An Act

ENROLLED HOUSE
BILL NO. 1715

By: Marti of the House

and

Coleman and Bergstrom of the Senate

An Act relating to alcoholic beverages; authorizing the ABLE Commission to permit certain license holders to host off-site events following application; providing details of application; allowing Commission to assess fee; updating statutory language and reference; amending 37A O.S. 2021, Section 1-103, which relates to definitions for the Oklahoma Alcoholic Beverage Control Act; modifying the definition of beer; defining seltzer; updating statutory reference; amending 37A O.S. 2021, Section 2-101, which relates to license fees; modifying fees for certain license holders based on production; amending 37A O.S. 2021, Section 2-102, as amended by Section 1, Chapter 396, O.S.L. 2021, which relate to brewer licenses; requiring licensees to sell only the products covered by licenses; providing for off-site events; amending 37A O.S. 2021, Section 2-103, which relates to a distiller license; modifying where a distiller may sell spirits produced by the license holder; providing that consumers after final sale may add non-alcoholic substances to the spirits; providing that non-alcoholic substances are not part of the distilling process; amending 37A O.S. 2021, Section 2-131, which relates to small farm winery licenses; allowing certain purchases by small farm winery license holders; amending 37A O.S. 2021, Section 3-111, which relates to termination of distribution agreement; allowing certain individuals to purchase interest under certain conditions; expanding and clarifying when a brewer may immediately terminate a distributor agreement; providing for compensation for when a brewer terminates a distribution agreement and the brewer

obtains a new distributor; providing that reimbursement of arbitration costs shall be awarded to the prevailing part; providing that if a distributor improperly terminated the damages may include the fair market value of the distribution rights; requiring agreements to be null and void in violation of certain provisions; updating statutory reference; amending 37A O.S. 2021, Section 6-102, as amended by Section 1, Chapter 300, O.S.L. 2022 (37A O.S. Supp. 2022, Section 6-102), which relates to licensee prohibited acts; allowing the delivery of up to six bottles or cans of beer at a time for on-premises consumption; repealing 37A O.S. 2021, Section 2-102, as amended by Section 1, Chapter 226, O.S.L. 2019, which relates to brewer license; providing for codification; and declaring an emergency.

SUBJECT: Alcoholic beverages

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 2-162 of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. A brewer, small brewer, or small farm winery licensee shall be authorized to host an off-site event following the submission and approval of an application to the ABLE Commission. The licensee shall only be authorized to sell for consumption at the off-site event alcoholic beverages authorized for sale under the licensee's respective license. The licensee shall be limited to hosting four (4) off-site events per year.

B. The application shall include, but not be limited to, the location of the off-site event with a designated area within the location designed to provide an exclusive space which may be limited to the public and a designated point of access for a patron or patrons specifically granted access to ensure that persons present in the designated area are above twenty-one (21) years of age. The Commission may prescribe a filing fee for each off-site event application not to exceed Twenty-five Dollars ($25.00).

C. The ABLE Commission shall promulgate rules necessary for the implementation of this section.

SECTION 2. AMENDATORY 37A O.S. 2021, Section 1-103, is amended to read as follows:

Section 1-103. As used in the Oklahoma Alcoholic Beverage Control Act:

1. "ABLE Commission" or "Commission" means the Alcoholic Beverage Laws Enforcement Commission;

2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol or spirits of wine, from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in accordance with Acts of Congress and regulations promulgated thereunder;

3. "Alcoholic beverage" means alcohol, spirits, beer and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings;

4. "Applicant" means any individual, legal or commercial business entity, or any individual involved in any legal or commercial business entity allowed to hold any license issued in accordance with the Oklahoma Alcoholic Beverage Control Act;

5. "Beer" means any beverage containing more than one-half of one percent (0.50%) of alcohol by volume and obtained by the alcoholic fermentation of an infusion or decoction of barley, or other grain, sugar, malt or similar products. For the purposes of taxation, distribution, sales, and regulation, seltzer shall mean the same as beer as provided in this section. ~~"Beer"~~ Beer may or may not contain hops or other vegetable products. ~~"Beer"~~ Beer includes, among other things, beer, ale, stout, lager beer, porter, seltzer, and other malt or brewed liquors, but does not include sake, known as Japanese rice wine;

6. "Beer keg" means any brewer-sealed, single container that contains not less than four (4) gallons of beer;

7. "Beer distributor" means and includes any person licensed to distribute beer for retail sale in the state, but does not include a holder of a small brewer self-distribution license or brewpub self-distribution license. The term ~~"distributor"~~ distributor, as used in the Oklahoma Alcoholic Beverage Control Act, shall be construed to refer to a beer distributor;

8. "Bottle club" means any establishment in a county which has not authorized the retail sale of alcoholic beverages by the individual drink, which is required to be licensed to keep, mix and serve alcoholic beverages belonging to club members on club premises;

9. "Bottle service" means the sale and provision of spirits in their original packages by a mixed beverage licensee to be consumed in that mixed beverage licensee's club suite;

10. "Brand" means any word, name, group of letters, symbol or combination thereof, that is adopted and used by a licensed brewer to identify a specific beer, wine or spirit and to distinguish that product from another beer, wine or spirit;

11. "Brand extension" means:

a. after October 1, 2018, any brand of beer or cider introduced by a manufacturer in this state which either:

(1) incorporates all or a substantial part of the unique features of a preexisting brand of the same licensed brewer, or

(2) relies to a significant extent on the goodwill associated with the preexisting brand, or

b. any brand of beer that a brewer, the majority of whose total volume of all brands of beer distributed in this state by such brewer on January 1, 2016, was distributed as low-point beer, desires to sell, introduces, begins selling or theretofore has sold and desires to continue selling a strong beer in this state which either:

(1) incorporates or incorporated all or a substantial part of the unique features of a preexisting low-point beer brand of the same licensed brewer, or

(2) relies or relied to a significant extent on the goodwill associated with a preexisting low-point beer brand;

12. "Brewer" means and includes any person who manufactures for human consumption by the use of raw materials or other ingredients any beer or cider upon which a license fee and a tax are imposed by any law of this state;

13. "Brewpub" means a licensed establishment operated on the premises of, or on premises located contiguous to, a small brewer, that prepares and serves food and beverages, including alcoholic beverages, for on-premises consumption;

14. "Cider" means any alcoholic beverage obtained by the alcoholic fermentation of fruit juice, including but not limited to flavored, sparkling or carbonated cider. For the purposes of the manufacture of this product, cider may be manufactured by either manufacturers or brewers. For the purposes of the distribution of this product, cider may be distributed by either wine and spirits wholesalers or beer distributors;

15. "Club suite" means a designated area within the premises of a mixed beverage licensee designed to provide an exclusive space which is limited to a patron or patrons specifically granted access by a mixed beverage licensee and is not accessible to other patrons of the mixed beverage licensee or the public. A club suite must have a clearly designated point of access for a patron or patrons specifically granted access by the mixed beverage licensee to ensure that persons present in the suite are limited to patrons specifically granted access by the mixed beverage licensee and employees providing services to the club suite;

16. "Convenience store" means any person primarily engaged in retailing a limited range of general household items and groceries, with extended hours of operation, whether or not engaged in retail sales of automotive fuels in combination with such sales;

17. "Convicted" and "conviction" mean and include a finding of guilt resulting from a plea of guilty or nolo contendere, the decision of a court or magistrate or the verdict of a jury,

irrespective of the pronouncement of judgment or the suspension thereof;

18. "Designated products" means the brands of wine or spirits offered for sale by a manufacturer that the manufacturer has assigned to a designated wholesaler for exclusive distribution;

19. "Designated wholesaler" means a wine and spirits wholesaler who has been selected by a manufacturer as a wholesaler appointed to distribute designated products;

20. "Director" means the Director of the ABLE Commission;

21. "Distiller" means any person who produces spirits from any source or substance, or any person who brews or makes mash, wort or wash, fit for distillation or for the production of spirits (except a person making or using such material in the authorized production of wine or beer, or the production of vinegar by fermentation), or any person who by any process separates alcoholic spirits from any fermented substance, or any person who, making or keeping mash, wort or wash, has also in his or her possession or use a still;

22. "Distributor agreement" means the written agreement between the distributor and brewer as set forth in Section 3-108 of this title;

23. "Drug store" means a person primarily engaged in retailing prescription and nonprescription drugs and medicines;

24. "Dual-strength beer" means a brand of beer that, immediately prior to April 15, 2017, was being sold and distributed in this state:

a. as a low-point beer pursuant to the Low-Point Beer Distribution Act in effect immediately prior to October 1, 2018, and

b. as strong beer pursuant to the Alcoholic Beverage Control Act in effect immediately prior to October 1, 2018,

and continues to be sold and distributed as such on October 1, 2018. Dual-strength beer does not include a brand of beer that arose as a result of a brand extension as defined in this section;

25. "Fair market value" means the value in the subject territory covered by the written agreement with the distributor or wholesaler that would be determined in an arm's length transaction entered into without duress or threat of termination of the distributor's or wholesaler's rights and shall include all elements of value, including goodwill and going-concern value;

26. "Good cause" means:

a. failure by the distributor to comply with the material and reasonable provisions of a written agreement or understanding with the brewer, or

b. failure by the distributor to comply with the duty of good faith;

27. "Good faith" means the duty of each party to any distributor agreement and all officers, employees or agents thereof to act with honesty in fact and within reasonable standards of fair dealing in the trade;

28. "Grocery store" means a person primarily engaged in retailing a general line of food, such as canned or frozen foods, fresh fruits and vegetables, and fresh and prepared meats, fish and poultry;

29. "Hotel" or "motel" means an establishment which is licensed to sell alcoholic beverages by the individual drink and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial;

30. "Legal newspaper" means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

31. "Licensee" means any person holding a license under the Oklahoma Alcoholic Beverage Control Act, and any agent, servant or employee of such licensee while in the performance of any act or duty in connection with the licensed business or on the licensed premises;

32. "Low-point beer" shall mean any beverages containing more than one-half of one percent (1/2 of 1%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including but not limited to, beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion by barley or other grain, malt or similar products;

33. "Manufacturer" means a distiller, winemaker, rectifier or bottler of any alcoholic beverage (other than beer) and its subsidiaries, affiliates and parent companies;

34. "Manufacturer's agent" means a salaried or commissioned salesperson who is the agent authorized to act on behalf of the manufacturer or nonresident seller in the state;

35. "Meals" means foods commonly ordered at lunch or dinner and at least part of which is cooked on the licensed premises and requires the use of dining implements for consumption. Provided, that the service of only food such as appetizers, sandwiches, salads or desserts shall not be considered ~~"meals"~~ meals;

36. "Mini-bar" means a closed container, either refrigerated in whole or in part, or nonrefrigerated, and access to the interior of which is:

a. restricted by means of a locking device which requires the use of a key, magnetic card or similar device, or

b. controlled at all times by the licensee;

37. "Mixed beverage cooler" means any beverage, by whatever name designated, consisting of an alcoholic beverage and fruit or vegetable juice, fruit or vegetable flavorings, dairy products or carbonated water containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume but not more than seven percent (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is packaged in a container not larger than three hundred seventy-five (375) milliliters. Such term shall include but not be limited to the beverage popularly known as a "wine cooler";

38. "Mixed beverages" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and

wine, caterer, public event, charitable event or special event license;

39. "Motion picture theater" means an establishment which is licensed by Section 2-110 of this title to sell alcoholic beverages by the individual drink and where motion pictures are exhibited, and to which the general public is admitted;

40. "Nondesignated products" means the brands of wine or spirits offered for sale by a manufacturer that have not been assigned to a designated wholesaler;

41. "Nonresident seller" means any person licensed pursuant to Section 2-135 of this title;

42. "Retail salesperson" means a salesperson soliciting orders from and calling upon retail alcoholic beverage stores with regard to his or her product;

43. "Occupation" as used in connection with "occupation tax" means the sites occupied as the places of business of the manufacturers, brewers, wholesalers, beer distributors, retailers, mixed beverage licensees, on-premises beer and wine licensees, bottle clubs, caterers, public event and special event licensees;

44. "Original package" means any container of alcoholic beverage filled and stamped or sealed by the manufacturer or brewer;

45. "Package store" means any sole proprietor or partnership that qualifies to sell wine, beer and/or spirits for off-premises consumption and that is not a grocery store, convenience store or drug store, or other retail outlet that is not permitted to sell wine or beer for off-premises consumption;

46. "Patron" means any person, customer or visitor who is not employed by a licensee or who is not a licensee;

47. "Person" means an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity;

48. "Premises" means the grounds and all buildings and appurtenances pertaining to the grounds including any adjacent premises if under the direct or indirect control of the licensee and

the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license. Provided that the ABLE Commission shall have the authority to designate areas to be excluded from the licensed premises solely for the purpose of:

a. allowing the presence and consumption of alcoholic beverages by private parties which are closed to the general public, or

b. allowing the services of a caterer serving alcoholic beverages provided by a private party.

This exception shall in no way limit the licensee's concurrent responsibility for any violations of the Oklahoma Alcoholic Beverage Control Act occurring on the licensed premises;

49. "Private event" means a social gathering or event attended by invited guests who share a common cause, membership, business or task and have a prior established relationship. For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall not constitute a private event;

50. "Public event" means any event that can be attended by the general public;

51. "Rectifier" means any person who rectifies, purifies or refines spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing, from mash, wort, wash or other substance, through continuous closed vessels and pipes, until the production thereof is complete), and any person who, without rectifying, purifying or refining spirits, shall by mixing (except for immediate consumption on the premises where mixed) such spirits, wine or other liquor with any material, manufactures any spurious, imitation or compound liquors for sale, under the name of whiskey, brandy, rum, gin, wine, spirits, cordials or any other name;

52. "Regulation" or "rule" means a formal rule of general application promulgated by the ABLE Commission as herein required;

53. "Restaurant" means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises

consumption and where food is prepared and sold for immediate consumption on the premises;

54. "Retail container for spirits and wines" means an original package of any capacity approved by the United States Bureau of Alcohol, Tobacco ~~and~~, Firearms and Explosives;

55. "Retailer" means a package store, grocery store, convenience store or drug store licensed to sell alcoholic beverages for off-premises consumption pursuant to a Retail Spirits License, Retail Wine License or Retail Beer License;

56. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever, and includes and means all sales made by any person, whether as principal, proprietor or as an agent, servant or employee. The term ~~"sale"~~ sale is also declared to be and include the use or consumption in this state of any alcoholic beverage obtained within or imported from without this state, upon which the excise tax levied by the Oklahoma Alcoholic Beverage Control Act has not been paid or exempted;

57. "Seltzer" means any beverage containing more than one-half of one percent (0.50%) of alcohol by volume and obtained by the alcoholic fermentation of malt, rice, grain of any kind, bran, glucose, sugar, or molasses and combined with carbonated water and other flavoring and labeled as "beer" by the Internal Revenue Code; provided, that seltzer shall not include carbonated beverages mixed with wine or spirits;

58. "Short-order food" means food other than full meals including but not limited to sandwiches, soups and salads. Provided that popcorn, chips and other similar snack food shall not be considered ~~"short-order food"~~ short-order food;

~~58.~~ 59. "Small brewer" means a brewer who manufactures less than sixty-five thousand barrels of beer annually pursuant to a validly issued Small Brewer License hereunder;

~~59.~~ 60. "Small farm wine" means a wine that is produced by a small farm winery with seventy-five percent (75%) or more Oklahoma-grown grapes, berries, other fruits, honey or vegetables;

~~60.~~ 61. "Small farm winery" means a wine-making establishment that does not annually produce for sale more than fifteen thousand (15,000) gallons of wine as reported on the United States Department

of the Treasury~~,~~ Alcohol and Tobacco Tax and Trade Bureau, Report of Wine Premises Operations (TTB Form 5120.17);

~~61.~~ 62. "Sparkling wine" means champagne or any artificially carbonated wine;

~~62.~~ 63. "Special event" means an entertainment, recreation or marketing event that occurs at a single location on an irregular basis and at which alcoholic beverages are sold;

~~63.~~ 64. "Spirits" means any beverage other than wine or beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume, and obtained by distillation, whether or not mixed with other substances in solution and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds, but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto;

~~64.~~ 65. "Strong beer" means beer which, prior to October 1, 2018, was distributed pursuant to the Oklahoma Alcoholic Beverage Control Act, Section ~~501~~ 1-101 et seq. of ~~Title 37 of the Oklahoma Statutes~~ this title;

~~65.~~ 66. "Successor brewer" means a primary source of supply, a brewer, a cider manufacturer or an importer that acquires rights to a beer or cider brand from a predecessor brewer;

~~66.~~ 67. "Tax Commission" means the Oklahoma Tax Commission;

~~67.~~ 68. "Territory" means a geographic region with a specified boundary;

~~68.~~ 69. "Wine and spirits wholesaler" or "wine and spirits distributor" means and includes any sole proprietorship or partnership licensed to distribute wine and spirits in the state. The term "wholesaler", as used in the Oklahoma Alcoholic Beverage Control Act, shall be construed to refer to a wine and spirits wholesaler;

~~69.~~ 70. "Wine" means and includes any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products

containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine;

~~70.~~ 71. "Winemaker" means and includes any person or establishment who manufactures for human consumption any wine upon which a license fee and a tax are imposed by any law of this state; and

~~71.~~ 72. "Satellite tasting room" means a licensed establishment operated off the licensed premises of the holder of a small farm winery or winemaker license, which serves wine for on-premises or off-premises consumption.

Words in the plural include the singular, and vice versa, and words imparting the masculine gender include the feminine, as well as persons and licensees as defined in this section.

SECTION 3. AMENDATORY 37A O.S. 2021, Section 2-101, is amended to read as follows:

Section 2-101. A. Except as otherwise provided in this section, the licenses issued by the ABLE Commission, and the annual fees therefor, shall be as follows:

1. Brewer License $1,250.00

2. Small Brewer License $125.00

3. Distiller License $3,125.00

4. Winemaker License $625.00

5. Small Farm Winery License $75.00

6. Rectifier License $3,125.00

7. Wine and Spirits Wholesaler License $3,000.00

8. Beer Distributor License $750.00

9. The following retail spirits license fees shall be determined by the latest Federal Decennial Census:

a. Retail Spirits License for cities and towns from 200 to 2,500 population $305.00

b. Retail Spirits License for cities and towns from 2,501 to 5,000 population $605.00

c. Retail Spirits License for cities and towns over 5,000 population $905.00

10. Retail Wine License $1,000.00

11. Retail Beer License $500.00

12. Mixed Beverage License $1,005.00

(initial license)

$905.00

(renewal)

13. Mixed Beverage/Caterer Combination License $1,250.00

14. On-Premises Beer and Wine License $500.00

(initial license)

$450.00

(renewal)

15. Bottle Club License $1,000.00

(initial license)

$900.00

(renewal)

16. Caterer License $1,005.00

(initial license)

$905.00

(renewal)

17. Annual Special Event License $55.00

18. Quarterly Special Event License $55.00

19. Hotel Beverage License $1,005.00

(initial license)

$905.00

(renewal)

20. Airline/Railroad/Commercial Passenger Vessel Beverage License $1,005.00

(initial license)

$905.00

(renewal)

21. Agent License $55.00

22. Employee License $30.00

23. Industrial License $23.00

24. Carrier License $23.00

25. Private Carrier License $23.00

26. Bonded Warehouse License $190.00

27. Storage License $23.00

28. Nonresident Seller License $750.00

29. Manufacturer License:

a. 50 cases or less sold in Oklahoma in last calendar year $50.00

b. 51 to 500 cases sold in Oklahoma in last calendar year $75.00

c. 501 cases or more sold in Oklahoma in last calendar year $150.00

30. Manufacturer's Agent License $55.00

31. Sacramental Wine Supplier License $100.00

32. Charitable Auction License $1.00

33. Charitable Alcoholic Beverage License $55.00

34. Winemaker Self-Distribution License:

a. produced ten thousand (10,000) gallons or less in last calendar year $350.00

b. produced more than ten thousand (10,000) gallons but no more than fifteen thousand (15,000) gallons in last calendar year $750.00

35. Annual Public Event License $1,005.00

36. One-Time Public Event License $255.00

37. Small Brewer Self-Distribution License:

a. produced fifteen thousand (15,000) barrels or less in last calendar year $350.00

b. produced more than fifteen thousand (15,000) barrels in last calendar year $750.00

38. Brewpub License $1,005.00

39. Brewpub Self-Distribution License $750.00

40. Complimentary Beverage License $75.00

41. Satellite Tasting Room License $100.00

B. 1. There shall be added to the initial or renewal fees for a ~~Mixed Beverage License~~ mixed beverage license an administrative fee, which shall not be deemed to be a license fee, in the amount of Five Hundred Dollars ($500.00), which shall be paid at the same time and in the same manner as the license fees prescribed by paragraph 12 of subsection A of this section; provided, this fee shall not be assessed against service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code.

2. There shall be added to the fee for a ~~Mixed Beverage/Caterer Combination License~~ mixed beverage/caterer combination license an administrative fee, which shall not be deemed to be a license fee, in the amount of Two Hundred Fifty Dollars ($250.00), which shall be paid at the same time and in the same manner as the license fee prescribed by paragraph 13 of subsection A of this section.

C. Notwithstanding the provisions of subsection A of this section:

1. The license fee for a mixed beverage or bottle club license for those service organizations or fraternal beneficiary societies which are exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue Code shall be Five Hundred Dollars ($500.00) per year; and

2. The renewal fee for an airline/railroad/commercial passenger vessel beverage license held by a railroad described in 49 U.S.C., Section 24301, shall be One Hundred Dollars ($100.00).

D. An applicant may apply for and receive both an on-premises beer and wine license and a caterer license.

E. All licenses, except as otherwise provided, shall be valid for one (1) year from date of issuance unless revoked or surrendered. Provided, all employee licenses shall be valid for two (2) years.

F. The holder of a license, issued by the ABLE Commission, for a bottle club located in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized, may exchange the bottle club license for a mixed beverage license or an on-premises beer and wine license and operate the licensed premises as a mixed beverage establishment or an on-premises beer and wine establishment subject

to the provisions of the Oklahoma Alcoholic Beverage Control Act. There shall be no additional fee for such exchange and the mixed beverage license or on-premises beer and wine license issued shall expire one (1) year from the date of issuance of the original bottle club license.

G. In addition to the applicable licensing fee, the following surcharge shall be assessed annually on the following licenses:

1. Nonresident Seller License $2,500.00

2. Manufacturer License:

   a. 50 cases or less sold in Oklahoma in last calendar year $100.00

   b. 51 to 500 cases sold in Oklahoma in last calendar year $225.00

   c. 501 cases or more sold in Oklahoma in last calendar year $450.00

3. Wine and Spirits Wholesaler License $2,500.00

4. Beer Distributor $1,000.00

5. Retail Spirits License for cities and towns over 5,000 population $250.00

6. Retail Spirits License for cities and towns from 2,501 to 5,000 population $200.00

7. Retail Spirits License for cities and towns from 200 to 2,500 population $150.00

8. Retail Wine License $250.00

9. Retail Beer License $250.00

10. Mixed Beverage License $25.00

11. Mixed Beverage/Caterer Combination License $25.00

12. Caterer License $25.00

13. On-Premises Beer and Wine License $25.00

14. Annual Public Event License $25.00

15. Small Farm Winery License $25.00

16. Small Brewer License $35.00

17. Complimentary Beverage License $25.00

The surcharge shall be paid concurrent with the licensee's annual licensing fee and, in addition to Five Dollars ($5.00) of the employee license fee, shall be deposited in the Alcoholic Beverage Governance Revolving Fund established pursuant to Section 5-128 of this title.

H. Any license issued by the ABLE Commission under this title may be relied upon by other licensees as a valid license, and no other licensee shall have any obligation to independently determine the validity of such license or be held liable solely as a consequence of another licensee's failure to maintain a valid license.

SECTION 4. AMENDATORY 37A O.S. 2021, Section 2-102, as amended by Section 1, Chapter 396, O.S.L. 2021, is amended to read as follows:

Section 2-102. A. A brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer and cider on the licensed premises; and

2. To sell beer and cider in this state to holders of beer distributor licenses and to sell beer and cider out of this state to qualified persons.

B. A small brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer <u>and cider</u> produced by the licensee on licensed premises;

2. To sell beer <u>and cider</u> in this state to holders of beer distributor licenses and retail licenses or to sell beer <u>and cider</u> out of this state to qualified persons;

3. To serve free samples of beer and cider produced by the licensee to visitors twenty-one (21) years of age or older;

4. To sell beer and cider produced by the licensee for either on-premises or off-premises consumption to consumers on the brewery premises, or on premises located contiguous thereto;

5. To sell beer and cider at ~~public~~ events ~~such as~~ attended by the public including, but not limited to, trade shows ~~or~~, festivals, farmers markets, boat shows, RV shows, home and garden shows, fairs, car shows, swap meets, city events, county events, or state events for either on-premises or off-premises consumption, regardless of whether such events are held at premises covered by a license to sell, serve, or store alcoholic beverages. A small brewer license holder shall not be required to secure or control the premises of an event attended by the public where the small brewer license holder sells beer or cider;

6. To purchase wine in retail containers from the holder of a wholesaler license or as specifically provided by law; ~~and~~

7. To sell, offer for sale and possess wine for on-premises consumption;

8. To host off-site events pursuant to Section 1 of this act; and

9. To purchase from licensed brewers, small brewers, and brewpubs in this state, and to import beer into this state for use in manufacturing in accordance with federal laws and regulations.

C. The holder of multiple small brewer licenses may sell beer and cider produced at up to three breweries for which the licensee has a license, at any other of such three licensed breweries or on premises located contiguous thereto.

D. Nothing in the Oklahoma Alcoholic Beverage Control Act shall prohibit the holder of a small brewer license from also holding or owning an interest in the holder of a brewpub license.

E. For purposes of this section, no visitor may sample more than a total of twelve (12) fluid ounces of beer and cider per day. The brewer must restrict the distribution ~~and consumption~~ of beer and cider samples to an area within the licensed premises ~~designated~~

~~by the brewer~~ as defined in this subsection. A current floor plan that includes the designated ~~sampling~~ serving area must be on file with the ABLE Commission. No visitor under twenty-one (21) years of age shall be permitted to enter this designated ~~sampling~~ serving area ~~when samples are being distributed or consumed~~. Accompanied visitors under twenty-one (21) years of age shall be allowed anywhere on the premises except for a serving area. Samples of beer and cider served by a brewery under this section shall not be considered a sale of beer and cider within the meaning of Article XXVIII-A of the Oklahoma Constitution or Section 1-103 of this title; however, such samples of beer and cider shall be considered beer and cider removed or withdrawn from the brewery for use or consumption within the meaning of Section 5-110 of this title for excise tax determination and reporting requirements. Sales and sampling may only occur between the hours of 10:00 a.m. and 2:00 a.m. For purposes of this subsection, "serving area" means the area of the bar where drinks are sold, prepared, and served to paying customers and shall not include other areas of the brewery where customers consume purchased products.

F. A small brewer self-distribution license shall authorize holders of a small brewer license to distribute beer and cider produced only by such licensee to a holder of a retail beer license, retail spirits license, mixed beverage license, beer and wine license, caterer's license, special event license, public event license, charitable auction license or brewpub license. A small brewer shall elect whether it will distribute through a distributor or self-distribute in a subject territory; however, a small brewer may not elect to do both simultaneously in a subject territory. The election shall be made through notice to the ABLE Commission. Any changes to the election shall require immediate notification to the ABLE Commission before the change in election will take effect. A small brewer that elects to self-distribute in multiple territories shall only be required to have one small brewer self-distribution license.

G. All manufacturer's licenses held by brewers during the first calendar year beginning October 1, 2018, shall automatically convert to brewer licenses and be deemed effective as of the date of the first issuance of the manufacturer's license. Upon the first renewal of the license, the brewer will need to obtain the appropriate brewer's license. If a brewer elects to market wine and spirits, the brewer will also be required to obtain a manufacturer's license and comply with the rules and regulations for both licenses.

SECTION 5. AMENDATORY 37A O.S. 2021, Section 2-103, is amended to read as follows:

Section 2-103. A. A distiller license shall authorize the holder thereof:

1. To manufacture, bottle, package and store spirits on licensed premises;

2. To sell spirits in this state to licensed wholesalers and manufacturers only;

3. To sell spirits out of this state to qualified persons; to purchase from licensed distillers and rectifiers in this state, and import spirits from without this state for manufacturing purposes in accordance with federal laws and regulations;

4. To serve free samples of spirits produced only by the licensee to visitors twenty-one (21) years of age and older. For purposes of this section, no visitor may sample more than a total of three (3) fluid ounces of spirits per day. The distiller shall restrict the distribution and consumption of spirits samples to an area within the licensed premises designated by the distiller. A current floor plan that includes the designated sampling area shall be on file with the ABLE Commission. No visitor under twenty-one (21) years of age shall be permitted to enter the designated sampling area when samples are being distributed and consumed. Samples of spirits served by a distiller under this section shall not be considered a sale of spirits within the meaning of Article XXVIII-A of the Oklahoma Constitution or Section 1-103 of this title; provided, such samples of spirits shall be considered removed or withdrawn from the distillery for use or consumption within the meaning of Section 5-110 of this title for excise tax determination and reporting requirements;

5. To sell spirits produced by the licensee for either on-premises or off-premises consumption to consumers on the licensed distillery premises or in an area controlled by the licensee located contiguous to the licensed distillery premises <u>and at one (1) location controlled by the licensee located in the same county as the licensed distillery premises but not contiguous to the licensed distillery premises</u>. ~~Product~~ <u>Spirits</u> offered for sale by the Oklahoma licensed distiller will have been sold to and shipped to an Oklahoma licensed wine and spirits wholesaler and then made

available for purchase by the Oklahoma licensed distiller for sale; and

6. To sell spirits at public events such as trade shows or festivals. Products offered for sale by the Oklahoma licensed distiller will have been sold to and shipped to an Oklahoma licensed wine and spirits wholesaler and then made available for purchase by the Oklahoma licensed distiller.

B. Spirits sold pursuant to paragraphs 5 and 6 of subsection A of this section shall not exceed fifteen thousand (15,000) gallons per calendar year in combination.

C. Spirits sold pursuant to paragraphs 5 and 6 of subsection A of this section shall be a final sale. Licensed distillers may offer for sale non-alcoholic substances which may be added to spirits by the consumer after final sale. Substances used for on-premises consumption shall be non-alcoholic in nature and shall not be considered part of the manufacturing process.

SECTION 6. AMENDATORY 37A O.S. 2021, Section 2-131, is amended to read as follows:

Section 2-131. A. A small farm winery license shall authorize the holder thereof:

1. To manufacture and bottle wines produced by that small farm winery;

2. To bottle and sell wines produced by another small farm winery. In order for a small farm winery to bottle and sell another small farm winery's products, both the selling winery and the buying winery shall be small farm winery permit holders;

3. To establish satellite tasting rooms as defined and authorized in ~~this act~~ the Oklahoma Alcoholic Beverage Control Act, where:

a. the winemaker's products may be tasted, sampled, sold, and served for on-premises consumption and the winemaker is permitted to sell its products in sealed containers; provided, the small farm winery license is active and in good standing, or

b. beer purchased by the licensed small farm winery may be sold for on-premises consumption.

The wine sold at a satellite tasting room must have been produced/manufactured by the holder of a small farm winery license and must have all manufacturing taxes paid. The beer sold at a satellite tasting room shall be purchased pursuant to paragraph 6 of this subsection; ~~and~~

4. The small farm winery licensee shall have the same authority as the winemaker licensee;

5. To host off-site events pursuant to Section 1 of this act; and

6. To purchase beer in retail containers from the holder of a wholesaler, beer distributor, small brewer self-distributor or brewpub self-distributor license or as specifically provided by law and to sell, offer for sale and possess beer for on-premises consumption.

B. A small farm wine may display the trademarked "Oklahoma Grown" sticker available from the Oklahoma Grape Industry Council.

SECTION 7. AMENDATORY 37A O.S. 2021, Section 3-111, is amended to read as follows:

Section 3-111. A. Except as provided in subsection ~~F~~ G of this section, a small brewer is not subject to the termination provisions of this section.

B. 1. Except as provided in ~~subsections C, D and E~~ subsection C of this section, no brewer shall terminate a distributor agreement with any beer distributor without establishing good cause for such termination and unless all of the following occur:

a. ~~the brewer establishes good cause for such termination,~~

~~b.~~ the beer distributor receives written notification by certified mail, return receipt requested, from the brewer of the alleged noncompliance and is afforded no less than sixty (60) days in which to cure such noncompliance. If not capable of being cured within the sixty-day period, the beer distributor shall begin

the cure within the sixty-day period and diligently pursue the cure as promptly as feasible,

~~c.~~

b. the beer distributor fails to cure such noncompliance within the allotted cure period, and

~~d.~~

c. the brewer provides written notice by certified mail, return receipt requested, to the beer distributor of such continued noncompliance. The notification shall contain a statement of the intention of the brewer to terminate the distributor agreement, the reasons for the termination and the date the termination shall take effect.

2. If a beer distributor cures an alleged noncompliance within the cure period provided in subparagraph ~~b~~ a of paragraph 1 of this subsection, any notice of termination from a brewer to a beer distributor shall be null and void.

C. A brewer may immediately terminate a distributor agreement, effective upon furnishing written notification to the beer distributor by certified mail, return receipt requested, for any of the following reasons:

1. The beer distributor's failure to pay any account when due and upon written demand by the brewer for such payment, in accordance with agreed payment terms;

2. The assignment or attempted assignment by the beer distributor for the benefit of creditors, the institution of proceedings in bankruptcy by or against the beer distributor, the dissolution or liquidation of the beer distributor or the insolvency of the beer distributor;

3. The revocation or suspension of, or the failure to renew for a period of more than fourteen (14) days, a beer distributor's state, local or federal license or permit to sell beer in this state;

4. The beer distributor has been convicted of a felony that, in the brewer's sole judgment, adversely affects the goodwill of the

beer distributor or brewer; provided, however, an existing stockholder or stockholders, partner or partners, or member or members shall have the right to purchase the stock, partnership interest, or membership interest of the offending stockholder, partner, or member prior to the conviction of the offending stockholder, partner, or member, subject to brewer's approval, which shall not be unreasonably withheld, and if the sale is completed prior to conviction, the provisions of this paragraph shall not apply;

5. A beer distributor has been convicted of, found guilty of or pled guilty or nolo contendere to, a charge of violating a law or regulation of the United States or of this state if it materially and adversely affects the ability of the beer distributor or brewer to continue to sell its beer in this state;

6. Any attempted transfer or change in beneficial ownership of ~~ownership~~ ten percent (10%) or more of the beer distributor, stock of the beer distributor or stock of any parent corporation of the beer distributor, or any change in ~~the beneficial~~ the ownership or control of any entity having control of the beer distributor, without obtaining the prior written approval of the brewer, which may not be unreasonably withheld, except as may otherwise be permitted pursuant to a written agreement between the parties;

7. Fraudulent conduct, by or on the part of the beer distributor or any owner of the beer distributor, or by any employee as to which the beer distributor or any of its owners or its senior management knew or reasonably should have known, in the beer distributor's dealings with the brewer of beer, including the intentional sale of beer outside the brewer's established quality standards, provided however, in the case of fraudulent conduct by a beer distributor employee other than the owner or senior management and only in the event the beer distributor was unaware or should not have been aware of such fraudulent conduct, the beer distributor shall be allowed sixty-day cure period following written notice of such conduct from the brewer, and shall only be terminated for failing to cure the same within sixty (60) days thereof;

8. Cessation of the beer distributor to conduct business for five (5) consecutive business days, unless conducting the business is prevented or rendered impractical due to events beyond the distributor's reasonable control as a result of an act of God, an insured casualty, war or a condition of national, state or local emergency; or

9. Any intentional sale of beer, directly or indirectly, to customers located outside the territory assigned to the beer distributor by the brewer unless expressly authorized by the brewer.

~~Provided, the~~

D. Any beer distributor terminated by a brewer under subsection B of this section shall have the opportunity to sell the brewer's ~~brands~~ brand rights for one hundred twenty (120) days after termination in accordance with the distributor agreement. If no such sale occurs, the brewer's newly appointed distributor shall pay the beer distributor the fair market value of the distribution rights, which will be lost or diminished by reason of termination. If the parties cannot agree on the fair market value, the parties shall follow the same procedures as set forth in paragraphs 2 through 6 of subsection G of this section.

~~D.~~ E. The brewer shall have the right to terminate an agreement with a beer distributor at any time by giving the beer distributor at least ninety-days' written notice by certified mail, return receipt requested; provided, the brewer shall give a similar notice to all ~~other~~ beer distributors in all other states ~~who have entered into the same~~ with which the brewer has a distributor agreement ~~with the brewer~~.

~~E.~~ F. 1. If a particular brand of beer is transferred by purchase or otherwise from a brewer to a successor brewer, ~~the following shall occur:~~

~~1. The~~ the successor brewer shall become obligated to all of the terms and conditions of the agreement in effect on the date of succession. This subsection applies regardless of the character or form of the succession. A successor brewer has the right to contractually require its beer distributor to comply with operational standards of performance, if the standards are uniformly established for all of the successor brewer's distributors. Provided, however, where the successor brewer holds a brewer's license in the state as of January 1, 2023, and has an existing distribution agreement with a beer distributor, the successor brewer may terminate the distribution agreement, in whole or in part, in order to transfer the brand rights to the successor brewer's beer distributor with at least sixty (60) days' written notice to the terminated distributor and with termination effective upon payment to the terminated beer distributor the fair market value of the

terminated beer distributor's business with respect to the terminated brand or brands.

2. A successor brewer may, upon written notice, terminate its agreement, in whole or in part, with a beer distributor of the brewer it succeeded, for the purpose of transferring the distribution rights in the beer distributor's territory to a new beer distributor, provided that the successor beer distributor first pays to the existing beer distributor the fair market value of the existing distributor's business with respect to the terminated brand or brands;

~~2.~~ 3. If the successor brewer decides to terminate its agreement with the existing beer distributor for purposes of transfer, the successor brewer shall notify the existing beer distributor in writing of the successor brewer's intent not to appoint the existing beer distributor for all or part of the existing beer distributor's territory. The successor brewer shall mail the notice of termination by certified mail, return receipt requested, to the existing beer distributor. The successor brewer shall include in the notice the names, addresses and telephone numbers of the successor beer distributor or distributors;

~~3.~~

4. a. the successor beer distributor shall negotiate with the existing beer distributor to determine the fair market value of the existing beer distributor's right to distribute in the existing beer distributor's territory. The successor beer distributor and the existing beer distributor shall negotiate the fair market value in good faith, and

b. the existing beer distributor shall continue to distribute in good faith until payment of the compensation agreed to under subparagraph a of this paragraph, or awarded under paragraph 4 of this subsection, is received; and

~~4.~~

5. a. if the successor beer distributor and the existing beer distributor fail to reach a written agreement on the fair market value within thirty (30) days after the existing beer distributor receives the notice

required pursuant to paragraph 2 of this subsection, the successor beer distributor or the existing beer distributor shall send a written notice to the other party requesting arbitration pursuant to the Uniform Arbitration Act, Part 2 of Article 22 of Title 13, C.R.S. Arbitration shall be held for the purpose of determining the fair market value of the existing beer distributor's right to distribute in the existing beer distributor territory,

b. notice of intent to arbitrate shall be sent, as provided in subparagraph a of this paragraph, not later than forty (40) days after the existing beer distributor receives the notice required pursuant to paragraph 2 of this subsection. The arbitration proceeding shall conclude not later than sixty (60) days after the date the notice of intent to arbitrate is mailed to a party, unless this time is extended by mutual agreement of the parties and the arbitrator,

c. any arbitration held pursuant to this subsection shall be conducted in a city within this state that:

(1) is closest to the existing beer distributor, and

(2) has a population of more than twenty thousand (20,000) people,

d. any arbitration held pursuant to this paragraph shall be conducted before one impartial arbitrator to be selected by the American Arbitration Association or its successor. The arbitration shall be conducted in accordance with the rules and procedures of the Uniform Arbitration Act, Part 2 of Article 22 of Title 13, C.R.S.,

e. an arbitrator's award in any arbitration held pursuant to this paragraph shall be monetary only and shall not enjoin or compel conduct. Any arbitration held pursuant to this paragraph shall be in lieu of all other remedies and procedures,

f. the cost of the arbitrator and any other direct costs of an arbitration held pursuant to this paragraph shall be equally divided by the parties engaged in the

arbitration. All other costs shall be paid by the party incurring them,

g. the arbitrator in any arbitration held pursuant to this paragraph shall render a written decision not later than thirty (30) days after the conclusion of the arbitration, unless this time is extended by mutual agreement of the parties and the arbitrator. The decision of the arbitrator is final and binding on the parties. The arbitrator's award may be enforced by commencing a civil action in any court of competent jurisdiction. Under no circumstances may the parties appeal the decision of the arbitrator,

h. an existing beer distributor or successor beer distributor who fails to participate in the arbitration hearings in any arbitration held pursuant to this paragraph waives all rights the existing beer distributor or successor beer distributor would have had in the arbitration and is considered to have consented to the determination of the arbitrator, and

i. if the existing beer distributor does not receive payment from the successor beer distributor of the settlement or arbitration award required under paragraph 2 or 3 of this subsection within thirty (30) days after the date of the settlement or arbitration award:

(1) the existing beer distributor shall remain the beer distributor in the existing beer distributor's territory to at least the same extent that the existing beer distributor distributed the beer immediately before the successor brewer acquired rights to the brand, and

(2) the existing beer distributor is not entitled to the settlement or arbitration award.

~~F.~~ G. 1. In addition to termination rights that may be set forth in a distributor agreement, a small brewer ~~who manufactures less than twenty-five thousand barrels of beer annually~~ may terminate a distributor agreement with any beer distributor; provided, that~~,~~ prior to the effective date of the termination, the

small brewer pays the beer distributor the fair market value of the distribution rights which will be lost or diminished by reason of the termination.

2. If such small brewer and beer distributor cannot mutually agree to the fair market value of the applicable distribution rights lost or diminished by reason of the termination, then the brewer shall pay the beer distributor a good faith estimate of the fair market value of the applicable distribution rights.

3. If the beer distributor being terminated under paragraph 2 of this subsection disputes that the payment made by the small brewer was less than the fair market value of the distribution rights, then the beer distributor may within forty-five (45) days of termination submit the question of fair market value of the applicable distribution rights lost or diminished by reason of the termination to binding arbitration before a panel of three neutral arbitrators appointed in accordance with the commercial arbitration rules of the American Arbitration Association, which panel shall determine by majority decision whether the small brewer's payment meets the requirements of paragraph 2 of this subsection.

4. If the arbitration panel rules that the payment made by the small brewer to the beer distributor upon termination was less than the fair market value of distribution rights lost or diminished by reason of the termination, then the small brewer must pay the beer distributor the difference between the payment made to the beer distributor and the determined fair market value plus interest.

5. If the arbitration panel rules that the payment made by the small brewer to the beer distributor upon termination was more than the fair market value of distribution rights lost or diminished by reason of the termination, then the beer distributor must pay the small brewer the difference between the payment made to the beer distributor and the determined fair market value, plus interest.

6. All arbitration fees and expenses shall be equally divided among the parties to the arbitration, except if the arbitration panel determines that the small brewer's payment upon termination was not a good-faith estimate of the fair market value, then the panel may award up to one hundred percent (100%) of the arbitration costs to the ~~small brewer~~ prevailing party.

~~G.~~ H. 1. Any beer distributor or brewer who is aggrieved by a violation of any provision of ~~subsections B and D of~~ this section

shall be entitled to the recovery of damages caused by the violation. If a beer distributor is not terminated in accordance with the provisions of this section, damages may additionally include the fair market value of the distribution rights. ~~Except for a dispute arising under subsection E of this section, damages~~ Damages shall be sought in a civil action in any court of competent jurisdiction.

2. Any dispute arising under ~~subsections B and D of~~ this section may also be settled by such dispute resolution procedures as may be provided by a written agreement between the parties.

~~H.~~ I. Nothing in this section shall be construed to limit or prohibit good-faith settlements voluntarily entered into by the parties.

~~I. Nothing~~ J. Except as otherwise provided herein, nothing in this section shall be construed to give a beer distributor any right to compensation if an agreement with the beer distributor is terminated by a brewer pursuant to ~~subsections B, C and D of~~ this section.

~~J.~~ K. No brewer shall require any beer distributor to waive compliance with any provision of the Oklahoma Alcoholic Beverage Control Act and any provisions of the Oklahoma Alcoholic Beverage Control Act shall supersede any provisions of a distributor agreement in conflict in this section.

~~K.~~ L. No brewer shall charge or accept, and no beer distributor shall pay or provide, in a material way, any money, property, gratuity, rebate, free goods, shipping charges different than those charged for all beer distributors, allowances, thing of value or other inducement, as defined in Section 3-123 of this title, from a beer distributor in exchange for the brewer entering into a distributor agreement with the beer distributor. However, a brewer who also holds a beer distributor license and desires to sell all or a portion of its beer distribution rights and business, or a holder of small brewer license who desires to change its election from self-distribution to the use of a distributor agreement may accept a payment for the fair market value of its existing and established distribution business in the subject territory.

~~L.~~ M. This section shall apply to any agreement entered into and any renewals, extensions, amendments or conduct constituting a

modification of a distributor agreement by a brewer or cider manufacturer ~~existing on or after~~ ~~the effective date of this act~~.

~~M.~~ N. Where a cider manufacturer distributes cider through a beer distributor, the rights and obligations of the cider manufacturer, the distributor, a successor cider manufacturer and a successor distributor shall be the same as the rights and obligations provided in this section for a brewer, beer distributor, successor brewer and successor beer distributor.

SECTION 8. AMENDATORY 37A O.S. 2021, Section 6-102, as amended by Section 1, Chapter 300, O.S.L. 2022 (37A O.S. Supp. 2022, Section 6-102), is amended to read as follows:

Section 6-102. A. No licensee of the ABLE Commission shall:

1. Receive, possess or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;

2. Employ any person under eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits. Provided:

a. a mixed beverage, beer and wine, caterer, public event, special event, bottle club, retail wine or retail beer licensee may employ servers or sales clerks who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and

b. a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ or hire musical bands who have musicians who are under eighteen (18) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any employee of the ABLE Commission or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas;

3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;

4. Use any of the following means or inducements to stimulate the consumption of alcoholic beverages, including but not limited to:

a. deliver more than two drinks to one person at one time, except:

(1) as provided for serving tasting flights defined in Section 6-102.1 of this title, or

(2) up to six (6) bottles or cans of beer in the original packaging for on-premises consumption may be delivered to one person at one time in a reusable container, including but not limited to a bucket or insulated cooler which may be cooled by ice or another cooling method,

b. sell or offer to sell to any person or group of persons any drinks at a price that is less than six percent (6%) below the markup of the cost to the mixed beverage licensee; provided, a mixed beverage licensee shall be permitted to offer these drink specials on any particular hour of any particular day and shall not be required to offer these drink specials for an entire calendar week or from open to close, and shall not be required to offer such drink specials at all venues operating under the same mixed beverage license; provided, a mixed beverage licensee selling wine, beer, or cocktails to-go shall be permitted to offer these to-go drinks at a different price than on-premises drinks,

c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public,

d. sell or offer to sell drinks to any person or group of persons on any one day or portion thereof at prices less than those charged the general public on that

day, except at private functions not open to the public,

e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week, or

f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided, that the provisions of this paragraph shall not prohibit the advertising or offering of food, entertainment or bottle service in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage. Provided, this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed original wine containers removed from the premises of restaurants, hotels and motels, or to closed original containers of alcoholic beverages transported to and from the place of business of a licensed caterer by the caterer or an employee of the caterer;

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission;

7. Permit any person to be drunk or intoxicated on the licensee's licensed premises; or

8. Permit or allow any patron to serve or pour himself or herself any alcoholic beverage, except a licensee may offer a patron self-pour service of beer or wine, or both, from automated devices on licensed premises so long as:

a. the licensee monitors and has the ability to control the dispensing of such beer or wine, or both, from the automated devices. "Automated device" shall mean any mechanized device capable of dispensing wine or beer, or both, directly to a patron in exchange for compensation that a licensee has received directly from the patron, and

b. each licensee offering a patron self-pour service of wine or beer, or both, from any automated device shall provide constant video monitoring of the automated device at all times during which the licensee is open to the public. The licensee shall keep recorded footage from the video monitoring for at least sixty (60) days, and shall provide the footage, upon request, to any agent of the Director of the ABLE Commission or other authorized law enforcement agent.

B. 1. The compensation required by subparagraph a of paragraph 8 of subsection A of this section shall be in the form of a radio frequency identification (RFID) device, mobile application or any other technology approved by the ABLE Commission containing a fixed amount of volume of thirty-two (32) ounces for beer and ten (10) ounces for wine that may be directly exchanged for beer or wine dispensed from the automated device:

a. RFID devices may be assigned, used or reactivated only during a business day,

b. each RFID device shall be obtained from the licensee by a patron,

c. a licensee shall not issue more than one active RFID device to a patron, and

d. an RFID device shall be deemed active if the RFID device contains volume credit or has not yet been used to dispense ten (10) ounces of wine or thirty-two (32) ounces of beer.

2. In order to obtain an RFID device from a licensee, each patron shall produce a valid driver license, identification card or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least twenty-one (21) years of age. Each RFID device shall be programmed to require the production of the patron's valid identification before the RFID device can be used for the first time during any business day or for any subsequent reactivation.

3. Each RFID device shall become inactive at the end of each business day.

4. Each RFID device shall be programmed to allow the dispensing of no more than ten (10) ounces of wine or thirty-two (32) ounces of beer to a patron:

a. once an RFID device has been used to dispense ten (10) ounces of wine or thirty-two (32) ounces of beer to a patron, the RFID device shall become inactive, and

b. any patron in possession of an inactive RFID device may, upon production of the patron's valid identification to the licensee or licensee's employee, have the RFID device reactivated to allow the dispensing of an additional ten (10) ounces of wine or thirty-two (32) ounces of beer from an automated device.

Paragraphs 1, 2, 3 and 4 of this subsection shall not apply to wine or beer that is dispensed directly to the licensee or the licensee's agent or employee.

C. A mixed beverage or beer and wine licensee shall not be deemed to have violated the provisions of paragraph 5 of subsection A of this section if it allowed a patron to leave the licensed premises with an open container of beer or wine only and:

1. The otherwise prohibited act was committed during the hours of 8 a.m. to midnight on the day of a scheduled home football game of institutions within The Oklahoma State System of Higher Education, and the establishment is located within two thousand (2,000) feet of the institution;

2. The licensee is participating by invitation in a municipally sanctioned art, music or sporting event within city limits when the municipality has provided written notice of the event and a list of invited licensees to the ABLE Commission at least five (5) days prior to the event; or

3. The patron remains on the connected, physical property of the licensee or in a public area adjacent to the physical property of the licensee with prior municipal approval; provided, that written notice of the use of the connected, physical property of the licensee or public area shall be provided to the ABLE Commission at least five (5) days prior to such use.

SECTION 9. REPEALER 37A O.S. 2021, Section 2-102, as amended by Section 1, Chapter 226, O.S.L. 2019, is hereby repealed.

SECTION 10. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 25th day of May, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of May, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 26th

day of May, 20 23, at 10:34 o'clock A. M.

By: Summer Carrington

Approved by the Governor of the State of Oklahoma this 7th

day of June, 20 23, at 3:14 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 7th

day of June, 20 23, at 4:35 o'clock P. M.

By: Brian Bingman