

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1349

By: McEntire

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7 COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; amending
9 Section 21, Chapter 366, O.S.L. 2016 (37A O.S. Supp.
10 2018, Section 2-109), which relates to certain retail
11 licenses; modifying restriction on sale of malt
12 beverages; amending Section 22, Chapter 366, O.S.L.
13 2016, as amended by Section 6, Chapter 381, O.S.L.
14 2017 (37A O.S. Supp. 2018, Section 2-110), which
15 relates to the mixed beverage license; authorizing
16 certain licensees to make certain sales; authorizing
17 a holder of a mixed beverage license to hold certain
18 other licenses; amending Section 58, Chapter 366,
19 O.S.L. 2016, as amended by Section 4, Chapter 312,
20 O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-146),
21 which relates to denial of licenses; eliminating
22 certain requirement for certain applicants; and
23 providing an effective date.
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 21, Chapter 366,
O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-109), is amended
to read as follows:

Section 2-109. A. A retail spirits license shall
authorize the holder thereof:

1 1. To purchase wine or spirits from a wine and spirits
2 wholesaler;

3 2. To purchase beer from a beer distributor or from the holder
4 of a small brewer self-distribution license; and

5 3. To sell same on the licensed premises in such containers to
6 consumers for off-premises consumption only and not for resale;
7 provided, spirits, wine and beer may be sold to charitable
8 organizations that are holders of charitable alcoholic beverage
9 auction or charitable alcoholic beverage event licenses.

10 B. A retail wine license shall authorize the holder thereof:

11 1. To purchase wine from a wine and spirits wholesaler;

12 2. To purchase wine from a small farm winemaker who is
13 permitted and has elected to self-distribute as provided in Article
14 ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution; and

15 3. To sell same on the licensed premises in such containers to
16 consumers for off-premises consumption only and not for resale;
17 provided, wine may be sold to charitable organizations that are
18 holders of charitable alcoholic beverage auction or charitable
19 alcoholic beverage event licenses.

20 Provided, no holder of a ~~Retail Wine License~~ retail wine license
21 may sell wine with alcohol beverage volume in excess of fifteen
22 percent (15%).

23 C. A retail beer license shall authorize the holder thereof:

24 1. To purchase beer from a beer distributor;

1 2. To purchase beer from the holder of a small brewer self-
2 distribution license; and

3 3. To sell same on the licensed premises in such containers to
4 consumers for off-premises consumption only and not for resale;
5 provided, beer may be sold to charitable organizations that are
6 holders of charitable alcoholic beverage auction or charitable
7 alcoholic beverage event licenses.

8 Provided, no holder of a ~~Retail Beer License~~ retail beer license
9 may sell a malt beverage with alcohol beverage volume in excess of
10 ~~eight and ninety-nine/one hundredths percent (8.99%)~~ fifteen percent
11 (15%).

12 SECTION 2. AMENDATORY Section 22, Chapter 366, O.S.L.
13 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S.
14 Supp. 2018, Section 2-110), is amended to read as follows:

15 Section 2-110. A. A mixed beverage license shall authorize the
16 holder thereof:

17 1. To purchase alcohol, spirits, beer and/or wine in retail
18 containers from the holder of a wine and spirits wholesaler and beer
19 distributor license as specifically provided by law; and

20 2. To sell, offer for sale and possess mixed beverages for on-
21 premises consumption only~~+,~~ provided,

22 a. the holder of a mixed beverage license issued for an
23 establishment which is also a restaurant may purchase
24 wine directly from a winemaker and beer directly from

1 a small brewer who is permitted and has elected to
2 self-distribute as provided in Article ~~XXVIII~~ XXVIII-
3 A of the Oklahoma Constitution, and

4 b. the holder of a mixed beverage license that is also a
5 holder of a retail wine license or retail beer license
6 shall not be prohibited from the on-premises sale of
7 wine or beer, according to the license held, for off-
8 premises consumption, subject to the limitations of
9 the retail wine license or retail beer license.

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

18 C. A holder of a mixed beverage license shall not be prohibited
19 from obtaining and holding a retail beer license or retail wine
20 license; provided, that each holder qualifies and maintains the
21 qualifications for each license held as set forth in this title and
22 the rules promulgated by the ABLE Commission.

23 D. Upon application, a mixed beverage license shall be issued
24 for any place of business functioning as a motion picture theater,

1 as defined by Section 1-103 of this title. Provided, that upon
2 proof of legal age to consume alcohol, every patron being served
3 alcoholic beverages shall be required to wear a wrist bracelet or
4 receive a hand stamp identifying the patron as being of legal age to
5 consume alcohol. This requirement shall only apply inside a motion
6 picture theater auditorium where individuals under the legal age to
7 consume alcohol are allowed.

8 SECTION 3. AMENDATORY Section 58, Chapter 366, O.S.L.
9 2016, as amended by Section 4, Chapter 312, O.S.L. 2018 (37A O.S.
10 Supp. 2018, Section 2-146), is amended to read as follows:

11 Section 2-146. A. The ABLE Commission shall refuse to issue a
12 wine and spirits wholesaler, beer distributor, retail spirits,
13 retail wine or retail beer license, either on an original
14 application or a renewal application, if it has reasonable grounds
15 to believe and finds any of the following to be true:

16 1. Except in the case of a beer distributor, that the applicant
17 is not a citizen of the United States or is not a qualified elector
18 in this state, or has not been a continuous resident of this state
19 for the five (5) years next preceding the application for the
20 license;

21 2. That the applicant is under twenty-one (21) years of age;

22 3. That the applicant or any partner, or spouse of the
23 applicant or any partner, has been convicted of a felony;

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1 4. That the applicant or any partner, or spouse of the
2 applicant or any partner, has been convicted of a violation of any
3 state or federal law relating to alcoholic beverages, has forfeited
4 a bond while any charge of such violation was pending, nor may any
5 license be granted for any purpose under the Oklahoma Alcoholic
6 Beverage Control Act to an Oklahoma resident, who has held or whose
7 spouse has held a Federal Liquor Stamp in Oklahoma before the
8 adoption of Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution
9 unless the Liquor Stamp was granted for supplying alcoholic
10 beverages to a federal military installation, or was granted under
11 the Oklahoma Alcoholic Beverage Control Act;

12 5. That the applicant or any partner has, within twelve (12)
13 months next preceding the date of the application, violated any
14 provision of the Oklahoma Alcoholic Beverage Control Act or rule of
15 the ABLE Commission promulgated pursuant hereto. Provided, however,
16 that if the ABLE Commission has, during such twelve-month period,
17 suspended any license sought to be renewed, such renewal application
18 may be approved if the term of the suspension has been completed and
19 the applicant has complied with any special conditions imposed in
20 connection with the suspension;

21 6. That the applicant is not of good moral character, or that
22 the applicant is in the habit of using alcoholic beverages to
23 excess, or is mentally incapacitated. Provided, that the record in
24 any municipal court showing a conviction of violation of any

1 municipal ordinances or state statutes involving moral character or
2 public nuisance obtained after passage and approval of the Oklahoma
3 Alcoholic Beverage Control Act shall be received in evidence by the
4 ABLE Commission;

5 7. That the applicant does not own or have a written lease for
6 the premises for which a license is sought;

7 8. That the applicant, within twelve (12) months next preceding
8 the date of application, has been the holder of a license revoked
9 for cause;

10 9. That the applicant is not the real party in interest, or
11 intends to carry on the business authorized by the license as the
12 agent of another;

13 10. That the applicant, in the case of an application for
14 renewal of any license, would not be eligible for such license on a
15 first application;

16 11. That the applicant is a person who appoints or is a law
17 enforcement official or is an employee of the ABLE Commission;

18 12. That the proposed location of the licensed premises would
19 violate a valid municipal nondiscriminatory zoning ordinance;

20 13. That, in the case of an application for a wine and spirits
21 wholesaler license or beer distributor license, any manufacturer,
22 including an officer, director or principal stockholder thereof or
23 any partner, has any financial interest in the business to be
24 conducted under the license, unless otherwise permitted by law;

1 14. That the issuance of the license applied for would result
2 in a violation of any provision of the Oklahoma Alcoholic Beverage
3 Control Act;

4 15. That, in the case of an application for a wine and spirits
5 wholesaler or beer distributor license, the applicant or any
6 partner, or spouse of the applicant or any partner, is the holder or
7 partner of the holder of any other class of license issued under the
8 provisions of the Oklahoma Alcoholic Beverage Control Act, other
9 than an agent or employee license for employment by the applicant,
10 or a storage license, bonded warehouse license, carrier license or
11 private carrier license; provided, nothing shall prohibit a wine and
12 spirits wholesaler, who is otherwise qualified, from maintaining
13 beer distributor licenses in the state, nor a beer distributor, who
14 is otherwise qualified, from maintaining a wine and spirits
15 wholesaler license in the state;

16 16. That, in the case of an application for a retail spirits,
17 retail wine or retail beer license, the applicant or any partner is
18 the holder or partner of the holder, or employee of such holder of
19 any other class of license issued under the provisions of the
20 Oklahoma Alcoholic Beverage Control Act, other than a storage
21 license or an employee license for the proposed licensed premises of
22 the applicant, provided, nothing in this title shall prohibit an
23 applicant for a retail wine and/or retail beer license from
24 maintaining a separate mixed beverage, caterer, mixed

1 beverage/caterer combination license, and/or an ~~on-premise~~ on-
2 premises beer and wine license, ~~if the retail wine and/or retail~~
3 ~~beer license is not situated within or adjacent to the same physical~~
4 ~~space wherein the on-premises license is maintained; or~~

5 17. That the applicant or any partner, spouse, employee or
6 other person affiliated with the applicant is not in compliance with
7 the tax laws of this state as required in Article ~~XXVIII~~ XXVIII-A
8 of the Oklahoma Constitution.

9 B. The provisions of this section shall not operate to prohibit
10 the issuance of a beer distributor license to a corporation or
11 partnership.

12 SECTION 4. This act shall become effective November 1, 2019.

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14 57-1-8376 MB 02/28/19

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