

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 1035

6 By: Coleman

7 COMMITTEE SUBSTITUTE

8 An Act relating to alcoholic beverages; amending 37A  
9 O.S. 2021, Section 5-135, as amended by Section 1,  
10 Chapter 324, O.S.L. 2022 (37A O.S. Supp. 2022,  
11 Section 5-135), which relates to monthly tax reports;  
12 removing authorization of the Oklahoma Tax Commission  
13 to audit certain licensee; and providing an effective  
14 date.

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

16 SECTION 1. AMENDATORY 37A O.S. 2021, Section 5-135, as  
17 amended by Section 1, Chapter 324, O.S.L. 2022 (37A O.S. Supp. 2022,  
18 Section 5-135), is amended to read as follows:

19 Section 5-135. A. Every mixed beverage tax permit holder, or  
20 any person transacting business subject to the gross receipts tax  
21 levied by Section 5-105 of this title, shall file with the Oklahoma  
22 Tax Commission a monthly report for each place or location of  
23 business, on or before the twentieth day of the month immediately  
24 following the month of receipt. The reports shall be made under

1 oath, on forms prescribed by the Tax Commission, which shall include  
2 the following information:

3 1. Name of mixed beverage tax permit holder;

4 2. Mixed beverage tax permit number;

5 3. Sales tax permit number;

6 4. Mixed beverage, caterer, public event or special event  
7 license number;

8 5. Gross receipts for the month for the sale, preparation or  
9 service of mixed beverages, ice and nonalcoholic beverages mixed  
10 with alcoholic beverages;

11 6. Gross receipts for the month from charges for the privilege  
12 of admission to a mixed beverage establishment which entitles a  
13 person to complimentary mixed beverages or discounted prices for  
14 mixed beverages;

15 7. Total retail value of complimentary or discounted alcoholic  
16 beverages served for the month; and

17 8. Such other information as may be required by the Tax  
18 Commission to enable it to collect taxes imposed as provided by law.

19 B. The gross receipts tax levied by Section 5-105 of this title  
20 shall be calculated by multiplying the tax rate, thirteen and one-  
21 half percent (13.5%), and the total gross receipts for each month  
22 from the sale, preparation or service of mixed beverages, ice and  
23 nonalcoholic beverages mixed with alcoholic beverages, the total  
24 gross receipts of charges received for admission to mixed beverage

1 establishments, as provided in paragraph 6 of subsection A of this  
2 section, and the total retail value of complimentary or discounted  
3 mixed beverages. Gross receipts from the sale of food prepared with  
4 alcoholic beverages shall not be included in the calculation of the  
5 monthly tax liability. The tax due for the preceding month shall  
6 accompany the report required in subsection A of this section. All  
7 taxes, penalties and interest imposed by the Oklahoma Alcoholic  
8 Beverage Control Act may be paid in the form of electronic funds  
9 transfer or by a personal or company check, cashier's check,  
10 certified check or postal money order payable to the Tax Commission.

11 C. If the gross receipts tax levied pursuant to the provisions  
12 of Section 5-105 of this title is not paid on or before the  
13 twentieth day of each month, the tax shall be delinquent, and  
14 interest and penalty shall accrue on and from the twenty-first day  
15 of each month, pursuant to the provisions of the Uniform Tax  
16 Procedure Code.

17 D. Every licensed wholesaler of alcoholic beverages in this  
18 state shall file with the Tax Commission a monthly report, under  
19 oath, on forms prescribed by the Tax Commission, which shall include  
20 the name, location and mixed beverage tax permit number of each  
21 mixed beverage, caterer, public event or special event licensee to  
22 whom the licensed wholesaler sold alcoholic beverages during the  
23 report month.

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1 E. If the report required by subsection A of this section is  
2 not filed with the Tax Commission on or before the twentieth day of  
3 the month, the Tax Commission may assess an additional penalty of  
4 Five Dollars (\$5.00) for each day thereafter that the report is not  
5 filed pursuant to the provisions of this section. The Tax  
6 Commission may waive the penalty assessed pursuant to the provisions  
7 of the Uniform Tax Procedure Code; provided, however, the additional  
8 penalty, if assessed, shall not exceed an amount equal to twice the  
9 amount of tax due for the period for which such report was required  
10 to be filed, or the sum of Three Hundred Dollars (\$300.00),  
11 whichever is greater.

12 F. Taxes paid as provided by law represented by accounts  
13 receivable which are found to be worthless or uncollectible may be  
14 credited upon subsequent reports and remittances of such tax, in  
15 accordance with rules promulgated by the Tax Commission. If such  
16 accounts are thereafter collected, the same shall be reported and  
17 the tax shall be paid upon the amount so collected.

18 ~~G. In addition to any other authority granted by law, the Tax~~  
19 ~~Commission is hereby authorized to audit any mixed beverage, beer~~  
20 ~~and wine, caterer, public event or special event licensee to~~  
21 ~~determine if the correct amount of tax payable under Section 5-105~~  
22 ~~of this title has been collected.~~

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

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