

An Act

ENROLLED SENATE
BILL NO. 269

By: Coleman and Bergstrom of
the Senate

and

Strom of the House

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 6-102, which relates to licensee prohibited acts under the Oklahoma Alcoholic Beverage Control Act; providing that mixed beverage licensees may sell to-go drinks at a different price than on-premises drinks; and providing an effective date.

SUBJECT: Alcoholic beverages

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 6-102, is amended to read as follows:

Section 6-102. A. No licensee of the ABLE Commission shall:

1. Receive, possess or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;
2. Employ any person under eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits. Provided:

- a. a mixed beverage, beer and wine, caterer, public event, special event, bottle club, retail wine or retail beer licensee may employ servers or sales clerks who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and
- b. a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ or hire musical bands who have musicians who are under eighteen (18) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any employee of the ABLE Commission or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas;

3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;

4. Use any of the following means or inducements to stimulate the consumption of alcoholic beverages, including but not limited to:

- a. deliver more than two drinks to one person at one time, except as provided for serving tasting flights defined in Section 6-102.1 of this title,
- b. sell or offer to sell to any person or group of persons any drinks at a price that is less than six percent (6%) below the markup of the cost to the mixed beverage licensee; provided, a mixed beverage licensee shall be permitted to offer these drink specials on any particular hour of any particular day and shall not be required to offer these drink specials for an entire calendar week or from open to close, and shall not be required to offer such drink specials at all venues operating under the same mixed beverage license; provided, a mixed beverage licensee selling

wine, beer, or cocktails to-go shall be permitted to offer these to-go drinks at a different price than on-premises drinks,

- c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public,
- d. sell or offer to sell drinks to any person or group of persons on any one day or portion thereof at prices less than those charged the general public on that day, except at private functions not open to the public,
- e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week, or
- f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided, that the provisions of this paragraph shall not prohibit the advertising or offering of food, entertainment or bottle service in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage. Provided, this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed original wine containers removed from the premises of restaurants, hotels and motels, or to closed original containers of alcoholic beverages transported to and from the place of business of a licensed caterer by the caterer or an employee of the caterer;

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission;

7. Permit any person to be drunk or intoxicated on the licensee's licensed premises; or

8. Permit or allow any patron to serve or pour himself or herself any alcoholic beverage, except a licensee may offer a patron self-pour service of beer or wine, or both, from automated devices on licensed premises so long as:

- a. the licensee monitors and has the ability to control the dispensing of such beer or wine, or both, from the automated devices. "Automated device" shall mean any mechanized device capable of dispensing wine or beer, or both, directly to a patron in exchange for compensation that a licensee has received directly from the patron, and
- b. each licensee offering a patron self-pour service of wine or beer, or both, from any automated device shall provide constant video monitoring of the automated device at all times during which the licensee is open to the public. The licensee shall keep recorded footage from the video monitoring for at least sixty (60) days, and shall provide the footage, upon request, to any agent of the Director of the ABLE Commission or other authorized law enforcement agent.

B. 1. The compensation required by subparagraph a of paragraph 8 of subsection A of this section shall be in the form of a radio frequency identification (RFID) device, mobile application or any other technology approved by the ABLE Commission containing a fixed amount of volume of thirty-two (32) ounces for beer and ten (10) ounces for wine that may be directly exchanged for beer or wine dispensed from the automated device:

- a. RFID devices may be assigned, used or reactivated only during a business day,
- b. each RFID device shall be obtained from the licensee by a patron,
- c. a licensee shall not issue more than one active RFID device to a patron, and

- d. an RFID device shall be deemed active if the RFID device contains volume credit or has not yet been used to dispense ten (10) ounces of wine or thirty-two (32) ounces of beer.

2. In order to obtain an RFID device from a licensee, each patron shall produce a valid driver license, identification card or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least twenty-one (21) years of age. Each RFID device shall be programmed to require the production of the patron's valid identification before the RFID device can be used for the first time during any business day or for any subsequent reactivation.

3. Each RFID device shall become inactive at the end of each business day.

4. Each RFID device shall be programmed to allow the dispensing of no more than ten (10) ounces of wine or thirty-two (32) ounces of beer to a patron:

- a. once an RFID device has been used to dispense ten (10) ounces of wine or thirty-two (32) ounces of beer to a patron, the RFID device shall become inactive, and
- b. any patron in possession of an inactive RFID device may, upon production of the patron's valid identification to the licensee or licensee's employee, have the RFID device reactivated to allow the dispensing of an additional ten (10) ounces of wine or thirty-two (32) ounces of beer from an automated device.

Paragraphs 1, 2, 3 and 4 of this subsection shall not apply to wine or beer that is dispensed directly to the licensee or the licensee's agent or employee.

C. A mixed beverage or beer and wine licensee shall not be deemed to have violated the provisions of paragraph 5 of subsection A of this section if it allowed a patron to leave the licensed premises with an open container of beer or wine only and:

1. The otherwise prohibited act was committed during the hours of 8 a.m. to midnight on the day of a scheduled home football game of institutions within The Oklahoma State System of Higher Education, and the establishment is located within two thousand (2,000) feet of the institution;

2. The licensee is participating by invitation in a municipally sanctioned art, music or sporting event within city limits when the municipality has provided written notice of the event and a list of invited licensees to the ABLE Commission at least five (5) days prior to the event; or

3. The patron remains on the connected, physical property of the licensee or in a public area adjacent to the physical property of the licensee with prior municipal approval; provided that written notice of the use of the connected, physical property of the licensee or public area shall be provided to the ABLE Commission at least five (5) days prior to such use.

SECTION 2. This act shall become effective November 1, 2022.

Passed the Senate the 16th day of May, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of April, 2022.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____