

1                                 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2   STATE OF OKLAHOMA

3   1st Session of the 59th Legislature (2023)

4   ENGROSSED SENATE

5   BILL NO. 1032

                                      By: Coleman of the Senate

  and

  McDugle of the House

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

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

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

20           Section 2-113.  A.  1.  A caterer license may be issued to any  
21           person for the purpose of sale, delivery or distribution of  
22           alcoholic beverages incidental to the sale or distribution of food  
23           on a premises not licensed by the ABLE Commission.  For purposes of  
24           this section, "incidental to the sale or distribution of food" means

1 food sales constituting at least thirty-five percent (35%) of the  
2 caterer's total combined annual sales. A caterer license shall not  
3 be issued to a person whose main purpose is the sale of alcoholic  
4 beverages.

5 2. A caterer license may only be issued to those persons that  
6 prepare, sell and distribute food for consumption either on licensed  
7 or unlicensed premises. In order to renew a caterer license, annual  
8 food sales must constitute at least thirty-five percent (35%) of the  
9 caterer's total combined sales based on the most recent calendar  
10 year. A caterer shall not be required to prepare, sell and  
11 distribute food at every catered event as long as the caterer  
12 satisfies the requirement set forth in this section.

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

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

1 twenty-four (24) hours prior to the event, whichever occurs first.  
2 The monthly event report shall be submitted on the first day of each  
3 month.

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

10 6. Any caterer who fails to submit a monthly report shall have  
11 the caterer license automatically suspended until such time that the  
12 caterer has fully complied with all reporting requirements. Any  
13 caterer whose annual food sales do not exceed thirty-five percent  
14 (35%) of his or her total annual combined sales shall not have the  
15 caterer's license renewed.

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

18 C. The restrictions and rules which apply to the sale of mixed  
19 beverages on the premises of a mixed beverage licensee also apply to  
20 the sale under the authority of a caterer license. Any act which if  
21 done on the premises of a mixed beverage licensee would be a ground  
22 for revocation or suspension of the mixed beverage license is a  
23 ground for revocation or suspension of a caterer license.

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

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

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

18 1. The caterer shall take reasonable steps to ensure that the  
19 on-premises beer and wine applicant, mixed beverage/caterer  
20 combination applicant, or mixed beverage applicant uses only  
21 licensed employees to perform licensable activities while using the  
22 caterer's license. The caterer shall use his or her best efforts to  
23 attempt to have a licensed employee on-site supervising the sale of  
24 such caterer's alcoholic beverages at all times, but the caterer

1 shall not be disciplined for failing to have a licensed employee on-  
2 site. The caterer expressly acknowledges that he or she is liable  
3 for all violations of the Oklahoma Alcoholic Beverage Control Act  
4 and rules of the ABLE Commission that are committed by the on-  
5 premises beer and wine applicant, the mixed beverage/caterer  
6 combination applicant, or the mixed beverage applicant and its  
7 employees during this period;

8 2. The caterer and the on-premises beer and wine applicant, the  
9 mixed beverage/caterer combination applicant, or the mixed beverage  
10 applicant must submit to the ABLE Commission a written agreement  
11 setting forth all the terms of the catering agreement at least  
12 twenty-four (24) hours prior to the commencement of the catered  
13 event; and

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

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

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

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

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5 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED  
6 SUBSTANCES, dated 04/05/2023 - DO PASS.

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