

An Act

ENROLLED SENATE
BILL NO. 1338

By: Bice of the Senate

and

McEntire of the House

An Act relating to alcoholic beverages; amending Section 14, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 84, O.S.L. 2017 (37A O.S. Supp. 2017, Section 2-102), which relates to brewer licenses; allowing for purchase of wine for on-premises sales; amending Section 16, Chapter 366, O.S.L. 2016, as amended by Section 2, Chapter 307, O.S.L. 2017 (37A O.S. Supp. 2017, Section 2-104), which relates to winemaker licenses; allowing for purchase of beer for on-premises sales; and providing an effective date.

SUBJECT: Alcoholic beverages

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

SECTION 1. AMENDATORY Section 14, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 84, O.S.L. 2017 (37A O.S. Supp. 2017, Section 2-102), is amended to read as follows:

Section 2-102. A. A brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer on the licensed premises; and

2. To sell beer in this state to holders of beer distributor licenses and to sell beer out of this state to qualified persons.

B. A small brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer produced by the licensee on licensed premises;

2. To sell beer in this state to holders of beer distributor licenses and retail licenses or to sell beer out of this state to qualified persons;

3. To serve free samples of beer produced by the licensee to visitors twenty-one (21) years of age or older;

4. To sell beer produced by the licensee for either on-premises or off-premises consumption to consumers on the brewery premises, or on premises located contiguous thereto; ~~and~~

5. To sell beer at public events such as trade shows or festivals;

6. To purchase wine in retail containers from the holder of a wholesaler license or as specifically provided by law; and

7. To sell, offer for sale and possess wine for on-premises consumption.

C. Nothing in this act shall prohibit the holder of a small brewer license from also holding or owning an interest in the holder of a brewpub license.

D. For purposes of this section, no visitor may sample more than a total of twelve (12) fluid ounces of beer per day. The brewer must restrict the distribution and consumption of beer samples to an area within the licensed premises designated by the brewer. A current floor plan that includes the designated sampling area must be on file with the ABLE Commission. No visitor under twenty-one (21) years of age shall be permitted to enter this designated sampling area when samples are being distributed or consumed. Samples of beer served by a brewery under this section shall not be considered a sale of beer within the meaning of Article

XXVIII A of the Oklahoma Constitution or Section 1-103 of this title; however, such samples of beer shall be considered beer removed or withdrawn from the brewery for use or consumption within the meaning of Section 5-110 of this title for excise tax determination and reporting requirements. Sales and sampling may only occur between the hours of 10:00 a.m. and 2:00 a.m.

E. A small brewer self-distribution license shall authorize holders of a small brewer license to distribute beer produced only by such licensee to a holder of a retail beer license, retail spirits license, mixed beverage license, beer and wine license, caterer's license, special event license, public event license, charitable auction license or brewpub license. A small brewer shall elect whether it will distribute through a distributor or self-distribute in a subject territory; however, a small brewer may not elect to do both simultaneously in a subject territory. The election shall be made through notice to the ABLE Commission. Any changes to the election shall require immediate notification to the ABLE Commission before the change in election will take effect. A small brewer that elects to self-distribute in multiple territories shall only be required to have one small brewer self-distribution license.

SECTION 2. AMENDATORY Section 16, Chapter 366, O.S.L. 2016, as amended by Section 2, Chapter 307, O.S.L. 2017 (37A O.S. Supp. 2017, Section 2-104), is amended to read as follows:

Section 2-104. A winemaker license shall authorize the holder thereof:

1. To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package and store on licensed premises wine containing not more than twenty-four percent (24%) alcohol by volume, provided the bottle or package sizes authorized shall be limited to the capacities approved by the United States Alcohol and Tobacco Tax and Trade Bureau;

2. To sell wine in this state to licensed wholesalers and manufacturers;

3. To sell wine produced at the winery from grapes and other fruits and berries grown in this state, if available, for either on-

premises or off-premises consumption to consumers on the premises of the winery;

4. To serve free samples of wine produced at the winery to visitors twenty-one (21) years of age and older. For purposes of this section, no visitor may sample more than a total of six (6) fluid ounces of wine per day. The winery shall restrict the distribution and consumption of wine samples to an area within the licensed premises designated by the winery. A current floor plan that includes the designated sampling area shall be on file with the ABLE Commission. No visitor under twenty-one (21) years of age shall be permitted to enter the designated sampling area when samples are being distributed and consumed. Samples of wine served by a winery under this section shall not be considered a sale of wine within the meaning of Article XXVIII A of the Oklahoma Constitution or Section 1-103 of this title; provided, such samples of wine shall be considered removed or withdrawn from the winery for use or consumption within the meaning of Section 5-110 of this title for excise tax determination and reporting requirements;

5. To serve free samples of wine produced at the winery at public events such as festivals and trade shows;

6. To sell wine produced at the winery, for either on-premises or off-premises consumption at public events such as festivals and trade shows;

7. To sell wine out of this state to qualified persons;

8. To purchase from licensed winemakers, distillers and rectifiers in this state, and to import into this state wine, brandy and fruit spirits for use in manufacturing in accordance with federal laws and regulations; ~~and~~

9. To sell and serve Oklahoma-manufactured wine, mulled wine, or spiced wine, mixed with nonalcoholic beverages or food items such as water, sugar, fruits and vegetables, at any temperature for either on-premises or off-premises consumption;

10. To purchase beer in retail containers from the holder of a wholesaler, beer distributor, small brewer self-distributor or

brewpub self-distributor license or as specifically provided by law;
and

11. To sell, offer for sale and possess beer for on-premises
consumption.

SECTION 3. This act shall become effective October 1, 2018.

Passed the Senate the 3rd day of May, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of April, 2018.

Presiding Officer of the House
of Representatives

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: _____