

1 ENGROSSED SENATE  
2 BILL NO. 757

By: Pugh of the Senate

3 and

4 McEntire of the House

5  
6 [ violations and delivery of alcoholic beverage  
7 products - small brewer and small farm winery  
8 delivery - licensee - third-party vendor -  
9 codification]

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

11 SECTION 1. AMENDATORY Section 45, Chapter 366, O.S.L.  
12 2016, as amended by Section 2, Chapter 155, O.S.L. 2020 (37A O.S.  
13 Supp. 2020, Section 2-133), is amended to read as follows:

14 Section 2-133. Each licensee authorized to deliver alcoholic  
15 beverage products to consumers in Section ~~4~~ 2-161 of this ~~act~~ title  
16 and each bottle club or mixed beverage, beer and wine, caterer,  
17 public event, charitable event or special event licensee shall be  
18 held responsible for violation of any alcoholic beverage law or  
19 administrative rule of the ABLE Commission affecting his or her  
20 license privileges and for any act or omission of his or her  
21 servant, agent, employee or representative in violation of any law,  
22 municipal ordinance or administrative rule affecting his or her  
23 license privileges. A third-party vendor as defined in Section 2-  
24 161 of Title 37A of the Oklahoma Statutes who is authorized by law

1 and by contractual agreement with a retail licensee to deliver  
2 alcoholic beverage products to a consumer shall be held responsible  
3 for violation of alcoholic beverage laws or administrative rules of  
4 the ABLE Commission affecting his or her license privilege to  
5 deliver alcoholic beverage products to consumers.

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

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

13 1. ~~Only employees~~ Employees of the retail spirit licensee shall  
14 be permitted to make alcoholic beverage product deliveries to  
15 consumers;

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

19 3. The retail spirit licensee shall be responsible for his or  
20 her delivery employees as provided in Section 2-133 of ~~Title 37A of~~  
21 ~~the Oklahoma Statutes~~ this title. A retail spirit licensee shall be  
22 prohibited from utilizing third-party vendors or delivery services  
23 for the purpose of completing alcoholic beverage product deliveries  
24 to consumers.

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 as provided in Section 2-133 of ~~Title~~  
15 ~~37A of the Oklahoma Statutes~~ this title. A third-party vendor shall  
16 be responsible for delivery of alcoholic beverage products as  
17 provided in this act and by rule.

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

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

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

8        3. Restaurants, bars and clubs licensed by the Oklahoma ABLE  
9 Commission shall be responsible for their delivery employees as  
10 provided in Section 2-133 of ~~Title 37A of the Oklahoma Statutes~~ this  
11 title. A third-party vendor shall be responsible for delivery of  
12 alcoholic beverage products as provided in this act and by rule.

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

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

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

1 3. Grocery and convenience store licensees shall be responsible  
2 for their delivery employees as provided in Section 2-133 of ~~Title~~  
3 ~~37A of the Oklahoma Statutes~~ this title. A third-party vendor shall  
4 be responsible for delivery of alcoholic beverage products as  
5 provided in this act and by rule.

6 E. Licensees authorized by this section to make alcoholic  
7 beverage product deliveries to consumers ~~are prohibited from by~~  
8 utilizing third-party vendors ~~or delivery services~~ for purposes of  
9 completing such product deliveries to consumers shall be required to  
10 have a written contractual agreement with the third-party vendor  
11 business prior to delivery of any alcoholic beverage products.

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

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

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

24 I. 1. For purposes of this section:

- 1           a. "third-party vendor" means any person or business  
2           entity that is not an employee of the licensee and  
3           such term includes an independent contractor and  
4           technology services company contracted by the licensee  
5           whose primary business is food delivery or passenger  
6           transport and specifically excludes a vendor whose  
7           business is the shipment of goods, and
- 8           b. "technology services company" means a company that  
9           provides software or an application for connecting  
10           customers, retailers and/or restaurants to a delivery  
11           driver that is employed by or contracted with the  
12           technology service company and excludes a company  
13           whose business is the shipment of goods.

14           2. A third-party vendor business and each third-party vendor  
15           delivery driver shall be required to be licensed by the ABLE  
16           Commission as provided in Section 4 of this title. The third-party  
17           vendor business shall additionally pay an annual surcharge to the  
18           ABLE Commission as provided in paragraph G of Section 2-101 of this  
19           title.

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

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

7 5. A third-party vendor shall be authorized to charge the  
8 consumer a delivery fee but shall not charge, add on or collect any  
9 portion of the amount of the retail sales price for the alcoholic  
10 beverages. All sales of alcoholic beverages shall be the  
11 responsibility of the licensee and the sales price for the delivery  
12 of alcoholic beverages shall not exceed the retail price at the  
13 store from which the alcoholic beverages were purchased.

14 6. A third-party vendor delivery driver shall be required to  
15 confirm the purchaser receiving the alcoholic beverages is twenty-  
16 one (21) years of age or older before completing a delivery of  
17 alcoholic beverages. No package containing alcoholic beverages may  
18 be delivered to or left unattended at a residence or business  
19 address except for the delivery of such package in person to the  
20 purchaser confirmed to be twenty-one (21) years of age or older.  
21 Undeliverable alcoholic beverage products shall be returned to the  
22 retail licensee's licensed premise on the same calendar day that the  
23 purchase occurred.

1        7. While transporting alcoholic beverage products for a retail  
2 licensee, a third-party vendor delivery driver shall be required to  
3 have in his or her possession a valid license and the receipt for  
4 alcoholic beverage products showing the product has been paid in  
5 advance to the licensee.

6        SECTION 3.        AMENDATORY        Section 13, Chapter 366, O.S.L.  
7 2016, as last amended by Section 9, Chapter 161, O.S.L. 2020 (37A  
8 O.S. Supp. 2020, Section 2-101), is amended to read as follows:

9        Section 2-101. A. Except as otherwise provided in this  
10 section, the licenses issued by the ABLE Commission, and the annual  
11 fees therefor, shall be as follows:

- 12        1. Brewer License..... \$1,250.00
- 13        2. Small Brewer License..... \$125.00
- 14        3. Distiller License..... \$3,125.00
- 15        4. Winemaker License..... \$625.00
- 16        5. Small Farm Winery License..... \$75.00
- 17        6. Rectifier License..... \$3,125.00
- 18        7. Wine and Spirits Wholesaler License..... \$3,000.00
- 19        8. Beer Distributor License..... \$750.00

- 20        9. The following retail spirits license fees  
21            shall be determined by the latest Federal  
22            Decennial Census:
  - 23            a. Retail Spirits License for cities and  
24                towns from 200 to 2,500 population..... \$305.00



1	b.	Retail Spirits License for cities and	
2		towns from 2,501 to 5,000 population.....	\$605.00
3	c.	Retail Spirits License for cities and	
4		towns over 5,000 population.....	\$905.00
5	10.	Retail Wine License.....	\$1,000.00
6	11.	Retail Beer License.....	\$500.00
7	12.	Mixed Beverage License.....	\$1,005.00
8			(initial license)
9			\$905.00
10			(renewal)
11	13.	Mixed Beverage/Caterer Combination License.....	\$1,250.00
12	14.	On-Premises Beer and Wine License.....	\$500.00
13			(initial license)
14			\$450.00
15			(renewal)
16	15.	Bottle Club License.....	\$1,000.00
17			(initial license)
18			\$900.00
19			(renewal)
20	16.	Caterer License.....	\$1,005.00
21			(initial license)
22			\$905.00
23			(renewal)
24	17.	Annual Special Event License.....	\$55.00

1	18.	Quarterly Special Event License.....	\$55.00
2	19.	Hotel Beverage License.....	\$1,005.00
3			(initial license)
4			\$905.00
5			(renewal)
6	20.	Airline/Railroad/Commercial Passenger Vessel Beverage	
7		License.....	\$1,005.00
8			(initial license)
9			\$905.00
10			(renewal)
11	21.	Agent License.....	\$55.00
12	22.	Employee License.....	\$30.00
13	23.	Industrial License.....	\$23.00
14	24.	Carrier License.....	\$23.00
15	25.	Private Carrier License.....	\$23.00
16	26.	Bonded Warehouse License.....	\$190.00
17	27.	Storage License.....	\$23.00
18	28.	Nonresident Seller License or Manufacturer's	
19		License.....	\$750.00
20	29.	Manufacturer's Agent License.....	\$55.00
21	30.	Sacramental Wine Supplier License.....	\$100.00
22	31.	Charitable Auction License.....	\$1.00
23	32.	Charitable Alcoholic Beverage License.....	\$55.00
24	33.	Winemaker Self-Distribution License.....	\$750.00

- 1        34. Annual Public Event License..... \$1,005.00
- 2        35. One-Time Public Event License..... \$255.00
- 3        36. Small Brewer Self-Distribution License..... \$750.00
- 4        37. Brewpub License..... \$1,005.00
- 5        38. Brewpub Self-Distribution License..... \$750.00
- 6        39. Complimentary Beverage License..... \$75.00
- 7        40. Satellite Tasting Room License..... \$100.00
- 8        41. Third-Party Vendor Business License..... \$500.00
- 9        42. Third-Party Vendor Delivery Driver License..... \$30.00

10        B. 1. There shall be added to the initial or renewal fees for  
11 a Mixed Beverage License an administrative fee, which shall not be  
12 deemed to be a license fee, in the amount of Five Hundred Dollars  
13 (\$500.00), which shall be paid at the same time and in the same  
14 manner as the license fees prescribed by paragraph 12 of subsection  
15 A of this section; provided, this fee shall not be assessed against  
16 service organizations or fraternal beneficiary societies which are  
17 exempt under Section 501(c)(19), (8) or (10) of the Internal Revenue  
18 Code.

19        2. There shall be added to the fee for a Mixed Beverage/Caterer  
20 Combination License an administrative fee, which shall not be deemed  
21 to be a license fee, in the amount of Two Hundred Fifty Dollars  
22 (\$250.00), which shall be paid at the same time and in the same  
23 manner as the license fee prescribed by paragraph 13 of subsection A  
24 of this section.

1 C. Notwithstanding the provisions of subsection A of this  
2 section:

3 1. The license fee for a mixed beverage or bottle club license  
4 for those service organizations or fraternal beneficiary societies  
5 which are exempt under Section 501(c)(19), (8) or (10) of the  
6 Internal Revenue Code shall be Five Hundred Dollars (\$500.00) per  
7 year; ~~and~~

8 2. The renewal fee for an airline/railroad/commercial passenger  
9 vessel beverage license held by a railroad described in 49 U.S.C.,  
10 Section 24301, shall be One Hundred Dollars (\$100.00); and

11 3. The annual fee for a third-party vendor business license and  
12 the annual fee for a third-party vendor delivery driver shall be  
13 collected by the ABLE Commission for deposit and credit to the  
14 General Revenue Fund of this state.

15 D. An applicant may apply for and receive both an on-premises  
16 beer and wine license and a caterer license.

17 E. All licenses, except as otherwise provided, shall be valid  
18 for one (1) year from date of issuance unless revoked or  
19 surrendered. Provided, all employee licenses shall be valid for two  
20 (2) years.

21 F. The holder of a license, issued by the ABLE Commission, for  
22 a bottle club located in a county of this state where the sale of  
23 alcoholic beverages by the individual drink for on-premises  
24 consumption has been authorized, may exchange the bottle club

1 license for a mixed beverage license or an on-premises beer and wine  
2 license and operate the licensed premises as a mixed beverage  
3 establishment or an on-premises beer and wine establishment subject  
4 to the provisions of the Oklahoma Alcoholic Beverage Control Act.  
5 There shall be no additional fee for such exchange and the mixed  
6 beverage license or on-premises beer and wine license issued shall  
7 expire one (1) year from the date of issuance of the original bottle  
8 club license.

9 G. In addition to the applicable licensing fee, the following  
10 surcharge shall be assessed annually on the following licenses:

- 11 1. Nonresident Seller or Manufacturer License..... \$2,500.00
- 12 2. Wine and Spirits Wholesaler License..... \$2,500.00
- 13 3. Beer Distributor..... \$1,000.00
- 14 4. Retail Spirits License for cities and towns  
15 over 5,000 population..... \$250.00
- 16 5. Retail Spirits License for cities and towns  
17 from 2,501 to 5,000 population..... \$200.00
- 18 6. Retail Spirits License for cities and towns  
19 from 200 to 2,500 population..... \$150.00
- 20 7. Retail Wine License..... \$250.00
- 21 8. Retail Beer License..... \$250.00
- 22 9. Mixed Beverage License..... \$25.00
- 23 10. Mixed Beverage/Caterer Combination License..... \$25.00
- 24 11. Caterer License..... \$25.00

- 1        12. On-Premises Beer and Wine License..... \$25.00
- 2        13. Annual Public Event License..... \$25.00
- 3        14. Small Farm Winery License..... \$25.00
- 4        15. Small Brewer License..... \$35.00
- 5        16. Complimentary Beverage License..... \$25.00
- 6        17. Third-Party Vendor Business License..... \$250.00

7        The surcharge shall be paid concurrent with the licensee's  
8 annual licensing fee and, in addition to Five Dollars (\$5.00) of the  
9 employee license fee, shall be deposited in the Alcoholic Beverage  
10 Governance Revolving Fund established pursuant to Section 5-128 of  
11 this title.

12        H. Any license issued by the ABLE Commission under this title  
13 may be relied upon by other licensees as a valid license, and no  
14 other licensee shall have any obligation to independently determine  
15 the validity of such license or be held liable solely as a  
16 consequence of another licensee's failure to maintain a valid  
17 license.

18        SECTION 4.        NEW LAW        A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2-162 of Title 37A, unless there  
20 is created a duplication in numbering, reads as follows:

21        A. The ABLE Commission shall issue licenses for third-party  
22 vendor businesses and third-party vendor delivery drivers upon the  
23 effective date of this act. The ABLE Commission shall promulgate  
24 rules and forms for issuing licenses and procedures to enforce the

1 provisions for delivery of alcoholic beverage products by third-  
2 party vendor businesses and third-party vendor delivery drivers.

3 B. 1. A third-party vendor business license shall authorize  
4 the holder thereof to:

5 a. engage in the business of alcoholic beverage delivery  
6 to consumers by contractual agreement with retail  
7 licensees authorized for deliveries as provided by  
8 Section 2-161 of Title 37A of the Oklahoma Statutes,  
9 and

10 b. contract with a third-party vendor delivery driver  
11 licensee to perform the delivery of alcoholic  
12 beverages from the retail licensee.

13 2. A third-party vendor delivery driver license shall authorize  
14 the holder thereof to perform alcoholic beverage deliveries to  
15 consumers by contractual agreement with one or more third-party  
16 vendor business licensees.

17 C. 1. A license issued by the ABLE Commission to a third-party  
18 vendor delivery driver shall be displayed conspicuously in the  
19 vehicle or be in the possession of the third-party delivery driver  
20 while providing delivery services for a retail licensee.

21 2. No licensee shall consent or allow the use or display of the  
22 license by a person other than the person to whom the license was  
23 issued.

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1 3. No person shall use a license or exercise any privileges  
2 granted by the license except as provided by the Oklahoma Alcoholic  
3 Beverage Control Act.

4 D. 1. If a license issued to a third-party vendor business is  
5 suspended or revoked by the ABLE Commission, all other third-party  
6 vendor delivery driver licenses affiliated with the third-party  
7 vendor's business shall cease to be valid.

8 2. If a license of a third-party vendor delivery driver is  
9 suspended or revoked, this shall not invalidate licenses held by the  
10 third-party vendor business or other affiliated third-party vendor  
11 delivery driver licenses.

12 Passed the Senate the 11th day of March, 2021.

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14 \_\_\_\_\_  
15 Presiding Officer of the Senate

16 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
17 2021.

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20 Presiding Officer of the House  
21 of Representatives

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