

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1398

By: Sharp

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5  
6 AS INTRODUCED

7 An Act relating to low-point beer and intoxicating  
8 beverages; creating the Responsible Beverage Server  
9 and Sales Training Act; providing short title;  
10 requiring certain training for sale or service of  
11 certain beverages; directing the Department of Mental  
12 Health and Substances Abuse Services to approve  
13 certain training courses and materials; directing  
14 approved courses be publically posted by the  
15 Department of Mental Health and Substance Abuse  
16 Services; requiring certain certification prior to  
17 licensing and renewals; amending 37 O.S. 2011,  
18 Section 528, which relates to grounds for revocation  
19 of license; adding ground for failure to complete  
20 certain training; providing for codification; and  
21 providing an effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 143 of Title 37, unless there is  
created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Responsible  
Beverage Server and Sales Training Act".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 143.1 of Title 37, unless there  
3 is created a duplication in numbering, reads as follows:

4 It shall be the responsibility of the Oklahoma Department of  
5 Mental Health and Substance Abuse Services to approve all training  
6 courses and materials relating to persons who may be licensed to  
7 serve low-point beer or intoxicating beverages in this state for on-  
8 premises consumption or to sell the same to a customer of a retail  
9 establishment or package store for off-premises consumption.

10 Approved courses shall be publicly posted by the Oklahoma Department  
11 of Mental Health and Substance Abuse Services.

12 SECTION 3. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 143.2 of Title 37, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. Every person or entity who makes application for any license  
16 or renewal of a valid license issued by the Oklahoma Tax Commission  
17 or the Alcoholic Beverage Laws Enforcement Commission for the sale  
18 or serving of low-point beer or intoxicating beverages for on-  
19 premises consumption shall certify that:

20 1. All employees who may sell, prepare, dispense, serve or  
21 otherwise deliver alcoholic beverages directly to patrons of the  
22 licensed establishment either will or have successfully completed a  
23 responsible alcoholic beverage server training program approved by  
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1 the Oklahoma Department of Mental Health and Substance Abuse  
2 Services; and

3 2. All persons who manage any employee of the licensed  
4 establishment either will or have successfully completed a  
5 responsible alcoholic beverage server training program approved by  
6 the Oklahoma Department of Mental Health and Substance Abuse  
7 Services.

8 B. Every retailer or package store who makes application for  
9 any license or renewal of a valid license issued by the Oklahoma Tax  
10 Commission or the Alcoholic Beverage Laws Enforcement Commission for  
11 the sale of low-point beer or intoxicating beverages for off-  
12 premises consumption shall be required, as part of the application  
13 process, to certify that:

14 1. All employees who may sell or deliver alcoholic beverages  
15 directly to a customer of the retail establishment or package store  
16 for off-premises consumption either will or have successfully  
17 completed a responsible alcoholic beverage server training program  
18 approved by the Oklahoma Department of Mental Health and Substance  
19 Abuse Services; and

20 2. All persons who manage any employees of a retail  
21 establishment or package store either will or have successfully  
22 completed a responsible alcoholic beverage server training program  
23 approved by the Oklahoma Department of Mental Health and Substance  
24 Abuse Services.

1 SECTION 4. AMENDATORY 37 O.S. 2011, Section 528, is  
2 amended to read as follows:

3 Section 528. A. Any license issued pursuant to the provisions  
4 of the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq.  
5 of this title, by order of the Alcoholic Beverage Laws Enforcement  
6 ABLE Commission, after due notice and hearing, may be revoked or  
7 suspended if the ABLE Commission finds or has grounds to believe  
8 that the licensee has:

9 1. Violated any rule adopted by the ABLE Commission;

10 2. Procured a license through fraud, or misrepresentation, or  
11 concealment of a material fact;

12 3. Made any false representation or statement to the ABLE  
13 Commission in order to prevent or induce action by the ABLE  
14 Commission;

15 4. Maintained an unsanitary establishment or has supplied  
16 impure or otherwise deleterious beverages or food;

17 5. Stored, possessed, mixed or served on the premises of a  
18 bottle club any alcoholic beverage upon which the tax levied by  
19 Section 553 of this title has not been paid as provided for in the  
20 Oklahoma Alcoholic Beverage Control Act, in a county of this state  
21 where the sale of alcoholic beverages by the individual drink for  
22 on-premises consumption has not been authorized;

23 6. Misrepresented to a customer or the public any alcoholic  
24 beverage sold by the licensee; ~~or~~

1           7. Had any permit or license issued by the Oklahoma Tax  
2 Commission and required by the Oklahoma Alcoholic Beverage Control  
3 Act, suspended or revoked by the Tax Commission; or

4           8. Failed to have each employee selling or serving low-point  
5 beer or intoxicating beverages successfully complete an Oklahoma  
6 Department of Mental Health and Substance Abuse Services approved  
7 responsible beverage service and sales training course.

8           B. The ABLE Commission may revoke or suspend the license of any  
9 mixed beverage, caterer or bottle club licensee if the ABLE  
10 Commission finds or has grounds to believe that such licensee:

11           1. Has acted as an agent of a manufacturer or wholesaler of  
12 alcoholic beverages;

13           2. Is a manufacturer or wholesaler of alcoholic beverages;

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

16           4. Has obtained the use of equipment from any manufacturer or  
17 wholesaler of alcoholic beverages or any agent thereof;

18           5. Has violated any of the provisions of the Oklahoma Alcoholic  
19 Beverage Control Act for which mandatory revocation or suspension is  
20 not required; or

21           6. Has been convicted on or after July 1, 1985, of a violation  
22 of any state or federal law relating to alcoholic beverage for which  
23 mandatory revocation or suspension is not required.

1 C. The ABLE Commission may revoke or suspend the license of any  
2 retail, mixed beverage, caterer, or bottle club licensee if the ABLE  
3 Commission finds or has grounds to believe that such licensee has  
4 borrowed money or property or accepted gratuities, discounts,  
5 rebates, free goods, allowances, or other inducements from a  
6 wholesaler of alcoholic beverages.

7 D. The ABLE Commission shall revoke the license of any licensee  
8 if said Commission finds:

9 1. That the licensee knowingly sold alcoholic beverages or  
10 allowed such beverages to be sold, delivered or furnished to any  
11 person under the age of twenty-one (21) years, or to any person  
12 visibly intoxicated or adjudged insane or mentally deficient;

13 2. That the licensee, any general or limited partner of the  
14 licensee, or in the case of a corporation, an officer or director of  
15 the corporation, has been convicted of a felony;

16 3. That, in the case of a wholesaler, Class B wholesaler, or  
17 retail package store licensee, the holder of the license or any  
18 member of a general or limited partnership which is the holder of  
19 such a license, has been convicted of a prohibitory law relating to  
20 the sale, manufacture, or transportation of alcoholic beverages  
21 which constitutes a felony or a misdemeanor.

22 E. If the ABLE Commission shall find by a preponderance of the  
23 evidence as in civil cases that the holder of a package store  
24 license has knowingly sold any alcoholic beverage to any person

1 under the age of twenty-one (21) years, after a public hearing it  
2 shall revoke said license and no discretion as to said revocation  
3 shall be exercised by the ABLE Commission.

4 F. The ABLE Commission shall have the authority to promulgate  
5 rules and regulations to establish a penalty schedule for violations  
6 of any provision of the Oklahoma Alcoholic Beverage Control Act or  
7 any rule or regulation of the ABLE Commission. The schedule shall  
8 provide for suspension or revocation of any license for major and  
9 minor violations as determined by the ABLE Commission. Penalties  
10 shall be increasingly severe with each violation by a licensee.

11 Provided, that for a fourth major violation by a licensee within  
12 a twenty-four-month period the penalty shall be mandatory revocation  
13 of license. The twenty-four-month period shall be calculated from  
14 the date of the most recent violation as set forth in an order  
15 signed by the Director or the designee of the Director.

16 G. The ABLE Commission may impose a monetary penalty in lieu of  
17 or in addition to suspension of a license. The amount of fine for a  
18 major violation shall be computed by multiplying the proposed number  
19 of days of the suspension period by One Hundred Dollars (\$100.00).  
20 The amount of fine for a minor violation shall be computed by  
21 multiplying the number of days of the proposed suspension period by  
22 Fifty Dollars (\$50.00).

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1 H. The failure of any licensee to pay a fine or serve a  
2 suspension imposed by the ABLE Commission shall result in the  
3 revocation of the license of said licensee.

4 I. If the ABLE Commission finds that public health, safety or  
5 welfare require emergency action, and incorporates a finding to that  
6 effect in its order, summary suspension of a license may be ordered  
7 pending proceeding for revocation or other action, pursuant to the  
8 provisions of Section 314 of Title 75 of the Oklahoma Statutes.

9 SECTION 5. This act shall become effective November 1, 2016.

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