

1 ENGROSSED SENATE
2 BILL NO. 1035

By: Coleman of the Senate

3 and

4 Marti of the House

5
6 An Act relating to alcoholic beverages; amending 37A
7 O.S. 2021, Section 5-135, as amended by Section 1,
8 Chapter 324, O.S.L. 2022 (37A O.S. Supp. 2022,
9 Section 5-135), which relates to monthly tax reports;
10 providing acceptable percentages of collected amounts
11 provided in audits to be deemed in compliance;
12 allowing for a deduction of gross receipts under
13 certain conditions; providing for the promulgation of
14 rules by Oklahoma Tax Commission; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 37A O.S. 2021, Section 5-135, as
18 amended by Section 1, Chapter 324, O.S.L. 2022 (37A O.S. Supp. 2022,
19 Section 5-135), is amended to read as follows:

20 Section 5-135. A. Every mixed beverage tax permit holder, or
21 any person transacting business subject to the gross receipts tax
22 levied by Section 5-105 of this title, shall file with the Oklahoma
23 Tax Commission a monthly report for each place or location of
24 business, on or before the twentieth day of the month immediately
following the month of receipt. The reports shall be made under
oath, on forms prescribed by the Tax Commission, which shall include
the following information:

- 1 1. Name of mixed beverage tax permit holder;
 - 2 2. Mixed beverage tax permit number;
 - 3 3. Sales tax permit number;
 - 4 4. Mixed beverage, caterer, public event or special event
5 license number;
 - 6 5. Gross receipts for the month for the sale, preparation or
7 service of mixed beverages, ice and nonalcoholic beverages mixed
8 with alcoholic beverages;
 - 9 6. Gross receipts for the month from charges for the privilege
10 of admission to a mixed beverage establishment which entitles a
11 person to complimentary mixed beverages or discounted prices for
12 mixed beverages;
 - 13 7. Total retail value of complimentary or discounted alcoholic
14 beverages served for the month; and
 - 15 8. Such other information as may be required by the Tax
16 Commission to enable it to collect taxes imposed as provided by law.
- 17 B. The gross receipts tax levied by Section 5-105 of this title
18 shall be calculated by multiplying the tax rate, thirteen and one-
19 half percent (13.5%), and the total gross receipts for each month
20 from the sale, preparation or service of mixed beverages, ice and
21 nonalcoholic beverages mixed with alcoholic beverages, the total
22 gross receipts of charges received for admission to mixed beverage
23 establishments, as provided in paragraph 6 of subsection A of this
24 section, and the total retail value of complimentary or discounted

1 mixed beverages. Gross receipts from the sale of food prepared with
2 alcoholic beverages shall not be included in the calculation of the
3 monthly tax liability. The tax due for the preceding month shall
4 accompany the report required in subsection A of this section. All
5 taxes, penalties and interest imposed by the Oklahoma Alcoholic
6 Beverage Control Act may be paid in the form of electronic funds
7 transfer or by a personal or company check, cashier's check,
8 certified check or postal money order payable to the Tax Commission.

9 C. If the gross receipts tax levied pursuant to the provisions
10 of Section 5-105 of this title is not paid on or before the
11 twentieth day of each month, the tax shall be delinquent, and
12 interest and penalty shall accrue on and from the twenty-first day
13 of each month, pursuant to the provisions of the Uniform Tax
14 Procedure Code.

15 D. Every licensed wholesaler of alcoholic beverages in this
16 state shall file with the Tax Commission a monthly report, under
17 oath, on forms prescribed by the Tax Commission, which shall include
18 the name, location and mixed beverage tax permit number of each
19 mixed beverage, caterer, public event or special event licensee to
20 whom the licensed wholesaler sold alcoholic beverages during the
21 report month.

22 E. If the report required by subsection A of this section is
23 not filed with the Tax Commission on or before the twentieth day of
24 the month, the Tax Commission may assess an additional penalty of

1 Five Dollars (\$5.00) for each day thereafter that the report is not
2 filed pursuant to the provisions of this section. The Tax
3 Commission may waive the penalty assessed pursuant to the provisions
4 of the Uniform Tax Procedure Code; provided, however, the additional
5 penalty, if assessed, shall not exceed an amount equal to twice the
6 amount of tax due for the period for which such report was required
7 to be filed, or the sum of Three Hundred Dollars (\$300.00),
8 whichever is greater.

9 F. Taxes paid as provided by law represented by accounts
10 receivable which are found to be worthless or uncollectible may be
11 credited upon subsequent reports and remittances of such tax, in
12 accordance with rules promulgated by the Tax Commission. If such
13 accounts are thereafter collected, the same shall be reported and
14 the tax shall be paid upon the amount so collected.

15 G. In addition to any other authority granted by law, the Tax
16 Commission is hereby authorized to audit any mixed beverage, beer
17 and wine, caterer, public event or special event licensee to
18 determine if the correct amount of tax payable under Section 5-105
19 of this title has been collected. The taxpayer shall be deemed to
20 be in compliance if such an audit reveals that the amount collected
21 is within the following percentages of the amount of tax payable:

22 1. For spirits, eighty-four percent (84%) to one hundred
23 sixteen percent (116%);
24

1 2. For wine, ninety percent (90%) to one hundred ten percent
2 (110%);

3 3. For beer sold at draft and not in original packages, eighty-
4 six percent (86%) to one hundred fourteen percent (114%); and

5 4. For beer sold in original packages, ninety-five percent
6 (95%) to one hundred five percent (105%).

7 H. A deduction not to exceed ten percent (10%) of the gross
8 receipts tax liability levied pursuant to Section 5-105 of this
9 title and determined by an audit of the purchases from wholesalers
10 of a mixed beverage, beer and wine, caterer, public event, or
11 special event licensee shall be allowed for properly documented
12 losses attributable to breakage, spillage, theft, fire, or other
13 occurrences. The Tax Commission may promulgate rules to provide for
14 loss deductions in addition to the ten percent (10%) allowance and
15 for the documentation required to properly verify loss claim
16 amounts.

17 SECTION 2. This act shall become effective November 1, 2023.

