An Act

ENROLLED SENATE
BILL NO. 1032

By: Coleman of the Senate

and

McDugle of the House

An Act relating to alcoholic beverages; amending 37A O.S. 2021, Section 2-113, which relates to the caterer license; providing for the sale of alcoholic beverages to certain licensees; and providing an effective date.

SUBJECT: Catering licenses

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

SECTION 1. AMENDATORY 37A O.S. 2021, Section 2-113, is amended to read as follows:

Section 2-113. A. 1. A caterer license may be issued to any person for the purpose of sale, delivery or distribution of alcoholic beverages incidental to the sale or distribution of food on a premises not licensed by the ABLE Commission. For purposes of this section, "incidental to the sale or distribution of food" means food sales constituting at least thirty-five percent (35%) of the caterer's total combined annual sales. A caterer license shall not be issued to a person whose main purpose is the sale of alcoholic beverages.

2. A caterer license may only be issued to those persons that prepare, sell and distribute food for consumption either on licensed or unlicensed premises. In order to renew a caterer license, annual food sales must constitute at least thirty-five percent (35%) of the caterer's total combined sales based on the most recent calendar

year. A caterer shall not be required to prepare, sell and distribute food at every catered event as long as the caterer satisfies the requirement set forth in this section.

3. Each caterer shall submit an annual sales report containing revenue attributable to alcoholic beverages, food and all other revenues attributable to the catering service. The annual sales report must be submitted thirty (30) days prior to expiration of the caterer license on forms prescribed by the ABLE Commission. The caterer license may not be renewed if the caterer fails to provide complete or sufficient financial data.

4. Each caterer shall submit a monthly event report containing information on all events scheduled for the subsequent month. If an event is scheduled after the first day of the month for an event to occur in the same month, then the caterer shall report that event within twenty-four (24) hours of scheduling the event or within twenty-four (24) hours prior to the event, whichever occurs first. The monthly event report shall be submitted on the first day of each month.

5. All reports shall be submitted electronically on forms prescribed by the ABLE Commission. Provided, if the caterer does not have access to the Internet, then monthly reports must be submitted by facsimile to the ABLE Commission's office in Oklahoma City, in which case the caterer must retain a copy of the facsimile confirmation sheet for at least twelve (12) months.

6. Any caterer who fails to submit a monthly report shall have the caterer license automatically suspended until such time that the caterer has fully complied with all reporting requirements. Any caterer whose annual food sales do not exceed thirty-five percent (35%) of his or her total annual combined sales shall not have the caterer's license renewed.

B. The ABLE Commission shall promulgate rules governing the application for and the issuance of caterer licenses.

C. The restrictions and rules which apply to the sale of mixed beverages on the premises of a mixed beverage licensee also apply to the sale under the authority of a caterer license. Any act which if done on the premises of a mixed beverage licensee would be a ground

for revocation or suspension of the mixed beverage license is a ground for revocation or suspension of a caterer license.

D. If the premises where the event being catered is held are already operating pursuant to another type of license issued by the ABLE Commission, the caterer and the other licensee shall both be responsible for the actions of the caterer and shall both be subject to penalties for violations by the caterer of the Oklahoma Alcoholic Beverage Control Act and any rules promulgated thereto.

E. A caterer licensee may not store alcoholic beverages unless the licensee has a storage license issued by the ABLE Commission. A caterer licensee selling beer and cider to consumers shall only purchase such beer and cider from the distributor or wholesaler within the county in which the licensee will be selling the beer and cider to consumers.

F. A caterer may provide alcoholic beverage sales on the premises of a person currently applying for ~~a~~ an on-premises beer and wine license, mixed beverage/caterer combination license, or mixed beverage license, provided the following terms have been satisfied:

1. The caterer shall take reasonable steps to ensure that the on-premises beer and wine applicant, mixed beverage/caterer combination applicant, or mixed beverage applicant uses only licensed employees to perform licensable activities while using the caterer's license. The caterer shall use his or her best efforts to attempt to have a licensed employee on-site supervising the sale of such caterer's alcoholic beverages at all times, but the caterer shall not be disciplined for failing to have a licensed employee on-site. The caterer expressly acknowledges that he or she is liable for all violations of the Oklahoma Alcoholic Beverage Control Act and rules of the ABLE Commission that are committed by the on-premises beer and wine applicant, the mixed beverage/caterer combination applicant, or the mixed beverage applicant and its employees during this period;

2. The caterer and the on-premises beer and wine applicant, the mixed beverage/caterer combination applicant, or the mixed beverage applicant must submit to the ABLE Commission a written agreement setting forth all the terms of the catering agreement at least

twenty-four (24) hours prior to the commencement of the catered event; and

3. The caterer may not provide alcoholic beverage sales on the unlicensed premises of the on-premises beer and wine applicant, mixed beverage/caterer combination applicant, or the mixed beverage applicant for more than sixty (60) days, or after the applicant's license has been denied, whichever occurs first.

G. A caterer may provide alcoholic beverage services for temporary public events which have been licensed and approved by the ABLE Commission.

H. A caterer may provide alcoholic beverage services for a mixed beverage licensee which holds a live performing arts presentation and is open to the public not more than one hundred twenty (120) days per year.

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 18th day of April, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 19th

day of April, 20 23, at 3:22 o'clock p. M.

By: Summer Curry

Approved by the Governor of the State of Oklahoma this 20th

day of April, 20 23, at 2:30 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 20th

day of April, 20 23, at 2:47 o'clock P M.

By: Brian Bingman