

An Act

ENROLLED SENATE
BILL NO. 800

By: Coleman of the Senate

and

Dempsey of the House

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 6-103, as last amended by Section 1, Chapter 200, O.S.L. 2023 (37A O.S. Supp. 2023, Section 6-103), which relates to prohibited acts of retail spirits licensees; expanding exemption for offering or furnishing any prize, premium, gift, or similar inducement to a consumer in connection with the sale of alcoholic beverages; amending 37A O.S. 2021, Section 6-104, which relates to prohibited acts of wholesaler licensees; prohibiting any amount of spirits or wines to be sold to any licensee below a certain price; providing exemptions; amending 37A O.S. 2021, Section 6-108, which relates to prohibited acts of holders of retail wine or retail beer licenses; and expanding exemption for offering or furnishing any prize, premium, gift, or similar inducement to a consumer in connection with the sale of beer or wine.

SUBJECT: Alcoholic beverage pricing

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 6-103, as last amended by Section 1, Chapter 200, O.S.L. 2023 (37A O.S. Supp. 2023, Section 6-103), is amended to read as follows:

Section 6-103. A. No retail spirits licensee shall:

1. Purchase or receive any alcoholic beverage other than from a wine and spirits wholesaler, beer distributor, winery or small brewer self-distribution licensee who elects to self-distribute;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed on the licensed premises, except when serving samples as authorized by Section 2-109 of this title or otherwise permitted by law; provided, the licensee shall not permit any alcoholic beverage content or retail container unsealed in connection with sampling authorized by Section 2-109 of this title to remain on the licensed premises at the close of business on that day, excluding spirits;

3. Sell any alcoholic beverages at any hour other than between the hours of 8:00 a.m. and midnight Monday through Saturday, and shall not be permitted to be open on Thanksgiving Day or Christmas Day; provided, a county may, pursuant to the provisions of subsections B and C of Section 3-124 of this title, elect to allow such sales between the hours of noon and midnight on Sunday. Retail spirits licensees shall be permitted to sell alcoholic beverages on the day of any General, Primary, Runoff Primary or Special Election whether on a national, state, county or city election, provided that the election day does not occur on any day on which such sales are otherwise prohibited by law;

4. Sell spirits in a city or town, unless such city or town has a population in excess of two hundred (200) according to the latest Federal Decennial Census;

5. Sell any alcoholic beverage on credit; provided, that acceptance by a licensee of a cash or debit card or a nationally recognized credit card in lieu of actual cash payment does not constitute the extension of credit; provided, further, as used in this section:

- a. "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility, and

- b. "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred retail locations;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverages, except ~~that~~:

- a. goods or merchandise included by the manufacturer in packaging with alcoholic beverages or for packaging with alcoholic beverages ~~shall not be included in this prohibition, but; provided, that~~ no wholesaler or retailer shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold; ~~provided, it shall not be considered inducement or a premium for a~~ nor shall a retail spirits license holder selling wine, spirits, or beer at a multiunit discount be included in this prohibition,
- b. retail spirits licensee to ~~have an advertised~~ advertise a price posted higher online than the shelf price on the licensed premises,
- c. retail spirits licensee offering retail packages at a discount from retail price for individuals of specific professions and occupations, current or former members of the United States Armed Forces, at the discretion of the licensee; no discount shall make the retail price lower than six-percent markup, as applicable in Section 3-118 of this title; or

7. Pay for alcoholic beverages by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

B. No retail spirits licensee shall permit any person under twenty-one (21) years of age to enter into or remain within or about the licensed premises unless accompanied by the person's parent or legal guardian; provided, however, this restriction shall not apply to an employee of a licensed beer distributor or wine and spirits wholesaler who:

1. Is at least eighteen (18) years of age;
2. Is accompanied by a coworker at least twenty-one (21) years of age; and
3. Enters for the sole purpose of merchandising or delivering product to the licensee in the normal course of business.

SECTION 2. AMENDATORY 37A O.S. 2021, Section 6-104, is amended to read as follows:

Section 6-104. No wine or spirits wholesaler licensee shall sell or deliver, and no wine or spirits retail licensee shall receive:

1. Any amount of spirits or wines to any licensee on Sunday; ~~or~~
2. Any amount of spirits or wines to any licensee on New Year's Day, the Fourth of July, Thanksgiving Day or Christmas Day; or
3. Any amount of spirits or wines to any licensee at a price less than fifteen percent (15%) above the wine and spirits wholesaler's laid in cost of such spirit or wine; provided, this provision shall not apply to any spirit or wine which the wine and spirit wholesaler has discontinued or closed out from its brand offerings in this state. For purposes of this section, "laid in cost" shall mean the wine and spirit wholesaler's cost from the supplier, less supplier support if any, plus any inbound freight costs, handling costs, and taxes.

SECTION 3. AMENDATORY 37A O.S. 2021, Section 6-108, is amended to read as follows:

Section 6-108. No holder of a Retail Wine License or a Retail Beer License shall:

1. Purchase or receive any alcoholic beverage other than from a wine and spirits wholesaler, beer distributor, winery or small brewer self-distribution licensee;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed on the licensed premises, except when serving samples as authorized by Section 2-109 of this title or as otherwise permitted by law; provided, the licensee shall not permit any alcoholic beverages content or retail container unsealed in connection with sampling authorized by Section 2-109 of this title to remain on the licensed premises at the close of the business on that day;

3. Sell any beer or wine at any hour other than between the hours of 6:00 a.m. and 2:00 a.m. the following day, Monday through Sunday. Retail wine and retail beer licensees shall be permitted to sell beer and wine on the day of any General, Primary, Runoff Primary or Special Election whether on a national, state, county or city election;

4. Sell any beer and wine on credit; except as follows:

a. the acceptance by a grocery store, convenience store or drug store of a cash or debit card, or a nationally recognized credit card, in lieu of actual cash payment does not constitute the extension of credit; provided, further, as used in this section:

(1) "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds from a consumer banking electronic facility, and

(2) "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for

the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred retail locations, and

- b. when the holder of a Retail Wine License, Retail Beer License or Mixed Beverage License is a private membership club, marina, golf course or country club that normally charges food, drinks and other purchases to the member's monthly dues account in the regular course of business, in lieu of actual cash payment at the time of purchase, such practice does not constitute the extension of credit;

5. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of beer or wine, except ~~that~~:

- a. goods or merchandise included by the manufacturer in packaging with beer or wine or for packaging with beer or wine ~~shall not be included in this prohibition,~~ nor shall a retail wine or retail beer license holder selling wine or beer at a multiunit discount be included in this prohibition; but provided, that no retail wine or retail beer licensee shall sell any beer or wine prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold nor shall a retail spirits license holder selling wine or beer at a multiunit discount be included in this prohibition, and
- b. retail wine and retail beer licensees offering retail packages at a discount from retail price for individuals of specific professions and occupations, current or former members of the United States Armed Forces, at the discretion of the licensee; no discount shall make the retail price lower than six-percent markup, as applicable in Section 3-118 of this title;
or

6. Pay for beer or wine by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

Passed the Senate the 21st day of May, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of April, 2024.

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: _____