

An Act

ENROLLED HOUSE
BILL NO. 1343

By: McEntire of the House

and

Leewright of the Senate

An Act relating to alcoholic beverages; amending Section 13, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-101), which relates to annual license fees; modifying certain license description; amending Sections 30 and 31, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Sections 2-118 and 2-119), which relate to the airline/railroad beverage license; making provisions applicable to certain class of conveyance; allowing certain entities to permit certain activities; expanding permissible storage locations of alcoholic beverages; amending Section 60, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-148), which relates to revocation and suspension of licenses; allowing discretion in license revocation; and providing an effective date.

SUBJECT: Alcoholic beverages

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

SECTION 1. AMENDATORY Section 13, Chapter 366, O.S.L. 2016, as last amended by Section 2, Chapter 312, O.S.L. 2018 (37A O.S. Supp. 2018, 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/ <u>Commercial Passenger Vessel</u> 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 or Manufacturer's License.....	\$750.00
29.	Manufacturer's Agent License.....	\$55.00
30.	Sacramental Wine Supplier License.....	\$100.00
31.	Charitable Auction License.....	\$1.00
32.	Charitable Alcoholic Beverage License.....	\$55.00
33.	Winemaker Self-Distribution License.....	\$750.00
34.	Annual Public Event License.....	\$1,005.00
35.	One-Time Public Event License.....	\$255.00
36.	Small Brewer Self-Distribution License.....	\$750.00
37.	Brewpub License.....	\$1,005.00
38.	Brewpub Self-Distribution License.....	\$750.00

B. 1. There shall be added to the initial or renewal fees for a 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 ~~10~~ 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 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 ~~11~~ 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 or Manufacturer License..... \$2,500.00

2. Wine and Spirits Wholesaler License..... \$2,500.00

3. Beer Distributor..... \$1,000.00
4. Retail Spirits License for cities and towns
over 5,000 population..... \$250.00
5. Retail Spirits License for cities and towns
from 2,501 to 5,000 population..... \$200.00
6. Retail Spirits License for cities and towns
from 200 to 2,500 population..... \$150.00
7. Retail Wine License..... \$250.00
8. Retail Beer License..... \$250.00
9. Mixed Beverage License..... \$25.00
10. Mixed Beverage/Caterer Combination License..... \$25.00
11. Caterer License..... \$25.00
12. On-Premises Beer and Wine License..... \$25.00
13. Annual Public Event License..... \$25.00
14. Small Farm Winery License..... \$25.00
15. Small Brewer License..... \$35.00

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 2. AMENDATORY Section 30, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-118), is amended to read as follows:

Section 2-118. A. An airline/railroad/commercial passenger vessel beverage license shall authorize the holder thereof:

1. To sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane, vessel or railroad operated in compliance with a valid license, permit or certificate issued under the authority of the United States or this state or its instrumentality, even though the airplane, vessel or train, in the course of its travel, may cross an area in which the sale of alcoholic beverages by the individual drink is not authorized; and

2. To store alcoholic beverages in sealed containers of any size at any airport ~~or~~, station or facility regularly served by the licensee, in accordance with rules promulgated by the ABLE Commission.

B. Alcoholic beverages purchased by the holder of an airline/railroad/commercial passenger vessel license from the holder of a wholesaler license shall be presumed to be purchased for consumption outside the State of Oklahoma or in interstate commerce, and shall be exempt from the excise tax provided for in Section ~~104~~ 5-101 of this ~~act~~ title.

SECTION 3. AMENDATORY Section 31, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-119), is amended to read as follows:

Section 2-119. An airline/railroad/commercial passenger vessel beverage license may be issued to any corporation operating a commercial airplane, vessel or railroad in or through this state. Application and payment of the license fee shall be made directly to the ABLE Commission.

SECTION 4. AMENDATORY Section 60, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S. Supp. 2018, 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. 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. Maintained an unsanitary establishment or has supplied impure or otherwise deleterious beverages or food;

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

7. 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. Is not in compliance with the tax laws of this state as required in Article ~~XXVIII~~ 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 or wholesaler of alcoholic beverages;

2. Is a manufacturer or wholesaler of alcoholic beverages;

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

4. Has obtained the use of equipment from any manufacturer 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~~ 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~~ 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 an offense specified in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes or an offense under the provisions of this title, and if such conviction was more than five (5) years prior to the issuance of the license; or

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~~ may revoke such license ~~and no discretion as to the revocation shall be exercised by the ABLE Commission.~~

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~~ requires 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 5. This act shall become effective November 1, 2019.

Passed the House of Representatives the 12th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 16th day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____