An Act

ENROLLED SENATE
BILL NO. 811

By: Coleman of the Senate

and

Marti of the House

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 2-148, which relates to grounds to revoke or suspend licenses; allowing ABLE Commission discretion to revocation and administration of fines; and providing an effective date.

SUBJECT: ABLE penalties

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-148, is amended to read as follows:

Section 2-148. A. Any license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act by the ABLE Commission, after due notice and hearing, may be revoked or suspended if the ABLE Commission finds or has grounds to believe that the licensee has:

1. ~~Violated any rule promulgated by the ABLE Commission;~~

~~2.~~ Procured a license through fraud, or misrepresentation, or concealment of a material fact;

~~3.~~ 2. Made any false representation or statement to the ABLE Commission or the Oklahoma Tax Commission in order to prevent or induce action by the ABLE Commission or the Tax Commission;

~~4.~~ 3. Maintained an unsanitary establishment or has supplied impure or otherwise deleterious beverages or food;

~~5.~~ 4. Stored, possessed, mixed or served on the premises of a bottle club any alcoholic beverage upon which the tax levied by Section 5-101 of this title has not been paid as provided for in the Oklahoma Alcoholic Beverage Control Act, in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has not been authorized;

~~6.~~ 5. Misrepresented to a customer or the public any alcoholic beverage sold by the licensee;

~~7.~~ 6. Had any permit or license issued by the Tax Commission and required by the Oklahoma Alcoholic Beverage Control Act, suspended or revoked by the Tax Commission; or

~~8.~~ 7. Is not in compliance with the tax laws of this state as required in Article XXVIII-A of the Oklahoma Constitution.

B. The ABLE Commission may revoke or suspend the license of any mixed beverage, caterer or bottle club licensee if the ABLE Commission finds or has grounds to believe that such licensee:

1. Has acted as an agent of a manufacturer, brewer or wholesaler of alcoholic beverages;

2. Is a manufacturer, brewer or wholesaler of alcoholic beverages;

3. Has borrowed money or property or accepted gratuities or rebates from a manufacturer, brewer or wholesaler of alcoholic beverages;

4. Has obtained the use of equipment from any manufacturer, brewer or wholesaler of alcoholic beverages or any agent thereof;

5. Has violated any of the provisions of the Oklahoma Alcoholic Beverage Control Act for which mandatory revocation or suspension is not required;

6. Has been convicted within the past twenty-five (25) years, of a violation of any state or federal law relating to alcoholic beverage for which mandatory revocation or suspension is not required; or

7. Is not in compliance with the tax laws of this state as required in Article XXVIII-A of the Oklahoma Constitution.

C. The ABLE Commission may revoke or suspend the license of any retail, mixed beverage, caterer or bottle club licensee if the ABLE Commission finds or has grounds to believe that such licensee has borrowed money or property or accepted gratuities, discounts, rebates, free goods, allowances or other inducements from a wine and spirits wholesaler or beer distributor.

D. The ABLE Commission shall have the authority to revoke the license of any licensee if the ABLE Commission finds:

1. That the licensee knowingly sold alcoholic beverages or allowed such beverages to be sold, delivered or furnished to any person under the age of twenty-one (21) years or to any person visibly intoxicated or adjudged insane or mentally deficient;

2. That the licensee, any general or limited partner of the licensee, or in the case of a corporation, an officer or director of the corporation, has been convicted of a felony or is not in compliance with the tax laws of this state as required in Article XXVIII-A of the Oklahoma Constitution. Provided, an employee license may be issued and held by a person who has been convicted of a felony if such conviction was not for a violent offense specified in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes or an offense under the provisions of this title;

3. That, in the case of a wine and spirits wholesaler, beer distributor, retail spirits, retail wine or retail beer licensee, the holder of the license or any member of a general or limited partnership which is the holder of such a license, has been convicted of a prohibitory law relating to the sale, manufacture or transportation of alcoholic beverages which constitutes a felony.

E. If the ABLE Commission shall find by a preponderance of the evidence as in civil cases that a licensee has knowingly sold any

alcoholic beverage to any person under the age of twenty-one (21) years, after a public hearing, the ABLE Commission shall ~~revoke such license and no~~ have the discretion as to the revocation ~~shall be exercised by the ABLE Commission~~ of a license or administration of fines.

F. The ABLE Commission shall have the authority to promulgate rules to establish a penalty schedule for violations of any provision of the Oklahoma Alcoholic Beverage Control Act or any rule of the ABLE Commission. The schedule shall provide for suspension or revocation of any license for major and minor violations as determined by the ABLE Commission. Penalties shall be increasingly severe with each violation by a licensee.

Provided, that for a fourth major violation by a licensee within a twenty-four-month period, the penalty shall be mandatory revocation of license. The twenty-four-month period shall be calculated from the date of the most recent violation as set forth in an order signed by the Director or the designee of the Director.

G. The ABLE Commission or the Tax Commission may impose a monetary penalty in lieu of or in addition to suspension of a license. The amount of the fine for a major violation shall be computed by multiplying the proposed number of days of the suspension period by One Hundred Dollars ($100.00). The amount of the fine for a minor violation shall be computed by multiplying the number of days of the proposed suspension period by Fifty Dollars ($50.00).

H. The failure of any licensee to pay a fine or serve a suspension imposed by the ABLE Commission or the Tax Commission shall result in the revocation of the license of the licensee.

I. If the ABLE Commission or the Tax Commission finds that public health, safety or welfare require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceeding for revocation or other action, pursuant to the provisions of Section 314 of Title 75 of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2023.

Passed the Senate the 8th day of March, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 24th

day of April, 20 23, at 4:12 o'clock p. M.

By: Sumer Curry

Approved by the Governor of the State of Oklahoma this 28th

day of April, 20 23, at 4:33 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 28th

day of April, 20 23, at 5:32 o'clock P. M.

By: Brian Bingman