

An Act

ENROLLED SENATE
BILL NO. 804

By: Bice of the Senate

and

McEntire and Bell of the
House

An Act relating to prohibited acts of alcoholic beverage licensees; amending Section 142, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 6-102), which relates to prohibited acts of licensees; providing exceptions to certain prohibited acts; providing an effective date; and declaring an emergency.

SUBJECT: Prohibited acts of alcoholic beverage licensees

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

SECTION 1. AMENDATORY Section 142, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 6-102), is amended to read as follows:

Section 6-102. A. No licensee of the ABLE Commission shall:

1. Receive, possess or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which the licensee holds;
2. Employ any person under eighteen (18) years of age in the selling of beer or wine or employ any person under twenty-one (21) years of age in the selling of spirits. Provided:

- a. a mixed beverage, beer and wine, caterer, public event, special event, bottle club, retail wine or retail beer licensee may employ servers or sales clerks who are at least eighteen (18) years of age, except persons under twenty-one (21) years of age may not serve in designated bar or lounge areas, and
- b. a mixed beverage, beer and wine, caterer, public event, special event or bottle club licensee may employ or hire musical bands who have musicians who are under eighteen (18) years of age if each such musician is either accompanied by a parent or legal guardian or has on their person, to be made available for inspection upon demand by any employee of the ABLE Commission or law enforcement officer, a written, notarized affidavit from the parent or legal guardian giving the underage musician permission to perform in designated bar or lounge areas;

3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;

4. Use any of the following means or inducements to stimulate the consumption of alcoholic beverages, including but not limited to:

- a. deliver more than two drinks to one person at one time,
- b. sell or offer to sell to any person or group of persons any drinks at a price that is less than six percent (6%) below the markup of the cost to the mixed beverage licensee; provided, a mixed beverage licensee shall be permitted to offer these drink specials on any particular hour of any particular day and shall not be required to offer these drink specials for an entire calendar week or from open to close,
- c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a

fixed price, except at private functions not open to the public,

- d. sell or offer to sell drinks to any person or group of persons on any one day or portion thereof at prices less than those charged the general public on that day, except at private functions not open to the public,
- e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week, or
- f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided, that the provisions of this paragraph shall not prohibit the advertising or offering of food or entertainment in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage. Provided, this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed original wine containers removed from the premises of restaurants, hotels and motels, or to closed original containers of alcoholic beverages transported to and from the place of business of a licensed caterer by the caterer or an employee of the caterer;

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission; or

7. Permit any person to be drunk or intoxicated on the licensee's licensed premises.

B. A mixed beverage or beer and wine licensee shall not be deemed to have violated the provisions of paragraph 5 of subsection A of this section if it allowed a patron to leave the licensed premises with an open container of beer or wine only and:

1. The otherwise prohibited act was committed during the hours of 8 a.m. to midnight on the day of a scheduled home football game of institutions within The Oklahoma State System of Higher Education, and the establishment is located within two thousand (2,000) feet of the institution;

2. The licensee is participating by invitation in a municipally sanctioned art, music or sporting event within city limits when the municipality has provided written notice of the event and a list of invited licensees to the ABLE Commission at least five (5) days prior to the event; or

3. The patron remains on the connected, physical property of the licensee or in a public area adjacent to the physical property of the licensee with prior municipal approval; provided that written notice of the use of the connected, physical property of the licensee or public area shall be provided to the ABLE Commission at least five (5) days prior to such use.

SECTION 2. This act shall become effective July 1, 2019.

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 14th day of May, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd 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: _____