

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 757

By: Pugh

4  
5  
6 AS INTRODUCED

7 An Act relating to alcoholic beverage licensee  
8 delivery; amending Section 45, Chapter 366, O.S.L.  
9 2016, as amended by Section 2, Chapter 155, O.S.L.  
10 2020 and Section 1, Chapter 155, O.S.L. 2020 (37A  
11 O.S. Supp. 2020, Sections 2-133 and 2-161), which  
12 relate to responsibility for violations and delivery  
13 of alcoholic beverage products; modifying language;  
14 providing for small brewer and small farm winery  
15 delivery; establishing responsibility for certain  
16 violations; providing for third-party vendor to  
17 deliver alcoholic beverage products from certain  
18 licensees; requiring contract between third-party  
19 vendor and licensee; defining term; stating criteria  
20 and duties for third-party vendor; updating statutory  
21 references; providing an effective date; and  
22 declaring an emergency.

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

24 SECTION 1. AMENDATORY Section 45, Chapter 366, O.S.L.  
25 2016, as amended by Section 2, Chapter 155, O.S.L. 2020 (37A O.S.  
26 Supp. 2020, Section 2-133), is amended to read as follows:

27 Section 2-133. Each licensee authorized to deliver alcoholic  
28 beverage products to consumers in Section ~~4~~ 2-161 of this ~~act~~ title  
29 and each bottle club or mixed beverage, beer and wine, caterer,  
30 public event, charitable event or special event licensee shall be

1 held responsible for violation of any alcoholic beverage law or  
2 administrative rule of the ABLE Commission affecting his or her  
3 license privileges and for any act or omission of his or her  
4 servant, agent, employee, third party vendor or representative in  
5 violation of any law, municipal ordinance or administrative rule  
6 affecting his or her license privileges.

7 SECTION 2. AMENDATORY Section 1, Chapter 155, O.S.L.  
8 2020 (37A O.S. Supp. 2020, Section 2-161), is amended to read as  
9 follows:

10 Section 2-161. A. Retail spirit licensees may sell curbside  
11 and deliver alcoholic beverages including beer, wine, and spirits in  
12 sealed original containers to consumers aged twenty-one (21) years  
13 and older as follows:

14 1. ~~Only employees~~ Employees of the retail spirit licensee or a  
15 third-party vendor shall be permitted to make alcoholic beverage  
16 product deliveries to consumers;

17 2. Payment for alcoholic beverage product delivery by the  
18 retail spirit licensee may be made by cash, check, transportable  
19 credit/debit card processors or advance on-line payment methods; and

20 3. The retail spirit licensee shall be responsible for his or  
21 her delivery employees or a third-party vendor shall be responsible  
22 as provided in Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~  
23 this title.

1 B. Small brewers and small farm wineries licensed by the  
2 Oklahoma ABLE Commission may sell curbside and deliver only  
3 alcoholic beverages produced by such licensee in sealed original  
4 containers to consumers aged twenty-one (21) years and older as  
5 follows:

6 1. ~~Only employees~~ Employees of the licensed small brewer or  
7 small farm winery or a third-party vendor shall be permitted to make  
8 alcoholic beverage product deliveries to consumers;

9 2. Payment for alcoholic beverage product delivery by licensed  
10 small brewers or small farm wineries may be made by cash, check,  
11 transportable credit/debit card processors, or advance on-line  
12 payment methods; and

13 3. Small brewers and small farm wineries shall be responsible  
14 for their delivery employees or a third-party vendor as provided in  
15 Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~ this title.

16 C. Restaurants, bars and clubs holding mixed beverage, beer and  
17 wine, or caterer/mixed beverage licenses issued by the Oklahoma ABLE  
18 Commission may sell curbside and deliver only closed packages of  
19 beer and wine to consumers aged twenty-one (21) years and older as  
20 follows:

21 1. ~~Only employees~~ Employees of such restaurant, bar or club  
22 licensee or a third-party vendor shall be permitted to make  
23 alcoholic beverage package deliveries to consumers;

1           2. Payment for alcoholic beverage package delivery by licensed  
2 restaurants, bars and clubs may be made by cash, check,  
3 transportable credit/debit card processors, or advance on-line  
4 payment methods; and

5           3. Restaurants, bars and clubs licensed by the Oklahoma ABLE  
6 Commission shall be responsible for their delivery employees or a  
7 third-party vendor as provided in Section 2-133 of ~~Title 37A of the~~  
8 ~~Oklahoma Statutes~~ this title.

9           D. Grocery and convenience stores holding a retail beer and/or  
10 retail wine license issued by the Oklahoma ABLE Commission may sell  
11 curbside and deliver original sealed containers of beer and/or wine  
12 only according to the license held to consumers aged twenty-one (21)  
13 years and older as follows:

14           1. ~~Only employees~~ Employees of such licensed grocery or  
15 convenience store or a third-party vendor shall be permitted to make  
16 alcoholic beverage product deliveries to consumers;

17           2. Payment for alcoholic beverage product delivery by a  
18 licensed grocery or convenience store may be made by cash, check,  
19 transportable credit/debit card processors or advance on-line  
20 payment methods; and

21           3. Grocery and convenience store licensees shall be responsible  
22 for their delivery employees or a third-party vendor as provided in  
23 Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~ this title.

1 E. Licensees authorized by this section to make alcoholic  
2 beverage product deliveries to consumers ~~are prohibited from~~ by  
3 utilizing third-party vendors or delivery services for purposes of  
4 completing such product deliveries to consumers shall be required to  
5 have a written contractual agreement with each third-party vendor  
6 prior to delivery of any alcoholic beverage products.

7 F. Licensees authorized by this section to make alcoholic  
8 beverage product deliveries to consumers by employees or third-party  
9 vendors shall comply with the laws, rules, procedures and executive  
10 orders incumbent on such licensee.

11 G. The Oklahoma ABLE Commission is authorized to promulgate  
12 rules, regulations, forms and procedures necessary to implement and  
13 enforce the provisions of this section.

14 H. For purposes of this section each delivery authorized by a  
15 licensee to be made ~~by his or her employee~~ to a consumer shall be  
16 deemed a direct hand-to-hand sale as though the consumer was  
17 physically present on the licensed premises and authorized by law by  
18 such licensee.

19 I. 1. For purposes of this section:

20 a. "third-party vendor" means an independent contractor  
21 driver or technology services company contracted by  
22 the licensee whose primary business is food delivery  
23 or passenger transport and excludes a vendor whose  
24 business is the shipment of goods, and

1           b. technology services company" means a company that  
2           provides software or an application for connecting  
3           customers, retailers and/or restaurants to a delivery  
4           driver that is employed by or contracted with the  
5           technology service company and excludes a company  
6           whose business is the shipment of goods.

7           2. A third-party vendor delivery person shall be twenty-one  
8           (21) years of age or older and such person shall not have been  
9           convicted of any criminal offense relating to alcoholic beverages.  
10          The third-party vendor shall have completed a criminal history  
11          records check on each delivery driver who delivers alcoholic  
12          beverages for a licensee as authorized under this section.

13          3. A third-party vendor contracted by the licensee shall only  
14          be authorized to deliver alcoholic beverages and such food or items  
15          allowed to be sold by the licensee with the point of sale being at  
16          the licensee's retail location.

17          4. A third-party vendor shall be authorized to charge the  
18          consumer a delivery fee but shall not charge, add on or collect any  
19          portion of the amount of the retail sales price for the alcoholic  
20          beverages. All sales of alcoholic beverages shall be the  
21          responsibility of the licensee and the sales price for the delivery  
22          of alcoholic beverages shall not exceed the retail price at the  
23          store from which the alcoholic beverages were purchased.

1        5. A third-party vendor delivery driver shall be required to  
2 confirm the purchaser receiving the alcoholic beverages is twenty-  
3 one (21) years of age or older before completing a delivery of  
4 alcoholic beverages. No package containing alcoholic beverages may  
5 be delivered to or left unattended at a residence or business  
6 address except for the delivery of such package in person to the  
7 purchaser confirmed to be twenty-one (21) years of age or older.

8        SECTION 3. This act shall become effective July 1, 2021.

9        SECTION 4. It being immediately necessary for the preservation  
10 of the public peace, health or safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

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