

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 353

By: Howard

AS INTRODUCED

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Sections 2-110, as amended by Section 1, Chapter 140, O.S.L. 2022, 2-138, and 6-105, as amended by Section 2, Chapter 82, O.S.L. 2022 (37A O.S. Supp. 2022, Sections 2-110 and 6-105), which relate to the mixed beverage license and prohibited acts; allowing mixed beverage license holder to purchase alcohol, spirits, beer and/or wine from retail spirits license holder licensed in the same county; and providing an effective date.

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-110, as amended by Section 1, Chapter 140, O.S.L. 2022 (37A O.S. Supp. 2022, 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, and a retail spirits license licensed in the same county as the mixed beverage license holder as specifically provided by law;

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

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

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

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

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

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

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

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

18          D.   Upon application, a mixed beverage license shall be issued  
19   for any place of business functioning as a motion picture theater,  
20   as defined by Section 1-103 of this title. Provided, that upon  
21   proof of legal age to consume alcohol, every patron being served  
22   alcoholic beverages shall be required to wear a wrist bracelet or  
23   receive a hand stamp identifying the patron as being of legal age to  
24   consume alcohol. This requirement shall only apply inside a motion  
25

1 picture theater auditorium where individuals under the legal age to  
2 consume alcohol are allowed.

3 E. Holders of a mixed beverage license with a licensed premises  
4 on a business establishment that meets the classification of a golf  
5 course or country club pursuant to the most recently adopted North  
6 American Industry Classification System (NAICS) may also sell beer  
7 in sealed original packages for on-premises consumption. Such  
8 holders' sales of more than two (2) sealed original packages to one  
9 person at one time for on-premises consumption shall not be  
10 considered an unlawful inducement to stimulate consumption of  
11 alcoholic beverages under the Oklahoma Alcoholic Beverage Control  
12 Act, and patrons may remove sealed original packages from the  
13 licensed premises.

14 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-138, is  
15 amended to read as follows:

16 Section 2-138. The holder of a mixed beverage, beer and wine,  
17 caterer, special event, public event or airline/railroad/commercial  
18 vessel beverage license shall purchase alcoholic beverages only from  
19 a licensed wine and spirits wholesaler ~~or~~, beer distributor, or  
20 retail spirits license holder licensed in the same county as the  
21 mixed beverage license holder, or as otherwise specifically provided  
22 by law; provided, the holder of a mixed beverage, beer and wine,  
23 caterer or special event license issued for an establishment which  
24 is also a restaurant may purchase wine produced at small farm

1 wineries or beer produced at small breweries in this state directly  
2 from a winemaker or craft brewer as provided in Article XXVIII A of  
3 the Oklahoma Constitution.

4 A wine and spirits wholesaler, beer distributor or a holder of a  
5 small brewer self-distribution license or brewpub self-distribution  
6 license may deliver such products to licensees authorized to sell  
7 alcoholic beverages for on-premises consumption; provided, such  
8 licensees may also pick up alcoholic beverage orders if they hold a  
9 private carrier license issued by the ABLE Commission.

10 SECTION 3. AMENDATORY 37A O.S. 2021, Section 6-105, as  
11 amended by Section 2, Chapter 82, O.S.L. 2022 (37A O.S. Supp. 2022,  
12 Section 6-105), is amended to read as follows:

13 Section 6-105. No mixed beverage, public event, special event  
14 or on-premises beer and wine licensee shall:

15 1. Purchase or receive any alcoholic beverage other than from a  
16 person holding a wine and spirit wholesaler ~~or~~, beer distributor, or  
17 retail spirit license issued pursuant to the Oklahoma Alcoholic  
18 Beverage Control Act; provided, a mixed beverage or on-premises beer  
19 and wine licensee whose premises are a restaurant may purchase wine  
20 produced at wineries in this state directly from a winemaker as  
21 provided in Section 2 of Article XXVIII A of the Oklahoma  
22 Constitution;

1           2. Transport alcoholic beverages from the place of purchase to  
2 the licensed premises unless the licensee also holds a private  
3 carrier license issued by the ABLE Commission;

4           3. Use or allow the use of any mark or label on a container of  
5 alcoholic beverage which is kept for sale which does not clearly and  
6 precisely indicate the nature of the contents or which might deceive  
7 or conceal the nature, composition, quantity, age or quality of such  
8 beverage;

9           4. Keep or knowingly permit any alcoholic beverage to be kept,  
10 brought or consumed on the licensed premises which is not allowed to  
11 be sold or served upon such premises; or

12           5. Allow any person under twenty-one (21) years of age to enter  
13 into, remain within or loiter about the designated bar area of the  
14 licensed premises, except for persons who incidentally pass through  
15 the designated area.

16           The prohibition in this subsection against persons under twenty-  
17 one (21) years of age entering or remaining within the designated  
18 bar area of the licensed premises shall not apply:

- 19           a. if the licensed premises are closed to the public  
20                during a time the premises are legally permitted to be  
21                open for business and the premises are used for a  
22                private party at which alcoholic beverages may be  
23                served to persons twenty-one (21) years of age or  
24                older. Any alcoholic beverages served at a private

1 party on the licensed premises may be purchased from  
2 the licensee at a negotiated price or purchased  
3 privately and served at the private party on the  
4 licensed premises. Any licensee who desires to  
5 conduct such a private party shall notify the ABLE  
6 Commission, in writing, at least ten (10) calendar  
7 days prior to the private party. The notification  
8 shall include the date, time and purpose of the  
9 private party and any other information the ABLE  
10 Commission may deem necessary,

11 b. to a designated bar area which is a concession stand  
12 serving beer and wine, in addition to food and non-  
13 alcoholic beverages, which concession stand is located  
14 at, in, or on the premises of a sports, music or  
15 entertainment venue, convention center, fairgrounds or  
16 similar facility, or

17 c. to an employee of a beer distributor or wine and  
18 spirits wholesaler who is at least eighteen (18) years  
19 of age and enters for the purpose of merchandising or  
20 delivering product to the licensee in the normal  
21 course of business.

22 SECTION 4. This act shall become effective September 1, 2023.

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24 59-1-1537

MR

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