

1 **SENATE FLOOR VERSION**

2 February 20, 2025

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1044

6 By: Coleman

7 [alcoholic beverages - wine and spirits wholesaler
8 license - payment methods - electronic funds transfer
9 - exceptions - penalty - effective date]

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-107, is
13 amended to read as follows:

14 Section 2-107. A. A wine and spirits wholesaler license shall
15 authorize the holder thereof:

16 1. To purchase and import into this state spirits and wines
17 from persons authorized to sell same who are the holders of a
18 manufacturer or nonresident seller license, and their agents who are
19 the holders of manufacturer's agent licenses;

20 2. To purchase spirits and wines from licensed distillers,
21 rectifiers and winemakers in this state;

22 3. To purchase spirits and wines from licensed wholesalers, to
23 the extent set forth in subsections B and C of this section;

1 4. To sell in retail containers in this state to retailers,
2 mixed beverage, caterer, special event, public event, hotel beverage
3 or airline/railroad beverage licensees, spirits and wines which have
4 been received and unloaded at the bonded warehouse facilities of the
5 wholesaler before such sale;

6 5. To sell to licensed wholesalers, to the extent set forth in
7 subsections B and C of this section, spirits and wines which have
8 been received and unloaded at the bonded warehouse facilities of the
9 wholesaler before such sale;

10 6. To sell spirits and wines out of this state to qualified
11 persons; and

12 7. To sell to licensed distillers spirits that were
13 manufactured by that distiller and which have been received and
14 unloaded at a bonded warehouse facility of a wholesaler before such
15 sale.

16 Provided, however, sales of spirits and wine in containers with
17 a capacity of less than one-twentieth (1/20) gallon by a holder of a
18 wholesaler license shall be in full case lots and in the original
19 unbroken case. Wholesalers shall be authorized to place such signs
20 outside their place of business as are required by Acts of Congress
21 and by such laws and regulations promulgated under such Acts.

22 B. A wholesaler may sell spirits and wine to other wholesalers
23 or purchase spirits and wines from other wholesalers without
24 complying with subsection A of this section in the case of the sale,

1 purchase or other transfer or acquisition of the entire business of
2 a wholesaler including the inventory of spirits and wine.

3 C. A wholesaler license shall authorize the holder thereof to:

4 ~~1. Maintain~~ maintain not more than three ~~(3)~~ self-owned or
5 leased and self-operated bonded warehouses within this state. All
6 invoices shall be stored at the principal place of business for
7 which the wholesaler license was granted; ~~and~~

8 ~~2. Accept as payment cash, personal check, cashier's check,~~
9 ~~money order or electronic fund transfer from persons licensed to~~
10 ~~purchase alcoholic beverages; provided, a wholesaler shall not be~~
11 ~~permitted to accept payment by credit card.~~

12 SECTION 2. AMENDATORY 37A O.S. 2021, Section 3-119, is
13 amended to read as follows:

14 Section 3-119. A. It shall be unlawful for any manufacturer,
15 brewer, wine and spirits wholesaler, beer distributor or person
16 authorized to sell alcoholic beverages to a wholesaler, or any
17 employee, officer, director, stockholder owning fifteen percent
18 (15%) or more of the stock, any type of partner, manager, member or
19 agent thereof, to directly or indirectly:

20 1. Have any financial interest in any premises upon which any
21 alcoholic beverage is sold at retail or in any business connected
22 with the retailing of alcoholic beverages; provided, nothing in ~~this~~
23 ~~act~~ Section 1-101 et seq. of this title shall prohibit the operation
24 of a mixed beverage licensee, beer and wine licensee or caterer

1 licensee by an entity which has common owners with the holder of a
2 small brewer license or a brewpub license;

3 2. Lend any money or other thing of value, or to make any gift
4 or offer any gratuity, to any package store, retail wine, retail
5 beer, mixed beverage, beer and wine, public event or bottle club
6 licensee or caterer;

7 3. Guarantee any loan or the repayment of any financial
8 obligation of any retailer, mixed beverage, beer and wine, public
9 event or bottle club licensee or caterer;

10 4. Require any wine and spirits wholesaler, beer distributor,
11 retailer, mixed beverage, on-premises beer and wine licensee, public
12 event or caterer to purchase and dispose of any quota of alcoholic
13 beverages, or to require any retailer to purchase any kind, type,
14 size, container or brand of alcoholic beverages in order to obtain
15 any other kind, type, size, container or brand of alcoholic
16 beverages;

17 5. Sell to any retailer, mixed beverage, on-premises beer and
18 wine licensee, public event or caterer any alcoholic beverage on
19 consignment, or upon condition, or with the privilege of return, or
20 on any condition other than a bona fide sale; provided, the
21 following shall not be considered a violation of this paragraph:

22 a. delivery in good faith, through mistake, inadvertence
23 or oversight, of an alcoholic beverage that was not
24 ordered by a retailer, mixed beverage licensee, on-

1 premises beer and wine licensee, caterer, public event
2 or special event licensee to such licensee,

3 b. replacement of product breakage that occurred while
4 the alcoholic beverages were in transit from the
5 wholesaler to the licensee, or

6 c. replacement of cork-tainted wine that makes the
7 product unsaleable as long as the licensee notifies
8 the wine and spirits wholesaler of the defect in
9 writing within ninety (90) days after delivery of the
10 product; or

11 6. Extend credit to any retailer, other than holders of Federal
12 Liquor Stamps on United States government reservations and
13 installations, mixed beverage, public event or on-premises beer and
14 wine licensee or caterer, other than a state lodge located in a
15 county which has approved the retail sale of alcoholic beverages by
16 the individual drink for on-premises consumption. The acceptance of
17 a postdated check or draft or the failure to deposit for collection
18 a current check or draft by the second banking day after receipt
19 shall be deemed an extension of credit. ~~Violation of this section~~
20 ~~shall be grounds for suspension of the license.~~

21 B. All payments by a retail beer, retail wine, or retail
22 spirits licensee to a beer distributor or a wine and spirits
23 wholesaler licensee for the purchase of beer, wine, or spirits may
24 be made by electronic funds transfer (EFT) payment. No payment to a

1 wholesaler shall be made in cash. All EFT payments shall comply
2 with the following:

3 1. The beer distributor or wine and spirits wholesaler licensee
4 shall initiate the EFT payment transmittal by initiating the
5 withdrawal of the funds from the retailer's account;

6 2. The EFT payment transmittal to the banking institution shall
7 occur no later than the next banking business day from the date of
8 the delivery of the beer, wine, or spirits order to the retailer
9 licensee; and

10 3. A single EFT payment may be made to a wholesaler licensee
11 making deliveries to multiple locations of a chain retailer on the
12 same business day. The retailer and wholesaler shall maintain a
13 store-by-store detailed record to ensure that individual delivery
14 invoices may be traced to the EFT payment.

15 C. A wholesaler licensee may accept a check or money order in
16 the following instances:

17 1. When accepting payment for a non-sufficient funds EFT
18 payment;

19 2. During temporary service interruptions of the third-party
20 payment processing company; or

21 3. During the thirty-day period following the issuance of a
22 license to a retailer.

23 D. To maintain control of its ability to receive payment, the
24 wholesaler licensee shall be solely responsible for selecting a

1 third-party payment processing company to facilitate the EFT
2 payments. A wholesaler licensee shall not select a third-party
3 payment processing company that requires more than thirty (30) days'
4 notice from the wholesaler licensee to terminate its agreement with
5 the third-party payment processing company.

6 E. Violation of this section shall be grounds for suspension of
7 the license.

8 SECTION 3. AMENDATORY 37A O.S. 2021, Section 6-103, as
9 last amended by Section 1, Chapter 200, O.S.L. 2023 (37A O.S. Supp.
10 2024, Section 6-103), is amended to read as follows:

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

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

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

23 3. Sell any alcoholic beverages at any hour other than between
24 the hours of 8:00 a.m. and midnight Monday through Saturday, and

1 shall not be permitted to be open on Thanksgiving Day or Christmas
2 Day; provided, a county may, pursuant to the provisions of
3 subsections B and C of Section 3-124 of this title, elect to allow
4 such sales between the hours of noon and midnight on Sunday. Retail
5 spirits licensees shall be permitted to sell alcoholic beverages on
6 the day of any General, Primary, Runoff Primary or Special Election
7 whether on a national, state, county or city election, provided that
8 the election day does not occur on any day on which such sales are
9 otherwise prohibited by law;

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

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

18 a. "cash or debit card" means any instrument or device
19 whether known as a debit card or by any other name,
20 issued with or without fee by an issuer for the use of
21 the cardholder in depositing, obtaining or
22 transferring funds from a consumer banking electronic
23 facility, and
24

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

8 6. Offer or furnish any prize, premium, gift or similar
9 inducement to a consumer in connection with the sale of alcoholic
10 beverages, except that goods or merchandise included by the
11 manufacturer in packaging with alcoholic beverages or for packaging
12 with alcoholic beverages shall not be included in this prohibition,
13 but no wholesaler or retailer shall sell any alcoholic beverage
14 prepackaged with other goods or merchandise at a price which is
15 greater than the price at which the alcoholic beverage alone is
16 sold; provided, it shall not be considered inducement or a premium
17 for a retail spirits licensee to have an advertised price posted
18 higher online than the shelf price on the licensed premises; ~~or~~

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

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

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

12 SECTION 4. This act shall become effective November 1, 2025.

13 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND INSURANCE
14 February 20, 2025 - DO PASS AS AMENDED BY CS
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