

An Act

ENROLLED HOUSE
BILL NO. 2726

By: Pittman, Davis and Bell of
the House

and

Coleman of the Senate

An Act relating to alcoholic beverages; amending Section 3, Chapter 366, O.S.L. 2016, as last amended by Section 6, Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020, Section 1-103), which relates to definitions; defining certain terms; amending Section 22, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 424, O.S.L. 2019 (37A O.S. Supp. 2020, Section 2-110), which relates to mixed beverage licenses; granting additional authorities to mixed beverage licensees; amending Section 142, Chapter 366, O.S.L. 2016, as last amended by Section 1 of Enrolled House Bill No. 2277 of the 1st Session of the 58th Oklahoma Legislature, which relates to prohibited acts of licensees; providing certain exception to prohibited acts; providing requirements for patron self-pour service of beer and wine; defining term; repealing Section 142, Chapter 366, O.S.L. 2016, as last amended by Section 1 of Enrolled House Bill No. 2380 of the 1st Session of the 58th Oklahoma Legislature, which relates to licensee prohibited acts; and declaring an emergency.

SUBJECT: Alcoholic beverages

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

SECTION 1. AMENDATORY Section 3, Chapter 366, O.S.L. 2016, as last amended by Section 6, Chapter 161, O.S.L. 2020 (37A O.S. Supp. 2020, Section 1-103), is amended to read as follows:

Section 1-103. As used in the Oklahoma Alcoholic Beverage Control Act:

1. "ABLE Commission" or "Commission" means the Alcoholic Beverage Laws Enforcement Commission;

2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol or spirits of wine, from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in accordance with Acts of Congress and regulations promulgated thereunder;

3. "Alcoholic beverage" means alcohol, spirits, beer and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings;

4. "Applicant" means any individual, legal or commercial business entity, or any individual involved in any legal or commercial business entity allowed to hold any license issued in accordance with the Oklahoma Alcoholic Beverage Control Act;

5. "Beer" means any beverage of alcohol by volume and obtained by the alcoholic fermentation of an infusion or decoction of barley, or other grain, malt or similar products. "Beer" may or may not contain hops or other vegetable products. "Beer" includes, among other things, beer, ale, stout, lager beer, porter and other malt or brewed liquors, but does not include sake, known as Japanese rice wine;

6. "Beer keg" means any brewer-sealed, single container that contains not less than four (4) gallons of beer;

7. "Beer distributor" means and includes any person licensed to distribute beer for retail sale in the state, but does not include a holder of a small brewer self-distribution license or brewpub self-distribution license. The term "distributor", as used in the Oklahoma Alcoholic Beverage Control Act, shall be construed to refer to a beer distributor;

8. "Bottle club" means any establishment in a county which has not authorized the retail sale of alcoholic beverages by the individual drink, which is required to be licensed to keep, mix and

serve alcoholic beverages belonging to club members on club premises;

9. "Bottle service" means the sale and provision of spirits in their original packages by a mixed beverage licensee to be consumed in that mixed beverage licensee's club suite;

10. "Brand" means any word, name, group of letters, symbol or combination thereof, that is adopted and used by a licensed brewer to identify a specific beer, wine or spirit and to distinguish that product from another beer, wine or spirit;

~~10.~~ 11. "Brand extension" means:

- a. after October 1, 2018, any brand of beer or cider introduced by a manufacturer in this state which either:
 - (1) incorporates all or a substantial part of the unique features of a preexisting brand of the same licensed brewer, or
 - (2) relies to a significant extent on the goodwill associated with the preexisting brand, or
- b. any brand of beer that a brewer, the majority of whose total volume of all brands of beer distributed in this state by such brewer on January 1, 2016, was distributed as low-point beer, desires to sell, introduces, begins selling or theretofore has sold and desires to continue selling a strong beer in this state which either:
 - (1) incorporates or incorporated all or a substantial part of the unique features of a preexisting low-point beer brand of the same licensed brewer, or
 - (2) relies or relied to a significant extent on the goodwill associated with a preexisting low-point beer brand;

~~11.~~ 12. "Brewer" means and includes any person who manufactures for human consumption by the use of raw materials or other ingredients any beer or cider upon which a license fee and a tax are imposed by any law of this state;

~~12.~~ 13. "Brewpub" means a licensed establishment operated on the premises of, or on premises located contiguous to, a small brewer, that prepares and serves food and beverages, including alcoholic beverages, for on-premises consumption;

~~13.~~ 14. "Cider" means any alcoholic beverage obtained by the alcoholic fermentation of fruit juice, including but not limited to flavored, sparkling or carbonated cider. For the purposes of the manufacture of this product, cider may be manufactured by either manufacturers or brewers. For the purposes of the distribution of this product, cider may be distributed by either wine and spirits wholesalers or beer distributors;

15. "Club suite" means a designated area within the premises of a mixed beverage licensee designed to provide an exclusive space which is limited to a patron or patrons specifically granted access by a mixed beverage licensee and is not accessible to other patrons of the mixed beverage licensee or the public. A club suite must have a clearly designated point of access for a patron or patrons specifically granted access by the mixed beverage licensee to ensure that persons present in the suite are limited to patrons specifically granted access by the mixed beverage licensee and employees providing services to the club suite;

~~14.~~ 16. "Convenience store" means any person primarily engaged in retailing a limited range of general household items and groceries, with extended hours of operation, whether or not engaged in retail sales of automotive fuels in combination with such sales;

~~15.~~ 17. "Convicted" and "conviction" mean and include a finding of guilt resulting from a plea of guilty or nolo contendere, the decision of a court or magistrate or the verdict of a jury, irrespective of the pronouncement of judgment or the suspension thereof;

~~16.~~ 18. "Designated products" means the brands of wine or spirits offered for sale by a manufacturer that the manufacturer has assigned to a designated wholesaler for exclusive distribution;

~~17.~~ 19. "Designated wholesaler" means a wine and spirits wholesaler who has been selected by a manufacturer as a wholesaler appointed to distribute designated products;

~~18.~~ 20. "Director" means the Director of the ABLE Commission;

~~19.~~ 21. "Distiller" means any person who produces spirits from any source or substance, or any person who brews or makes mash, wort or wash, fit for distillation or for the production of spirits (except a person making or using such material in the authorized production of wine or beer, or the production of vinegar by fermentation), or any person who by any process separates alcoholic spirits from any fermented substance, or any person who, making or keeping mash, wort or wash, has also in his or her possession or use a still;

~~20.~~ 22. "Distributor agreement" means the written agreement between the distributor and brewer as set forth in Section 3-108 of this title;

~~21.~~ 23. "Drug store" means a person primarily engaged in retailing prescription and nonprescription drugs and medicines;

~~22.~~ 24. "Dual-strength beer" means a brand of beer that, immediately prior to April 15, 2017, was being sold and distributed in this state:

- a. as a low-point beer pursuant to the Low-Point Beer Distribution Act in effect immediately prior to October 1, 2018, and
- b. as strong beer pursuant to the Alcoholic Beverage Control Act in effect immediately prior to October 1, 2018,

and continues to be sold and distributed as such on October 1, 2018. Dual-strength beer does not include a brand of beer that arose as a result of a brand extension as defined in this section;

~~23.~~ 25. "Fair market value" means the value in the subject territory covered by the written agreement with the distributor or wholesaler that would be determined in an arm's length transaction entered into without duress or threat of termination of the distributor's or wholesaler's rights and shall include all elements of value, including goodwill and going-concern value;

~~24.~~ 26. "Good cause" means:

- a. failure by the distributor to comply with the material and reasonable provisions of a written agreement or understanding with the brewer, or
- b. failure by the distributor to comply with the duty of good faith;

~~25.~~ 27. "Good faith" means the duty of each party to any distributor agreement and all officers, employees or agents thereof to act with honesty in fact and within reasonable standards of fair dealing in the trade;

~~26.~~ 28. "Grocery store" means a person primarily engaged in retailing a general line of food, such as canned or frozen foods, fresh fruits and vegetables, and fresh and prepared meats, fish and poultry;

~~27.~~ 29. "Hotel" or "motel" means an establishment which is licensed to sell alcoholic beverages by the individual drink and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial;

~~28.~~ 30. "Legal newspaper" means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

~~29.~~ 31. "Licensee" means any person holding a license under the Oklahoma Alcoholic Beverage Control Act, and any agent, servant or employee of such licensee while in the performance of any act or duty in connection with the licensed business or on the licensed premises;

~~30.~~ 32. "Low-point beer" shall mean any beverages containing more than one-half of one percent ($1/2$ of 1%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including but not limited to, beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion by barley or other grain, malt or similar products;

~~31.~~ 33. "Manufacturer" means a distiller, winemaker, rectifier or bottler of any alcoholic beverage (other than beer) and its subsidiaries, affiliates and parent companies;

~~32.~~ 34. "Manufacturer's agent" means a salaried or commissioned salesperson who is the agent authorized to act on behalf of the manufacturer or nonresident seller in the state;

~~33.~~ 35. "Meals" means foods commonly ordered at lunch or dinner and at least part of which is cooked on the licensed premises and requires the use of dining implements for consumption. Provided, that the service of only food such as appetizers, sandwiches, salads or desserts shall not be considered "meals";

~~34.~~ 36. "Mini-bar" means a closed container, either refrigerated in whole or in part, or nonrefrigerated, and access to the interior of which is:

- a. restricted by means of a locking device which requires the use of a key, magnetic card or similar device, or
- b. controlled at all times by the licensee;

~~35.~~ 37. "Mixed beverage cooler" means any beverage, by whatever name designated, consisting of an alcoholic beverage and fruit or vegetable juice, fruit or vegetable flavorings, dairy products or carbonated water containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume but not more than seven percent (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is packaged in a container not larger than three hundred seventy-five (375) milliliters. Such term shall include but not be limited to the beverage popularly known as a "wine cooler";

~~36.~~ 38. "Mixed beverages" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, public event, charitable event or special event license;

~~37.~~ 39. "Motion picture theater" means an establishment which is licensed by Section 2-110 of this title to sell alcoholic beverages by the individual drink and where motion pictures are exhibited, and to which the general public is admitted;

~~38.~~ 40. "Nondesignated products" means the brands of wine or spirits offered for sale by a manufacturer that have not been assigned to a designated wholesaler;

~~39.~~ 41. "Nonresident seller" means any person licensed pursuant to Section 2-135 of this title;

~~40.~~ 42. "Retail salesperson" means a salesperson soliciting orders from and calling upon retail alcoholic beverage stores with regard to his or her product;

~~41.~~ 43. "Occupation" as used in connection with "occupation tax" means the sites occupied as the places of business of the manufacturers, brewers, wholesalers, beer distributors, retailers, mixed beverage licensees, on-premises beer and wine licensees, bottle clubs, caterers, public event and special event licensees;

~~42.~~ 44. "Original package" means any container of alcoholic beverage filled and stamped or sealed by the manufacturer or brewer;

~~43.~~ 45. "Package store" means any sole proprietor or partnership that qualifies to sell wine, beer and/or spirits for off-premises consumption and that is not a grocery store, convenience store or drug store, or other retail outlet that is not permitted to sell wine or beer for off-premises consumption;

~~44.~~ 46. "Patron" means any person, customer or visitor who is not employed by a licensee or who is not a licensee;

~~45.~~ 47. "Person" means an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity;

~~46.~~ 48. "Premises" means the grounds and all buildings and appurtenances pertaining to the grounds including any adjacent premises if under the direct or indirect control of the licensee and the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license. Provided that the ABLE Commission shall have the authority to designate areas to be excluded from the licensed premises solely for the purpose of:

- a. allowing the presence and consumption of alcoholic beverages by private parties which are closed to the general public, or
- b. allowing the services of a caterer serving alcoholic beverages provided by a private party.

This exception shall in no way limit the licensee's concurrent responsibility for any violations of the Oklahoma Alcoholic Beverage Control Act occurring on the licensed premises;

~~47.~~ 49. "Private event" means a social gathering or event attended by invited guests who share a common cause, membership, business or task and have a prior established relationship. For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall not constitute a private event;

~~48.~~ 50. "Public event" means any event that can be attended by the general public;

~~49.~~ 51. "Rectifier" means any person who rectifies, purifies or refines spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing, from mash, wort, wash or other substance, through continuous closed vessels and pipes, until the production thereof is complete), and any person who, without rectifying, purifying or refining spirits, shall by mixing (except for immediate consumption on the premises where mixed) such spirits, wine or other liquor with any material, manufactures any spurious, imitation or compound liquors for sale, under the name of whiskey, brandy, rum, gin, wine, spirits, cordials or any other name;

~~50.~~ 52. "Regulation" or "rule" means a formal rule of general application promulgated by the ABLE Commission as herein required;

~~51.~~ 53. "Restaurant" means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold for immediate consumption on the premises;

~~52.~~ 54. "Retail container for spirits and wines" means an original package of any capacity approved by the United States Bureau of Alcohol, Tobacco and Firearms;

~~53.~~ 55. "Retailer" means a package store, grocery store, convenience store or drug store licensed to sell alcoholic beverages for off-premises consumption pursuant to a Retail Spirits License, Retail Wine License or Retail Beer License;

~~54.~~ 56. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever, and includes and means all sales made by any person, whether as principal, proprietor or as an agent, servant or employee. The term "sale" is also declared to be and include the use or consumption in this state of any alcoholic beverage obtained within or imported from without this state, upon which the excise tax levied by the Oklahoma Alcoholic Beverage Control Act has not been paid or exempted;

~~55.~~ 57. "Short-order food" means food other than full meals including but not limited to sandwiches, soups and salads. Provided that popcorn, chips and other similar snack food shall not be considered "short-order food";

~~56.~~ 58. "Small brewer" means a brewer who manufactures less than sixty-five thousand ~~(65,000)~~ barrels of beer annually pursuant to a validly issued Small Brewer License hereunder;

~~57.~~ 59. "Small farm wine" means a wine that is produced by a small farm winery with seventy-five percent (75%) or more Oklahoma-grown grapes, berries, other fruits, honey or vegetables;

~~58.~~ 60. "Small farm winery" means a wine-making establishment that does not annually produce for sale more than fifteen thousand (15,000) gallons of wine as reported on the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of Wine Premises Operations (TTB Form 5120.17);

~~59.~~ 61. "Sparkling wine" means champagne or any artificially carbonated wine;

~~60.~~ 62. "Special event" means an entertainment, recreation or marketing event that occurs at a single location on an irregular basis and at which alcoholic beverages are sold;

~~61.~~ 63. "Spirits" means any beverage other than wine or beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume, and obtained by distillation, whether or not mixed with other substances in solution and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and

fortified wines and similar compounds, but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto;

~~62.~~ 64. "Strong beer" means beer which, prior to October 1, 2018, was distributed pursuant to the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of Title 37 of the Oklahoma Statutes;

~~63.~~ 65. "Successor brewer" means a primary source of supply, a brewer, a cider manufacturer or an importer that acquires rights to a beer or cider brand from a predecessor brewer;

~~64.~~ 66. "Tax Commission" means the Oklahoma Tax Commission;

~~65.~~ 67. "Territory" means a geographic region with a specified boundary;

~~66.~~ 68. "Wine and spirits wholesaler" or "wine and spirits distributor" means and includes any sole proprietorship or partnership licensed to distribute wine and spirits in the state. The term "wholesaler", as used in the Oklahoma Alcoholic Beverage Control Act, shall be construed to refer to a wine and spirits wholesaler;

~~67.~~ 69. "Wine" means and includes any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine;

~~68.~~ 70. "Winemaker" means and includes any person or establishment who manufactures for human consumption any wine upon which a license fee and a tax are imposed by any law of this state; and

~~69.~~ 71. "Satellite tasting room" means a licensed establishment operated off the licensed premises of the holder of a small farm winery or winemaker license, which serves wine for on-premises or off-premises consumption.

Words in the plural include the singular, and vice versa, and words imparting the masculine gender include the feminine, as well as persons and licensees as defined in this section.

SECTION 2. AMENDATORY Section 22, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 424, O.S.L. 2019 (37A O.S. Supp. 2020, Section 2-110), is amended to read as follows:

Section 2-110. A. 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; ~~and~~

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

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

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

3. To sell spirits in their original packages for consumption on its premises under the following conditions:

a. spirits in their original packages shall remain and be consumed in the club suite of a mixed beverage licensee and may not be removed from the club suite if not consumed in their entirety at or before the conclusion of the period for which the club suite was made available to a specific patron or patrons by the mixed beverage licensee, and

- b. spirits in their original packages to be consumed in the club suite are provided exclusively by the mixed beverage licensee.

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

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

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

SECTION 3. AMENDATORY Section 142, Chapter 366, O.S.L. 2016, as last amended by Section 1 of Enrolled House Bill No. 2277 of the 1st Session of the 58th Oklahoma Legislature, 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,

- 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 ~~or~~, 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; ~~or~~

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.

~~B.~~ 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 4. REPEALER Section 142, Chapter 366, O.S.L. 2016, as last amended by Section 1 of Enrolled House Bill No. 2380 of the 1st Session of the 58th Oklahoma Legislature, is hereby repealed.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 5th day of May, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 19th day of April, 2021.

Presiding Officer of the Senate

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: _____