

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 58

By: Bice

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5
6 AS INTRODUCED

7 An Act relating to alcoholic beverages; amending
8 Sections 108 and 138, Chapter 366, O.S.L. 2016 (37A
9 O.S. Supp. 2016, Sections 5-105 and 5-135), which
10 relate to taxes on alcoholic beverages; modifying
11 rate of tax on certain gross receipts; clarifying
12 statutory references; and providing an effective
13 date.

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

15 SECTION 1. AMENDATORY Section 108, Chapter 366, O.S.L.
16 2016 (37A O.S. Supp. 2016, Section 5-105), is amended to read as
17 follows:

18 Section 5-105. A. A tax at the rate of ~~thirteen and one half~~
19 ~~percent (13.5%)~~ ten percent (10%) is hereby levied and imposed on
20 the total gross receipts of a holder of an on-premises beer and
21 wine, mixed beverage, caterer, public event or special event license
22 issued by the ABLE Commission, from:

23 1. The sale, preparation or service of mixed beverages;

24 2. The total retail value of complimentary or discounted mixed
beverages;

1 3. Ice or nonalcoholic beverages that are sold, prepared or
2 served for the purpose of being mixed with alcoholic beverages and
3 consumed on the premises where the sale, preparation or service
4 occurs; and

5 4. Any charges for the privilege of admission to a mixed
6 beverage establishment which entitle a person to complimentary mixed
7 beverages or discounted prices for mixed beverages.

8 B. For purposes of this section:

9 1. "Mixed beverages" means mixed beverages as defined by
10 Section ~~3 of this act~~ 1-103 of this title;

11 2. "Total gross receipts" means the total amount of
12 consideration received as charges for admission to a mixed beverage
13 establishment, as provided in paragraph 4 of subsection A of this
14 section, and the total retail sale price received for the sale,
15 preparation or service of mixed beverages, ice and nonalcoholic
16 beverages to be mixed with alcoholic beverages. The advertised
17 price of a mixed beverage may be the sum of the total retail sale
18 price and the gross receipts tax levied thereon; and

19 3. "Total retail value" means the total amount of consideration
20 that would be required for the sale, preparation or service of mixed
21 beverages.

22 C. The gross receipts tax levied by this section shall be in
23 addition to the excise tax levied in Section ~~104 of this act~~ 5-101

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1 of this title, the sales tax levied in the Oklahoma Sales Tax Code
2 and to any municipal or county sales taxes.

3 D. The gross receipts tax levied by this section is hereby
4 declared to be a direct tax upon the receipt of consideration for
5 any charges for admission to a mixed beverage establishment, as
6 provided in paragraph 4 of subsection A of this section, for the
7 sale, preparation or service of mixed beverages, ice and
8 nonalcoholic beverages to be mixed with alcoholic beverages, and the
9 total retail value of complimentary or discounted mixed beverages.

10 E. The total of the retail sale price received for the sale,
11 preparation or service of mixed beverages, ice and nonalcoholic
12 beverages to be mixed with alcoholic beverages shall be the total
13 gross receipts for purposes of calculating the sales tax levied in
14 the Oklahoma Sales Tax Code.

15 SECTION 2. AMENDATORY Section 138, Chapter 366, O.S.L.
16 2016 (37A O.S. Supp. 2016, Section 5-135), is amended to read as
17 follows:

18 Section 5-135. A. Every mixed beverage tax permit holder, or
19 any person transacting business subject to the gross receipts tax
20 levied by Section ~~108 of this act~~ 5-105 of this title, shall file
21 with the Oklahoma Tax Commission a monthly report for each place or
22 location of business, on or before the twentieth day of the month
23 immediately following the month of receipt. The reports shall be
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1 made under oath, on forms prescribed by the Tax Commission, which
2 shall include 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 ~~108 of this act~~ 5-
20 105 of this title shall be calculated by multiplying the tax rate,
21 ~~thirteen and one-half percent (13.5%)~~ ten percent (10%), and the
22 total gross receipts for each month from the sale, preparation or
23 service of mixed beverages, ice and nonalcoholic beverages mixed
24 with alcoholic beverages, the total gross receipts of charges

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

12 C. If the gross receipts tax levied pursuant to the provisions
13 of Section ~~108 of this act~~ 5-105 of this title is not paid on or
14 before the twentieth day of each month, the tax shall be delinquent,
15 and interest and penalty shall accrue on and from the twenty-first
16 day of each month, pursuant to the provisions of the Uniform Tax
17 Procedure Code.

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

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 ~~108~~ of
22 ~~this act~~ 5-105 of this title has been collected; provided, if such
23 an audit reveals that the amount collected is within the following
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1 percentages of the amount of tax payable, the taxpayer shall be
2 deemed to be in compliance:

3 1. For spirits, eighty-four percent (84%) to one hundred
4 sixteen percent (116%);

5 2. For wine, ninety percent (90%) to one hundred ten percent
6 (110%);

7 3. For beer sold at draft and not in original packages, eighty-
8 six percent (86%) to one hundred fourteen percent (114%); and

9 4. For beer sold in original packages, ninety-five percent
10 (95%) to one hundred five percent (105%).

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

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