

**Fiscal Impact**  
1<sup>st</sup> Session of the 57<sup>th</sup> Legislature

**Bill No.:**  
**Version:**  
**Author:**  
**Date:**

**HB 2363**  
**ENGR**  
**Sen. Pugh**  
**03/21/2019**

**OKLAHOMA TAX COMMISSION**

REVENUE IMPACT STATEMENT  
FIRST REGULAR SESSION, FIFTY-SEVENTH OKLAHOMA LEGISLATURE

**DATE OF IMPACT STATEMENT:** March 19, 2019

**BILL NUMBER:** HB 2363 **STATUS AND DATE OF BILL:** Engrossed 03/14/2019

**AUTHORS:** House Kannady Senate Pugh

**TAX TYPE (S):** Alcohol & Sales Tax **SUBJECT:** Other

**PROPOSAL:** Amendatory

The measure proposes amendments to the Oklahoma Alcoholic Beverage Control Act. [See Attached for Detail Description<sup>1</sup>].

**EFFECTIVE DATE:** November 1, 2019

**REVENUE IMPACT:**

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 20: Section 1: None  
Section 2: Unknown decrease in mixed beverage gross receipts tax  
Sections 3 & 7: None  
Section 9: None

FY 21: Section 1: None  
Section 2: Unknown decrease in mixed beverage gross receipts tax  
Sections 3 & 7: None  
Section 9: None

Mon. 19, 2019  
DATE

Rick Miller  
DIVISION DIRECTOR msm

3-19-2019  
DATE

Huan Gong  
HUAN GONG, ECONOMIST

3-20-19  
DATE

[Signature]  
FOR THE COMMISSION

*\*The estimated revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.*

<sup>1</sup> The proposed amendatory language in Sections 4, 5, 6, and 8 correct citations or relate to provisions not administered by the Tax Commission and which do not affect state tax revenues. Therefore, no analysis of the proposed language in the referenced sections is provided herein.

**ATTACHMENT TO REVENUE IMPACT – HB 2363 – [Engrossed] Prepared 03/19/2019**

Section 1 proposes amendment to Section 1-103 of Title 37A by defining “bottle service” as the sale and provision of spirits in their original packages by a mixed beverage licensee’s premises.

Section 2 proposes an amendment to Section 2-109 of Title 37A to allow holders of retail spirits licenses to serve free samples of spirits, wine and beer to individuals that are 21 years of age or older. Samples are limited to no more than two ounces of spirits, six ounces of wine or twelve ounces of beer per customer per day. The samples must be poured from their original container and any alcoholic beverages remaining in an unsealed bottle used for sampling must be disposed of at the end of the business day the bottle was opened. Samples served by the licensee shall not be considered a sale of spirits, wine or beer within the meaning of Article 28A of the Oklahoma Constitution, but shall be considered removed or withdrawn from the licensee’s supplier’s inventory for use or consumption within the meaning of Section 5-110 of Title 37A for excise tax determination and reporting requirements. Under the measure retail spirits licensees are also allowed to serve samples at public events such as festivals and trade shows and to hold events for the purposes of promotion, education or entertainment on or off the licensed premises for which admission may be charged and at which spirits, wine or beer may be sold or consumed.

The language of the proposal does not specifically require retail spirits licensees to obtain a mixed beverage and or special event permit from the Oklahoma Tax Commission for purposes of reporting the gross receipts tax on mixed beverage sales. An unknown decrease in mixed beverage gross receipts tax is estimated to occur as a result of this measure for FY 20 and FY 21.

Section 3 proposes to amend Section 2-110 of Title 37A to allow mixed beverage licensees to sell spirits in their original packages for consumption on the premises of the mixed beverage licensee under the following conditions:

- Spirits are in their original packages and consumed on the premises of a mixed beverage licensee and shall not be removed from the premises if not consumed in their entirety,
- Spirits in their original packages to be consumed on the premises of the mixed beverage licensee are provided exclusively by the mixed beverage licensee, and;
- Each individual, original package of spirits shall contain no greater than seven hundred fifty (750) and no more than nineteen percent (19%) alcohol by volume.

The amendment also allows holders of mixed beverage licenses to sell wine and beer in their original packages provided each bottle or cannot contain more than 750 milliliters of wine or beer and no more than 19% alcohol by volume. Mixed beverage licensees are also allowed to serve free samples of spirits, wine and beer to individuals that are 21 years of age or older. Samples are limited to no more than two ounces of spirits, six ounces of wine or twelve ounces of beer per customer per day. Samples served by the licensee shall not be considered a sale of spirits, wine or beer within the meaning of Article 28A of the Oklahoma Constitution, but shall be considered removed or withdrawn from the licensee’s supplier’s inventory for use or consumption within the meaning of Section 5-110 of Title 37A for excise tax determination and reporting requirements.

Section 7 proposes amendment to Section 3-106 of Title 37A to allow the holder of a Direct Wine Shipper's Permit may ship wine, from any of its licensed premises in its state of residence or from a fulfillment warehouse<sup>2</sup> with which it has contracted. The holder of a Direct Wine Shipper's Permit shall list on its application the addresses of each of its licensed premises or fulfillment houses in the state of its licensure.

Section 9 proposes amendment to Section 6-102 of Title 37A by removing the prohibition against any ABLE licensee selling or offering to sell drinks to any person or group of persons on any one day

<sup>2</sup> “Fulfillment warehouse” means a business operating a warehouse and providing storage, packaging and shipping services to wineries.

or portion thereof at prices less than those charged the general public on that day, except at private functions not open to the public. The Section also provides an exception to the prohibition against using certain inducements to stimulate the consumption of alcoholic beverages by providing that the offer of food and an alcoholic beverage as a single item, regardless of whether, the sum of the prices of the individual items, if separately offered, is more than the single-item offering of food and alcoholic beverage.