

1 **SENATE FLOOR VERSION**

2 April 4, 2019

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 1341

6 By: McEntire of the House

7 and

8 Coleman of the Senate

9 **[alcoholic beverages - mixed beverage license -
10 denial of licenses - restrictions on licenses in
11 package stores - effective date]**

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

13 SECTION 1. AMENDATORY Section 22, Chapter 366, O.S.L.
14 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S.
15 Supp. 2018, Section 2-110), is amended to read as follows:

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

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

21 2. To sell, offer for sale and possess mixed beverages for on-
22 premises consumption only~~7,~~ provided~~7:~~

23 a. the holder of a mixed beverage license issued for an

24 establishment which is also a restaurant may purchase

1 wine directly from a winemaker and beer directly from
2 a small brewer who is permitted and has elected to
3 self-distribute as provided in Article ~~XXVIII~~ XXVIII-
4 A of the Oklahoma Constitution, and

5 b. the holder of a mixed beverage license that is also a
6 holder of a retail wine license or retail beer license
7 or both a retail wine license and retail beer license
8 shall not be prohibited from the on-premises sale of
9 wine or beer, according to the license held, for off-
10 premises consumption, subject to the limitations of
11 the retail wine license or retail beer license.

12 B. Sales and service of mixed beverages by holders of mixed
13 beverage licenses shall be limited to the licensed premises of the
14 licensee unless the holder of the mixed beverage license also
15 obtains a caterer license or a mixed beverage/caterer combination
16 license. A mixed beverage license shall only be issued in counties
17 of this state where the sale of alcoholic beverages by the
18 individual drink for on-premises consumption has been authorized. A
19 separate license shall be required for each place of business.

20 C. Holders of a mixed beverage license shall not be prohibited
21 from obtaining and holding a retail beer license or retail wine
22 license or both a retail beer license and retail wine license;
23 provided, that each holder qualifies and maintains the
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1 qualifications for each license held as set forth in this title and
2 the rules promulgated by the ABLE Commission.

3 D. Upon application, a mixed beverage license shall be issued
4 for any place of business functioning as a motion picture theater,
5 as defined by Section 1-103 of this title. Provided, that upon
6 proof of legal age to consume alcohol, every patron being served
7 alcoholic beverages shall be required to wear a wrist bracelet or
8 receive a hand stamp identifying the patron as being of legal age to
9 consume alcohol. This requirement shall only apply inside a motion
10 picture theater auditorium where individuals under the legal age to
11 consume alcohol are allowed.

12 SECTION 2. AMENDATORY Section 58, Chapter 366, O.S.L.
13 2016, as amended by Section 4, Chapter 312, O.S.L. 2018 (37A O.S.
14 Supp. 2018, Section 2-146), is amended to read as follows:

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

20 1. Except in the case of a beer distributor, that the applicant
21 is not a citizen of the United States or is not a qualified elector
22 in this state, or has not been a continuous resident of this state
23 for the five (5) years next preceding the application for the
24 license;

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

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

4 4. That the applicant or any partner, or spouse of the
5 applicant or any partner, has been convicted of a violation of any
6 state or federal law relating to alcoholic beverages, has forfeited
7 a bond while any charge of such violation was pending, nor may any
8 license be granted for any purpose under the Oklahoma Alcoholic
9 Beverage Control Act to an Oklahoma resident, who has held or whose
10 spouse has held a Federal Liquor Stamp in Oklahoma before the
11 adoption of Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution
12 unless the Liquor Stamp was granted for supplying alcoholic
13 beverages to a federal military installation, or was granted under
14 the Oklahoma Alcoholic Beverage Control Act;

15 5. That the applicant or any partner has, within twelve (12)
16 months next preceding the date of the application, violated any
17 provision of the Oklahoma Alcoholic Beverage Control Act or rule of
18 the ABLE Commission promulgated pursuant hereto. Provided, however,
19 that if the ABLE Commission has, during such twelve-month period,
20 suspended any license sought to be renewed, such renewal application
21 may be approved if the term of the suspension has been completed and
22 the applicant has complied with any special conditions imposed in
23 connection with the suspension;

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1 6. That the applicant is not of good moral character, or that
2 the applicant is in the habit of using alcoholic beverages to
3 excess, or is mentally incapacitated. Provided, that the record in
4 any municipal court showing a conviction of violation of any
5 municipal ordinances or state statutes involving moral character or
6 public nuisance obtained after passage and approval of the Oklahoma
7 Alcoholic Beverage Control Act shall be received in evidence by the
8 ABLE Commission;

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

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

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

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

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

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

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

6 14. That the issuance of the license applied for would result
7 in a violation of any provision of the Oklahoma Alcoholic Beverage
8 Control Act;

9 15. That, in the case of an application for a wine and spirits
10 wholesaler or beer distributor license, the applicant or any
11 partner, or spouse of the applicant or any partner, is the holder or
12 partner of the holder of any other class of license issued under the
13 provisions of the Oklahoma Alcoholic Beverage Control Act, other
14 than an agent or employee license for employment by the applicant,
15 or a storage license, bonded warehouse license, carrier license or
16 private carrier license; provided, nothing shall prohibit a wine and
17 spirits wholesaler, who is otherwise qualified, from maintaining
18 beer distributor licenses in the state, nor a beer distributor, who
19 is otherwise qualified, from maintaining a wine and spirits
20 wholesaler license in the state;

21 16. That, in the case of an application for a retail spirits,
22 retail wine or retail beer license, the applicant or any partner is
23 the holder or partner of the holder, or employee of such holder of
24 any other class of license issued under the provisions of the

1 Oklahoma Alcoholic Beverage Control Act, other than a storage
2 license or an employee license for the proposed licensed premises of
3 the applicant, provided, nothing in this title shall prohibit an
4 applicant for a retail wine and/or retail beer license from
5 maintaining a separate mixed beverage, caterer, mixed
6 beverage/caterer combination license, and/or an on-premise beer and
7 wine license, ~~if the retail wine and/or retail beer license is not~~
8 ~~situated within or adjacent to the same physical space wherein the~~
9 ~~on-premises license is maintained; or~~

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

14 B. The provisions of this section shall not operate to prohibit
15 the issuance of a beer distributor license to a corporation or
16 partnership.

17 SECTION 3. AMENDATORY Section 68, Chapter 366, O.S.L.
18 2016, as amended by Section 1, Chapter 76, O.S.L. 2017 (37A O.S.
19 Supp. 2018, Section 2-156), is amended to read as follows:

20 Section 2-156. A. No retail spirits license shall be issued to
21 a corporation, limited liability company or similar business entity.
22 No person may own any interest in more than two package stores;
23 provided, a spouse of a retail spirits license holder may hold a
24 separate interest in up to two (2) package stores. For the purpose

1 only of establishing whether or not a person owns an interest in
2 more than one package store, any person having a beneficial interest
3 in any package store shall be deemed to be a partner in the package
4 store except that the spouse of any retail spirits license holder or
5 partner shall not be deemed to be a partner or have a beneficial
6 interest in a package store unless his or her name appears on the
7 license. A beneficial interest shall be any interest that benefits
8 from any sales or profits of the package store.

9 B. For purposes of this section, any spouse of a retail spirits
10 license holder shall not hold another license provided for pursuant
11 to the Oklahoma Alcoholic Beverage Control Act, except a retail wine
12 license, retail beer license, on-premises beer and wine license,
13 mixed beverage license, a caterer's license or a retail spirits
14 license.

15 C. Package stores licensed under the Oklahoma Alcoholic
16 Beverage Control Act may sell only alcoholic beverages in retail
17 containers as defined in Section 1-103 of this title, in the
18 original package for consumption off the premises; provided, that
19 package stores licensed under the Oklahoma Alcoholic Beverage
20 Control Act that are also mixed beverage licensees shall not be
21 prohibited from the exercise of the authorities granted them by
22 Section 2-110 of this title. All retail sales shall be made on the
23 licensed premises and all deliveries off the premises, at retail, of
24 intoxicating liquor or beer are hereby prohibited. Provided, a

1 holder of a Retail Spirits License shall be permitted to sell at
2 retail any item that may be purchased at a grocery store or
3 convenience store, as defined by law, except for motor fuel, so long
4 as the sale of items other than alcoholic beverages do not comprise
5 more than twenty percent (20%) of the holder's monthly sales.

6 SECTION 4. This act shall become effective November 1, 2019.

7 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
8 April 4, 2019 - DO PASS AS AMENDED
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