

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1367 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By deleting the content of the entire measure, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Neil Hays _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 FLOOR SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1367

6 By: Hays of the House

7 and

8 Howard of the Senate

9 FLOOR SUBSTITUTE

10 An Act relating to alcohol beverages; defining terms;
11 providing certain actions by an employee are not
12 attributable to establishments licensed by the
13 Alcoholic Beverage Laws Enforcement Commission;
14 providing for affirmative defense; providing actions
15 that are not attributable to the licensed
16 establishment; providing requirements to assert the
17 affirmative defense; requiring licensed
18 establishments to present certain information when
19 asserting the affirmative defense; providing that
20 when an employee does not possess a valid employee
21 license a violation by the employee is attributable
22 to the licensed establishment; providing that certain
23 actions create rebuttable presumption that a licensed
24 establishment has indirectly encouraged a violation
of the law by employees; providing that when a
licensed establishment asserts the affirmative
defense established in this act, the Commission may
present evidence to establish a rebuttable
presumption; providing which party has the burden of
persuasion; providing that this act shall be
construed to establish exclusive means by which the
ABLE Commission may establish that a licensed
establishment has indirectly encouraged a violation;
providing for codification; and providing an
effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-130 of Title 37A, unless there is created a duplication in numbering, reads as follows:

As used in this section:

1. "Employee" means any person paid by an establishment licensed by the Alcoholic Beverage Laws Enforcement (ABLE) Commission to sell, serve, dispense, or deliver alcoholic beverages or to immediately manage, direct, supervise, or control the sale or service of alcoholic beverages; and

2. "Seller-server training certificate" means a certificate granted for completing an Oklahoma seller-server certification course recognized by the ABLE Commission.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-130.1 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Certain actions of an employee are not attributable to an establishment licensed (licensed establishment) by the Alcoholic Beverage Laws Enforcement (ABLE) Commission and shall be an affirmative defense to such liability when such licensed establishment receives a notice of violation for certain actions of an employee.

1 B. The following actions of an employee of a licensed
2 establishment are not attributable to the licensed establishment:

3 1. The selling, furnishing, or giving of an alcoholic beverage
4 to:

5 a. a person who is insane or mentally deficient,

6 b. a minor, or

7 c. an intoxicated person; or

8 2. Allowing the consumption of an alcoholic beverage by:

9 a. a person who is insane or mentally deficient,

10 b. a minor, or

11 c. an intoxicated person.

12 C. A licensed establishment may assert the affirmative defense
13 if the license establishment:

14 1. Required all employee to maintain a currently valid employee
15 license from the ABLE Commission;

16 2. Required each employee to present a seller-server training
17 certificate within fourteen (14) days of his or her initial
18 employment date, unless the employee is deemed exempt by an existing
19 statute and require each employee to attend a seller-server training
20 course every two (2) years upon renewal of the employee license; and
21 attend a seller-server training course every two (2) years after the
22 initial employment date, unless an employee is exempt pursuant to
23 Section 2-121 of Title 37A of the Oklahoma Statutes;

24 3. Adopted written policies and procedures which prohibit:

1 a. the sale, service, dispensation, or delivery of an
2 alcoholic beverage to:

3 (1) a person who is insane or mentally deficient,

4 (2) a minor, or

5 (3) an intoxicated person, or

6 b. the employee from allowing consumption of an alcoholic
7 beverage by:

8 (1) a person who is insane or mentally deficient,

9 (2) a minor, or

10 (3) an intoxicated person; and

11 4. Ensured that all employees have read and understood the
12 required policies as provided in paragraph 3 of this subsection by
13 having an acknowledgment of understanding by the employee in
14 writing. Such acknowledgment shall be kept for record by the
15 licensed establishment for at least one (1) year after the date the
16 employee was terminated.

17 D. A licensed establishment asserting this affirmative defense
18 under this act, shall provide to the ABLE Commission, not later than
19 ten (10) days after receipt of an administrative notice of
20 violation, an affidavit indicating that the licensed establishment
21 was in compliance with the requirements of this act at the time of
22 the violation for which the administrative notice was issued, which
23 shall include a copy of the valid employee license held by the
24 employee who committed the alleged violation, a copy the current

1 training certificate held by that employee, and a signed copy of
2 acknowledgment of receipt of polices by the employee. At a hearing
3 in which the licensed establishment asserts the affirmative defense
4 crated by this act, the licensed establishment may be required to
5 present additional evidence to support such defense.

6 E. When an employee does not possess a currently valid employee
7 license from the ABLE Commission, the action of the employee shall
8 be attributable to the licensed establishment.

9 F. Proof by the ABLE Commission that an employee performed an
10 action described in this act on three or more occasions within a
11 twelve-month period shall create a rebuttable presumption that a
12 licensed establishment has indirectly encouraged a violation of the
13 law pursuant to this act. The rebuttable presumption is created
14 regardless of whether the employee performing the action described
15 in this subsection on a second or subsequent occasion is the same
16 employee who performed the initial action. Proof of violation shall
17 be demonstrated by:

18 1. Producing final orders issued by the ABLE Commission or a
19 court of competent jurisdiction finding that the licensed
20 establishment violated this act, on two past occasions; and

21 2. Establishing a prima facie case that an employee of the
22 licensed establishment violated this act on a third or subsequent
23 occasion.

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1 G. Proof of violation of this act shall be for the same type of
2 offense and shall have occurred within a twelve-month period, as
3 calculated from the dates the incidents occurred.

4 I. At a hearing in which the licensed establishment asserts the
5 affirmative defense established in this act, the Commission may
6 present evidence to establish a rebuttable presumption under this
7 act. If the evidence is sufficient to establish a prima facie case,
8 the burden of persuasion in the proceeding shifts to the licensed
9 establishment to show that it has not indirectly encouraged a
10 violation of the law within the meaning of this act.

11 G. Nothing in this act shall be construed to establish
12 exclusive means by which the ABLE Commission may establish that a
13 licensed establishment has indirectly encouraged a violation of this
14 act.

15 SECTION 3. This act shall become effective November 1, 2025.

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17 60-1-13324 JL 03/12/25

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