

1 ENGROSSED HOUSE
2 BILL NO. 1723

By: Marti of the House

3 and

4 Rosino of the Senate

5
6 An Act relating to alcoholic beverages; amending 37A
7 O.S. 2021, Section 2-113, as amended by Section 1,
8 Chapter 42, O.S.L. 2023 (37A O.S. Supp. 2023, Section
9 2-113), which relates to catering licenses; providing
10 that a caterer may be issued a storage license;
11 providing that upon issuance of a license to the on-
12 premises beer and wine applicant, the mixed
13 beverage/caterer combination applicant, or the mixed
14 beverage applicant, any alcoholic beverages on the
15 licensed storage premises may be transferred by the
16 caterer to the on-premises beer and wine licensee,
17 the mixed beverage/caterer combination licensee, or
18 the mixed beverage licensee; and declaring an
19 emergency.

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

21 SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-113, as
22 amended by Section 1, Chapter 42, O.S.L. 2023 (37A O.S. Supp. 2023,
23 Section 2-113), is amended to read as follows:

24 Section 2-113. A. 1. A caterer license may be issued to any
person for the purpose of sale, delivery or distribution of
alcoholic beverages incidental to the sale or distribution of food
on a premises not licensed by the ABLE Commission. For purposes of
this section, "incidental to the sale or distribution of food" means
food sales constituting at least thirty-five percent (35%) of the

1 caterer's total combined annual sales. A caterer license shall not
2 be issued to a person whose main purpose is the sale of alcoholic
3 beverages.

4 2. A caterer license may only be issued to those persons that
5 prepare, sell and distribute food for consumption either on licensed
6 or unlicensed premises. In order to renew a caterer license, annual
7 food sales must constitute at least thirty-five percent (35%) of the
8 caterer's total combined sales based on the most recent calendar
9 year. A caterer shall not be required to prepare, sell and
10 distribute food at every catered event as long as the caterer
11 satisfies the requirement set forth in this section.

12 3. Each caterer shall submit an annual sales report containing
13 revenue attributable to alcoholic beverages, food and all other
14 revenues attributable to the catering service. The annual sales
15 report must be submitted thirty (30) days prior to expiration of the
16 caterer license on forms prescribed by the ABLE Commission. The
17 caterer license may not be renewed if the caterer fails to provide
18 complete or sufficient financial data.

19 4. Each caterer shall submit a monthly event report containing
20 information on all events scheduled for the subsequent month. If an
21 event is scheduled after the first day of the month for an event to
22 occur in the same month, then the caterer shall report that event
23 within twenty-four (24) hours of scheduling the event or within
24 twenty-four (24) hours prior to the event, whichever occurs first.

1 The monthly event report shall be submitted on the first day of each
2 month.

3 5. All reports shall be submitted electronically on forms
4 prescribed by the ABLE Commission. Provided, if the caterer does
5 not have access to the Internet, then monthly reports must be
6 submitted by facsimile to the ABLE Commission's office in Oklahoma
7 City, in which case the caterer must retain a copy of the facsimile
8 confirmation sheet for at least twelve (12) months.

9 6. Any caterer who fails to submit a monthly report shall have
10 the caterer license automatically suspended until such time that the
11 caterer has fully complied with all reporting requirements. Any
12 caterer whose annual food sales do not exceed thirty-five percent
13 (35%) of his or her total annual combined sales shall not have the
14 caterer's license renewed.

15 B. The ABLE Commission shall promulgate rules governing the
16 application for and the issuance of caterer licenses.

17 C. The restrictions and rules which apply to the sale of mixed
18 beverages on the premises of a mixed beverage licensee also apply to
19 the sale under the authority of a caterer license. Any act which if
20 done on the premises of a mixed beverage licensee would be a ground
21 for revocation or suspension of the mixed beverage license is a
22 ground for revocation or suspension of a caterer license.

23 D. If the premises where the event being catered is held are
24 already operating pursuant to another type of license issued by the

1 ABLE Commission, the caterer and the other licensee shall both be
2 responsible for the actions of the caterer and shall both be subject
3 to penalties for violations by the caterer of the Oklahoma Alcoholic
4 Beverage Control Act and any rules promulgated thereto.

5 E. A caterer licensee may not store alcoholic beverages unless
6 the licensee has a storage license issued by the ABLE Commission. A
7 caterer licensee selling beer and cider to consumers shall only
8 purchase such beer and cider from the distributor or wholesaler
9 within the county in which the licensee will be selling the beer and
10 cider to consumers.

11 F. A caterer may provide alcoholic beverage sales on the
12 premises of a person currently applying for an on-premises beer and
13 wine license, mixed beverage/caterer combination license, or mixed
14 beverage license, provided the following terms have been satisfied:

15 1. The caterer shall take reasonable steps to ensure that the
16 on-premises beer and wine applicant, mixed beverage/caterer
17 combination applicant, or mixed beverage applicant uses only
18 licensed employees to perform licensable activities while using the
19 caterer's license. The caterer shall use his or her best efforts to
20 attempt to have a licensed employee on-site supervising the sale of
21 such caterer's alcoholic beverages at all times, but the caterer
22 shall not be disciplined for failing to have a licensed employee on-
23 site. The caterer expressly acknowledges that he or she is liable
24 for all violations of the Oklahoma Alcoholic Beverage Control Act

1 and rules of the ABLE Commission that are committed by the on-
2 premises beer and wine applicant, the mixed beverage/caterer
3 combination applicant, or the mixed beverage applicant and its
4 employees during this period;

5 2. The caterer and the on-premises beer and wine applicant, the
6 mixed beverage/caterer combination applicant, or the mixed beverage
7 applicant must submit to the ABLE Commission a written agreement
8 setting forth all the terms of the catering agreement at least
9 twenty-four (24) hours prior to the commencement of the catered
10 event; ~~and~~

11 3. The caterer may not provide alcoholic beverage sales on the
12 unlicensed premises of the on-premises beer and wine applicant,
13 mixed beverage/caterer combination applicant, or the mixed beverage
14 applicant for more than sixty (60) days, or after the applicant's
15 license has been denied, whichever occurs first;

16 4. The caterer may be issued a storage license to be used to
17 store any alcoholic beverages purchased pursuant to this subsection
18 on the unlicensed premises of the applicant during the period of the
19 written agreement; and

20 5. Upon the issuance of a license to the on-premises beer and
21 wine applicant, the mixed beverage/caterer combination applicant, or
22 the mixed beverage applicant, any alcoholic beverages on the
23 licensed storage premises may be transferred by the caterer to the
24 on-premises beer and wine licensee, the mixed beverage/caterer

1 combination licensee, or the mixed beverage licensee consistent with
2 the provisions of Section 2-155 of this title.

3 G. A caterer may provide alcoholic beverage services for
4 temporary public events which have been licensed and approved by the
5 ABLE Commission.

6 H. A caterer may provide alcoholic beverage services for a
7 mixed beverage licensee which holds a live performing arts
8 presentation and is open to the public not more than one hundred
9 twenty (120) days per year.

10 SECTION 2. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 Passed the House of Representatives the 12th day of March, 2024.

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Presiding Officer of the House
of Representatives

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19 Passed the Senate the ____ day of _____, 2024.

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Presiding Officer of the Senate

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