

1 **SENATE FLOOR VERSION**

2 February 28, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 728

6 By: Leewright

7 An Act relating to alcoholic beverages; amending
8 Section 22, Chapter 366, O.S.L. 2016, as amended by
9 Section 6, Chapter 381, O.S.L. 2017 and Section 40,
10 Chapter 366, O.S.L. 2016, as amended by Section 1,
11 Chapter 366, O.S.L. 2017 (37A O.S. Supp. 2018,
12 Sections 2-110 and 2-128), which relate to mixed
13 beverage licenses and on-premises beer and wine
14 license; allowing certain licensees to purchase from
15 self-distributors; allowing certain licensee to sell
16 beer and wine for off-premises consumption; stating
17 qualifications for golf course, country club and
18 marina; providing for taxes; directing the ABLE
19 Commission to promulgate rules; securing special off-
20 premises permit; and declaring an emergency.

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

22 SECTION 1. AMENDATORY Section 22, Chapter 366, O.S.L.
23 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S.
24 Supp. 2018, Section 2-110), is amended to read as follows:

Section 2-110. 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. The holder of a

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

6 2. To sell, offer for sale and possess mixed beverages for on-
7 premises consumption only; provided, ~~the holder of a mixed beverage~~
8 ~~license issued for an establishment which is also a restaurant may~~
9 ~~purchase wine directly from a winemaker and beer directly from a~~
10 ~~small brewer who is permitted and has elected to self-distribute as~~
11 ~~provided in Article XXVIII A of the Oklahoma Constitution.~~ a mixed
12 beverage licensee may sell beer and wine for off-premises consumption
13 if it meets the classification of a golf course, country club, or
14 marina pursuant to the most recently adopted North American Industry
15 Classification System (NAICS). The mixed beverage licensee shall be
16 permitted to sell beer and wine for off-premises consumption during
17 all days and hours in which a retail beer licensee or retail wine
18 licensee is permitted to sell beer or wine. The gross receipts tax
19 set forth in Section 5-105 of this title shall apply to all alcoholic
20 beverages sold by the mixed beverage licensee, whether those
21 alcoholic beverages are intended for on- or off-premises consumption.
22 The ABLE Commission shall promulgate rules for the implementation of
23 a special off-premises permit consistent with this subsection. The

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1 mixed beverage licensee shall secure the special off-premises permit
2 prior to selling beer and wine for off-premises consumption;

3 3. Sales and service of mixed beverages by holders of mixed
4 beverage licenses shall be limited to the licensed premises of the
5 licensee unless the holder of the mixed beverage license also
6 obtains a caterer license or a mixed beverage/caterer combination
7 license. A mixed beverage license shall only be issued in counties
8 of this state where the sale of alcoholic beverages by the
9 individual drink for on-premises consumption has been authorized. A
10 separate license shall be required for each place of business; and

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

20 SECTION 2. AMENDATORY Section 40, Chapter 366, O.S.L.
21 2016, as amended by Section 1, Chapter 366, O.S.L. 2017 (37A O.S.
22 Supp. 2018, Section 2-128), is amended to read as follows:

23 Section 2-128. A. An on-premises beer and wine license shall
24 authorize the holder thereof:

1 1. To purchase beer and wine in retail containers from the
2 holder of a wholesaler, beer distributor, small brewer self-
3 distribution or brewpub self-distribution license or as specifically
4 provided by law. The holder of an on-premises beer and wine license
5 issued for an establishment which is also a restaurant may purchase
6 wine from a winemaker who is permitted and has elected to self-
7 distribute as provided in Article XXVIII A of the Oklahoma
8 Constitution; and

9 2. To sell, offer for sale and possess beer and wine for on-
10 premises consumption only; provided, ~~the holder of an on-premises~~
11 ~~beer and wine license issued for an establishment which is also a~~
12 ~~restaurant may purchase wine from a winemaker who is permitted and~~
13 ~~has elected to self-distribute as provided in Article XXVIII A of the~~
14 ~~Oklahoma Constitution~~ an on-premises beer and wine licensee may sell
15 beer and wine for off-premises consumption if it meets the
16 classification of a golf course, country club, or marina pursuant to
17 the most recently adopted North American Industry Classification
18 System (NAICS). The mixed beverage licensee shall be permitted to
19 sell beer and wine for off-premises consumption during all days and
20 hours in which a retail beer licensee or retail wine licensee is
21 permitted to sell beer or wine. The gross receipts tax set forth in
22 Section 5-105 of this title shall apply to all alcoholic beverages
23 sold by the on-premises beer and wine licensee, whether those
24 alcoholic beverages are intended for on- or off-premises consumption.

1 The ABLE Commission shall promulgate rules for the implementation of
2 a special off-premises permit consistent with this subsection. The
3 on-premises beer and wine licensee shall secure the special off-
4 premises permit prior to selling beer and wine for off-premises
5 consumption.

6 B. Sales and service of beer and wine by holders of on-premises
7 beer and wine licenses shall be limited to the licensed premises of
8 the licensee unless the holder of the on-premises beer and wine
9 license also obtains a caterer license. An on-premises beer and
10 wine license shall only be issued in counties of this state where
11 the sale of alcoholic beverages by the individual drink for on-
12 premises consumption has been authorized. A separate license shall
13 be required for each place of business. No spirits shall be stored,
14 possessed or consumed on the licensed premises of an on-premises
15 beer and wine license, unless the premises also has a mixed beverage
16 license.

17 SECTION 3. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
22 February 28, 2019 - DO PASS AS AMENDED
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