

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 757

By: Pugh of the Senate

and

McEntire of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to alcoholic beverages; amending 37A
12 O.S. 2021, Section 5-135, which relates to monthly
13 tax reports, gross receipts tax payments, penalties,
14 and tax auditing of certain licensees; removing the
15 authorization of the Oklahoma Tax Commission for
16 auditing any mixed beverage, beer and wine, caterer,
17 public event or special event licensee; and providing
18 an effective date.

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

20 SECTION 1. AMENDATORY 37A O.S. 2021, Section 5-135, is
21 amended to read as follows:

22 Section 5-135. A. Every mixed beverage tax permit holder, or
23 any person transacting business subject to the gross receipts tax
24 levied by Section ~~408~~ 5-105 of this ~~act~~ title, shall file with the
Oklahoma Tax Commission a monthly report for each place or location
of business, on or before the twentieth day of the month immediately

1 following the month of receipt. The reports shall be made under
2 oath, on forms prescribed by the Tax Commission, which shall include
3 the following information:

4 1. Name of mixed beverage tax permit holder;

5 2. Mixed beverage tax permit number;

6 3. Sales tax permit number;

7 4. Mixed beverage, caterer, public event or special event
8 license number;

9 5. Gross receipts for the month for the sale, preparation or
10 service of mixed beverages, ice and nonalcoholic beverages mixed
11 with alcoholic beverages;

12 6. Gross receipts for the month from charges for the privilege
13 of admission to a mixed beverage establishment which entitles a
14 person to complimentary mixed beverages or discounted prices for
15 mixed beverages;

16 7. Total retail value of complimentary or discounted alcoholic
17 beverages served for the month; and

18 8. Such other information as may be required by the Tax
19 Commission to enable it to collect taxes imposed as provided by law.

20 B. The gross receipts tax levied by Section ~~408~~ 5-105 of this
21 ~~act~~ title shall be calculated by multiplying the tax rate, thirteen
22 and one-half percent (13.5%), and the total gross receipts for each
23 month from the sale, preparation or service of mixed beverages, ice
24 and nonalcoholic beverages mixed with alcoholic beverages, the total

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

12 C. If the gross receipts tax levied pursuant to the provisions
13 of Section ~~108~~ 5-105 of this ~~act~~ title is not paid on or before the
14 twentieth day of each month, the tax shall be delinquent, and
15 interest and penalty shall accrue on and from the twenty-first day
16 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 has been collected; provided, if such an audit reveals that~~
23 ~~the amount collected is within the following percentages of the~~

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1 ~~amount of tax payable, the taxpayer shall be deemed to be in~~
2 ~~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 2. This act shall become effective November 1, 2022.

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13 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
14 SUBSTANCES, dated 04/14/2022 - DO PASS, As Amended.

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