7 herein provided. Such records must be kept for a period of at least  
8 three (3) years as required in Title 27, Code of Federal  
9 Regulations, Chapter 1, and shall include:

10 1. The date;

11 2. The number of the invoice, manifest, bill of lading or  
12 similar type document; and

13 3. The total amount of alcoholic beverages purchased, imported,  
14 received, manufactured, produced, sold, delivered or otherwise  
15 disposed of, by such licensee in each transaction.

16 Each such licensee shall keep and maintain such other records in  
17 details as the Oklahoma Tax Commission may require.

18 B. If a manufacturer, wine and spirits wholesaler, beer  
19 distributor, nonresident seller, retailer, mixed beverage, caterer,  
20 public event or special event licensee has been previously audited  
21 by the Tax Commission with an audit finding that the licensee  
22 correctly reported and kept sufficient records for audit purposes,  
23 the next subsequent audit shall be limited to records kept for one  
24 (1) year prior to the date of such audit; provided, however, if an

1 audit finding determines that the licensee incorrectly reported or  
2 failed to keep sufficient records for audit purposes, then the audit  
3 shall not be limited by the provisions of this subsection. If any  
4 audit limited by the provisions in this subsection determines that  
5 the licensee has incorrectly reported or failed to keep sufficient  
6 records for audit purposes, then the licensee shall no longer be  
7 eligible for limited audits.

8 SECTION 3. This act shall become effective November 1, 2019.

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10 57-1-2234 NP 4/17/2019 1:43:02 PM

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