

An Act

ENROLLED SENATE
BILL NO. 728

By: Leewright and Bergstrom of
the Senate

and

Hilbert of the House

An Act relating to alcoholic beverages; amending Section 22, Chapter 366, O.S.L. 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 and Section 40, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 366, O.S.L. 2017 (37A O.S. Supp. 2018, Sections 2-110 and 2-128), which relate to mixed beverage licenses and on-premises beer and wine license; allowing certain licensees to purchase from self-distributors; allowing certain licensee to sell beer and wine for off-premises consumption; stating qualifications for golf course, country club and marina; providing for taxes; directing the ABLE Commission to promulgate rules; securing special off-premises permit; and declaring an emergency.

SUBJECT: Alcoholic beverages

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

SECTION 1. AMENDATORY Section 22, Chapter 366, O.S.L. 2016, as amended by Section 6, Chapter 381, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-110), is amended to read as follows:

Section 2-110. A mixed beverage license shall authorize the holder thereof:

1. To purchase alcohol, spirits, beer and/or wine in retail containers from the holder of a wine and spirits wholesaler and beer distributor license as specifically provided by law. The holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine directly from a winemaker and beer directly from a small brewer who is permitted and has elected to self-distribute as provided in Article XXVIII-A of the Oklahoma Constitution; and

2. To sell, offer for sale and possess mixed beverages for on-premises consumption only; provided, the holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine directly from a winemaker and beer directly from a small brewer who is permitted and has elected to self-distribute as provided in Article XXVIII-A of the Oklahoma Constitution. a mixed beverage licensee may sell beer and wine for off-premises consumption if it meets the classification of a golf course, country club, or marina pursuant to the most recently adopted North American Industry Classification System (NAICS). The mixed beverage licensee shall be permitted to sell beer and wine for off-premises consumption during all days and hours in which a retail beer licensee or retail wine licensee is permitted to sell beer or wine. The gross receipts tax set forth in Section 5-105 of this title shall apply to all alcoholic beverages sold by the mixed beverage licensee, whether those alcoholic beverages are intended for on- or off-premises consumption. The ABLE Commission shall promulgate rules for the implementation of a special off-premises permit consistent with this subsection. The mixed beverage licensee shall secure the special off-premises permit prior to selling beer and wine for off-premises consumption;

3. Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of the licensee unless the holder of the mixed beverage license also obtains a caterer license or a mixed beverage/caterer combination license. A mixed beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business; and

4. Upon application, a mixed beverage license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 1-103 of this title. Provided, that upon

proof of legal age to consume alcohol, every patron being served alcoholic beverages shall be required to wear a wrist bracelet or receive a hand stamp identifying the patron as being of legal age to consume alcohol. This requirement shall only apply inside a motion picture theater auditorium where individuals under the legal age to consume alcohol are allowed.

SECTION 2. AMENDATORY Section 40, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 366, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-128), is amended to read as follows:

Section 2-128. A. An on-premises beer and wine license shall authorize the holder thereof:

1. To purchase beer and wine in retail containers from the holder of a wholesaler, beer distributor, small brewer self-distribution or brewpub self-distribution license or as specifically provided by law. The holder of an on-premises beer and wine license issued for an establishment which is also a restaurant may purchase wine from a winemaker who is permitted and has elected to self-distribute as provided in Article XXVIII-A of the Oklahoma Constitution; and

2. To sell, offer for sale and possess beer and wine for on-premises consumption only; ~~provided, the holder of an on-premises beer and wine license issued for an establishment which is also a restaurant may purchase wine from a winemaker who is permitted and has elected to self-distribute as provided in Article XXVIII-A of the Oklahoma Constitution~~ an on-premises beer and wine licensee may sell beer and wine for off-premises consumption if it meets the classification of a golf course, country club, or marina pursuant to the most recently adopted North American Industry Classification System (NAICS). The mixed beverage licensee shall be permitted to sell beer and wine for off-premises consumption during all days and hours in which a retail beer licensee or retail wine licensee is permitted to sell beer or wine. The gross receipts tax set forth in Section 5-105 of this title shall apply to all alcoholic beverages sold by the on-premises beer and wine licensee, whether those alcoholic beverages are intended for on- or off-premises consumption. The ABLE Commission shall promulgate rules for the implementation of a special off-premises permit consistent with this subsection. The on-premises beer and wine licensee shall secure the special off-

premises permit prior to selling beer and wine for off-premises consumption.

B. Sales and service of beer and wine by holders of on-premises beer and wine licenses shall be limited to the licensed premises of the licensee unless the holder of the on-premises beer and wine license also obtains a caterer license. An on-premises beer and wine license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No spirits shall be stored, possessed or consumed on the licensed premises of an on-premises beer and wine license, unless the premises also has a mixed beverage license.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 11th day of March, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 4th day of April, 2019.

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: _____