

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2122

By: McEntire

7  
8                                   COMMITTEE SUBSTITUTE

9                   An Act relating to alcoholic beverages; enacting the  
10                   Oklahoma Cocktails To Go Act of 2021; defining terms;  
11                   providing requirements for cocktails, mixed drinks or  
12                   single-serve wine to be transferred and sold for off-  
13                   premises consumption; prohibiting third-party  
14                   deliveries; requiring employees delivering alcoholic  
15                   drinks to comply with executive orders; prohibiting  
16                   certain actions; providing that licensees authorized  
17                   to deliver cocktails, mixed drinks or single-serve  
18                   wine by this act are responsible for violations of  
19                   any alcoholic beverage law or rule of the Alcoholic  
20                   Beverage Laws Enforcement Commission, municipal  
21                   ordinance or administrative rule; providing  
22                   authorization only to holders of an Oklahoma mixed  
23                   beverage license or caterer license; providing this  
24                   act shall be repealed one year after taking effect;  
                  providing for codification; providing an effective  
                  date; and declaring an emergency.

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

SECTION 1.           NEW LAW           A new section of law to be codified  
in the Oklahoma Statutes as Section 7-101 of Title 37A, unless there  
is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Oklahoma  
2 Cocktails To Go Act of 2021".

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 7-102 of Title 37A, unless there  
5 is created a duplication in numbering, reads as follows:

6 As used in this section:

7 1. "Cocktail" or "mixed drink" means any beverage obtained by  
8 combining ingredients alcoholic in nature, whether brewed,  
9 fermented, or distilled, with ingredients nonalcoholic in nature,  
10 such as fruit juice, lemonade, cream or a carbonated beverage;

11 2. "Single-serve wine" means a bottle or sealed container,  
12 containing seven (7) fluid ounces, or less, of wine;

13 3. "Original container" means, for the purposes of this section  
14 only, a container that is filled, sealed and secured by a mixed  
15 beverage licensee's or caterer licensee's employee at the mixed  
16 beverage licensee's or caterer licensee's location with a tamper-  
17 evident lid or cap;

18 4. "Sealed container" means a rigid container that contains a  
19 mixed drink, is new, has never been used, has a secured lid or cap  
20 designed to prevent consumption without removal of the lid or cap  
21 and is tamper evident. Sealed container does not include a  
22 container with a lid with sipping holes or openings for straws or a  
23 container made of plastic, paper or polystyrene foam; and  
24

1       5. "Tamper evident" means a lid or cap that has been sealed  
2 with tamper-evident covers, including, but not limited to, wax dip  
3 or heat shrink-wrap.

4       SECTION 3.       NEW LAW       A new section of law to be codified  
5 in the Oklahoma Statutes as Section 7-103 of Title 37A, unless there  
6 is created a duplication in numbering, reads as follows:

7       A cocktail, mixed drink or single-serve wine placed in a sealed  
8 container by a mixed beverage licensee at the mixed beverage  
9 licensee's or caterer licensee's location may be transferred and  
10 sold for off-premises consumption if the following requirements are  
11 met:

12       1. The cocktail, mixed beverage or single-serve wine is  
13 transferred within the licensed premises by a curbside pickup or by  
14 delivery by an employee of the retail licensee who:

- 15           a. is at least twenty-one (21) years of age, and
- 16           b. upon delivery, verifies the age of the person to whom  
17               the cocktail is being delivered;

18       2. If the employee delivering the cocktail, mixed drink or  
19 single-serve wine is not able to safely verify a person's age or  
20 level of intoxication upon delivery, the employee shall cancel the  
21 sale of alcohol and return the product to the retail license holder;

22       3. The sealed container is placed in the trunk of the vehicle  
23 or, if there is no trunk, in the vehicle's rear compartment that is  
24 not readily accessible to the passenger area; and

1           4. The sealed container shall be affixed with a label or tag  
2 that contains the following information:

3           a. the cocktail, mixed drink or single-serve wine  
4 ingredients, type and name of the alcohol,

5           b. the name, license number and address of the mixed  
6 beverage licensee or caterer licensee who filled the  
7 original container and sold the product,

8           c. the volume of the cocktail, mixed drink or single-  
9 serve wine in the sealed container, and

10          d. verification that the sealed container was filled less  
11 than seven (7) days before the date of sale.

12           SECTION 4.        NEW LAW        A new section of law to be codified  
13 in the Oklahoma Statutes as Section 7-104 of Title 37A, unless there  
14 is created a duplication in numbering, reads as follows:

15           Third-party delivery services are not permitted to deliver  
16 cocktails, mixed drinks, and single-serve wine under this section.

17           SECTION 5.        NEW LAW        A new section of law to be codified  
18 in the Oklahoma Statutes as Section 7-105 of Title 37A, unless there  
19 is created a duplication in numbering, reads as follows:

20           If there is an executive order of the Governor in effect during  
21 a disaster, the employee delivering the mixed drink or cocktail must  
22 comply with any requirements of that executive order, including, but  
23 not limited to, wearing gloves and a mask and maintaining social-  
24 distancing requirements when interacting with the public.

1 SECTION 6. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 7-106 of Title 37A, unless there  
3 is created a duplication in numbering, reads as follows:

4 Delivery or carry out of a cocktail, mixed drink or single-serve  
5 wine is prohibited if:

6 1. A third party delivers the cocktail, mixed drink or single-  
7 serve wine;

8 2. A container of a mixed drink, cocktail or single-serve wine  
9 is not tamper evident and sealed;

10 3. A container of a mixed drink, cocktail or single-serve wine  
11 is transported in the passenger area of a vehicle;

12 4. A mixed drink, cocktail or single-serve wine is delivered by  
13 a person or to a person who is under twenty-one (21) years of age;  
14 or

15 5. The person delivering a mixed drink, cocktail or single-  
16 serve wine fails to verify the age of the person to whom the mixed  
17 drink or cocktail is being delivered.

18 SECTION 7. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 7-107 of Title 37A, unless there  
20 is created a duplication in numbering, reads as follows:

21 Each licensee authorized to deliver cocktails, mixed drinks or  
22 single-serve wine to consumers pursuant to this act shall be held  
23 responsible for violation of any alcoholic beverage law or rule of  
24 the Alcoholic Beverage Laws Enforcement Commission affecting his or

1 her license privileges and for any act or omission of his or her  
2 servant, agent, employee or representative in violation of any law,  
3 municipal ordinance or administrative rule affecting his or her  
4 license privileges.

5 SECTION 8. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 7-108 of Title 37A, unless there  
7 is created a duplication in numbering, reads as follows:

8 This act shall only grant authorization to holders of State of  
9 Oklahoma mixed beverage liquor licenses or caterer licenses but not  
10 to licensees that simultaneously hold any licensure or privilege to  
11 manufacture alcoholic liquors or beverages within or outside of the  
12 State of Oklahoma.

13 SECTION 9. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 7-109 of Title 37A, unless there  
15 is created a duplication in numbering, reads as follows:

16 This act shall cease to have the force and effect of law one (1)  
17 year after effective date of this act.

18 SECTION 10. This act shall become effective July 1, 2021.

19 SECTION 11. It being immediately necessary for the preservation  
20 of the public peace, health or safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

23  
24 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED  
SUBSTANCES, dated 02/22/2021 - DO PASS, As Amended.