

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1341

By: McEntire

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9 COMMITTEE SUBSTITUTE

10 An Act relating to alcoholic beverages; amending
11 Section 22, Chapter 366, O.S.L. 2016, as amended by
12 Section 6, Chapter 381, O.S.L. 2017 (37A O.S. Supp.
13 2018, Section 2-110), which relates to the mixed
14 beverage license; authorizing holders of a mixed
15 beverage license to hold certain other licenses;
16 authorizing certain licensees to make certain sales;
17 amending Section 58, Chapter 366, O.S.L. 2016, as
18 amended by Section 4, Chapter 312, O.S.L. 2018 (37A
19 O.S. Supp. 2018, Section 2-146), which relates to
20 denial of licenses; eliminating certain requirement
21 for certain applicants; amending Section 68, Chapter
22 366, O.S.L. 2016, as amended by Section 1, Chapter
23 76, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-156),
24 which relates to restrictions on licenses in package
 stores; providing certain exception to certain
 package-store-sale requirement; and providing an
 effective date.

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

SECTION 1. AMENDATORY Section 22, Chapter 366, O.S.L.

2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-110), is amended to read as follows:

Section 2-110. A. A mixed beverage license shall authorize the holder thereof:

1. To purchase alcohol, spirits, beer and/or wine in retail containers from the holder of a wine and spirits wholesaler and beer distributor license as specifically provided by law; and

2. To sell, offer for sale and possess mixed beverages for on-premises consumption only~~+~~; provided~~r~~:

a. the holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine directly from a winemaker and beer directly from a small brewer who is permitted and has elected to self-distribute as provided in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution, and

b. the holder of a mixed beverage license that is also a holder of a retail wine license or retail beer license shall not be prohibited from the on-premises sale of wine or beer, according to the license held, for off-premises consumption, subject to the limitations of the retail wine license or retail beer license.

B. Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of the

1 licensee unless the holder of the mixed beverage license also
2 obtains a caterer license or a mixed beverage/caterer combination
3 license. A mixed beverage license shall only be issued in counties
4 of this state where the sale of alcoholic beverages by the
5 individual drink for on-premises consumption has been authorized. A
6 separate license shall be required for each place of business.

7 C. Holders of a mixed beverage license shall not be prohibited
8 from obtaining and holding a retail beer license or retail wine
9 license; provided, that each holder qualifies and maintains the
10 qualifications for each license held as set forth in this title and
11 the rules promulgated by the ABLE Commission.

12 D. Upon application, a mixed beverage license shall be issued
13 for any place of business functioning as a motion picture theater,
14 as defined by Section 1-103 of this title. Provided, that upon
15 proof of legal age to consume alcohol, every patron being served
16 alcoholic beverages shall be required to wear a wrist bracelet or
17 receive a hand stamp identifying the patron as being of legal age to
18 consume alcohol. This requirement shall only apply inside a motion
19 picture theater auditorium where individuals under the legal age to
20 consume alcohol are allowed.

21 SECTION 2. AMENDATORY Section 58, Chapter 366, O.S.L.
22 2016, as amended by Section 4, Chapter 312, O.S.L. 2018 (37A O.S.
23 Supp. 2018, Section 2-146), is amended to read as follows:
24

1 Section 2-146. A. The ABLE Commission shall refuse to issue a
2 wine and spirits wholesaler, beer distributor, retail spirits,
3 retail wine or retail beer license, either on an original
4 application or a renewal application, if it has reasonable grounds
5 to believe and finds any of the following to be true:

6 1. Except in the case of a beer distributor, that the applicant
7 is not a citizen of the United States or is not a qualified elector
8 in this state, or has not been a continuous resident of this state
9 for the five (5) years next preceding the application for the
10 license;

11 2. That the applicant is under twenty-one (21) years of age;

12 3. That the applicant or any partner, or spouse of the
13 applicant or any partner, has been convicted of a felony;

14 4. That the applicant or any partner, or spouse of the
15 applicant or any partner, has been convicted of a violation of any
16 state or federal law relating to alcoholic beverages, has forfeited
17 a bond while any charge of such violation was pending, nor may any
18 license be granted for any purpose under the Oklahoma Alcoholic
19 Beverage Control Act to an Oklahoma resident, who has held or whose
20 spouse has held a Federal Liquor Stamp in Oklahoma before the
21 adoption of Article ~~XXVIII~~A XXVIII-A of the Oklahoma Constitution
22 unless the Liquor Stamp was granted for supplying alcoholic
23 beverages to a federal military installation, or was granted under
24 the Oklahoma Alcoholic Beverage Control Act;

1 5. That the applicant or any partner has, within twelve (12)
2 months next preceding the date of the application, violated any
3 provision of the Oklahoma Alcoholic Beverage Control Act or rule of
4 the ABLE Commission promulgated pursuant hereto. Provided, however,
5 that if the ABLE Commission has, during such twelve-month period,
6 suspended any license sought to be renewed, such renewal application
7 may be approved if the term of the suspension has been completed and
8 the applicant has complied with any special conditions imposed in
9 connection with the suspension;

10 6. That the applicant is not of good moral character, or that
11 the applicant is in the habit of using alcoholic beverages to
12 excess, or is mentally incapacitated. Provided, that the record in
13 any municipal court showing a conviction of violation of any
14 municipal ordinances or state statutes involving moral character or
15 public nuisance obtained after passage and approval of the Oklahoma
16 Alcoholic Beverage Control Act shall be received in evidence by the
17 ABLE Commission;

18 7. That the applicant does not own or have a written lease for
19 the premises for which a license is sought;

20 8. That the applicant, within twelve (12) months next preceding
21 the date of application, has been the holder of a license revoked
22 for cause;

1 9. That the applicant is not the real party in interest, or
2 intends to carry on the business authorized by the license as the
3 agent of another;

4 10. That the applicant, in the case of an application for
5 renewal of any license, would not be eligible for such license on a
6 first application;

7 11. That the applicant is a person who appoints or is a law
8 enforcement official or is an employee of the ABLE Commission;

9 12. That the proposed location of the licensed premises would
10 violate a valid municipal nondiscriminatory zoning ordinance;

11 13. That, in the case of an application for a wine and spirits
12 wholesaler license or beer distributor license, any manufacturer,
13 including an officer, director or principal stockholder thereof or
14 any partner, has any financial interest in the business to be
15 conducted under the license, unless otherwise permitted by law;

16 14. That the issuance of the license applied for would result
17 in a violation of any provision of the Oklahoma Alcoholic Beverage
18 Control Act;

19 15. That, in the case of an application for a wine and spirits
20 wholesaler or beer distributor license, the applicant or any
21 partner, or spouse of the applicant or any partner, is the holder or
22 partner of the holder of any other class of license issued under the
23 provisions of the Oklahoma Alcoholic Beverage Control Act, other
24 than an agent or employee license for employment by the applicant,

1 or a storage license, bonded warehouse license, carrier license or
2 private carrier license; provided, nothing shall prohibit a wine and
3 spirits wholesaler, who is otherwise qualified, from maintaining
4 beer distributor licenses in the state, nor a beer distributor, who
5 is otherwise qualified, from maintaining a wine and spirits
6 wholesaler license in the state;

7 16. That, in the case of an application for a retail spirits,
8 retail wine or retail beer license, the applicant or any partner is
9 the holder or partner of the holder, or employee of such holder of
10 any other class of license issued under the provisions of the
11 Oklahoma Alcoholic Beverage Control Act, other than a storage
12 license or an employee license for the proposed licensed premises of
13 the applicant, provided, nothing in this title shall prohibit an
14 applicant for a retail wine and/or retail beer license from
15 maintaining a separate mixed beverage, caterer, mixed
16 beverage/caterer combination license, and/or an on-premise beer and
17 wine license, ~~if the retail wine and/or retail beer license is not~~
18 ~~situated within or adjacent to the same physical space wherein the~~
19 ~~on-premises license is maintained; or~~

20 17. That the applicant or any partner, spouse, employee or
21 other person affiliated with the applicant is not in compliance with
22 the tax laws of this state as required in Article ~~XXVIII-A~~ XXVIII-A
23 of the Oklahoma Constitution.

1 B. The provisions of this section shall not operate to prohibit
2 the issuance of a beer distributor license to a corporation or
3 partnership.

4 SECTION 3. AMENDATORY Section 68, Chapter 366, O.S.L.
5 2016, as amended by Section 1, Chapter 76, O.S.L. 2017 (37A O.S.
6 Supp. 2018, Section 2-156), is amended to read as follows:

7 Section 2-156. A. No retail spirits license shall be issued to
8 a corporation, limited liability company or similar business entity.
9 No person may own any interest in more than two package stores;
10 provided, a spouse of a retail spirits license holder may hold a
11 separate interest in up to two (2) package stores. For the purpose
12 only of establishing whether or not a person owns an interest in
13 more than one package store, any person having a beneficial interest
14 in any package store shall be deemed to be a partner in the package
15 store except that the spouse of any retail spirits license holder or
16 partner shall not be deemed to be a partner or have a beneficial
17 interest in a package store unless his or her name appears on the
18 license. A beneficial interest shall be any interest that benefits
19 from any sales or profits of the package store.

20 B. For purposes of this section, any spouse of a retail spirits
21 license holder shall not hold another license provided for pursuant
22 to the Oklahoma Alcoholic Beverage Control Act, except a retail wine
23 license, retail beer license, on-premises beer and wine license,
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1 mixed beverage license, a caterer's license or a retail spirits
2 license.

3 C. Package stores licensed under the Oklahoma Alcoholic
4 Beverage Control Act may sell only alcoholic beverages in retail
5 containers as defined in Section 1-103 of this title, in the
6 original package for consumption off the premises; provided, that
7 package stores licensed under the Oklahoma Alcoholic Beverage
8 Control Act that are also mixed beverage licensees shall not be
9 prohibited from the exercise of the authorities granted them by
10 Section 2-110 of this title. All retail sales shall be made on the
11 licensed premises and all deliveries off the premises, at retail, of
12 intoxicating liquor or beer are hereby prohibited. Provided, a
13 holder of a Retail Spirits License shall be permitted to sell at
14 retail any item that may be purchased at a grocery store or
15 convenience store, as defined by law, except for motor fuel, so long
16 as the sale of items other than alcoholic beverages do not comprise
17 more than twenty percent (20%) of the holder's monthly sales.

18 SECTION 4. This act shall become effective November 1, 2019.
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20 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
21 03/04/2019 - DO PASS, As Amended.
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